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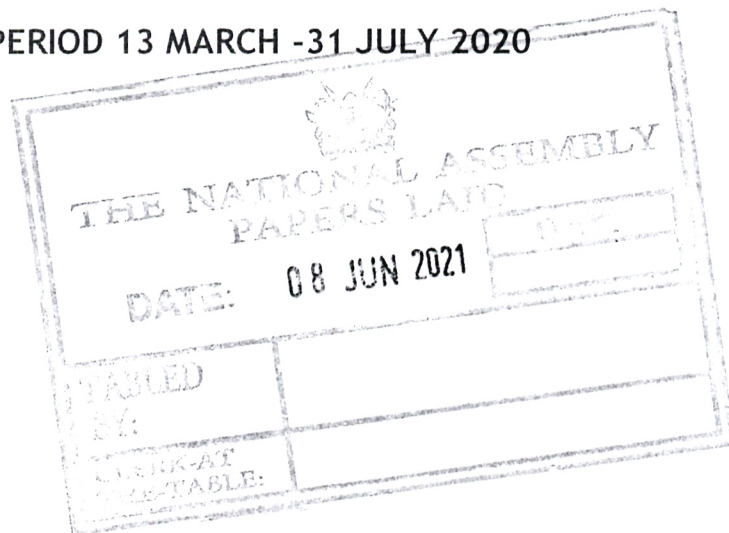
SPECIAL AUDIT REPORT

OF THE

AUDITOR-GENERAL

ON

UTILIZATION OF COVID-19 FUNDS BY NATIONAL GOVERNMENT ENTITIES  
FOR THE PERIOD 13 MARCH -31 JULY 2020



APRIL 2021

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## ABBREVIATIONS

Abbreviation	Full Name
ADB	Africa Development Bank
CERC	Contingency Emergence Response Component
CERIP	Contingency Emergency Response Implementation Plan
COVID-19	Corona Virus Disease-2019
CGTRH	Coast General Teaching and Referral Hospital
COK	Constitution of Kenya
CCV	Comprehensive Care Ventilators
EU	European Union
GOK	Government of Kenya
IDA	International Development Agency
IMF	International Monetary Fund
ICU	Intensive Care Unit
JOOTRH	Jaramogi Oginga Odinga Teaching and Referral Hospital
KNH	Kenyatta National Hospital
KUTRRH	Kenyatta University Teaching Research and Referral Hospital
KCB	Kenya Commercial Bank
MDAs	Ministries, Departments and Agencies
MTRH	Moi Teaching and Referral Hospital
MOH	Ministry of Health
PMT	Project Management Team
PFMA	Public Finance Management Act
PS	Principal Secretary
RFQ	Request For Quotations
SRC	Salaries and Remuneration Commission
THS-UCP	Transforming Health Systems for the Universal Care Project
USD	United States Dollar

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## **1. EXECUTIVE SUMMARY**

### **1.1 Introduction**

1.1.1 Provision of healthcare is one of the economic and social rights outlined in Article 43 of the Constitution of Kenya 2010, which states that every person has the right to the highest attainable standard of health. Article 201(a) of the Constitution of Kenya requires openness and accountability including public participation in financial management matters. Financial management matters in Government are guided by the Constitution of Kenya 2010, the Public Finance Management Act, 2012 and the attendant regulations, the Public Procurement and Asset Disposal Act, 2015 and circulars released by the National Treasury from time to time.

1.1.2 Articles 229 of the Constitution of Kenya and the Public Audit Act, 2015 gives the the Auditor-General the mandate to audit all public funds and report on whether the funds have been used in an effective and lawful manner. Section 37 of the Public Audit Act, 2015 provides that, the Auditor-General may, upon request by Parliament, conduct forensic audits to establish fraud, corruption, or other financial improprieties. In addition, Section 38 of the Public Audit Act, 2015 provides that the Auditor-General may examine the Public Procurement and Asset Disposal process of a state organ or a public entity with a view to confirming whether procurements were done lawfully and in an effective way.

1.1.3 In this regard, the Office of the Auditor-General conducted a special audit on utilization of the COVID-19 Funds by National Government Entities with a view to confirm lawfulness and effectiveness of the expenditure incurred.

### **1.2 Objectives**

1.2.1 The objective of the special audit was to confirm whether public funds utilized by National Government Entities for procurement of the medical supplies for purposes of combating the COVID-19 pandemic were used in a manner that is lawful and effective.

### **1.3 Terms of Reference**

1.3.1 The special audit was guided by the Terms of References summarized below and detailed in **APPENDIX I**:

- Review the Institutional Framework for Management of the COVID-19 Funds.

- Review utilization of the COVID-19 Funds by the National Treasury and Planning including disbursements to Ministries, Departments and Agencies.
- Review utilization of the COVID-19 Funds by the Ministry of Health and the Referral Hospitals.
- Review utilization of the COVID-19 Funds by the COVID-19 Emergency Response Fund.

#### **1.4 Scope of Work and Limitations**

- 1.4.1 The Special Audit Report covers; planning, budgeting, financing and utilization of Covid-19 Funds and donations by the National Government Entities for the period 13 March, to 31 July, 2020.
- 1.4.2 The report establishes the total amount of funds appropriated and received by the National Government towards the COVID-19 related activities. It also details how much of the funds were disbursed to other Ministries, Departments and Agencies and usage of the COVID-19 Funds by the Ministry of Health. In addition, the report reviews receipt and utilization of the COVID-19 Funds and donations by the COVID-19 Emergency Response Fund.

#### **1.5 Structure of the Report**

- 1.5.1 The special audit report has three sections: the executive summary, the detailed approach, and the detailed findings. The report should be read in its entirety to comprehend fully the approach and the findings. It reports on facts as understood, with the aim of informing the Public Accounts Committee on their deliberations and decision-making, taking cognizance of any limitations raised.

#### **1.6 Key Findings**

##### **The Institutional Framework for the Management of the COVID-19 Funds**

- 1.6.1 On 11 March, 2020, the World Health Organization pronounced a public health emergency of international concern, declaring the Corona Virus Disease 2019 (COVID-19) as a pandemic. The first case of the COVID-19 pandemic in Kenya was announced on 13 March, 2020. Since then, the Country has continued to record new cases daily.
- 1.6.2 The National Government received significant assistance from the various development partners that includes the World Bank, the International Monetary Fund, the African Development Bank, and the European Union.

1.6.3 The Government also established the COVID-19 Emergency Response Fund under the Public Finance Management (COVID-19 Emergency Response Fund) Regulations, 2020, to receive voluntary contributions from well-wishers towards covering expenses associated with the COVID-19 pandemic.

1.6.4 The key institutions involved in the COVID-19 prevention, mitigation and response are as follows:

Institution		Remarks
1	The National Treasury and Planning	Implemented the fiscal and monetary policy decisions including mobilization of resources to mitigate the pandemic and cushion the economy from effects of the pandemic.
2	The Ministry of Health, the Referral Hospitals and KEMSA	Received and utilized funds from the National Treasury for prevention and mitigation of the COVID-19 pandemic.
3	The COVID-19 Emergency Response Fund	Received monetary and non-monetary voluntary contributions from well-wishers towards covering expenses associated with the COVID-19 pandemic
4	Other Ministries, Departments and Agencies (MDAs)	Received funding from the National Treasury for either the General Budget Support or the COVID-19 mitigation.
5	County Governments	Received funds and donations from the National Government and other development partners for the fight against the pandemic.

**Utilization of the COVID-19 Funds by the National Treasury and Planning including disbursements to Ministries, Departments and Agencies**

1.6.5 After the first COVID -19 case was reported in Kenya on 13 March, 2020, the Government of Kenya through The National Treasury and Planning negotiated with various donors for financial support for both COVID-19 mitigation programs and budgetary support referred to as the Economic Stimulus Programs.

- 1.6.6 Consequently, financing agreements were signed between the various Development Partners and the Government of Kenya represented by the Cabinet Secretary in charge of the National Treasury and Planning.
- 1.6.7 The Government of Kenya, through the National Treasury and Planning, mobilized a total of Kshs.214,908,853,825 from the various Development Partners. The funds were received in the Special Deposit Account held at the Central Bank of Kenya as follows.

Date	Donor	Crrcy	Forex Amount	Amount (Kshs)	Purpose
14/Feb/20	World Bank-Loan	USD	10,000,000	1,063,000,000	Transforming Health Systems for Universal Care
3/Apr/20		Euro	45,500,000	5,287,100,000	Covid-19 Emergency Response Project
20/May/20		USD	750,000,000	80,250,000,000	2nd Inclusive Growth and Fiscal Management Development Policy
20/May/20		USD	250,000,000	26,574,996,811	
13/May/20	DANIDA-Grant	DKK	23,000,000	350,000,000	Universal Health Care Devolved System - COVID 19
4/Jun/20	ADB-Loan	Euro	188,000,000	22,412,835,480	Budget Support

Date	Donor	Crrcy	Forex Amount	Amount (Kshs)	Purpose
30/Jun/20	IMF-Loan	SDR	542,800,000	78,332,610,616	Covid-19 Emergency Response Support Program (ERSP)
28/April/20	EU-Loan (Initially agreed Euro 7,000,000 Disbursed less amount offset for ineligible expenses)	Euro	5,019,825	638,310,917	Public Accountability and Service Delivery - PASEDE
			<b>Total</b>	<b>214,908,853,825</b>	

- 1.6.8 Out of the above amount of Kshs.214,908,853,825, requests amounting to Kshs.162,685,604,780 had been received by The National Treasury and Planning. The requested amounts were then transferred to the various Ministries, Departments and Agencies (MDAs) and the Counties as at 31 July, 2020.
- 1.6.9 The funds were transferred to various National Government Ministries, Departments and Agencies for COVID - 19 mitigation, and as normal Exchequer releases for the period from March 2020 to July 2020. The funds that have been covered by the special audit are highlighted under the remarks column of **Appendix XXIX**.
- 1.6.10 A balance of Kshs.52,223,249,045 was held in various bank accounts as detailed below and represents the funds for which no requests had been made by the implementing entities as at 31st July, 2020.

Source	Purpose	Amount (Kshs)	CBK Bank Account
World Bank	Transforming Health Systems for Universal Care Project	86,584,500	1000003987 and 1000308637
World Bank	COVID-19 Emergency response project	3,559,977,380	1000003987 and 1000446366

Source	Purpose	Amount (Kshs)	CBK Bank Account
World Bank	2 <sup>nd</sup> Inclusive and fiscal Management development policy	26,574,996,811	1000003987
IMF	Covid -19 Emergency Response Support Programme	21,363,379,436	1000003987 and 1000448571
European Union	Public Accountability and Service Delivery	638,310,918	1000449772
	<b>Total</b>	<b>52,223,249,045</b>	

- 1.6.11 The special audit established the following irregularities regarding the Management of the COVID-19 Funds by The National Treasury and Planning:
- 1.6.12 The special audit established that, there is another Bank Account, the Kenya COVID -19 Fund Account Number 2042554653, operated under ABSA Bank Kenya PLC which was established under the Public Finance Management (COVID-19) Emergency Response Fund Regulations, 2020.
- 1.6.13 Further, it was noted that the COVID-19 Fund Accounts were not centrally managed contrary to the provision of the COVID-19 Emergency Response Fund Regulations, 2020 Part III. Some Accounts were being managed by The National Treasury while the ABSA account was being managed by an appointed Board without an Administrator.
- 1.6.14 The National Treasury and Planning Manages the COVID-19 Emergency Response Fund Account Number 1000445057 and the COVID-19 Emergency Response Fund- Investigative and Prosecution Agencies Account Number 1000446021, both at the Central Bank of Kenya. It also manages the COVID-19 Emergency Response Fund Account No. 101071225535900 at the National Bank of Kenya and the Voluntary Pay Cut Account Number 10002011924. All these accounts had receipts of Kshs.9,862,941,166 as at 31 July, 2020 and no disbursements had been made out of these Bank Accounts at the time of audit.

Receipt and Utilization of the COVID-19 Funds and Donations by the Ministry of Health and Referral Hospitals

Receipt of funds by the Ministry of Health

1.6.15 According to records at the Ministry of Health, an amount of Kshs.25,511,115,932 was received from the National Treasury for the period 01 March 2020 -31 July 2020 for both COVID-19 and Non-COVID-19 related activities as follows:

Source	Amount (Kshs)	Covid-19 Related (Kshs)
Government of Kenya	740,222,242	740,222,242
International Monetary Fund	20,965,895,569	13,816,590,000
African Development Bank	751,460,000	0
World Bank	2,703,538,120	2,703,538,120
DANIDA	350,000,000	350,000,000
<b>TOTAL</b>	<b>25,511,115,932</b>	<b>17,610,350,362</b>

1.6.16 Out of the COVID-19 related amount received, the Ministry of Health utilized a total of Kshs. 15,773,644,422 as detailed in the table below:

Particulars	World Bank (Kshs)	DANIDA (Kshs)	IMF (Kshs)	GOK (Kshs)	Total (Kshs)
<b>RECEIPTS</b>	2,703,538,120	350,000,000	13,816,590,000	740,222,242	17,610,350,362
<b>EXPENDITURE</b>					
Expenditure at MOH	484,898,662	0	0	0	484,898,662
Disbursement to Counties	0	350,000,000	7,355,899,000	0	7,705,899,000
Disbursement to KEMSA	381,934,518	0	1,800,000,000	0	2,181,934,518
Disbursement to Referral Hospitals	0	0	3,942,245,000	648,722,242	4,590,967,242
Quarantine facilities	0	0	700,000,000.00	0	700,000,000

Particulars	World Bank (Kshs)	DANIDA (Kshs)	IMF (Kshs)	GOK (Kshs)	Total (Kshs)
Other MDAs	0	0	18,445,000	91,500,000	109,945,000
<b>Total expenditures</b>	<b>866,833,180</b>	<b>350,000,000</b>	<b>13,816,589,000</b>	<b>740,222,242</b>	<b>15,773,644,422</b>

1.6.17 Included in the World Bank funding of Kshs.2,703,538,120, was Kshs.170,320,000 disbursed by the World Bank to the Gradian Health Systems for procurement of Ventilators.

Expenditures incurred at the Ministry of Health Headquarters

1.6.18 The expenditure of Kshs.484,898,662 spent at the Ministry of Health Headquarters was under the Transform Health System-Universal Care Project (THS-UCP) and the COVID-19 Health Emergency Response Project (CHERP) as summarized below

Particulars	Amount (Kshs)
1 Transform Health System-Universal Care Project (THS-UCP)	326,350,273
2 COVID-19 Health Emergency Response Project (CHERP)	158,548,389
<b>Total</b>	<b>484,898,662</b>

**Transforming Health Systems for Universal Care Project (THS-UCP)**

**Background information on the project**

1.6.19 The Transforming Health Systems for the Universal Care Project (THS-UCP) Credit Number 5836-KE is a World Bank Funded Project in the Ministry of Health (MoH) which commenced in 04 July, 2016. The Government of Kenya (GoK) through the National Treasury requested for a second amendment to the financing agreement on 02 October, 2019, to provide for a Contingency Emergency Response Component (CERC). The amendment to the financing agreement for THS-UCP was done on 14 February, 2020 to a sum of USD 10 million (equivalent to Kshs.1 Billion).

1.6.20 The National Treasury and the Ministry of Health wrote to the World Bank on 18 February, 2020 and 11 March, 2020 respectively, (i) requesting that the Contingency

Emergency Response Component (CERC) be triggered for a sum of USD 10 million and to release USD 50 million under the COVID-19 financing facility to enable immediate and timely response to the crisis caused by the virus, and (ii) request for reallocation of funds across the disbursements categories under THS-UCP from the Ministry of Health vide letter Ref: No. MOH/ADM/1/1/171 Vol. 1(179) to the National Treasury.

1.6.21 On 13 March, 2020, the World Bank accepted the request to support COVID-19 response. On 18 March, 2020, the CERC was activated and disbursement requests were accepted by the World Bank after withdrawal conditions were met by the Government of Kenya.

1.6.22 According to the bank statements for the Project Account, the funds for the CERC were remitted to the Ministry of Health Account No. 1000313878 at the Central Bank of Kenya in three tranches as shown in the table below:

Date	Transaction Number	Amount in KShs.
02/04/2020	FT20093GP52K	500,000,000
29/05/2020	FT20150T66YW	31,550,000
02/07/2020	FT201844MWFH	444,865,500
<b>Total</b>		<b>976,415,500</b>

1.6.23 The total amount utilized under this project for the COVID-19 related activities was Kshs.158,548,389. The special audit identified the following irregularities in relation to the budget utilization of the Contingency Emergency Response Component (CERC) project:

Inadequate controls in the Management of Fuel Amounting to Kshs.14,000,000

1.6.24 It was established that M/s. Ramji Haribhai Devani Limited was awarded the tender for the Supply and Delivery of fuel for Kshs.14,000,000. The Ministry of Health made an advance payment of the entire Kshs.14,000,000 to the supplier based on a profoma invoice. However, the actual expenditure for the period May 2020 to July 2020 was Kshs. 2,074,764. The special audit established weaknesses in usage of fuel cards since the Ministry of Health did not designate fuel cards to each vehicle, hence not possible to ascertain the amount of fuel consumed by each vehicle for the period under review.

1.6.25 A review of the fuel expenditure statements established that the fuel cards listed in the table below were open for use by any vehicle in different months

MONTH	CARD NUMBER	VEHICLE REG. NO	AMOUNT-(KSH)
May	1408032986	Any Vehicle	163,535
	1408035675	Any Vehicle	88,487
	<b>Sub-Total</b>		<b>252,022</b>
June	1408032986	Any Vehicle	45,210
	1408035675	Any Vehicle	127,532
	<b>Sub-Total</b>		<b>172,742</b>
July	1408032984	Any Vehicle	51,425
	1408032985	Any Vehicle	86,940
	1408032986	Any Vehicle	101,809
	1408035675	Any Vehicle	155,815
	1408035676	Any Vehicle	648,458
	1408037142	Any Vehicle	58,451
	1408037143	Any Vehicle	26,826
	<b>Sub-Total</b>		<b>1,129,724</b>
	<b>GRAND TOTAL</b>		<b>1,554,488</b>

1.6.26 It was not possible to trace the transaction amounts in the monthly fuel expenditure statements to respective work tickets hence the audit team could not confirm whether fuel expenses incurred by fuel cards marked for use by 'Any Vehicle' were for official assignments. There is a possibility of misuse of the fuel cards especially fuel cards marked, for use by 'Any Vehicle', as such transactions cannot be traced to the drivers' work tickets.

1.6.27 This was contrary to Section 139 (1) of the Public Finance Management Regulations, National Government Regulations, 2015 which provides that the Accounting Officer of a National Government entity should take full responsibility and ensure that proper control systems exist for assets and that; (a) preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse; (b) movement and conditions of assets can be tracked; and (c) stock levels are at an optimum and economical level.

#### Un-Explained Variance in the Payment of Import Duty

- 1.6.28 A review of Payment Voucher Number 002347 established that the budget for handling and delivery fees of goods procured under the Transform Health System-Universal Care Project (THS-UCP) for COVID-19 response commodities through UNICEF, and any other contingency was Kshs.6,403,947. However, a total of Kshs.6,678,166 was paid on 01 July, 2020 to KUEHNE+NAGEL for handling and delivery fees for goods procured under the Transform Health System-Universal Care Project (THS-UCP) for COVID-19 response commodities through UNICEF. In addition, a review of the Single Administrative Document (IM4) showed that import duty was Kshs.5,937,927, yet the Ministry of Health paid an amount of Kshs.6,678,166 resulting in an un-explained overpayment of Kshs.740,239.

#### Issuance of LSO after provision of Services

- 1.6.29 A review of Payment Voucher Number 002394 established that, M/s. EAT and Tell Café Limited was engaged by the Ministry of Health for provision of catering services to officers involved in COVID-19 prevention and mitigation at a cost of Kshs.1,536,000. The Payment Voucher indicate that the services were provided between 27 April 2020 and 03 May, 2020 both days inclusive.
- 1.6.30 Further, the review established that the Local Service Order (LSO) Number 9110 was issued to M/s. EAT and Tell Café Limited on 04 June, 2020, which was over one month after the service had already been offered. It was also not possible to ascertain how the suppliers were evaluated for the service since procurement documents relating to the evaluation were not provided and no explanation was given.

#### Un-supported expenditures for Airtime

- 1.6.31 It was established that Safaricom Limited was contracted through direct procurement to supply airtime for officers manning the Quarantine Sites, Surveillance Teams, the Emergency Operation Centre (EOC) and the Contact Tracing Teams for Kshs.3,000,000. A review of the store's ledger and Stock Control Card No. 524481 of mobile airtime revealed that, 2,400 airtime scratch cards worth Kshs.2,400,000 were issued without any counter requisition and issue voucher.
- 1.6.32 The special audit could not confirm whether the issuance of mobile airtime was dully sanctioned and approved. The special audit also established that as at the date of the

audit, all airtime worth Kshs.3,000,000 had been fully issued. However, a review of the availed list of beneficiaries of airtime revealed that, only airtime worth Kshs.869,000 were dully signed for by the recipients. The audit could not confirm how the balance of airtime worth Kshs.2,131,000 was issued since there was no evidence that the recepients had signed acknowledging receipt of the airtime.

Conflicting documentation on notification of tender award and letters of acceptance

- 1.6.33 It was also established that, Hadassah Hotel was awarded a tender for the Provision of full board accommodation services for the Ministry of Health officials undertaking rapid response for the month of April and May 2020 for Kshs.5,273,670 commencing from 07 April, 2020. However, the special audit established that, the letter of acceptance dated 04 April, 2020 was issued by the supplier three days before notification of the tender award dated 07 April, 2020.
- 1.6.34 The Management of the Ministry of Health explained that, the service provider had erroneously written the wrong date on the letter of acceptance and that the Ministry of Health noted the error in the date and notified the service provider. However, the afforementioned conflicting documents had been received by the Ministry of Health and used as a basis of processing payments to the supplier.

#### **The Covid-19 Emergency Response Project (CHERP)**

##### **Background information on the project**

- 1.6.35 The COVID-19 Emergency Response Project (CHERP) IDA Credit 65980 is based on the Kenya COVID-19 Emergency Response Project Appraisal document dated 25 March, 2020. The project objective is to prevent, detect and respond to the COVID -19 outbreak and strengthen national systems for public health emergency preparedness in the Republic of Kenya.
- 1.6.36 In this regard, the Ministry of Health, through the Supplementary III Development Budget for the financial year 2019/2020 allocated an amount of Kshs.5.35 Billion for the CHERP Project under Vote Head 1081118200.
- 1.6.37 According to an extract of an email from the World Bank, to the Project Manager at the Ministry of Health, a No Objection was issued to the Project Work and Procurement Plan on 30 April, 2020. The procurement plan indicated activities for the first 3 months

(31 July, 2020) of the Project costing Kshs.2,484,518,772. However, a total of Kshs.1,556,802,620 was received by the National Treasury and disbursed on 27 May, 2020 to the Ministry of Health Account Number 1000446684 at the Central Bank of Kenya.

1.6.38 As at the time of completion of the audit, an amount of Kshs.326,350,273 had been incurred. A review of the project expenditures established the following irregularities:  
Un- Surrendered Imprest

1.6.39 The special audit established that, there was un-surrendered Imprest of Kshs.7,981,975 as at 30 September, 2020. This was contrary to Section 104 of the Public Finance Management (National Government) Regulations, 2015 which provides that all receipts and payment vouchers of public moneys should be properly supported by pre-numbered receipt and payment vouchers and shall be supported by the appropriate authority and documentation.

1.6.40 Further Sections 93, 14 and 15 of the Public Finance Management (National Government ) Regulations, 2015 provides that when the imprest holder needs to have his/ her funds replenished, he or she should send an abstract and analysis of the memorandum cashbook, plus originals of the supporting payments vouchers to the accounts department for examination that the expenditure has actually been incurred and there are no irregularities.

#### Disbursements of funds from the Ministry of Health to the County Governments

1.6.41 The Ministry of Health disbursed COVID-19 conditional grants of Kshs.4,999,999,000 and allowances for the Frontline Health Workers of Kshs.2,355,900,000 to the forty-seven (47) Counties.

1.6.42 The Disbursement of COVID-19 Conditional Grants was based on the Commission of Revenue Allocation letter referenced CRA/CSO/COG/13/VOL.II(1) dated 29 April, 2020.

1.6.43 A separate special audit report of the Auditor-General on utilization of the COVID-19 funds by the County Governments has been concluded and issued to Parliament.

Disbursement of funds to KEMSA

1.6.44 The Ministry of Health disbursed a total of Kshs.2,181,934,518 to KEMSA on 30 June, 2020 as detailed in the table below:

	Source of Funds	Sub Head	Allocation to KEMSA (Kshs.)	Amount Received (Kshs.)	Recipient Bank Account
1	World Bank	CERC- Transforming Health Systems Project (THS)	758,690,583	304,160,118	EQUITY BANK KEMSA Trade Account number 01400261398514
2	World Bank	Kenya COVID-19 Emergency Response Project (CHERP)	454,840,000	77,774,400	EQUITY BANK KEMSA Trade Account number 01400261398514
3	Government of Kenya	Procurement of Test kits and reagents	1,500,000,000	1,500,000,000	EQUITY BANK Warehouse Construction Account number 1400264426362
4	Government of Kenya	Supply of Facemasks to vulnerable groups	300,000,000	300,000,000	NATIONAL BANK OF KENYA KEMSA Operations Account number 100300912500
			<b>3,013,530,583</b>	<b>2,181,934,518</b>	

1.6.45 A separate special audit report of the Auditor-General on the utilization of the COVID-19 funds by KEMSA has been issued to parliament.

Procurement of Comprehensive Care Ventilators

1.6.46 A memo referenced MOH/PROC/GEN/MF/ADSCMS/Vol.1.1 dated 21 May, 2020 from the Principal Secretary, Ministry of Health to the Project Manager CHERP shows that the procurement for the Supply of Comprehensive Care Ventilators & Related Services was done using World Bank Facilitated Procurement Method as approved by the World Bank. A Step Approval No. KE-MOH-00001-GO-DIR/Procure 250 Gradian Comprehensive Care Ventilators extract specified that, Direct Selection Method was adopted and indicated that the Contract was to supply 250 units at USD16,000 per unit at a total cost of USD 4,000,000 (KShs. 424 Million at an exchange rate of 1USD=Kshs106).

- 1.6.47 The Contract for the Supply of 250 Gadian Comprehensive Care Ventilators (CCV) and related services between the Ministry of Health and M/s. Gadian Health Systems, New York USA was signed on 30 March, 2020. According to Appendix C of the Contract Agreement, price schedule 3, the contract sum was Kshs.424 Million (USD 4,000,000).
- 1.6.48 According to a memo referenced MOH/PROC/GEN/MF/ADSMS/Vol.1 from the Project Manager C-HERP to the Principal Secretary, Ministry of Health dated 21 May, 2020 the payment was to be processed through the National Treasury and the World Bank would pay the supplier directly. On 22 May, 2020, the Principal Secretary, Ministry of Health approved processing of the payment. A Payment Voucher Number 282 for Kshs.170,320,000 was prepared at the Ministry of Health dated 3 June, 2020 being payment of 40% advance payment. The payment voucher was forwarded on the same day to the Director - Resource Mobilization Department through a letter ref MOH/COVID 19/ACC/VOL. (003) to the Principal Secretary, National Treasury requesting them to charge IDA credit 5836-KE, the total amount of USD 1,600,000 (Kshs.170,320,000). On 22 June 2020, a direct payment of USD 1,600,000 was made from IDA account number 1000446366 at the Central bank of Kenya.
- 1.6.49 The following irregularity was observed on Procurement of Comprehensive Care Ventilators & Related Services from M/s. Gadian Health Systems by the Ministry of Health.

Delivery of the Ventilators to Counties that did not have capacity

- 1.6.50 According to Appendix A of the contract on shipping and completion schedule, there were 8 phases of air shipping schedule between 30 April, 2020 and 31 December, 2020. However, on 13 April 2020, the Chief Executive Officer of M/s. Gadian Health Systems wrote to the Principal Secretary, Ministry of Health informing her of the delay in delivery due to limited supply in a critical component used in the manufacturing of the Gadian Comprehensive Care Ventilators. They also proposed a reassessment period after delivery of 100 units for the Ministry of Health to assess whether they would continue to purchase the remaining quantity.
- 1.6.51 On 2 June 2020, the Principal Secretary, Ministry of Health through a letter reference MOH/ADM/1/1/159 wrote to M/s. Gadian Health Systems informing them that the Ministry of Health had considered the proposal and decided that it would only procure 100 ventilators.

1.6.52 On 3 June, 2020 the the Principal Secretary, Ministry of Health wrote to M/s. Gadian Health Systems via letter ref MOH/DC/9/1/instructing them on the distribution of 30 ventilators to Counties. Further, distribution was as per the letter on distribution referenced MOH/PROC/6/3/1 done by the Principal Secretary, Ministry of Health on 19 August, 2020 instructing on the distribution of 45 ventilators. The special audit team visited the health facilities listed and noted the following observations:

	County	Health Facility	Dispatched	Remarks
1	Kiambu	Tigoni Level 4 Hospital	5	Received and in use
2	Kitui	Kauwi Level 4 Hospital	5	Received but not in use since there was no Intensive Care Unit (ICU). Items were in store as at the time of audit.
3	Nakuru	Langa Langa level 3 Hospital	5	Received on 11 June, 2020. On 6 October, 2020, 2 units were issued to Annex Provincial General Hospital (PGH), on 7 October, 2020, 3 more units were Issued to PGH Nakuru
4	Nyeri	Othaya level 5 Hospital	5	Received and transferred to KNH for use.
5	Taita taveta	Mwatate level 3 Hospital	5	Received and in use
6	Laikipia	Nyahururu level 4 Hospital	5	Received at the Nanyuki Teaching and Referral Hospital Critical Care Unit on 11 June 2020. This was because there was no ICU at Nyahururu level 4.
7	Nairobi	Mama Lucy Kibaki Hospital	18	Received but not in use since there was no Intensive Care Unit (ICU). Items were in store as at the time of audit
8	National Government	Kenyatta University Teaching and Referral Hospital	15	Received and in use
9	Kiambu	Ruiru Sub-County Hospital	5	Received but not installed since the facility was not ready for installation.
10	Kajiado	Ngong level 4 Hospital	5	The 5 ventilators were still in their original packaging.
11	Mandera	Kamor Infectious Disease Hospital	2	Received and in use

County	Health Facility	Dispatched	Remarks
	Total	75	

1.6.53 As detailed above the ventilators were dispatched to some hospitals that were not ready, hence they were not installed and were still in their original packaging.

1.6.54 According to a memo dated 8 October, 2020 from the Project Manager to the Principal Secretary, Ministry of Health, the last batch of 25 ventilators had been received and was ready for distribution. On 16 October, 2020, the Principal Secretary, Ministry of Health wrote to M/s. Gradian Health Systems through a letter ref MOH/ADM/1/3/1/VOL 1/(18) instructing on the distribution of the last batch of ventilators. The special audit team did not conduct a physical verification on these last batch due to time limitation.

#### Receipt and Distribution of Donations by the Ministry of Health

1.6.55 The Principal Secretary, Ministry of Health established a COVID-19 Pandemic Response Commodities Clearance Committee through an internal memo Ref MOH/DC/9/1/33 dated 29 April, 2020. The Committee was a dedicated Multi-Agency Team from the Ministry of Health, the National Treasury, the State Department of Foreign Affairs and the State Department of Industrialisation.

1.6.56 The special audit established that the Government of Kenya received donations from philanthropists, development partners and other donors. The Donations were received at the KEMSA WareHouses on behalf of the Ministry of Health and later distributed to Counties and other institutions based on instructions issued by the Ministry of Health.

1.6.57 APPENDIX XIV details the quantities of donations received, issued and the stock balances as at the time of audit on 14 September, 2020.

#### Disbursement of funds by the MOH to Referral Hospitals

1.6.58 The Ministry of Health disbursed a total of Kshs.4,590,967,242 to seven referral hospitals for various purposes as detailed below.

Hospital		COVID19 Emergency Response	HR Recruitment	Allowances for the Frontline Healthcare Workers	others	Total (Kshs)
1	Coast General Hospital	500,000,000	0	0	0	500,000,000
2	Jaramogi Oginga Odinga Referral Hospital	400,000,000	0	0	0	400,000,000
3	Kitui Referral Hospital	300,000,000	0	0	0	300,000,000
4	Mandera Referral Hospital	300,000,000	0	0	0	300,000,000
5	Kenyatta National Hospital	600,000,000	0	156,795,000	500,701,392	1,257,496,392
6	Kenyatta University Research & Referral Hospital	500,000,000	0	12,270,000	771,696,150	1,283,966,150
7	Moi Teaching & Referral Hospital	400,000,000	42,824,700	106,680,000	0	549,504,700
Total		3,000,000,000	42,824,700	275,745,000	1,027,201,392	4,590,967,242

1.6.59 The special audit established the following irregularities in utilization of COVID-19 funds by the Referral Hospitals:

## **COAST GENERAL HOSPITAL**

### **Failure to inspect purchased goods**

- 1.6.60 It was noted that the procurement file did not have evidence to show that the medical equipment supplied and delivered by M/s. Surgipham Ltd at a cost of Kshs.11,600,000 were duly inspected. Therefore, the special audit could not confirm whether the right quality and quantity of supplies were delivered. This was contrary to Section 48 (1) of the Public Procurement and Asset Disposal Act, 2015, that requires an Accounting Officer of a procuring entity to establish an adhoc committee known as the Inspection and Acceptance Committee to test the quality and quantity of goods delivered to confirm compliance with specifications.

## **KITUI REFERRAL HOSPITAL**

Irregular transfer of funds from the Kitui Hospital Account Number 01141303838201 to the Kitui County COVID -19 Account number 1000455543

- 1.6.61 The Principal Secretary to the Ministry of Health in a letter reference number MOH/FIN/1/A/VOL III (70) dated 19 June, 2020 informed the Chief Executive Officer of Kitui Referral Hospital of the disbursement of Kenya COVID-19 Emergency Response Funds. It was reported that the Supplementary budget II had been approved and A.I.E Number A685792 dated 16 June, 2020 for Kshs.50,000,000 was enclosed specifically for the COVID-19 pandemic interventions. According to the letter, the guidelines for the conditional grant were to apply. In addition, the hospital was to provide to the Ministry of Health expenditure items for the budgeted amount and implementation of the same. On 30 June, 2020, A.I.E number A685773 for Kshs. 250,000,000 was received by the Kitui Referral Hospital.
- 1.6.62 On 7 July 2020, a total of Kshs. 300,000,000 was credited to the Kitui Refeeral Hospital Account Number 01141303838201 in two tranches of Kshs.50,000,000 and Kshs.250,000,000. The Kitui County Executive Committee Member (CECM) for Finance, in a letter reference number CGKTI/CT/ADM/33/24 dated 23 July, 2020 to the Kitui County Chief Officer Health and Sanitation, instructed the transfer of Kshs.300,000,000 from the Kitui General Hospital Account to the Kitui County Government Special Purpose Account (SPA) for the COVID-19 interventions. The letter stated that, the funds had been budgeted for under the County Supplementary II budget. According to

the budget, the funds were earmarked for spending in 4 departments, namely Health, Trade, Agriculture and Education, ICT and Youth Development.

1.6.63 On 27 July 2020, the Health Administrative Officer at Kitui Referral Hospital and the Accountant vide a letter reference number CGKTI/KCRH/FIN/1 (48) to the Manager Cooperative Bank-Kitui Branch instructed the transfer of Kshs.298,966,655 from the Kitui Hospital Account number 01141303838201 to the Kitui County COVID -19 Account Number 1000455543 at the Central Bank of Kenya.

1.6.64 On 3 August, 2020, Kshs.298,966,655 was debited from the Kitui County Hospital Account to the Kitui County COVID 19 Account Number 1000455543 at the Central Bank of Kenya. The transfer of Kshs.298,966,655 from the Kitui County Hospital Operations Account to the Kitui County COVID-19 Account was irregular and contrary to the Supplementary Appropriation Act, 2020 which indicated that the funds were ring-fenced for COVID-19 pandemic activities at the Kitui County Referral Hospital.

1.6.65 Further, it was established that the total funds disbursed by the Kitui County to the Kitui Referral Hospital was only Kshs.36,105,454 as detailed below:

Date	Amount received from County Government (Kshs)
17 June, 2020	26,466,745
17 June, 2020	5,254,060
25 June, 2020	4,384,649
<b>Total</b>	<b>36,105,454</b>

1.6.66 A comparison between what the National Government and what the County Government had allocated and disbursed to the Kitui Referral Hospital reflects an under funding of Kshs.263,894,546.

## MANDERA REFERRAL HOSPITAL

Procurements done without evidence of professional opinions

1.6.67 The special audit established that the Mandera County Referral Hospital received in its Kenya Commercial Bank Account No.1149105127 Kshs.300,000,000 on 02 July, 2020 from the Ministry of Health. The amount had been appropriated by Parliament and budgeted for in the Ministry of Health Recurrent Supplementary II budget for the COVID-19 Response. However, it was established that, procurements amounting to Kshs.228,910,610 did not have professional opinions contrary to the provisions of the Act.

1.6.68 Section 84 (1) of the Public Procurement and Asset Disposal Act, 2015 requires that, the Head of the Procurement function of a procuring entity should, alongside the report to the Evaluation Committee as secretariat comments, review the Tender Evaluation Report and provide a signed professional opinion to the Accounting Officer on the Procurement or Asset Disposal proceedings.

Inappropriate use of procurement method

1.6.69 The special audit established that procurements amounting to Kshs. 272,531,900 were undertaken through Requests for Quotations (RFQs) and did not meet the threshold set under the regulations. These procurements process should have been done through open tender since the amounts involved were above the RFQ threshold.

1.6.70 This was contrary to Section 59(1) of the repealed Public Procurement and Disposal Regulations, 2006 which require that, a procuring entity, that conducts procurement using the Request for Quotations (RFQ) method should be subject to the procurement thresholds set out in the First Schedule.

Absence of documents to support opening and evaluation of bids

1.6.71 It was also established that expenditures amounting to Kshs.39,857,500 was incurred. However, the procurement procedures had the evaluations done before opening of quotations. There were missing documents like tender opening and evaluation meeting minutes and missing letters of appointments for the Tender Opening and Evaluation Committees.

## KENYATTA NATIONAL HOSPITAL

### Absence of work plans on utilization of COVID-19 Funds

1.6.72 The Management of Kenyatta National Hospital (KNH) had a plan of requirements for the operationalization of a 20-bed capacity at the Kenyatta National Hospital Infectious Unit at Mbagathi Hospital dated 26 February, 2020 costing Kshs. 150.49 Million. The plan envisaged to enhance the existing 6-bed capacity at the KNH Infectious Disease Unit ward to a 20-bed capacity. The plan, however, did not provide timelines on implementation of the various renovation activities.

1.6.73 On the contrary, there was no evidence that Kenyatta National Hospital had work plans to guide in the utilization of the following funds:

- Kshs.350,000,000 for COVID-19 Emergency Response
- Kshs.250,000,000 for COVID-19 Emergency Response
- KShs.140,000,000 for 'Conversion Day Care Center to Ward for COVID-19 Health Care Workers

1.6.74 Absence of work plans on utilization of COVID-19 funds implies inadequate programme planning that may have resulted in inefficient and ineffective utilization of funds resulting in value-for-money risks.

### Over expenditure on recruitment of additional health workers

1.6.75 As at the end of September, 2020 the total number of temporary staff recruited through the needs of user departments were 498. KNH was allocated Kshs.244,655,850 for compensation of temporary employees engaged on COVID-19 prevention and mitigation activities. According to the payment vouchers for utilization of COVID-19 Funds availed to the special audit team by the Finance Department, as at the end of September 2020, KNH had spent Kshs.263,674,211.90. This resulted in an over expenditure of Kshs.19,018,361.90 above the approved budget.

### Delay in delivery of equipment thereby negating the justification for Direct Procurement

1.6.76 KNH used the Direct Procurement method to purchase medical equipment to set up the Infectious Disease Unit (IDU) at Mbagathi Hospital. The reason for use of the Direct

Procurement method was because they were dealing with an emergency and the Centre needed to be established within 7 days.

1.6.77 One of the conditions of the tender was that the suppliers had to deliver the equipment within 24 Hours after award of the contract which was done on 4 March, 2020. It was however noted that there were firms that delivered the equipment later than the 4 March, 2020 contrary to the conditions of the tender as detailed below;

Supplier	Item	Date delivered	Amount (Kshs)
Medifest Africa Ltd-	Infrared thermometers and infusion pumps	23/4/2020	3,100,000
Harleys Ltd	Examination lights	21/4/2020	856,000
Medionics Healthcare	Oximeter/baby mechanical scale	2/4/2020	374,000
		<b>Total</b>	<b>4,330,000</b>

#### **KENYATTA UNIVERSITY TEACHING RESEARCH AND REFERRAL HOSPITAL (KUTRRH)**

Payment for expenditures incurred before COVID-19 was declared in Kenya

1.6.78 The special audit established that KUTRRH had utilized Ksh.177,029,923.20 out of the Kshs.526,500,000 received as GoK COVID-19 Grant for Development. They also had commitments of Kshs.99,920,436.69. A review of the related payment vouchers revealed that, the institution had reallocated Kshs.12,388,797 to previous commitments made before COVID-19 pandemic was declared in Kenya. The authority to reallocate from the COVID-19 funds for these payments was not availed to the special audit.

1.6.79 Section 43 (1) of the Public Finance Management Act, 2012 requires that an Accounting Officer may reallocate funds from authorized use but may not reallocate funds where- (a) the funds are appropriated for transfer to another government entity or person; (b) the funds are appropriated for capital expenditure except to defray other capital expenditure; (c) the reallocation of funds is from wages to nonwages expenditure; or (d) the transfer of funds may result in contravention of fiscal responsibility principles.

1.6.80 Section (2) of the Public Finance Management Act, 2012 further requires that, an Accounting Officer for a National Government entity, other than a State Corporation,

may reallocate funds between programs, or between Sub-Votes, in the budget for a financial year if– (a) there are provisions in the budget of a program or Sub-Vote which are unlikely to be utilised; (b) a request for the reallocation has been made to The National Treasury explaining the reasons for the reallocation and The National Treasury has approved the request; and (c) the total sum of all reallocations made to or from a program or Sub-Vote does not exceed ten percent of the total expenditure approved for that program or Sub-Vote for that financial year.

1.6.81 The table below gives details of the payments and expenditure whose procurement had commenced and, in some cases, goods delivered before the COVID-19 period of March 2020, but payments were made using the conditional Covid Grants.

Purpose of payment	L.P.O No.	Amount (Kshs)	Remarks
Supply & installation of AC system at the main pharmacy store	1757585	3,323,897	User request on 15 February, 2020 vide Internal memo REF: KUTRRH/PRS/F1/366
Supply @ delivery of fridge & freezer for food storage	3478305	1,870,000	User request on 4 March, 2020 vide Internal memo REF: KUTRRH/CD/F1/74
Purchase of desktop computers for CEO & Board Chair	3478080	431,500	User request on 23 January, 2020 vide Internal memo REF: KURRH/ICT/REQ/109. RFQ done on 7 February, 2020
Installation of AC at clinical Lab	3473688	408,900	Certificate of completion states work completed on 31 January, 2020 REF: KUTRRH/IPRJ/F1/263
Supply of Ipad Pro 11 keyboard leather cases	3478075	594,000	RFQ done on 5 February, 2020. REF KUTRRH/PD/SOP/F.01
Supply and delivery of pharmacy store racks	3473983	1,856,000	RFQ done on 24 October, 2019 & professional opinion on 6 November 2019 REF KUTRRH/PD/PO/VOL1(1520
Supply and fixing of non-slip matt		3,904,500	The approved requisition of Kshs. 3,664,625 budgeted amount for the service was dated 14th October, 2019. The bid opening and the professional opinion were done on 22 January, 2020. Quotation NO.309/2019-2020/KUTRRH/PUR
<b>TOTAL</b>		<b>12,388,797</b>	

Delivery notes dated before tender opening and award

- 1.6.82 A review of Payment Voucher Number 1073 to M/s. Windson Services Ltd, Quotation Number 584/2019-2020/KUTRRH/PUR for the purchase of materials for creation of washrooms and Board Members lounge at the Centre for specialized clinics, established that delivery notes attached to the Payment Voucher were dated between 10 -13 April, 2020, which was before the bid opening and professional opinion that took place on 14 April, 2020. The reason for the service delivery before the tender opening was not given by the entity.

Services offered before awarding of tender

- 1.6.83 The special audit noted that services rendered by M/s. Ragely Investment Ltd, Quotation No. 422/2019-2020/KUTRRH/PUR/provision of fumigation services were offered before the professional opinion was given. The company provided a medical fumigation of ICU using magnesium phosphate chemical at a cost of Kshs.1,350,000. The Professional Opinion highlighted that the entity used the request for quotation in awarding the tender. The Public Procurement and Asset Disposal Act, 2015, Section 84(3) requires that, the Accounting Officer takes into account the views of the Head of Procurement in the signed professional opinion in making decision to award a tender in request for quotation method.
- 1.6.84 However, M/s. Ragely Investment Ltd offered the fumigation service between 24 - 26 February, 2020 which was before the tender opening and professional opinion that took place on 28 February, 2020 and 3 March, 2020 respectively. The reason for awarding the tender to M/s. Ragely Investment Ltd before the bids were opened or even before a professional opinion was given was not provided by the entity.

Failure to include estimate of non-cash donations in the budget

- 1.6.85 The special audit team examined the approved budgets and the succeeding supplementary budgets I and II in the financial year 2019/2020. It was established that the Kenyatta University Teaching Referral and Research Hospital did not estimate the value of donations received from KEMSA, Ministry of Health and other donors and consequently their values are not reflected in the Donations Schedule provided. In that

respect, Section 74 (4) of the Public Finance Management Act (National Government) Regulations, 2015 was contravened.

- 1.6.86 Section 74 (4) of the Public Finance Management Act (National Government) Regulations, 2015 requires that where grants and donations are receivable in kind, the value of such donations should be determined and included in the estimate and reflected as expenditure in the financial year.

#### **MOI TEACHING AND REFERRAL HOSPITAL**

Absence of approved work plans, budgets, procurement plans and training plans specific to COVID-19 resulting in failure to utilize Government grants

- 1.6.87 The special audit established that the hospital had only the Annual Work Plan, procurement plan, training plan and budget for its normal hospital operations. On the contrary, there was no evidence of existence of approved budget, procurement plan and training plan specific to COVID-19 funds utilization for any of their sources of the COVID-19 Funds.

Irregular payment of Health Workers Allowances to Non-eligible staff

- 1.6.88 The Moi Teaching and Referral Hospital (MTRH) received an amount of Kshs.106,680,000 from the Ministry of Health for the Frontline Health Workers Allowances and another Kshs.42,824,700 for the recruitment of health workers on a 3-months contract.
- 1.6.89 It was also established that an amount of Kshs.2,695,000 was paid as Allowances to non-eligible staff who were not Frontline Health Workers contrary to the SRC circular Ref. No. SRC/TS/COG/3/61/48 of 28 April, 2020 which had clearly indicated that only the Frontline Health Workers should be paid.

Un-Accounted for Funds

- 1.6.90 The special audit established that, the Moi Teaching and Referral Hospital (MTRH) had funds set for emergency and for COVID-19 intervention as follows:

<b>Funds</b>	<b>2019/2020 (Ksh)</b>	<b>2020/2021 (Ksh)</b>	<b>Total (Kshs)</b>
<b>Emergency Funds</b>	30,000,000	30,000,000	60,000,000
<b>Covid-19 Funds</b>	55,000,000	100,000,000	155,000,000
<b>Total</b>	<b>85,000,000</b>	<b>130,000,000</b>	<b>215,000,000</b>

1.6.91 The Management of the Moi Teaching and Referral Hospital did not avail documents to support expenditures of Kshs.85,000,000 incurred in the financial year 2019/2020 and Kshs. 30,000,000 incurred in the financial year 2020/2021. Under the circumstances, the special audit could not confirm the lawfulness and effectiveness of an amount of Kshs.115,000,000 incurred by the Moi Teaching and Referral Hospital from Own Source funds.

1.6.92 Section 53 (1) of the Public Finance Management (National Government) Regulations, 2015 provides that except as provided for in the Act and these Regulations, an Accounting Officer of an entity may not authorize payment to be made out of funds earmarked for specific activities for purposes other than those activities. Section 53 (2) further provides that a public officer who makes a payment contrary to paragraph (1) commits an offence under the Act.

Utilization of the COVID-19 Funds by the COVID-19 Emergency Response Fund

#### GOVERNANCE AND OVERSIGHT FRAMEWORK

1.6.93 The Legal Notice No.38 of 27 March 2020, the Public Finance Management (COVID-19 Emergency Response Fund) Regulations, 2020 established the COVID-19 Emergency Response Fund Board with the principal object of mobilizing resources towards containing the spread, effects and impact of the pandemic. Section 4(2) of the Regulations outlines the purpose of the fund.

1.6.94 Section 7(1) of the COVID-19 Emergency Response Fund Regulation, 2020 established a Board responsible for the management of the fund. The Fund Board comprised of the following members appointed by the President through a press release by the State House Spokesperson on 30 March, 2020:

	Board Member	Capacity
1	Ms. Jane Karuku	Chairperson
2	Dr. Fred Matiang'i	CS, Ministry of Interior and Coordination of National Government
3	Hon. Wycliffe Oparanya	Chairperson, Council of Governors
4	Mr. Michael Joseph	Member
5	Mr. James Mwangi	Member
6	Dr. Narenda Raval	Member
7	Mr. Joshua Oigara	Member
8	Mr. Jeremy Awori	Member
9	Mr. Wachira Waruru	Member
10	Mr. Mohammed Hersi	Member
11	Ms. Phyllis Wakiaga	Member
12	Mr. Kennedy Kihara	Secretary

- 1.6.95 It was established that on 12 June 2020, the Fund Board registered the Kenya Covid-19 Emergency Fund Limited under the Companies Act, 2015 as a Company limited by guarantee. The audit noted that the Fund Board approved the establishment of the Fund as a corporate entity for procurement and logistics purposes in a Board meeting held on 14 April, 2020.
- 1.6.96 The certificate of incorporation indicates the Company Registration Number as CLG-PPFDDA and the registered office of the company as ALN House, Eldama Ravine Close Off Eldama Ravine Road, P.O. Box 200-00606 - Sarit Centre.
- 1.6.97 It was not clear why an entity established under the Public Finance Management (COVID-19 Emergency Response Fund) Regulations, 2020 as the COVID-19 Emergency Response Fund Board with clear governance, management structures, systems and procedures outlined in the Public Finance Management Act, 2012 and the attendant Regulations was again registered as a Company Limited by Guarantee under the Companies Act, 2015 indicating it was a private company receiving donations from well-wishers.
- 1.6.98 Further, the special audit sought advisories from the Office of the Attorney General & Department of Justice and the National Treasury on the status of the COVID-19 Emergency Response Fund. The advisories provided conflicting conclusions.

1.6.99 (i) The National Treasury advisory dated 8 February, 2021 maintained that the Covid-19 Emergency Response Fund was established pursuant to Section 24 (4) of the Public Finance Management Act, 2012. The Fund was therefore required to facilitate the Office of the Auditor-General to audit its expenditures in line with Article 229 of the Constitution, Public Finance Management Act, 2012 and Public Finance Management (Covid-19 Emergency Response Fund) Regulations, 2020 Legal Notice No. 38 of 26 March, 2020.

1.6.100 (ii) The Solicitor General in an advisory dated 30 April, 2021 was of the opinion that the money raised through the framework of the COVID-19 Emergency Response Fund could not be deemed to have been collected under statutory authority since the antecedent statutory requirements for the establishment of such authority were not carried out in respect of the Fund. Consequently, the money under the fund would not fit within the definition of public money as articulated in Section 2 of the, Public Finance Management Act and would be outside the remit of the Auditor-General. However, the Solicitor General recommended that the Auditor-General undertake an audit of the Fund operations due to the public interest nature of the Fund and the nexus between the Fund and the Government for the purpose of securing effective COVID-19 mitigation outcomes.

1.6.101 Although the Solicitor-General seems to have concluded that the funds raised by the COVID-19 Emergency Response Fund were not public funds, the Auditor-General audited the funds based on the Regulations. The Fund Board has since submitted documents for audit to the Auditor-General.

## FUND ADMINISTRATION AND ACCOUNTABILITY

### Irregular Administration of the Fund

1.6.102 Section 9(1) of the PFM (COVID-19 Emergency Response Fund) Regulations, 2020 provides that the Principal Secretary to the National Treasury should be the Administrator of the Fund. The roles of the Administrator as provided in Section 9 (2) include to; supervision and control of the administration of the fund, establishing proper systems of control and oversight, cause proper books of account to be kept and other records relating to the fund, prepare financial statements for the fund and transmit to the Auditor-General for audit. Section 9(4) of the PFM (COVID-19 Emergency Response

Fund) Regulations, 2020 provides that the Administrator of the Fund should designate officers under the National Treasury as the Secretariat to the Fund.

1.6.103 A review of the inauguration Board meeting minutes (MIN 5/1/4/20 held on 1 April 2020) notes that the Members were briefed about the Fund Regulations issued by the National Treasury but unanimously resolved to adopt a private sector steered approach for purposes of instilling and assuring public confidence in the process. The Board decided to develop its own procedures and workplan in the performance of its mandate.

1.6.104 There was no evidence that the Principal Secretary of the National Treasury exercised his duty as the Fund Administrator as provided by the Regulations establishing the Fund. Instead, the Fund Board engaged Ernst and Young, PwC, Deloitte and KPMG on pro-bono basis. A review of minutes of the Fund Board meeting held on 20 April 2020 established that the professional firms were incorporated to develop the requisite governance audit systems to ensure transparency in the Board operations. The professional firms were to provide support to the Fund Board operations and activities on roles that ought to have been the responsibility of the Administrator of the Fund. This significantly affected the application of the Government's Financial and Procurement Laws and Regulations in management of public funds.

1.6.105 The following are the roles of the professional firms engaged by the Fund Board:

- i) **Ernst and Young (EY)**, is the Program Management Office, responsible for implementing the approved program design from end-to-end and managing overall real-time program reporting including donor specific reporting.
- ii) **PwC** serves as the Fund Accountant with the responsibility of maintaining complete and accurate books of accounts managed by an ERP system that is reviewed and approved by the Board.
- iii) **KPMG** provides assurance services by documenting key controls across the projects and committees and continuously ensures that they meet the defined key performance indicators and service level agreements and comply with approved procedures.
- iv) **Deloitte** provides external audit services.

Absence of evidence of Revenue and Expenditure Estimates and Work Plan

1.6.106 Section 9 (2) (b) of the PFM (COVID-19 Emergency Response Fund) Regulations, 2020 requires the Fund Administrator to prepare estimates of the annual revenue and

expenditure of the Fund relating to its obligations and operational expenses and submit it to the Board for adoption. Section 8(a) provides that upon adoption, the Board should recommend Estimates of the Annual Revenue and Expenditure from the Fund to the Cabinet Secretary of The National Treasury for approval.

1.6.107 No evidence was provided to the Auditor-General that revenues and expenditures to and from the Fund Account were prepared and communicated to the Cabinet Secretary of The National Treasury for inclusion in the 2019/2020 or 2020/2021 Budgets contrary to section 9(2)(b) of the PFM (COVID-19 Emergency Response Fund) Regulations, 2020.

1.6.108 In addition, there was no evidence that the Fund Board had developed a work plan to guide its operations and to ensure proper linkage between budgeting and planning for efficient and effective utilization of resources. Consequently, the special audit could not give assurance on the lawfulness and effectiveness of the Fund's expenditures and operations for the period under review. The Management explained that approved work plans and budgets were not applicable since the Fund was set up to address urgent procurement interventions based on dynamic conditions considering donations were received either in cash or in kind.

#### Approvals for opening the Bank Account

1.6.109 Section 10 (1) of the PFM (COVID-19 Emergency Response Fund) Regulations, 2020 requires the Fund Administrator to open Bank Accounts with the approval of the Board as may be approved by The National Treasury. The audit established that, the Fund opened a Bank Account with Absa Bank Kenya PLC, the account name being Kenya COVID-19 Fund, Account Number 2042554653 at Absa Towers Branch. Though the decision to open the Bank Account was approved by the Fund Board, there was no evidence of approval by the Cabinet Secretary to The National Treasury for opening the Bank Account. The Fund also operated an MPESA pay-bill number 999000.

#### Amount of funds received by the Covid-19 Emergency Response Fund Board

1.6.110 An analysis of the bank statements provided reflects total cash inflows of Kshs.1,355,468,968 as at 31 December, 2020 which included contributions from private entities and individuals of Kshs.1,016,981,315 and contributions from Government Entities of Kshs. 338,487,653 as follows:

Source		Amount (Kshs)
1	Private Entities and Individuals	1,016,981,315
2	Government Entities	338,487,653
	<b>Total</b>	<b>1,355,468,968</b>

1.6.111 As at 31 December, 2020, the Kenya Covid 19 Fund Account held at Absa Bank had a balance of Ksh.855,468,918.

Donations in Kind- Kshs.409,602,009

1.6.112 The Kenya Covid-19 Emergency Response Fund Board had received donations in kind amounting to Kshs. 409,602,009 as at 31 December, 2020 as detailed below:

Category		Value (Kshs)
1	Health - Medical Supplies (PPE, Oxygen and Sanitizers)	286,702,300
2	Livelihood - Food items	113,375,328
3	Livelihood - Household items	9,524,381
	<b>Total</b>	<b>409,602,009</b>

1.6.113 The Kenya Covid-19 Emergency Response Fund Board provided a schedule indicating the donors, dates of distribution, items, quantities, and the costed value with an explanation that the donors did direct delivery to the beneficiaries. As a result, the audit was not able to verify the donations in kind amounting to Ksh.409,602,009.

#### **PPEs distribution by the Kenya COVID-19 Fund and Equity Group Foundation**

Procurement of 1<sup>st</sup> Tranche PPEs - Kshs.259,373,300

1.6.114 In a Board meeting held on 19th May 2020, the Fund Board resolved (MIN 4/19/5/20) to have the Equity Group Foundation as the contracting entity for purposes of the initial purchases by the Board. This was an interim measure to allow the Secretariat to finalize the incorporation of a legal entity.

1.6.115 The Equity Group Foundation procured and paid for the 1st Tranche of PPE at Kshs. 259,373,300. This amount has been recorded in the Fund's Books as a donation in kind from the Equity Group Foundation.

Procurement of 2<sup>nd</sup> Tranche PPEs - Kshs.150,486,050

1.6.116 The Covid 19 Fund Board procured for the 2<sup>nd</sup> Tranche of PPEs at Ksh.150,486,050 from various suppliers. Out of this Ksh.100,000,050 had been paid for by 31 December, 2020 as detailed below;

Date	Payee	Details	Amount (Kshs)
13/10/2020	Texplast Industries Limited	Rfb/Inv Nos 68050 69258/56 68985	20,000,050
18/09/2020	Alpha Knits Limited	Rfb/Invs 14235/182/179	14,000,000
18/09/2020	Texplast Industries Limited	Rfb/Supply of Reusable Cloth Face Masks Cs 390542	14,000,000
30/09/2020	Alpha Knits Limited	Rfb/Invs 14343 14295 14273 2nd Tranche Procurement Award	14,000,000
30/09/2020	Texplast Industries Limited	Rfb/Inv 68583 And 68838 2nd Tranche	14,000,000
15/09/2020	Manchester Outfitters Ltd	Rfb/ Inv 5631	12,000,000
30/09/2020	Manchester Outfitters Ltd	Rfb/Inv 5724 2 <sup>nd</sup> Tranche Procurement Award	12,000,000
<b>Total</b>			<b>100,000,050</b>

### Commitments

1.6.117 The fund had outstanding commitments of Ksh.50,486,000 as at 31 December ,2020 which were subsequently settled on 7 January, 2021.

Supplier	Items	31 December, 2020 Kshs
Superior Products Africa Limited	Goggles	3,400,000
Omega Apparels Limited	Gowns	5,511,000
Texplast Industries Limited	Surgical Masks	6,250,000
	Scrubs	12,000,000
	Coveralls	16,250,000
Bakpharm Limited	Face shield	2,475,000
Nairobi Enterprises Limited	Hair covers, Aprons, KN95	4,600,000
<b>Total</b>		<b>50,486,000</b>

- 1.6.118 The fund did not subject the procurement of the PPEs to the Public Procurement and Asset Disposal Act, 2015 and the attendant Regulations. The Fund had resolved through (MIN 5/1/4/20) to adopt a private sector steered approach.
- 1.6.119 The Fund Board resolved (MIN 5/28/4/20) to use the TenderSure procurement system that would be supported by QED Solutions Limited on pro-bono basis. The following procurement process was applied;
- 1.6.120 The Fund relied on specifications provided by the Ministry of Health which were vetted/validated by the Fund's Technical Committee on Health. It was noted that Request for Quotation was sent to 72 bidders comprising of local manufactures and direct importers using TenderSure System on 29 July, 2020 and closed on 5 August, 2020. Out of the 72 bidders, 41 bidders responded, they were automatically evaluated by the system and 28 passed the Quality Assurance.
- 1.6.121 The 28 bidders were then subjected to Technical Evaluation which was conducted in two parts; physical sample review and documentation due diligence and 24 suppliers with samples were approved. The bidders who passed both sample review and the quality assurance were considered for financial evaluation where suppliers were selected on lowest price per item.
- 1.6.122 From the evaluation, the most competitive suppliers were selected and recommended for award. The Fund Board approved the tender awards vide (MIN 2/27/5/20).

Procurement contract with Bedi Industries - Kshs. 48,165,000.

1.6.123 It was noted in a report dated 22 October, 2020 on supply and delivery of Personal Protective Equipment for COVID-19 Emergency Medical Care Health Workers (Batch 2) for Equity Group Foundation and COVID-19 Emergency Response Fund that, Bedi Industries had been engaged on 20 July, 2020 to supply 100,000 coveralls at a price of Kshs. 95,000,000. From the report, the first order for 50,700 coveralls of Kshs. 48,165,000 was placed immediately, with the balance of the 49,300 coveralls (Kshs. 46,835,000) to be ordered upon approval of the second PPE procurement cycle.

1.6.124 Although, the Contract and procurement documents for this engagement were not availed for audit review, the audit team noted that the report indicated the Contract was for 3 months and had lapsed on 20 October, 2020 before the second order was placed. The report stated that the second order was not placed because there was negative feedback from various institutions on the quality of the coveralls supplied and the second order was subject to approval of the procurement of second batch of PPE.

1.6.125 From the information above, the audit team could not ascertain whether the Equity Group Foundation or the Fund had appointed an Inspection and Acceptance Committee responsible for inspecting the goods delivered to confirm conformity with the required specification prior to receiving them. This control embedded in Section 48 of the Public Procurement and Asset Disposal Act, 2015 is a safeguard to ensure Public Entities procure goods that meet the technical specifications in the contract and achieve value for money. The special audit could not also establish whether the contract was between the Equity Group Foundation and Bedi Industries as donations in kind or direct procurement from the Fund. In this regard, there is a risk that the Fund may not have realized value for money in the procurement of the 50,700 coveralls at Kshs. 48,165,000.

1.6.126 There was no evidence that the procurements were paid for by the Fund Board and the amounts had not been recorded in the Fund's Financial Statements as contribution in kind from the Equity Group Foundation.

Utilization of the Cash Transfer Program Funds - Kshs. 400,000,000

1.6.127 It was noted that there was a Cash Transfer Program of Kshs. 400,000,000 aimed at benefitting 100,000 Kenyans weekly in urban informal settlements for a period of one

month. The mapping of the vulnerable categories of persons to benefit from the cash transfer programme would be guided by considerations such as persons who were on employment but rendered jobless due to COVID-19, persons within a family set up and those who had not been beneficiaries of funds from any Government related intervention. The Board approved the cash transfer programme on 2 June, 2020 and Kshs. 400,000,000 was transferred to MPESA Holding Company Limited to be disbursed to the identified beneficiaries.

Date	Details	Amount (Kshs)
22/06/2020	MPESA HOLDING CO. LIMITED	100,000,000
17/07/2020	MPESA HOLDING CO. LIMITED	100,000,000
03/08/2020	MPESA HOLDING CO. LIMITED	100,000,000
11/08/2020	MPESA HOLDING CO. LIMITED	100,000,000
<b>Total</b>		<b>400,000,000</b>

1.6.128 The disbursements were done in 4 phases. Detailed Mpesa blasting reports showing the recipient's phone number, names, receipt number, dates and amounts disbursed were provided for audit from Safaricom through the Fund Accountants (PricewaterhouseCoopers). Location of the recipients was, however, not indicated, and as a result, the special audit could not therefore confirm if the beneficiaries were from urban informal settlements. The audit revealed that a total of 97,515 persons benefited from the cash transfer program. Out of these, 95,727 were registered Mpesa users while 1,788 were not registered. The highest amount disbursed to a beneficiary was Kshs 24,000 while the least amount disbursed was Kshs 1,000.

1.6.129 Analysis of the data provided revealed that, there were 38 payments done to the same Mpesa telephone number but with different names amounting to Kshs 72,000. Similarly, there were 7,850 beneficiaries who shared names but had different Mpesa telephone lines who were paid a total of Kshs.32,626,000. The identity card (ID) numbers of the recipients were not provided for audit and analysis. In absence of the identity card numbers and in view of the time constraint, the special audit was not able to independently verify that the recipients of the cash transfers were the bona fide beneficiaries or that the cash was received. Consequently, the lawfulness and effectiveness of utilization of the Kshs.400,000,000 could not be confirmed.

## Irregularities, Weaknesses and Managerial Responsibility

### 1.7 Managerial Responsibility

1.7.1 The special audit identified the following irregularities and managerial responsibilities in the Utilization of COVID - 19 Funds by the National Government Entities.

	Irregularity	Law violated /Risks	Amount at Risk (Kshs)	Responsibility
1	Inadequate controls in management of Fuel	Loss of public funds	14,000,000	Management of the Ministry of Health
2	Un-explained variance in payment of Import Duty	Value for Money Risks	740,239	Management of the Ministry of Health
3	Issuance of LSO after provision of catering services for surveillance team	Violation of the PPADA, 2015	1,536,000	Management of the Ministry of Health
4	Un-supported expenditures for airtime	Loss of public funds	2,131,000	Management of the Ministry of Health
5	Conflicting documentation on notification of tender award and letters of acceptance	Value for Money Risks	5,273,670	Management of the Ministry of Health
6	Un-surrendered imprest	Violation of the PFMA, 2012	7,981,975	Management of the Ministry of Health
7	Delivery of Ventilators to Counties that did not have capacity to use the Ventilators	Value for Money Risks	N/A	Management of the Ministry of Health
8	Failure to inspect purchased good	Value for Money Risks	11,600,000	Management of Coast General Hospital
9	Irregular transfer of Kshs.298,966,655 from the Kitui Hospital Account Number 01141303838201 to the Kitui County COVID -19 Account number 1000455543	Irregular use of public funds	298,966,655	Management of Kitui Referral Hospital and Kitui County Government

Irregularity		Law violated /Risks	Amount at Risk (Kshs)	Responsibility
10	Procurements done without evidence of professional opinions	Violation of the PPADA, 2015	228,910,610	Management of Mandera Referral Hospital
11	Inappropriate use of procurement method	Violation of the PPADA, 2015	272,531,900	Management of Mandera Referral Hospital
12	Absence of documents to support opening and evaluation of bids.	Violation of the PPADA, 2015	39,857,500	Management of Mandera Referral Hospital
13	Absence of work plans on utilization of COVID-19 Funds	Value for money Risks	740,000,000	Management of Kenyatta National Hospital
14	Over expenditure on recruitment of additional health workers	Violation of the PFMA, 2012	19,018,361	Management of Kenyatta National Hospital
15	Delay in delivery of equipment thereby negating the justification for Direct Procurement	Value for money Risks	4,330,000	Management of Kenyatta National Hospital
16	Payment for expenditures incurred before COVID-19 was declared in Kenya	Value for money Risks	12,388,797	Management of Kenyatta University Teaching Research and Referral Hospital
17	Delivery notes dated before tender opening and award	Violation of the PPADA, 2015	849,620	Management of Kenyatta University Teaching Research and Referral Hospital
18	Services offered before Awarding of tender	Violation of the PP&ADA, 2015	1,350, 000	Management of Kenyatta University Teaching Research and Referral Hospital

Irregularity	Law violated /Risks	Amount at Risk (Kshs)	Responsibility
19	Failure to include estimate of non-cash donations in the budget	Violation of the PFMA, 2012	N/A Management of Kenyatta University Teaching Research and Referral Hospital
20	Absence of approved work plans, budgets, procurement plans and training plans specific to COVID-19 resulting in failure to utilize Government grants	Value for money Risks	N/A Management of Moi Teaching and Referral Hospital
21	Irregular payment of Health Workers Allowances to Non-eligible staff	Value for money Risks	2,695,000 Management of Moi Teaching and Referral Hospital
22	Un-Accounted for Kshs.115,000,000	Loss of public funds	115,000,000 Management of Moi Teaching and Referral Hospital
23	Irregular Administration of the COVID-19 Emergency Response Fund	Section 9(1) of the PFM (COVID-19 Emergency Response Fund) Regulations, 2020	N/A Management of the COVID-19 Emergency Response Fund
24	Absence of evidence of Revenue and Expenditure Estimates and Work Plan	Section 9(2)(b) of the PFM (COVID-19 Emergency Response Fund) Regulations, 2020	N/A Management of the COVID-19 Emergency Response Fund

## 1.8 Conclusion and Recommendations

- 1.8.1 The National Government received significant assistance from various Development Partners that includes the World Bank, the International Monetary Fund, the African Development Bank and the European Union among others. The National Treasury disbursed funds to the Ministry of Health and other MDAs for COVID-19 prevention and mitigation. The Government also established, the COVID-19 Emergency Response Fund under the Public Finance Management (COVID-19 Emergency Response Fund) Regulations, 2020, to receive voluntary contributions from well-wishers towards covering expenses associated with the COVID-19 pandemic.
- 1.8.2 A review of expenditures incurred established violations of the Public Procurement and Asset Disposal Act, 2015 by the Ministry of Health and the Referral Hospitals. There were failures by the entities to take on charge donations and inventories procured, inconsistencies in procurement records raising red flags on authenticity of the transactions, and unsupported payments. Some entities also lacked approved work plans to guide in efficient and effective utilization of funds. All these infractions are itemized under Section 1.7 of this special audit report.
- 1.8.3 It is therefore, recommended that, overallly.
- The Executive should undertake across board independent assessment of the procurement systems with a view of ensuring procuring entities introduce price models such as price caps on key items and services related to emergencies that respond to market conditions and prevent overspending. Importantly, the Executive should consider other contractual designs such as implementing framework agreements for emergency purchases, setting out contractual terms and price caps before commencement of procurement; and
  - The Executive should ensure that procurement information is made public and that data is published frequently to create mechanisms by which irregularities in procurement and corrective interventions can be reported in a timely manner. This will ensure that independent audits and investigations including social audits undertaken by key stakeholders are able to corroborate the information.

1.8.4 It is further recommended that, specifically.

- The Ministry of Health and the Semi-Autonomous Agencies within the Ministry should review the systems in place with a view to identifying areas of weaknesses so that appropriate control measures can be put in place to mitigate procurement fraud risks especially during times of emergencies;
- The Management of the Ministry of Health and the Management of the Referral Hospitals should automate their procurement and asset disposal processes with appropriate audit controls embedded in the system to proactively identify and mitigate procurement related risks; and
- The Ethics and Anti-Corruption Commission and the Directorate of Criminal Investigations should conduct further investigations to establish acts of criminality in all irregularities identified by this special audit.



CPA Nancy Gathungu, CBS  
AUDITOR-GENERAL

25 May, 2021

## **2. INTRODUCTION, METHODOLOGY AND SCOPE**

### **2.1 Introduction**

- 2.1.1 Provision of healthcare is one of the economic and social rights outlined in Article 43 of the Constitution of Kenya 2010, which states that every person has the right to the highest attainable standard of health. Article 201(a) of the Constitution of Kenya requires openness and accountability including public participation in financial management matters. Financial management matters in Government are guided by the Constitution of Kenya 2010, the Public Finance Management Act, 2012 (PFMA) and the attendant regulations, the Public Procurement and Asset Disposal Act, 2015 and other circulars released by the National Treasury from time to time.
- 2.1.2 Articles 229 of the Constitution of Kenya and the Public Audit Act, 2015 gives the Auditor-General the mandate to audit all public funds and report on whether the funds have been used in an effective and lawful manner. Section 37 of the Public Audit Act 2015 provides that, the Auditor-General may, upon request by Parliament, conduct forensic audits to establish fraud, corruption or other financial improprieties. In addition, Section 38 of the Public Audit Act, 2015 provides that the Auditor-General may examine the Public Procurement and Asset Disposal process of a state organ or a public entity with a view to confirming whether procurements were done lawfully and in an effective way.
- 2.1.3 In this regard, the Office of the Auditor-General conducted a special audit on utilization of the COVID-19 Funds by the National Government Entities with a view to confirm lawfulness and effectiveness of the expenditure incurred.

### **2.2 Objectives**

- 2.2.1 The objective of the special audit is to confirm whether public funds utilized by the National Government Entities for procurement of the medical supplies for purposes of combating the COVID-19 pandemic were used in a manner that is lawful and effective.

### **2.3 Terms of Reference**

- 2.3.1 The special audit was guided by the Terms of References summarized below and detailed in **APPENDIX I**:
- Review the Institutional Framework for Management of the COVID-19 Funds

- Review utilization of the COVID-19 Funds by the National Treasury and Planning including disbursements to Ministries, Departments and Agencies
- Review utilization of the COVID-19 Funds by the Ministry of Health and Referral Hospitals
- Review utilization of the Funds by the COVID-19 Emergency Response Fund

## **2.4 Scope of Work and Limitations**

2.4.1 The Special Audit Report covers, planning, budgeting, financing and utilization of Covid-19 funds and donations by the National Government for the period 13 March 2020 to 31 July, 2020.

2.4.2 The report establishes, the total amount of funds appropriated and received by the National Government towards the COVID-19 related activities. It also details, how much of the funds were disbursed to other Ministerial Development Agencies and usage of the COVID-19 funds by the Ministry of Health. Further, the report reviews receipt and utilization of the COVID-19 Funds and donations by the COVID-19 Emergency Response Fund . Separate reports have been issued on Utilization of the COVID-19 funds by the 47 County Governments and the Kenya Medical Supplies Authority (KEMSA).

## **2.5 Structure of the Report**

2.5.1 The special audit report has three sections; the executive summary, the detailed approach and the detailed findings. The report should be read in its entirety in order to fully comprehend the approach and the findings. It reports on facts as understood, with the aim of informing the Public Accounts Committee on their deliberations and decision making taking cognizance of any limitations raised.

## **2.6 Audit approach and methodology**

2.6.1 The special audit adopted the following methodology in evidence gathering, analysis and reporting:

### **Document Examination**

2.6.2 The special audit reviewed and examined documents which include the Public Finance Management Act 2012, the Public Procurement and Disposal Act 2015, the procurement records and budgets among others. This was done to ensure objectivity

of the assignment and to provide practical recommendations towards the special audit.

**Analytical Review**

- 2.6.3 Information from procurement records for the period under review was analyzed and the results used to arrive at the conclusions.

**Interviews**

- 2.6.4 The audit team interviewed Officers detailed in **APPENDIX II** involved in various operational processes within the Entities and their response have been incorporated in this report.

### 3. DETAILED FINDINGS

#### 3.1 The Institutional Framework for the Management of the COVID-19 Funds

- 3.1.1 On 11 March, 2020, the World Health Organization pronounced a public health emergency of international concern, declaring the Corona Virus Disease 2019 (COVID-19) as a pandemic. The first case of the COVID-19 pandemic in Kenya, was announced on Friday, 13 March, 2020. Since then, the Country has continued to record new cases daily.
- 3.1.2 The National Government received significant assistance from various development partners that includes: the World Bank, the International Monetary Fund, the African Development Bank and the European Union.
- 3.1.3 The Government also established, the COVID-19 Emergency Response Fund under the Public Finance Management (COVID-19 Emergency Response Fund) Regulations, 2020, to receive voluntary contributions from well-wishers towards covering expenses associated with the COVID-19 pandemic.
- 3.1.4 The key institutions involved in the COVID-19 prevention, mitigation and response are as follows:

Table 1: Institutions involved in the COVID-19 prevention, mitigation, and response

	Institution	Remarks
1	The National Treasury and Planning	Implemented the fiscal and monetary policy decisions including mobilization of resources to mitigate the pandemic and cushion the Economy from effects of the pandemic
2	The Ministry of Health, the Refferal Hospitals and KEMSA	Received and utilized funds from the National Treasury for prevention and mitigation of the COVID-19 Pandemic
3	The COVID-19 Emergency Response Fund	Received monetary and non-monetary voluntary contributions from well-wishers towards covering expenses associated with the COVID-19 pandemic

Institution		Remarks
4	Other Ministries, Departments and Agencies (MDAs)	Received funding from the National Treasury for either the General Budget Support or the COVID-19 Mitigation.
5	County Governments	Received funds and donations from the National Government for the fight against the pandemic. A separate report has been issued on utilization of the COVID-19 Funds by the County Governments.

### 3.2 Utilization of the COVID-19 Funds by the National Treasury and Planning

#### Budgeting and financing for the COVID-19 activities

#### Supplementary Budgets for the COVID-19 related activities

3.2.1 When the COVID -19 pandemic was declared by the Government, the budget for the financial year 2019/2020 was in operation. The Covid 19 intervention measures that were prepared called for budget reallocations leading to supplementary budgets II and III which were passed by the National Assembly on 30 April, 2020 and 30 June, 2020 respectively, amounting to Kshs.58,158,600,000 to cater for the Emergency Response Funds. Records at the National Treasury indicated that the reallocations for the COVID -19 emergency related expenditures and budgetary support were as summarized below and detailed in **APPENDIX III**.

Table 2:GOK Supplementary Budgets for the COVID-19 activities

	MDA	Purpose	Amount (Kshs)
1	The Ministry of Health	COVID-19 Interventions	22,432,000,000.00
2	The State Department for Correction Services	COVID-19 Interventions- Pending Bills	6,200,800,000.00
3	The State Department for Interior	Security Enforcement	500,000,000.00
4	The National Intelligence Service	Contact Tracing	1,500,000,000.00
5	The National Treasury and Planning	Kenya Revenue Authority- VAT refunds	10,000,000,000.00
6	The State Department for Youth	Provision for pending bills	6,165,800,000.00

	MDA	Purpose	Amount (Kshs)
7	The State Department for Devolution	Provision for relief food	400,000,000.00
8	The State Department for Housing	Provision for Kazi Mtaani project	416,000,000.00
9	The State Department for Social Protection	Provision for vulnerable groups	10,000,000,000.00
10	The National Land Commission	Provision for pending bills	544,000,000.00
	<b>Total</b>		<b>58,158,600,000.00</b>

#### Loans and Grants received by the Government of Kenya for COVID-19

- 3.2.2 After the first COVID -19 case was reported in Kenya, on 13 March, 2020, the Government of Kenya, through the National Treasury and Planning, negotiated with various donors for financial support for both COVID-19 mitigation programs and Budgetary support (Economic Stimulus Programs).
- 3.2.3 Section 52(1) of the Public Finance Management Act, 2012, provides that, the Cabinet Secretary of the National Treasury or any person designated by the Cabinet Secretary in writing is authorized to execute loan documents for borrowing by the National Government. Section 50 (7) of the Public Finance Management Act, 2012, further provides that, the Cabinet Secretary shall ensure that the proceeds of any loan raised under this Act are paid into the Consolidated Fund or into any other public fund established by the National Government or any of its entities as Cabinet Secretary may determine in accordance with the Regulations approved by Parliament.
- 3.2.4 Consequently, financing agreements were signed between the various Development Partners and the Government of Kenya represented by the Cabinet Secretary of the National Treasury and Planning.
- 3.2.5 The Government of Kenya, through the National Treasury and Planning, mobilized a total of Kshs.214,908,853,825 from various Development Partners . The funds were received in the Special Deposits Accounts held at the Central Bank of Kenya as summarized below and detailed in **APPENDIX IV**:

Table 3: Funds received from Development Partners for COVID-19 mitigation

Date	Donor/GOK	Currency	Forex Amount	Amount (Kshs)	Purpose
14/Feb/20	World Bank-Loan	USD	10,000,000	1,063,000,000	Transforming Health Systems for Universal Care
3/Apr/20		Euro	45,500,000	5,287,100,000	Covid -19 Emergency Response Project
20/May/20		USD	750,000,000	80,250,000,000	2nd Inclusive Growth and Fiscal Management Development Policy
20/May/20		USD	250,000,000	26,574,996,811	
13/May/20	DANIDA-Grant	DKK	23,000,000	350,000,000	Universal Health Care Devolved System - COVID 19
4/Jun/20	ADB-Loan	Euro	188,000,000	22,412,835,480	
30/Jun/20	IMF-Loan	SDR	542,800,000	78,332,610,616	Covid -19 Emergency Response Support Program(ER SP)

Date	Donor/GOK	Currency	Forex Amount	Amount (Kshs)	Purpose
28/April/20	EU-Loan (Initially agreed Euro 7,000,000. Disbursed less amount offset for ineligible expenses)	Euro	5,019,825	638,310,917	Public Accountability and Service Delivery - PASEDE
			<b>Total</b>	<b>214,908,853,825</b>	

- 3.2.6 Out of the above amount of Kshs.214,908,853,825, requests amounting to Kshs.162,685,604,780 had been received as at 31 July, 2020 and transferred to the various Ministries, Departments, Agencies (MDAs) and the Counties. The funds were transferred to various National Government Ministries, Departments and Agencies for COVID - 19 mitigation, and as normal Exchequer releases for the period from March 2020 to July 2020. The funds that have been covered by the special audit are highlighted under the remark's column of **APPENDIX XXIX**.
- 3.2.7 A balance of Kshs.52,223,249,045 was held in various bank accounts including the Exchequer Account and represents funds for which no requests had been made by the implementing entities. **APPENDIX IV** details receipts, disbursements and balances held in the various special accounts as at 31 July, 2020.
- 3.2.8 The un-utilized balance of Kshs.52,223,249,045, was held in the following Central Bank Accounts as at 31 July, 2020.

Table 4: Un-utilized Cash Balances as at 31 July, 2020

Source	Purpose	Amount (Kshs)	CBK Bank Account
World Bank	Transforming Health Systems for Universal Care Project	86,584,500	1000003987 and 1000308637
World Bank	COVID-19 Emergency response project	3,559,977,380	1000003987 and 1000446366
World Bank	2 <sup>nd</sup> Inclusive and Fiscal Management Development Policy	26,574,996,811	1000003987

Source	Purpose	Amount (Kshs)	CBK Bank Account
IMF	Covid -19 Emergency Response Support Programme	21,363,379,436	1000003987 and 1000448571
European Union	Public Accountability and Service Delivery	638,310,918	1000449772
	<b>Total</b>	<b>52,223,249,045</b>	

Other Bank Accounts opened to raise funds for the COVID-19 Pandemic

3.2.9 It was also established that various bank accounts were opened or had been in operation in relation to raising funds for the COVID-19 pandemic mitigation as follows:

Table 5: Other Bank Accounts Opened to raise funds for the COVID-19 Pandemic

Particulars	COVID-19 Emergency Response Fund CBK. A/C No. 1000445057	Covid-19 Investigative and Prosecution Agencies CBK. A/C 1000446021	Covid-19 Emergency response Fund NBK A/C 107122535900	Voluntary pay cut CBK A/C. 1000201924
Bank Signatories	PS-National Treasury	PS-National Treasury	PS-National Treasury	PS-National Treasury
Receipts (Kshs)	288,754,937.30	9,387,674,000.00	6,308,010.30	179,207,769.45
Disbursements	No disbursements as at 31 July, 2020	No disbursements as at 31 July, 2020	No disbursements as at 31 July, 2020	No disbursements as at 31 July, 2020

3.2.10 The above bank accounts had balances amounting to Kshs.9,862,941,166 held in four bank accounts related to COVID-19 Emergency response funds as detailed in table 6 below:

Table 6: Bank Accounts with balances amounting to Kshs.9,862,941,166

Bank	Account Name	Account Number	Amount KSh.
Central Bank of Kenya	Covid 19 Emergency Response Fund	1000445057	288,754,937.30
Central Bank of Kenya	Covid 19 Investigative and Prosecution Agencies	1000446021	9,387,674,000.00
National Bank of Kenya	Covid 19 Emergency response Fund	1071225535900	6,308,010.30
Central Bank of Kenya	Voluntary pay cut account	1000201924	179,207,769.45
<b>Total</b>			<b>9,862,941,166.05</b>

3.2.11 The special audit established the following irregularities:

Operation of the COVID-19 fund Bank Accounts by the National Treasury

3.2.12 Article 206 (1) of the Constitution of Kenya, 2010 provides that there is established the Consolidated Fund into which shall be paid all money raised or received by or on behalf of the National Government, except money that is reasonably excluded from the Fund by an Act of Parliament and payable into another public fund established for a specific purpose. Section 24 (4) of the Public Finance Management Act, 2012 provides that the Cabinet Secretary may establish a National Government Public Fund with the approval of the National Assembly.

3.2.13 The Public Finance Management (National Government) Regulations, 2015 section 207(1) subsections (a) to (h) provides in part that the establishment of a Public Fund shall at the minimum be initiated through a proposal by the Cabinet Secretary responsible for the National Government entity under which the functions of the Fund fall clearly setting out the justifications and submit it to the Cabinet Secretary.

3.2.14 It was established that the Cabinet Secretary to the National Treasury, established the COVID-19 Emergency Response Fund under the Public Finance Management (Covid-19 Emergency Response Fund) Regulations, 2020 which is also envisaged under Section 24 (4) of the Public Finance Management Act, 2012.

- 3.2.15 It was noted that, various Bank Accounts were opened or had been in operation in relation to raising funds for the Covid 19 pandemic emergency response/mitigation. The bank accounts operated by the National Treasury, had closing balances of Kshs.9,862,941,166.05 as at 31 July, 2020 as detailed above.
- 3.2.16 It was also established that besides the four bank accounts mentioned above, there is another Bank Account; Kenya Covid -19 Fund Account Number 2042554653 operated under ABSA Bank Kenya PLC which was opened by the COVID-19 Emergency Fund Board that was established by the Executive for the purpose of the COVID-19 mitigation and emergency response. However, it was established that the current board as constituted is not backed by any law or Act of Parliament or Public Finance Management (Covid-19 Emergency Response Fund) Regulations, 2020 which is essential in the operationalization of any Public Fund.
- 3.2.17 In addition, there was no evidence provided that the operation of the ABSA bank account was established within the law contrary to Article 206 (1) (a) of the Constitution of Kenya, 2010, section 24(4) of the Public Finance Management Act, 2012, and Public Finance Management (Covid-19 Emergency Response Fund) Regulations, 2020. Section 9 (1) (2) of Part III of the Public Finance Management (Covid-19 Emergency Response Fund) Regulations, 2020 requires the Administrator of the Fund to be the Principal Secretary for the time being responsible for matters relating to Finance whose responsibility should be among others supervise and control the administration of the Fund and cause to be established proper systems of control and oversight under the provisions of the PFMA, 2012. There was no evidence that the Principal secretary for the National Treasury and Planning was the Administrator of the Fund contrary to Section 9 (1) (2) of Part III of the Public Finance Management (Covid-19 Emergency Response Fund) Regulations, 2020.
- 3.2.18 Further, it was noted that the Covid -19 fund accounts were not centrally managed as per the provision of the Covid-19 Emergency Response Fund Regulations, 2020 part iii. Some Accounts were being managed by The National Treasury while the ABSA bank account was being managed by an appointed Board without an Administrator.

Disbursements of funds to the Ministries, Departments, Agencies and the County Governments

3.2.19 Article 206 (4) of the Constitution of Kenya, provides that, money shall not be withdrawn from the Consolidated Fund, unless the Controller of Budget has approved the withdrawal. Section 17 (2) of the Public Finance Management Act ,2012 requires, the National Treasury, to maintain the Consolidated Fund in an account known as the National Exchequer Account, kept at the Central Bank. Section 17 (4) of the Public Finance Management Act, 2012 provides that, where a withdrawal from the Consolidated Fund, is authorised under the Constitution or an Act of Parliament for the appropriation of money, the National Treasury shall make a requisition for the withdrawal, and submit it to the Controller of Budget for approval. Further, section 17 (5) of the Public Finance Management Act, 2012 provides that, the approval of a withdrawal from the Consolidated Fund by the Controller of Budget, together with written instructions from the National Treasury requesting for the withdrawal, shall be sufficient authority for the Central Bank of Kenya to pay amounts from the National Exchequer Account in accordance with the approval and instructions provided.

3.2.20 It was established that, the National Treasury disbursed a total of Kshs.162,685,604,780 through the National Exchequer Account to various Ministries, Department and Agencies (MDAs) and various Counties in accordance with Article 206 (4) of the Constitution of Kenya, 2010 and Sections 17 (4) (5) of the Public Finance Management Act, 2012 as summarized below and detailed in APPENDIX IV.

Table 7: Amount disbursed by the National Treasury to various MDAs

	Source	Ministry of Health (Kshs)	Counties (Kshs)	Gradian Health Systems (Kshs)	Budget Support (Kshs)	Total	Disbursement date
1	World Bank						
	Transforming Health Care Project	531,550,000	0	0	0	531,550,000	25.3.20
	Transforming Health Care Project	444,865,500	0	0	0	444,865,500	25.6.20
	Kenya Covid-19	1,556,802,620	0	0	0	1,556,802,620	28.4.20

Source	Ministry of Health (Kshs)	Counties (Kshs)	Gradian Health Systems (Kshs)	Budget Support (Kshs)	Total	Disbursement date
Emergency Response Project						
Direct payment- 40% payment for purchase of Ventilators	0	0	170,320,000	0	170,320,000	03.06.20
Kenya Inclusive Growth and Fiscal Management Project	0	0	0	80,250,000,000	80,250,000,000	Various detailed in APPENDI X V
2 IMF	20,965,895,569	0	0	36,003,335,611	56,969,231,180	Various detailed in APPENDI X VI
3 ADB	751,460,000	0	0	21,661,375,480	22,412,835,480	Various detailed in APPENDI X VII
4 European Union	0	0	0	0	0	
5 DANIDA	0	350,000,000	0	0	350,000,000	29.06.20 as detailed in APPENDI X VIII
Total disbursed	24,250,573,689	350,000,000	170,320,000	137,914,711,091	162,685,604,780	

3.2.21 It was also established that:

- The amount of DANIDA funds amounting to Kshs.350,000,000 was disbursed to the 47 The County Governments by the National Treasury upon approval by the Ministry of Health
- The World Bank, disbursed an amount of Kshs.170,320,000 budgeted under the Ministry of Health Budget directly to the Gradian Comprehensive Care Ventilators, a supplier contracted to supply ventilators to the Government of Kenya. The amount was made through a direct payment of

Kshs.170,320,000, being 40% down payment for the supply of 250 units of ventilators in accordance with the World Bank procurement guidelines.

- The Ministry of Health also utilized an amount of Kshs. 740,222,242 from its GOK budgets to finance the COVID-19 related activities.

3.2.22 Therefore, a total of Kshs. 25,511,115,932 was received at the Ministry of Health for the period under review, out of which Kshs.17,610,350,362 was specifically allocated for the COVID-19 related activities.

### 3.3 Utilization of COVID-19 Funds and Donations by the MOH

#### Receipt of funds by the Ministry of Health

3.3.1 According to records at the Ministry of Health, an amount of Kshs. 25,511,115,932 was received from the National Treasury for the period 01 March 2020 - 31 July 2020 for both COVID-19 and Non-COVID-19 related activities as follows:

Table 8: Funds received at the Ministry of Health for COVID and Non-COVID Activities

Source	Amount (Kshs)	Covid related (Kshs)
GOK	740,222,242	740,222,242
IMF	20,965,895,569	13,816,590,000
ADB	751,460,000	0
WORLD BANK	2,703,538,120	2,703,538,120
DANIDA	350,000,000	350,000,000
<b>TOTAL</b>	<b>25,511,115,932</b>	<b>17,610,350,362</b>

3.3.2 Out of this amount, Kshs.17,610,350,362 was received for the COVID-19 related interventions while the rest was received for Non-COVID-19 activities such the Universal Health Cover (UHC).

3.3.3 The table below details the receipt number, date in which the funds were received and purpose of the funds.

Table 9 : Funds allocated to the Ministry of Health

DATE RECEIVED	RECEIPT NUMBER	ACCOUNT NUMBER	RECEIVED AMOUNTS	SOURCE	COVID RELATED	OTHERS	REMARKS
<b>RECURRENT</b>							
04-Mar-20	10810002235	1000181478	150,000,000.00	GOK	150,000,000.00		KNH Mbagathi IDU
25-Mar-20	10810002283	1000181478	91,500,000.00	GOK	91,500,000.00		DOD,NYS,SDBT,SDPW
23-Apr-20	10810002286	1000181478	498,722,242.40	GOK	498,722,242.40		National Referral facilities covid temporary staff
05-Jun-20	10810002318	1000181478	5,000,000,000.00	IMF CREDIT	5,000,000,000.00		Conditional covid 19 grants to county's
08-Jun-20	10810002319	1000181478	333,470,837.30	IMF CREDIT		333,470,837.30	Kemsa Tax on USAID procured HPTs
19-Jun-20	10810002342		1,024,628,930.75	IMF CREDIT		1,024,628,930.75	KNH Supp II,KMTC SupplII,Kemri Supp II,others
30-Jun-20	10810002344	1000181478	9,099,830,982.20	IMF CREDIT	8,150,090,000.00	949,740,982.20	Covid 19 healthworkers allowances,kemsa
<b>SUB-TOTAL FOR RECURRENT</b>			<b>16,198,152,992.65</b>		<b>13,890,312,242.40</b>	<b>2,307,840,750.25</b>	
<b>DEVELOPMENT</b>							
07-Apr-20	10810002232	1000181688	531,550,000.00	WORLD BANK	531,550,000.00		THS UCP CERC
			170,320,000.00		170,320,000.00		CHERP
30-Apr-20	10810002321	1000181688	1,556,802,620.00	WORLD BANK	1,556,802,620.00		CHERP
09-Jun-20	10810002324	1000181688	4,485,850,513.20	IMF CREDIT		4,485,850,513.20	Kemsa UHC roll out
19-Jun-20	10810002338	1000181688	1,401,950,726.70	IMF CREDIT	526,500,000.00	875,450,726.70	KUTTRAH 300 bed,MES,others
30-Jun-20	10810002339	1000181688	444,865,500.00	WORLD BANK	444,865,500.00		THS UCP CERC
30-Jun-20	10810002340	1000181688	371,623,579.00	IMF CREDIT	140,000,000.00	231,623,579.00	KNH Day care,Kemsa grant, others
<b>SUB-TOTAL DEVELOPMENT</b>			<b>8,962,962,938.90</b>		<b>3,370,038,120.00</b>	<b>5,592,924,818.90</b>	
DANIDA FUNDS RECEIVED ON 30 <sup>TH</sup> June 2020			350,000,000		350,000,000		Direct Danida Funds to County
<b>SUB-TOTAL</b>			<b>9,312,962,939</b>		<b>3,720,038,120</b>		
<b>TOTAL RECEIPTS</b>			<b>25,511,115,932</b>		<b>17,610,350,362</b>		

### Utilization of funds for the COVID-19 related items by the Ministry of Health

3.3.4 During the period 01 March, 2020 to 31 July 2020, the Ministry of Health received a total of Kshs.17,610,350,362 for the COVID-19 related activities. Out of this amount, the Ministry of Health utilized a total of Kshs. 15,773,644,422 as detailed in the table below:

Table 10: Summary of Expenditures incurred by the Ministry of Health

Particulars	World Bank (Kshs)	DANIDA (Kshs)	IMF (Kshs)	GOK (Kshs)	Total (Kshs)
<b>RECEIPTS</b>	2,703,538,120	350,000,000	13,816,590,000	740,222,242	17,610,350,362
<b>EXPENDITURE</b>					
Expenditure at MOH	484,898,662	0	0	0	484,898,662
Disbursement to Counties	0	350,000,000	7,355,899,000	0	7,705,899,000
Disbursement to KEMSA	381,934,518	0	1,800,000,000	0	2,181,934,518
Disbursement to Referral Hospitals	0	0	3,942,245,000	648,722,242	4,590,967,242
Quarantine facilities	0	0	700,000,000.00	0	700,000,000
Other Gradian Health Systems	0	0	18,445,000	91,500,000.00	109,945,000
<b>Total expenditures</b>	866,833,180	350,000,000	13,816,589,000	740,222,242	15,773,644,422

3.3.5 Included in the World Bank funding of Kshs.2,703,538,120, was Kshs.170,320,000 disbursed by the World Bank to the Gradian Health Systems for procurement of Ventilators.

3.3.6 Details of the specific names of recipient entities, amount received and purpose is attached as **APPENDIX IX**.

Expenditures incurred at the Ministry of Health Headquarters

3.3.7 The expenditure of Kshs.484,898,662 spent at the Ministry of Health headquarters was under the Transform Health System-Universal Care Project (THS-UCP) and the COVID-19 Health Emergency Response Project (CHERP) as summarized below and detailed in **APPENDIX X**.

Table 11: Expenditures at the Ministry of Health Headquarters

Particulars		Amount (Kshs)
1	Transform Health System-Universal Care Project (THS-UCP)	326,350,273
2	COVID-19 Health Emergency Response Project (CHERP)	158,548,389
	Total	484,898,662

#### Transforming Health Systems for Universal Care Project (THS-UCP)

##### Background information on the project

3.3.8 The Transforming Health Systems for the Universal Care Project (THS-UCP) credit number 5836-KE is a World Bank funded project in the Ministry of Health (MoH) which commenced on 04 July , 2016. The Government of Kenya (GoK) through the National Treasury requested for a second amendment to the financing agreement on 02 October, 2019, to provide for a Contingency Emergency Response Component (CERC). The amendment to the financing agreement for THS-UCP was done on 14 February, 2020 to a sum of USD 10 million (equivalent to Kshs. 1 Billion).

3.3.9 To ensure proper implementation of the Contingency Emergency Response Component (CERC), the Government prepared a Contingency Emergency Response Component Manual referred to as the CERC Manual. In addition, the Ministry of Health prepared the COVID-19 Contingency Emergency Response Implementation Plan (CERIP) 2020 in accordance with the CERC Manual that was approved by the World Bank. The CERIP was meant to guide the preparedness, early detection and early response for COVID-19 in the country.

3.3.10 The National Treasury and the Ministry of Health wrote to the World Bank on 18 February, 2020 and 11 March, 2020 respectively requesting that the Contingency Emergency Response Component (CERC) be triggered for a sum of USD 10 million and

to release USD 50 million under the COVID-19 financing facility to enable immediate and timely response to the crisis caused by the virus. On 10 March, 2020, a request for reallocation of funds across disbursements categories under THS-UCP from the Ministry of Health vide letter Ref: No. MOH/ADM/1/1/171 Vol. 1(179) to the National Treasury was done.

- 3.3.11 On 13 March 2020, the World Bank accepted the request to support COVID-19 response and the matrix showing different budget items. On 18 March, 2020, the CERC was activated and disbursement requests were accepted by the World Bank after withdrawal conditions were met by the government.
- 3.3.12 A request for Authority to Incur Expenditure Ref: No. MOH/ADM/1/1/171 Vol. 1(181) under the CERC from the Ministry of Health to the National Treasury was done on 18 March, 2020. On 8 April 2020, a No Objection was issued by the World Bank for utilization of Kshs. 935, 056, 847.25. This was indicated in a letter by the Ministry of Health Ref: No. MOH/ADM/1/1/171 Vol. (192) dated 8 April, 2020 which stated that various activities that had initially been proposed for funding under the Contingency Emergency Response Component (CERC) had to be reprogrammed to enable priority activity to be supported since priorities for the country had changed from preparedness to response.
- 3.3.13 On 17 April, 2020, a second No Objection was issued by the World Bank for utilization of Ksh. 1,000,237,147 or 976,776,847.25. On 27 May 2020, a request for approval of the work plan and the procurement plan under the CERC amounting to Kshs. 1 billion was made vide letter Ref. No. MOH/ADM/1/1/171 Vol. (221) by the Head of Intergovernmental Relations Department at the Ministry of Health to the Principal Secretary (PS) to the Ministry of Health. The PS, approved the request on 29 May, 2020. This approval superseded all other approvals relating to the CERC that had been issued as of 15 April, 2020.

#### **Budgeting and financing**

- 3.3.14 The approved budget for the Contingency Emergency Response Component (CERC) was Kshs 1 billion as at 29 May, 2020 as detailed in **APPENDIX XI**. According to the bank statements for the Project Account, the funds for the CERC were remitted to the Ministry of Health Account No. 1000313878 at the Central Bank of Kenya in three tranches as shown in the table below:

Table 12: Budget for the Contingency Emergency Response Component (CERC)

Date	Transaction Number	Amount in KShs.
02/04/2020	FT20093GP52K	500,000,000
29/05/2020	FT20150T66YW	31,550,000
02/07/2020	FT201844MWFH	444,865,500
<b>Total</b>		<b>976,415,500</b>

### Budget Utilization

3.3.15 According to the Contingency Emergency Response Implementation Plan (CERIP), the Project Management Team (PMT), was responsible, for ensuring that, the procurement policies and procedures governing the project were adhered to. Procurement of either goods, services or works was to be conducted in accordance with World Bank Procurement Regulations for Investment Project Financing (IPF) Borrowers and according to the provisions specified in the Financing Agreement.

3.3.16 The total amount utilized under this project for the COVID-19 related activities was Kshs.158,548,389 as detailed in **APPENDIX X** . The special audit identified the following irregularities in relation to the budget utilization of the Contingency Emergency Response Component (CERC) project:

Inconsistencies in the dates within which various procurement activities were indicated to have occurred amounting to Kshs.6,505,802

3.3.17 The procurement of assorted office stationery was done through request for quotation to eleven bidders, all of whom were awarded tenders to supply the goods. However, there were inconsistencies in the dates within which various procurement activities were indicated to have occurred. Section 84 (1) of the Public Procurement and Asset Disposal Act ,2015 requires the head of procurement function, to review the tender evaluation report and provide a signed professional opinion to the Accounting Officer. On the contrary, the audit established that, the professional opinion was done and signed on the 19.03.20 before the suppliers were invited to make their quotations on 08.04.20 contrary to section 84 (1) of the Public Procurement and Asset Disposal Act ,2015. All the suppliers responded by 15 April,

2020. It was therefore not possible to ascertain the eligibility of these expenditures amounting to Kshs.6,505,802 due to the inconsistencies noted.

#### Un-Explained Variance of Kshs.740,239 in the Payment of Import Duty

3.3.18 A review of Payment Voucher number 002347 established that the budget for handling and delivery fees of goods procured under the Transform Health System-Universal Care Project (THS-UCP) for Covid-19 response commodities through UNICEF, (10% estimate) and any other contingency was Kshs. 6,403,947. However, a total of Kshs. 6,678,166 was paid on 01 July, 2020 to KUEHNE+NAGEL for handling and delivery fees for goods procured under the Transform Health System-Universal Care Project (THS-UCP) for Covid-19 response commodities through UNICEF. In addition, a review of supporting documents showed that import duty as per the Single Administrative Document (IM4) was Kshs. 5,937,927 yet the Ministry of Health paid an amount of Kshs. 6,678,166 resulting in an un-explained overpayment of Kshs.740,239.

Issuance of LSO after provision of Catering Services to the Surveillance Team- Kshs.1,536,000.

3.3.19 A review of payment voucher number 002394 established that, EAT and Tell Café Limited was engaged by the Ministry of Health for provision of catering services to Officers involved in COVID-19 prevention and mitigation at a cost of Kshs.1,536,000. The payment voucher indicate that the services were provided between 27 April, 2020 and 03 May, 2020 both days inclusive.

3.3.20 Further, the review established that the Local Service Order (LSO) number 9110 was issued to EAT and Tell Café Limited on 04 June, 2020, which was over one month after the service had already been offered. It was also not possible to ascertain how the suppliers were evaluated for the service since procurement documents relating to the evaluation were not provided and no explanation was given.

3.3.21 Under the circumstances, the lawfulness and effectiveness of the amount of Kshs.1,536,000 incurred by the Ministry of Health on Catering services could not be confirmed.

Inadequate controls in Management of Fuel Amounting to Kshs. 14,000,000

3.3.22 Section 139 (1) of the of the Public Finance Management Regulations, National Government Regulations, 2015 provide that the Accounting Officer of a National Government entity shall take full responsibility and ensure that proper control systems exist for assets and that; (a) preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse; (b) movement and conditions of assets can be tracked; and (c) stock levels are at an optimum and economical level.

3.3.23 It was established that, Ramji Haribhai Devani Limited was awarded the tender for the supply and delivery of fuel for Ksh 14,000,000. The Ministry of Health made an advance payment of the entire amount of Kshs.14,000,000 to the supplier based on a profoma invoice. However, the actual expenditure for the period May 2020 to July 2020 was Kshs. 2,074,764.55. The special audit established weaknesses in usage of fuel cards since the Ministry of Health did not designate fuel cards to each vehicle hence it was impossible to ascertain the amount of fuel consumed by each vehicle for the period under review.

3.3.24 After reviewing of the fuel expenditure statements, it was established that, fuel cards listed in the table below were open for use by any vehicle in different months

Table 13: Inadequate controls in Fuel Management

MONTH	CARD NUMBER	VEHICLE REG. NO	AMOUNT-(KSH)
May	1408032986	Any Vehicle	163,535.00
	1408035675	Any Vehicle	88,487.00
	<b>Sub-Total</b>		<b>252,022.00</b>
June	1408032986	Any Vehicle	45,210.00
	1408035675	Any Vehicle	127,532.00
	<b>Sub-Total</b>		<b>172,742.00</b>
July	1408032984	Any Vehicle	51,425.00
	1408032985	Any Vehicle	86,940.00
	1408032986	Any Vehicle	101,809.00
	1408035675	Any Vehicle	155,815.00
	1408035676	Any Vehicle	648,458.35
	1408037142	Any Vehicle	58,451.00
	1408037143	Any Vehicle	26,826.00

MONTH	CARD NUMBER	VEHICLE REG. NO	AMOUNT-(KSH)
	Sub-Total		1,129,724.00
	GRAND TOTAL		1,554,488.00

3.3.25 It was not possible to trace the transaction amounts in the monthly fuel expenditure statements to respective work tickets hence the team could not confirm whether fuel expenses incurred by fuel cards marked for use by 'Any Vehicle', were for official assignments. There is a possibility of misuse of fuel cards especially fuel cards marked for use by 'Any Vehicle', as such transactions cannot be traced to drivers' work tickets.

Un-supported expenditures for Airtime- Ksh 2,131,000

3.3.26 It was established that Safaricom Limited was contracted through direct procurement to supply airtime for officers manning the Quarantine sites, Surveillance teams, the Emergency Operation Centre (EOC) and the Contact Tracing Teams for Kshs 3,000,000. A review of the stores ledger and stock control card no. 524481 of mobile airtime revealed that, 2,400 airtime scratch cards worth Ksh 2,400,000 were issued without any counter requisition and issue voucher. Thus the special audit could not confirm whether the issuance of airtime scratch cards was duly sanctioned and approved. The special audit also established that as of the date of the audit, all airtime scratch cards worth Kshs. 3,000,000 had been fully issued. However, a review of the availed list of beneficiaries of the cards revealed that, only airtime worth Ksh 869,000 were duly signed for by the recipients. The audit could not confirm how a balance of airtime worth Ksh 2,131,000 were issued out and to which beneficiaries since there was no evidence that the recipients had signed acknowledging receipt of the airtime.

Conflicting documentation on notification of tender award and letters of acceptance- Kshs.5,273,670

3.3.27 It was also established that, Hadassah Hotel was awarded a tender for the provision of full board accommodation services for the Ministry of Health officials undertaking rapid response for the month of April and May 2020 for Kshs.5,273,670 commencing

on 07 April, 2020. However, the special audit established that the letter of acceptance dated 04 April, 2020 was issued by the supplier three days before notification of the tender award dated 07 April, 2020.

- 3.3.28 The Management of the Ministry of Health explained that, the service provider had erroneously written the wrong date on the letter of acceptance and that the Ministry of Health noted the error in the date and notified the service provider. In this regard, the Ministry of Health submitted to the audit team, a corrected letter of acceptance, the letter of notification and previous letter of acceptance.
- 3.3.29 Given the two conflicting set of documents, the special audit could not establish the authenticity of either of the two documents and therefore the lawfulness and effectiveness of the expenditure could not be confirmed.

#### The Covid-19 Emergency Response Project (CHERP)

##### Background information on the project

- 3.3.30 The Covid-19 Emergency Response Project (CHERP) IDA Credit 65980 is based on the Kenya COVID-19 Emergency Response Project Appraisal document dated 25 March, 2020, page 7. The project objective is to prevent, detect and respond to the COVID -19 outbreak and strengthen national systems for public health emergency preparedness in the Republic of Kenya.
- 3.3.31 The main implementing agency is the Ministry of Health, the Kenya Medical Supplies Authority (KEMSA), the National Emergency Response Committee on COVID-19 (NERC) and the National COVID-19 Task Force.
- 3.3.32 The Financing Agreement between the Republic of Kenya and the International Development Associations of USD 50 Million was signed on 03 April, 2020 as detailed in the table below:

Table 14: Financing Agreement between the Republic of Kenya and IDAs

No	Project Component	Cost (USD)
1	Medical Supply & Equipment	8,472,500
2	Response, Capacity building & Training	8,759,700
3	Quarantine & Isolation Centers; To Follow up activities in the Counties (Isolation room facilities in High Risk	12,676,400

No	Project Component	Cost (USD)
	Counties, Level 5 hospitals and High Volume Level 4 Hospitals.	
4	Medical Waste Disposal	3,387,600
5	Community Discussion & Information Outreach	4,960,100
6	Availability of safe blood & blood products	10,000,000
7	Project Implementation & Monitoring	1,743,700
	<b>Total (USD)</b>	<b>50,000,000</b>
	<b>Total (Kshs) 5,350,000,000 ( 1 USD= Kshs.107)</b>	

#### **Budgeting and project mobilization**

- 3.3.33 Section 36 (2) of the Public Finance Management Act, 2012 and the Treasury Circular Number 13 of 2019 ES/032/'E' (94) dated 28 August 2019 provides that all Ministries, Departments and Agencies, Constitutional Commissions, Independent offices, Parliament & The Judiciary are required to follow the guidelines provided in their preparation of their midterm Budget and submit them for approval within the timelines provided.
- 3.3.34 In this regard, the Ministry of Health, through the Supplementary III Development Budget for financial year 2019/2020 allocated an amount of Kshs.5.35 Billion for the CHERP Project under Vote Head 1081118200.

#### **Budget utilization**

- 3.3.35 Section 44 (2) of the Public Finance Management Regulation, National Government Regulations, 2015, provides that, National Government Entities shall execute their approved budgets based on the annual appropriation legislation, and the approved annual cash flow plan with the exception of unforeseen and unavoidable spending dealt with through the Contingencies Fund, or supplementary estimates.
- 3.3.36 According to an extract of an email from the World Bank, to the Project Manager at the Ministry of Health, a No objection was issued to the Project Work and Procurement Plan on 30 April, 2020 at 3.39pm. The procurement plan indicated activities for the first 3 months (31 July, 2020) of the Project costing Kshs. 2,484,518,772. However, a total of Kshs.1,556,802,620 was received by the National Treasury and disbursed on 27 May 2020 to the Ministry of Health Account Number 1000446684 at the Central Bank of Kenya.

3.3.37 As at the time of completion of the audit, an amount of Kshs.326,350,273 had been incurred as detailed in APPENDIX X. A review of the project expenditures established the following irregularities:

Un- Surrendered Imprest Kshs. 7,981,975

3.3.38 Section 104 of the Public Finance Management (National Government ) Regulations, 2015 provides that all receipts and payment vouchers of public moneys shall be properly supported by pre-numbered receipt and payment vouchers and shall be supported by the appropriate authority and documentation , Further Sections 93 , 14 and 15 provides that when the imprest holder needs to have his/ her funds replenished, he/she shall send an abstract and analysis of his memorandum cashbook, plus originals of the supporting payments vouchers to the accounts department for examination that the expenditure has actually been incurred and there are no irregularities.

3.3.39 It was established that, there was un-surrendered Imprest of Kshs. 7,981,975 as at 30 September, 2020 as detailed in the table below.

Table 15: Un-surrendered imprest

Date paid	Imprest Warrant	Payee	Amount (Kshs)
30/6/2020	3943175	Clara Gitonga	770,750.00
30/6/2020	3943173	Dr Mutile Mutiso	683,325.00
25/6/2020	3943167	Catherine Ahonge	976,400.00
25/6/2020	3943180	Jamlick Karumbi	831,575.00
25/6/2020	3943176	Bernadette Ajwang	701,200.00
25/6/2020	3943179	Hannah Kagiri	573,775.00
25/6/2020	3943177	Dr Elizabeth Wangia	553,825.00
25/6/2020	3943178	Pepela Wanjala	469,725.00
25/6/2020	3943168	Joseph Njau	198,000.00
25/6/2020	3943170	Dr Anne Nganga	58,000.00
25/6/2020	3943169	Mary Wahito	39,200.00

Date paid	Imprest Warrant	Payee	Amount (Kshs)
06-04-20	3943108	Joseph Mutangili	548,200.00
06-04-20	3943104	Victoria Ouma	414,800.00
06-04-20	3943109	Henry Mwale Luyali	355,800.00
06-04-20	3943110	Martin Owino	339,400.00
06-04-20	3943103	Pascalina Mukindi	246,000.00
06-04-20	3943107	Alfred Ashiemi	158,000.00
06-04-20	3943105	Mutua Kiilu	64,000.00
<b>Total</b>			<b>7,981,975.00</b>

3.3.40 Though the management of the Ministry of Health explained that the imprest had since been surrendered and properly supported, there was no evidence that was availed to support the same.

#### Disbursements of funds from the Ministry of Health to the County Governments

3.3.41 The Ministry of Health disbursed Covid-19 conditional grants of Kshs. 4,999,999,000 and health workers medical allowance of Kshs. 2,355,900,000 to the forty-seven (47) counties as detailed in **APPENDIX XII**. The Disbursement of COVID-19 Conditional Grants was based on the Commission of Revenue Allocation letter referenced CRA/CSO/COG/13/VOL.II(1) dated 29 April, 2020.

3.3.42 According to the letter, the Commission of Revenue allocation recommended the use of a composite index based on the County Health indices for the sharing of the COVID-19 grant.

3.3.43 The Ministry of Health paid the COVID 19 conditional grant vide payment voucher number 3901 dated 5 June, 2020. The amounts were credited to the respective County Revenue Fund (CRF) Accounts held at the Central Bank of Kenya. It was however noted that the Ministry of Health did not provide a framework for the utilization of the conditional grant to counties.

3.3.44 The disbursements for the Medical Emergency Allowance and benefits for the Frontline Health Workers was based on the Salaries and Remuneration Commission letter ref SRC/TS/COG/3/61/48 dated 28 April, 2020. According to the letter, the

allowance was payable to the four (4) categories of healthcare workers classified as follows:

Table 16: SRC Approved rates for the Frontline Health Care Allowances

	SRC Categorization	SRC proposed Rates per Month (Kshs)
1	Paramedics	20,000
2	All Technologists and Technicians	15,000
3	Other paramedics	10,000
4	Support Staff	5000

3.3.45 The Ministry of Health paid the COVID- 19 emergency allowance and benefits for frontline health workers vide payment voucher number 4855 dated 30 June, 2020. On 6 July 2020, the funds were credited to the respective County Revenue Fund Accounts held at the Central Bank of Kenya.

3.3.46 The Government through the National Treasury further disbursed a DANIDA Universal Health Care (UHC) conditional grant of Kshs. 350 million to County Governments as detailed in **APPENDIX VIII**. The DANIDA UHC conditional grant was to support Operation and Management costs for the gazetted County Public level 2 and 3 Health Centers and Dispensaries. The amounts disbursed to each County was calculated based on the County Allocation Revenue Act ,2018, number 8, First Schedule, section 4 (1). The counties were expected to share the allocation criteria for O&M support to all public gazetted level 2 and 3 health facilities.

#### Disbursement of funds to KEMSA

3.3.47 The Ministry of Health disbursed a total of Kshs.2,181,934,518 to KEMSA on 30 June 2020 as detailed in the table below:

Table 17: Disbursement of funds to KEMSA

	Source of Funds	Sub Head	Allocation to KEMSA (Kshs)	Amount Received	Recipient Bank Account
1	World Bank	CERC- Transforming Health Systems Project (THS)	758,690,583	304,160,118	EQUITY BANK KEMSA Trade Account number 014002613985 14
2	World Bank	Kenya COVID-19 Emergency	454,840,000	77,774,400	EQUITY BANK

Source of Funds	Sub Head	Allocation to KEMSA (Kshs)	Amount Received	Recipient Bank Account	
	Response Project (CHERP)			KEMSA Trade Account number 01400261398514	
3	Government of Kenya	Procurement of Test kits and reagents	1,500,000,000	1,500,000,000	EQUITY BANK Warehouse Construction Account number 1400264426362
4	Government of Kenya	Supply of Facemasks to vulnerable groups	300,000,000	300,000,000	NATIONAL BANK OF KENYA KEMSA Operations Account number 100300912500
			<b>3,013,530,583</b>	<b>2,181,934,518</b>	

Procurement of Comprehensive Care Ventilators and Related Services from the Gadian health systems by the Ministry of Health

- 3.3.48 A Memo referenced MOH/PROC/GEN/MF/ADSCMS/Vol.1.1 dated 21 May, 2020 from the PS Health to the Project Manager CHERP shows that the procurement for the Supply of Comprehensive Care Ventilators & Related Services was done using World Bank Facilitated Procurement Method as approved by the World Bank. A Step Approval No KE-MOH-00001-GO-DIR/Procure 250 Gadian Comprehensive Care Ventilators extract specified that, Direct Selection Method was adopted and indicated that the Contract to supply 250 units at USD16,000 per unit at a total cost of USD 4,000,000 (KShs. 424 Million rate 1USD=Kshs106).
- 3.3.49 The Contract for the Supply of 250 Gadian Comprehensive Care Ventilators (CCV) and related services between the Ministry of Health and the Gadian Health Systems, New York USA was signed on 30 March, 2020. According to Appendix C of the Contract Agreement, price schedule 3, the contract sum was KShs. 424Million (USD 4,000,000).

## Variation in payment terms

3.3.50 The terms of payment as stated in the conditions of contract clause 9.1 were;

- Advance payment, of 40% of the contract price to be paid within 10 days after submission of claim and a bank guarantee for an equivalent amount to be reduced proportionately as the goods are delivered.
- On shipment 60% of the contract price of the goods shipped to be paid within 15 days after submission of shipping documents

3.3.51 The advance payment bank guarantee of 40% of contract price was reviewed to a letter of credit as per email extracts from, Dickson Lugonzo, of the Ministry of Health to Grace Manaura of the World Bank on 3 April 2020 at 14:59 EAT. The extract states that the Ministry of Health had agreed to replace the advance bank guarantee with a letter of credit as requested by the supplier provided that the bank has no objection in modifying the initial contract. However, the revised contract was not availed for audit review.

3.3.52 A standby letter of credit number 69619216 of USD 1,600,000 was issued by Citibank N.A Citicorp North America on 21 April 2020 with the advising bank being Citibank N.A Kenya. The expiry date of the standby letter of credit was stated as the earlier of 1 March, 2021 or the receipt of a copy of the payment certificate indicating that 90% of the contract price has been certified for payment.

## Payment

3.3.53 According to a memo referenced MOH/PROC/GEN/MF/ADSMS/Vol.1 from the Project Manager C-HERP to the PS, Ministry of Health dated 21 May, 2020, the payment was to be processed through the National Treasury and the World Bank would pay the supplier directly. On 22 May 2020, the Principal Secretary Ministry of Health approved the processing of the payment. A Payment Voucher number 282 for Kshs 170,320,000 was prepared at the Ministry of Health on 3 June, 2020 being payment of 40% advance payment. The payment voucher was forwarded on the same day to the Director Resource Mobilization Department through a letter ref MOH/COVID 19/ACC/VOL. (003) to the PS Treasury requesting them to charge IDA credit 5836-KE, the total amount of USD 1,600,000 (Kshs 170,320,000). It was however noted that, IDA credit number 5836-KE is not C-HERP but Transforming Health Systems for

Universal Care Project (THS-UCP). On 22 June, 2020, a direct payment of USD 1,600,000 was made from IDA Credit 65980 account number 1000446366 at the Central bank of Kenya.

Delivery of the Ventilators to Counties that did not have capacity to use the Ventilators

3.3.54 According to Appendix A of the contract on shipping and completion schedule, there was to be a phased air shipping schedule of 8 phases between 30 April, 2020 and 31 December, 2020. However, on 13 April 2020, the Chief Executive Officer of the Gradian Health Systems wrote to the PS MOH informing her of the delay in delivery due to limited supply in a critical component used in the manufacturing of the Gradian Comprehensive Care Ventilators. They also proposed a reassessment period after delivery of 100 units in order for the MOH to assess whether they would continue to purchase the remaining quantity.

3.3.55 On 2 June, 2020, the Principal Secretary Ministry of Health through a letter reference MOH/ADM/1/1/159 wrote to the Gradian Health Systems informing them that, the Ministry of Health had considered the proposal and decided that it would only procure 100 ventilators.

3.3.56 On 3 June, 2020 the Principal Secretary Ministry of Health wrote to Gradian Health Systems via letter ref MOH/DC/9/1/ instructing them on the distribution of 30 ventilators to Counties. Further distribution was as per the letter on distribution referenced MOH/PROC/6/3/1 done by the PS, Ministry of Health on 19 August, 2020 instructing on the distribution of 45 ventilators. The special audit team visited the health facilities listed in both letters and came up with the following observations:

Table 18 : Delivery of Ventilators to Counties

	County	Health Facility	Dispatched	Remarks
1	Kiambu	Tigoni Level 4	5	Received and in use
2	Kitui	Kauwi Level 4	5	Received but not in use since the facility had no Intensive Care Unit (ICU)
3	Nakuru	Langa Langa level 3	5	Received on 11 June, 2020. On 6 October, 2020, 2 units were issued to Annex Provincial General Hospital

County	Health Facility	Dispatched	Remarks	
			(PGH). On 7 October 2020, three units were Issued to PGH Nakuru	
4	Nyeri	Othaya level 5	5	Received and transferred to KNH.
5	Taita taveta	Mwatate level 3	5	Received and in use
6	Laikipia	Nyahururu level 4	5	Received at the Nanyuki Teaching and Referral Hospital Critical Care Unit on 11 June, 2020 since there was no ICU at Nyahururu level 4.
7	Nairobi	Mama Lucy Kibaki Hospital	18	Delivery note dated 14 September. Not installed as facility did not have ICU
8	National Government	Kenyatta University Teaching and Referral Hospital	15	Received and in use
9	Kiambu	Ruiru sub-county hospital	5	Received but not installed since the facility was not ready
10	Kajiado	Ngong level 4	5	The 5 ventilators are still in their original packaging.
11	Mandera	Kamor Infectious disease Hospital	2	Received and in use
		Total	75	

3.3.57 As detailed above the ventilators were dispatched to some hospitals that were not ready for such ventilators hence they were not installed and were still in their original packaging.

3.3.58 According to a memo dated 8 October, 2020 from the project manager to the PS MOH, the last batch of 25 ventilators had been received and was ready for distribution. On 16 October, 2020 the, PS MOH wrote to Gadian health systems through letter ref MOH/ADM/1/3/1/VOL 1/ (18) instructing on the distribution of the last batch of ventilators as detailed in the table below;

Table 19 : Distribution list for last batch of Ventilators

S/No	County	Recommended Health Facility	Number
1	Turkana	Lodwar County Referral Hospital	2
2	Narok	Transmara West Sub county Hospital	2
3	Kisumu	Ahero Level 4 Hospital	2
4	Nairobi	Pumwani Maternity Hospital	4
5	Kirinyaga	Kirinyaga level 4	2
6	Meru	Kanyakine Sub county Hospital	2
7	Machakos	Matuu Level 4	2
8	Lamu	Lamu County Referral Hospital	2
9	Bungoma	Webuye Level4	3
10	Mandera	Takava Level4 Hospital	2
11	Bomet	Cheptalal Sub county Hospital	2
		Total	25

3.3.59 Since the Ministry of Health had decided that it would only procure 100 ventilators as per the letter reference MOH/ADM/1/1/159, no other deliveries are expected.

3.3.60 The above distribution list was shared to the audit team on 18 November, 2020 after completion of field visits and hence the audit team did not conduct physical verification on the same.

#### Receipt and Distribution of Donations by the Ministry of Health

3.3.61 The Principal Secretary to the Ministry of Health established a Covid-19 pandemic response commodities clearance committee through an internal memo ref MOH/DC/9/1/33 dated 29 April 2020. The Committee was a dedicated Multi-Agency Team from the Ministry of Health, The National Treasury, the State Department of Foreign Affairs and the State Department of Industrialization.

3.3.62 The terms of reference for the committee were:

- Processing of tax exemptions, KEBS fees and any other exemptions that may be required to facilitate clearance of the goods in close collaboration with the National Treasury, KRA, Government Clearing Agency (GCA) and KEBS.

- Processing and payment of cargo handling fees
- Confirm commodities received as per official documentation accompanying the consignment.
- Coordinate the transportation and storage of commodities at a KEMSA warehouse.
- Liaise with the Resource Mobilization Team at the National COVID-19 Taskforce for every consignment received and provide reports to facilitate preparation of distribution lists.
- Provide weekly reports to the Principal Secretary on donations received.

3.3.63 The special audit established that the Government of Kenya received donations from philanthropists, development partners and other donors as detailed in **APPENDIX XIII**. The Donations were received at the KEMSA WareHouses on behalf of the Ministry of Health and later distributed to Counties and other institutions based on instructions issued by the Ministry of Health. **APPENDIX XIV** details the quantities of donations received, issued and the stock balances as at the time of audit on 14 September, 2020.

Disbursement of funds by the MOH to Referral Hospitals- Kshs 4,590,967,242

3.3.64 The Ministry of Health disbursed a total of Kshs 4,590,967,242 to seven referral hospitals for various purposes as detailed below;

Table 20: Disbursement of Funds to Referral Hospitals

s/no	Hospital	COVID19 Emergency Response	HR Recruitment	Allowances for the Frontline Healthcare Workers	others	Total (Kshs)
1	Coast General Hospital	500,000,000	0	0	0	500,000,000
2	Jaramogi Oginga Odinga Referral Hospital	400,000,000	0	0	0	400,000,000

s/no	Hospital	COVID19 Emergency Response	HR Recruitment	Allowances for the Frontline Healthcare Workers	others	Total (Kshs)
3	Kitui Referral Hospital	300,000,000	0	0	0	300,000,000
4	Mandera Referral Hospital	300,000,000	0	0	0	300,000,000
5	Kenyatta National Hospital	600,000,000	0	156,795,000	500,701,392	1,257,496,392
6	Kenyatta University Research & Referral Hospital	500,000,000	0	12,270,000	771,696,150	1,283,966,150
7	Moi Teaching & Referral Hospital	400,000,000	42,824,700	106,680,000	0	549,504,700
	Total	3,000,000,000	42,824,700	275,745,000	1,027,201,392.4	4,590,967,242

### 3.4 Utilization of COVID-19 Funds by the Referral Hospitals

#### Coast General Teaching and Referral Hospital

Approved work plans, budgets, and procurement plans

- 3.4.1 Section 53 (2) and (5) of the Public Procurement and Asset Disposal Act, 2015 requires entities to have in place procurement and asset disposal plans that are based on indicative or approved budgets which should be integrated with the applicable budget process and such plans should be approved. The special audit established that, the Coast General Teaching and Referral hospital had in place a work plan, procurement

plan and approved budget for the conditional grants received from the National Government and for their own source revenue.

#### Receipt of the Covid 19 Grant

3.4.2 The Coast General Teaching and Referral Hospital received two disbursements of the funds from the Ministry of Health (MOH) totalling to Ksh. 500,000,000 as tabulated below. The hospital subsequently opened a separate Bank Account Number 1560280107223 at Equity Bank for the Covid-19 grant. The special audit also established that, the referral hospital spent Ksh. 63,839,000 of their own source funds towards the Covid 19 preparedness.

Table 21: Receipt of the COVID-19 Funds by the Coast General Hospital

Source of Funds	Amount	Recipient Bank	Recipient Bank Account number	Budget	Workplan	Remarks
Ministry of Health	150,000,000.00	Equity Bank	1560280107223	Budgeted for and approved on 17 July 2020	Approved Workplan for 2020 availed	Monies was sent to National Bank, later transferred to Equity Bank account to separate the funds.
Ministry of Health	350,000,000.00		1560280107223			
Own Source	63,839,000.00	National Bank	01001089054900	Approved 25 March 2020	Approved 25 March 2020	
<b>Total</b>	<b>563,839,000.00</b>					

#### Utilization COVID-19 Funds by the Coast General Teaching and Referral Hospital (CGTRH)

Utilization of Covid-19 Grant Kshs. 3,275,598

3.4.3 As at the time of audit in October 2020, the Coast General Research and Teaching Hospital had spent Ksh 3,275,598 of the funds received from the Ministry of Health as tabulated below. The special audit also obtained a certificate of bank balance from the Equity Bank referenced EBL/MSA/156/54314737755 dated 22 October, 2020 showing the balance st Ksh 496,717,945.

Table 22: Utilization of the COVID-19 Funds by the Coast General Hospital

Date	Payee	Amount in Kshs	Remarks
16/10/2020	BOC Kenya Ltd	1,465,698	Being payment for oxygen
31/8/2020	KEMSA	844,000	Being payment for non-pharmaceuticals
31/8/2020	KEMSA	746,900	Being payment for non-pharmaceuticals
31/8/2020	KEMSA	219,000	Being payment for non-pharmaceuticals
	<b>TOTAL</b>	<b>3,275,598</b>	

**Utilization of the own source funds - Kshs. 34,558,755.00**

3.4.4 In a special full board meeting held on 25 March, 2020, the Coast General Teaching and Research Hospital approved a supplementary budget of Ksh 63,839,000 to cater for the Covid-19 preparedness. The audit further reviewed procurements worth Ksh. 34,558,755. It was established that the procurements which were supported by a procurement plan were done in accordance with procurement legislation except for the following issues noted:

**Failure to notify bidders of the outcome of the bidding process - Kshs.13,000,000**

3.4.5 Section 87(1) of the Public Procurement and Asset Disposal Act 2015 requires that, before the expiry of the period during which tenders must remain valid, the Accounting Officer of the procuring entity shall notify in writing the person submitting the successful tender that his tender has been accepted.

3.4.6 The audit noted that notifications to both successful and unsuccessful bidders were missing in the following procurement files.

- i. Supply and Delivery of Medical Equipment for CGTRH 1RW awarded to M/S Surgipham Ltd at Kshs. 11,600,000
- ii. Supply and Delivery of Medical Equipment for CGTRH RW awarded to M/S Asterisk Limited at Ksh. 1,400,000

Failure to inspect purchased goods - Kshs. 11,600,000.00

3.4.7 Section 48 (1) of The Public Procurement and Asset Disposal Act, 2015, requires that an Accounting Officer of a procuring entity may establish an ad hoc committee known as the inspection and acceptance committee. It was noted that the procurement file did not have evidence to show that the equipment supplied and delivered by M/S Surgipham Ltd at a cost of Kshs. 11,600,000.00 were duly inspected.

#### Jaramogi Oginga Odinga Referral Hospital

Budget, work plan, procurement plan and training plan

3.4.8 According to the Supplementary Appropriation Act, 2020 approved on 05 May, 2020, the Jaramogi Oginga Odinga Referral Hospital was allocated Ksh. 400,000,000 through the Ministry of Health Vote R1081. The Act indicated that, these funds were ring-fenced for the Covid 19 pandemic activities at the Jaramogi Oginga Odinga Teaching Referral Hospital (JOTRH).

3.4.9 The special audit established that, the Jaramogi Oginga Odinga Teaching Referral Hospital Board of Directors approved a workplan, budget, procurement plan and training plan for Covid 19 related activities funded by the emergency funds.

3.4.10 The Jaramogi Oginga Odinga Teaching and Referral Hospital received two Authority to Incur Expenditure (AIEs) from the Ministry of Health amounting to Kshs.100,000,000 and Kshs.300,000,000 on 19 June, 2020 and 30 June, 2020 respectively. On 11 July, 2020, a total of Kshs.400,000,000 was received at Jaramogi Oginga Odinga Teaching and Referral Hospital KCB Account Number 1150668849 in two tranches as detailed below:

Table 23: COVID-19 Funds received by the Jaramogi Oginga Odinga Referral Hospital

S/No	AIE Date	AIE No	Amount (Kshs)	Recipient bank	Date of receipt
1	19/6/2020	A685788	100,000,000.00	KCB Account Number1150668849	11/7/2020
2	30/6/2020	A685780	300,000,000.00	KCB Account Number 1150668849	11/7/2020

3.4.11 On 26 October, 2020, Kshs.380,028,749 was transferred from the KCB Account Number 1150668849 to the Covid-19 Emergency Account Number 1279777397 at KCB. It was noted that, the Jaramogi Oginga Odinga Teaching and Referral Hospital transferred Kshs.380,028,749 to the Special Purpose Account (SPA) instead of the Kshs. 400,000,000. The explanation given was that the difference of Kshs. 19,971,251 was utilized for the Covid-19 related expenses which were paid from the operations account before opening the Special Purpose Account. The Management availed payment vouchers in support of the expenditure of Kshs. 19,971,251.

Utilization of Covid 19 Funds at Jaramogi Oginga Odinga Teaching Referral Hospital

Irregular utilization of Covid-19 Funds from the operations - Kshs. 19,971,251

3.4.12 The special audit established that the Jaramogi Oginga Odinga Teaching and Referral Hospital (JOTRH) had not utilized the emergency funds as at 31 July, 2020. However, as at the time of audit in October 2020, the hospital had utilized a total of Kshs. 19,971,251 as summarized in the table below:

Table 24: Utilization of Funds by the Jaramogi Oginga Odinga Referral Hospital

Expenditure item	Amount (Kshs.)
Medical drugs	2,186,163
Food and Ration	1,081,150
Laboratory Material supplies	3,089,804
Production & Audio visual	417,544
General stationery	35,368
Telephone Telex	50,000
Sanitary and cleaning material	1,847,468
Refined fuels	2,947,368
Maintenance of Plant Machinery Equipment	488,880
Purchase of oxygen	882,510
Water sewerage	2,500,000
Casual laborers	30,000
Contracted professionals	395,184
Construction and building	3,869,812

Expenditure item	Amount (Kshs.)
Standing imprest	150,000
<b>Total</b>	<b>19,971,251</b>

- 3.4.13 It was established that, payment for the expenditure was made from the operations account instead of the Special Purpose Account. According to the letter from The Principal Secretary Ministry of Health reference number MOH/FIN/1/A/VOL III (70) dated 19 June, 2020, the guidelines issued for the Conditional grant were to apply in the utilization of the Kenya Covid-19 Emergency Response Funds.
- 3.4.14 The Ministry of Health (MoH) vide a letter Reference No. MOH/ADM/1/1/171 Vol. I (280) dated 22 June, 2020 to all County Executive Committee Members for Health and Chief Officers, instructed all Counties to open a Special Purpose Account (SPA) for the COVID-19 grant. The letter also refers to the Ministry of Health framework for the management of the additional conditional grants for the COVID-19 emergency response for guidance on transfers of the funds including transfers to the special purpose accounts.
- 3.4.15 It was established that as at 31 July, 2020, the Jaramogi Oginga Odinga Teaching and Referral Hospital had not opened a Special Purpose Account (SPA) for the COVID 19 grant. The Chief Executive Officer (CEO) of the Jaramogi Oginga Odinga Teaching and Referral Hospital requested the Chief Officer for Health for the authority to open a Covid 19 Account at Equity Bank on 29 September, 2020. Further, a reminder was sent on 14 October 2020 vide a letter reference number ACCT/1/VOL.XII (104). Approval to open the SPA was granted vide a letter reference number KC/FIN/B.ACCNTS/305 dated 15 October, 2020 from CECM Finance and Economic Planning to the Manager Kenya Commercial Bank Kisumu.
- 3.4.16 It is not clear why Chief Officer Health delayed granting approval to open the Special Purpose Account leading to the delay in service delivery in the Hospital as stated by the CEO in his reminder letter of 14 October, 2020.

#### **Kitui Referral Hospital**

Absence of budget, work plan, procurement plan and training plan

- 3.4.17 According to the Supplementary Appropriation Act 2020 approved on 5 May, 2020, Kitui Referral Hospital was allocated Ksh.300, 000, 000 through the Ministry of Health

Vote number R1081. The Supplementary Appropriation Act indicated that, these funds were ring-fenced for the Covid-19 pandemic activities at Kitui Referral Hospital.

- 3.4.18 There was no separate budget, workplan, procurement plan or training plans at the hospital specific to the Covid-19 related activities for utilization of this funds.

Irregular transfer of Kshs. 298,966,655 from the Kitui Hospital Account Number 01141303838201 to the Kitui County COVID -19 Account number 1000455543

- 3.4.19 The Principal Secretary Ministry of Health, in a letter reference number MOH/FIN/1/A/VOL III (70) dated 19 June, 2020 informed the Chief Executive Officer of Kitui Referral Hospital concerning the disbursement of Kenya Covid-19 Emergency Response Funds. It was reported that, the Supplementary II budget had been approved and A.I.E number A685792 dated 16 June, 2020 for Kshs. 50,000,000 was enclosed specifically for the Covid-19 pandemic interventions. According to the letter, the guidelines for the conditional grant were to apply. In addition, the hospital was to provide to the Ministry of Health expenditure items for the budgeted amount and implementation of the same. On 30 June, 2020, A.I.E number A685773 for Kshs. 250, 000, 000 was received by the Kitui Referral Hospital.
- 3.4.20 On 7 July, 2020, a total of Kshs. 300, 000, 000 was credited to the Kitui Refeeral Hospital Account number 01141303838201 in two tranches of Kshs.50,000,000 and Kshs. 250,000,000. The County Executive Committee Member (CECM) Finance, in a letter reference number CGKTI/CT/ADM/33/24 dated 23 July, 2020 to the Chief Officer Health and Sanitation, instructed the transfer of Kshs. 300,000,000 from the Kitui General Hospital Account to the Special Purpose Account (SPA) for the Covid-19 interventions. The letter stated that, the funds had been budgeted for under the County Supplementary II budget. According to the budget, the funds were earmarked for spending in 4 departments, namely Health, Trade, Agriculture and Education, ICT and Youth Development.
- 3.4.21 On 27 July, 2020, the Heath Administrative Officer at Kitui Referral Hospital and the Accountant vide a letter reference number CGKTI/KCRH/FIN/1 (48) to the Manager Cooperative Bank-Kitui Branch instructed the transfer of Kshs. 298, 966, 655 from the Kitui Hospital Account number 01141303838201 to the Kitui County COVID -19 Account number 1000455543 at the Central Bank of Kenya.

3.4.22 On 3 August, 2020, Kshs. 298, 966, 655 was debited from the Kitui County Hospital Account to the Kitui County COVID-19 Account no: 1000455543 at the Central Bank of Kenya. The transfer of Kshs. 298, 966, 655 from the hospital operations account to the Kitui County COVID-19 account was irregular and contrary to the Supplementary Appropriation Act, 2020 which indicated that the funds were ring-fenced for Covid-19 pandemic activities at the Kitui County Referral Hospital. Consequently, the beneficiaries of the funds were: Department of Trade; Department of Agriculture; and Department of Education, ICT & Youth Development in addition to Department of Health & Sanitation.

3.4.23 Further, it was established that the total funds disbursed by the Kitui County to the Kitui Referral Hospital were Kshs. 36,105,454 as detailed below:

Table 25: Disbursement of funds from Kitui County to Kitui Referral Hospital

Date	Amount received from County Government (Kshs)
17 June, 2020	26,466,745.00
17 June, 2020	5,254,060.00
25 June, 2020	4,384,649.00
<b>Total</b>	<b>36,105,454.00</b>

3.4.24 A comparison between what the National Government and what the County Government had allocated and disbursed to the Kitui Referral Hospital reflects an under funding of Kshs 263,894,546 which is equivalent of 82%.

Failure to open a special purpose account for the COVID-19 activities - Kshs.1,033,350

3.4.25 According to the letter, from the Principal Secretary, to the Ministry of Health reference number MOH/FIN/1/A/VOL III (70) dated 19 June, 2020, guidelines issued for the conditional grant were to apply in the utilization of Kenya Covid-19 Emergency Response funds.

3.4.26 The Ministry of Health (MoH) vide a letter Reference No. MOH/ADM/1/1/171 Vol. I (280) dated 22 June, 2020 to all County Executive Committee Members for Health and Chief Officers, instructed all Counties to open a Special Purpose Account (SPA) for the COVID 19 grant. The letter also refers to the Ministry of Health framework

for management of the additional conditional grant for the COVID-19 emergency response for guidance on transfers of the funds including transfers to special purpose accounts.

3.4.27 The special audit established that Kitui Referral Hospital expended Kshs. 1,033,345 from the operations account contrary to the guidelines. Details of the expenditure incurred are in the table below:

Table 26: Expenditure of the COVID-19 Funds by the Kitui Referral Hospital

S/No	Payee	Description	Cheque number	Amount (Kshs)
1	Dennis Kimanzi Woiye	Imprest to Mwingi Hospital for purchase of food and rations	006105	249,845
2	Catherine Kalee	Optometrics-payment in arrears following her non-payment at CHMT	006214	220,985
3	Defensy Stores Ltd	Supply of electrical materials	006140	361,520
4	Young Rays Solutions	General office supplies	005998	168,800
5	Kitui Multipurpose	Down payment for accommodation of hospital Covid 19 staff	006140	32,200
		<b>Total</b>		<b>1,033,350</b>

#### Mandera Referral Hospital

Amount of funds received - Kshs.300,000,000

3.4.28 The special audit established that there was an approved work plan, an approved budget and a procurement plan for Utilization of the Conditional Grants sent by the Ministry of Health to the Mandera County Referral Hospital.

3.4.29 The Ministry of Health sent a Conditional Grant of Kshs. 300,000,000 to the Mandera County Referral Hospital. The Amounts were received on 02 July, 2020 in the Mandera County Referral Hospital, Kenya Commercial Bank Account Number 1149105127.

Utilization of the funds - Kshs. 300,000,000

- 3.4.30 The special audit reviewed the expenditures incurred by the Mandera County Referral Hospital and established the following irregularities:

Procurements done without evidence of professional opinions - Kshs. 228,910,610.00

- 3.4.31 Section 84 (1) of the Public Procurement and Asset Disposal Act, 2015 requires that, the Head of the Procurement function of a procuring entity shall, alongside the report to the Evaluation Committee as secretariat comments, review the tender evaluation report and provide a signed professional opinion to the Accounting Officer on the Procurement or Asset Disposal proceedings.

- 3.4.32 It was established that the Mandera County Referral Hospital received in its Kenya Commercial Bank Account No.1149105127 Kshs.300,000,000 on 02 July, 2020 from the Ministry of Health. The amount had been appropriated by Parliament and budgeted for in the Ministry of Health Recurrent Supplementary II budget for the COVID-19 Response. However, the special audit established that procurements amounting to Kshs. 228,910,610.00 did not have professional opinions contrary to the provisions of the Act. The procurements that did not have professional opinions are as shown in the attached **APPENDIX XV**.

Inappropriate use of procurement method - Kshs. 272,531,900.

- 3.4.33 Section 59(1) of the repealed Public Procurement and Disposal Regulations, 2006 require that, a procuring entity, that conducts procurement using the Request For Quotations (RFQ) method shall be subject to the procurement thresholds set out in the First Schedule.

- 3.4.34 The special audit established that procurements amounting to Kshs. 272,531,900.00 were undertaken through Requests for Quotations (RFQs) and did not meet the threshold set under the regulations. These procurements process should have been done through open tender since the amounts involved were above the RFQ threshold. The procurements referred to above are as shown in the attached **APPENDIX XVI**.

Absence of documents to support opening and evaluation of bids - Kshs.39,857,500.

- 3.4.35 It was also established that expenditure amounting to Kshs.39,857,500 was incurred whose procurement procedures had the evaluations done before opening of

quotations, missing opening and evaluation meeting minutes and missing letters of appointments for opening and evaluation committees as detailed in **APPENDIX XVII**

#### **Unsupported Expenditure - Kshs.14,012,632**

3.4.36 Section 104 (1) of the Public Finance Management Regulations, 2015 requires, that all receipts and payments vouchers of public moneys shall be properly supported by pre-numbered receipt and payment vouchers and shall be supported by the appropriate authority and documentation.

3.4.37 The special audit established that expenditures amounting to Kshs. 14,012,632 was not supported by the relevant documentation and support schedules. Therefore, the authenticity of Kshs. 14,012,632 could not be ascertained as detailed in **APPENDIX XVIII**.

3.4.38 In addition, the audit established that the County made a payment of Kshs. 3,300,000 to M/S Rivital Power Limited vide LSO number 417863 for the Renovation of Maternity and Staff Quarters at Manderu County Referral Hospital. However, bid documents and the evaluation report availed for audit were not legible inhibiting the audit review process.

#### **Kenyatta National Hospital**

##### **Programme planning and Financing**

Absence of workplans on utilization of COVID-19 Funds - Kshs. 740,000,000

3.4.39 The Management of Kenyatta National Hospital (KNH) had in place a plan of requirements for the operationalization of a 20 bed Capacity at the Kenyatta National Hospital Infectious Unit at Mbagathi Hospital dated 26 February, 2020 costing Kshs.150.49 Million. The plan envisaged to enhance the existing KNH 6 bed capacity in the Infectious Disease Unit ward to a 20 bed capacity. The plan however, did not provide timelines on implementation of the various renovation activities.

3.4.40 On the contrary, there was no evidence that Kenyatta National Hospital had in place, work plans to guide in the utilization of the following funds:

- Kshs.350,000,000 for COVID-19 Emergency Response, AIE 685777;
- Kshs.250,000,000 for COVID-19 Emergency Response, AIE NO 685793;
- Kshs.140,000,000 for Conversion Day CARE Center to Ward for COVID-19 Health Care Workers , Receipt Number 05266351.

- 3.4.41 Absence of work plans on utilization of COVID-19 funds implies inadequate programme planning that may have resulted in inefficient and ineffective utilization of funds resulting in value for money risks.
- 3.4.42 However, it was noted that the Kenyatta National Hospital had prioritized COVID-19 procurement needs in the Annual Procurement Plan.
- 3.4.43 According to an Internal Memo Ref: KNH/CS/74/VOL.2/100 dated 24 September, 2020, The Kenyatta National Hospital Board of Management (BOM) resolved that The COVID-19 funds be realized through review of budget lines and reallocations of funds from one vote to another based on need without affecting the overall approved budget. The said Memo further provided BOM approvals of the revised budget.
- 3.4.44 The special audit confirmed that a total of Kshs. 1,257,496,392 disbursed by the Ministry of Health to Kenyatta National Hospital had been captured in the Final Revised Budget for the financial year 2019/2020.

**Amount received by Kenyatta National Hospital including recipient bank accounts**

- 3.4.45 Kenyatta National Hospital received a total of Kshs. 1,257,496,392 from the Ministry of Health. The respective funds were then transferred to the Kenyatta National Hospital Bank Account as detailed in the table below;

Table 27: Amount of COVID-19 Funds received by the Kenyatta National Hospital

AIE Number	Details	Total Amounts (Kshs)	Recipient Bank	Date
685883	Funds for Recruitment of additional Health Workers	125,701,392	National Bank of Kenya, Limited Hospital Branch A/C No. 01003058005200	22 April, 2020
685889	Funds for compensation to temporary employees engaged in COVID-19	85,000,000	National Bank of Kenya, Limited Hospital Branch A/C No. 01003058005200	22 April, 2020
685918	Funds allocated to Mitigate Corona Virus Threat	150,000,000	National Bank of Kenya, Limited Hospital Branch A/C No. 01003058005200	7 July, 2020
685793	Funds for Kenya COVID-19 Emergency Response	250,000,000	National Bank of Kenya, Limited Hospital Branch A/C No. 01003058005200	7 July, 2020

AIE Number	Details	Total Amounts (Kshs)	Recipient Bank	Date
685723	COVID-19 Medical Allowances for Front Line health workers	156,795,000	National Bank of Kenya, Limited Hospital Branch A/C No. 01003058005200	7 July, 2020
Funds were sent directly to the Bank. Receipt No 05266351	Conversion of Daycare Center to Ward for COVID-19 Health Care Workers	140,000,000	National Bank of Kenya, Limited Hospital Branch A/C No. 01003058005200	7 July, 2020
685777	Funds for Kenya COVID-19 Emergency Response	350,000,000	National Bank of Kenya, Limited Hospital Branch A/C No. 01003058005200	7 July, 2020
<b>Total</b>		<b>1,257,496,392</b>		

#### Utilization of Funds

3.4.46 A review of the individual expenditure reports revealed the following;

Recruitment of additional health workers at Kenyatta National Hospital and Mbagathi Hospital and compensation of temporary employees engaged on COVID-19 activities - Kshs. 244,655,850

3.4.47 An amount of Kshs. 244,655,850 was allocated for the recruitment of additional health workers and compensation of temporary employees engaged in COVID-19 mitigation as detailed in the table below;

Table 28: Allocations by KNH for recruitment and compensation of health workers

Date of AIE	AIE No.	Amount (Kshs)
1 April, 2020	685883	125,701,392
2 March, 2020	Reallocation from AIE No 685918	33,954,458
31 March, 2020	685889	85,000,000
	Total	244,655,850.

3.4.48 The Kenyatta National Hospital (KNH) Human Resource Department made a recruitment request through a memo ref: KNH/HR/335/04 dated 4 March, 2020 done by the Acting Deputy Director, Human Resource Department. The requisition did not state the number and category of staff requested. However, the audit team observed that KNH had followed the KNH Human Resource Manual on Recruitment Manual

paragraph 2.13.2 which states that, “The CEO shall declare to the Board in accordance with the procedures set out in this Manual, all vacant posts within the establishment, which are to be filled substantively, or in an acting capacity. Such declaration shall originate from the various Heads of Departments and must be supported by good justification for the recruitment and confirmation that the positions are not only within the approved establishment but also fully funded within the budget”.

3.4.49 Two Internal advertisements were done due to urgency. Through these two advertisements, Kenyatta National Hospital recruited 202 Officers for a period of 3 months with effect from March 2020 as detailed in the letter done by CEO of KNH to the Principal Secretary Ministry of Health dated 8 May, 2020 referenced KNH/FIN/46. The Officers comprised 122 health workers for the Kenyatta National Hospital Mbagathi Infectious Diseases Unit and 80 Officers for the main Kenyatta National Hospital.

3.4.50 The Kenyatta National Hospital further recruited 296 more health workers on need basis through the memos indicated below:

Table 29: Addittional Health Workers recruited on temporary basis

From	To	Date	Ref No.	No. employed
HOU- Public Health	Deputy Director, Human Resource	17 March 2020	KNH/PH/14/VOL.IV/33	10
Ass. Chief Nurse, IDU	Chief Executive Officer	20 March 2020	KNH/MED-IDU/VOL.6	40
Deputy Director, HR	Chief Executive Officer	24 April 2020	KNH/HR/330/45	148
HOU-Public Health	Deputy Director, HR	7 April 2020	KNH/PH/4A/VOL.1	6
HOD-Health Information	Director, Clinical Services	7 May 2020	KNH/HI/9	10
Deputy Director, Clinical Services	Chief Executive Officer	7 May 2020	KNH/DCS/28/VOL.IX/57	67
Director, Clinical Services	Deputy Director, HR	12 May 2020	KNH/DCS/60/VOL.IV/165	7
Deputy Director, HR	Chief Executive Officer	21 May 2020	KNH/HR/330/(74)	8
<b>TOTAL</b>				<b>296</b>

Over expenditure on recruitment of additional health workers - Kshs. 19,018,361.90

3.4.51 As at the end of September 2020 the total number of temporary staff recruited through the needs of user departments were 498. KNH was allocated Kshs. 244,655,850 for compensation of temporary employees engaged on COVID-19. According to the payment vouchers for utilization of COVID-19 funds availed to the audit team by the Finance Department as at the end of September 2020 KNH had spent Kshs. 263,674,211.90. This resulted in an over expenditure of Kshs. 19,018,361.90 above the approved budget.

Disbursement of KNH Othaya Teaching Referral Recurrent Supplementary Budget II - AIE No. A685918 of Kshs.150,000,000

3.4.52 An amount of Kshs.150,000,000 was disbursed to Kenyatta National Hospital through AIE No. A685918 under the KNH-Othaya Referral Hospital Supplementary Budget II. However, the funds were directed to fund the Infectious Disease Unit (IDU) - Mbagathi Hospital as per letter Ref. MOH/DC/9/1/33 from the Ministry of Health Dated 25 February, 2020 and utilized as detailed below;

Table 30: KNH Othaya Teaching Referral Supplementary Budget II recurrent expenditure

Category		Amount (Kshs)
1	Human Resource	33,954,458
2	Medical Equipment and Renovations	76,309,990
3	Recurrent expenditure	27,428,305
4	Unutilized Funds	12,307,246
<b>Total</b>		<b>149,999,999</b>

3.4.53 According to the Executive Order Number 2 of 2020 dated 28 February, 2020 the IDU Centre at the KNH Mbagathi Hospital was to be completed and ready to receive patients within 7 days.

3.4.54 KNH immediately advertised the Direct Procurement of Medical Equipment for the Mbagathi IDU through tender No.KNH/T/DP/05/2019-2020. The tender document was sent via emails dated 29 February, 2020. The interested suppliers had until 2 March, 2020 to submit their filled tender documents. Tender opening and evaluation was done on the same by a committee appointed by the Chief Executive Officer.

Absence of evidence of notification of unsuccessful bidders contrary to Section 87(3) of the Public Procurement and Asset Disposal Act, 2015

3.4.55 The notification of award was done to the successful bidders on 4 March, 2020 and the bidders were required to make deliveries before the close of business the same day.

3.4.56 Section 87(3) of the Public Procurement and Asset Disposal Act, 2015 requires that when a person submitting the successful tender is notified under subsection (1), the Accounting Officer of the procuring entity shall also notify in writing all other persons submitting tenders that their tenders were not successful, disclosing the successful tenderer as appropriate and reasons thereof. There was no evidence that the unsuccessful bidders; Medisel Surgical Ltd and Angelica Medical Supplies Ltd were notified.

Delay in delivery of equipment thereby negating the justification for Direct Procurement - Kshs 4,330,000

3.4.57 KNH used the Direct Procurement method to purchase medical equipment to set up the Infectious Disease Unit (IDU) at Mbagathi Hospital. The reason for use of the Direct Procurement method was because they were dealing with an emergency and the Centre needed to be established within 7 days.

3.4.58 One of the conditions of the tender was that the suppliers had to deliver the equipment within 24 Hours after award of the contract which was done on 4 March, 2020. It was however noted that there were firms that delivered the equipment later than 4 March, 2020 contrary to the conditions of the tender as detailed below.

Table 31: Delayed delivery of Medical Equipment at KNH

Supplier	Item	Date delivered	Amount (Kshs)
Medifest Africa Ltd-	Infrared thermometers and infusion pumps	23/4/2020	3,100,000
Harleys Ltd	Examination lights	21/4/2020	856,000
Medionics Healthcare	Oximeter/baby mechanical scale	2/4/2020	374,000
	<b>Total</b>		<b>4,330,000</b>

3.4.59 It was also established that there were suppliers who had delivered items in April 2020 and had not been paid as at October 2020 as detailed below.

Table 32: Pending Bills for Kenyatta National Hospital

	Supplier	Delivery date	Amount (Kshs)
1	M/S Crown Solutions Ltd- Crown Healthcare Division	4/3/2020	834,530
2	Medionics Healthcare Ltd	4/2/2020	374,000
			1,208,530

3.4.60 There was no explanation as to why the amounts had not been paid.

KNH Othaya Teaching Referral supplementary II Recurrent Expenditure- AIE NO 685793 of Kshs.293,000,000

3.4.61 The Ministry of Health allocated Kshs.250,000,000 to Kenyatta National hospital to operationalize the Othaya Referral Hospital while an additional Kshs.43,000,000 was reallocated from the KNH Hospital COVID-19 Emergency Response Fund of Kshs.350 million to finance operations at the Othaya Teaching and Referral Hospital. This is according to an extract of KNH Board resolution minutes dated 24 September, 2020.

3.4.62 The Cabinet Secretary Ministry of Health through a letter reference No.MOH/ADM/1/1 dated 30 October, 2019 directed the commencement of preparation of takeover of Othaya Referral Hospital as a satellite facility of the Kenyatta National Hospital. This directive issued by the Cabinet secretary referred

to the Presidential Directive Ref No. OP/CAB.11/34. This Presidential Directive was not provided to the audit team.

3.4.63 On 5 November, 2019 the Medical Supretendant for Othaya Teaching and Referral Hospital was directed by the Principal Secretary to the Ministry of Health via a letter reference MOH/MI/4/4/12 VOL.1 to hand over the management of the hospital to KNH.

3.4.64 According to the letter reference MOH/MI/4/4/12 VOL .1, the KNH management was expected to ensure that Othaya Hospital is optimally utilized, provide specialized services, address the issues of staffing and work on the projection of provision of the facilities that are not currently existing such as Mortuary and kitchen expansion. It was noted that Othaya Hospital was functionally and administratively operating under KNH.

3.4.65 In a letter Ref: KNH/CEO/79/B dated 14 April, 2020, the CEO of KNH made a request to the Ministry of Health requesting for additional funding for services including conversion of KNH-Othaya Level 6 hospital into an Isolation center. The Ministry of Health issued an AIE Ref: 685793 for Kshs. 250,000,000 on the 16 June, 2020. These funds were received in National Bank A/c No. 01003058005200 on 7 July, 2020.

3.4.66 The audit team noted that funds amounting to Kshs. 293,000,000 were committed as follows.

Table 33: Commitment of funds for Othaya Referral Hospital

Contract	Item	Supplier	LSO/LPO	Amount
KNH/T/57/2020-2021	Purchase of Equipment	JIMTEC Services	Various	5,230,000
	Purchase of Equipment	Light up Africa Ltd	Various	9,211,600
KNH/T/64/2020-2021	Construction of Borehole-works	Trancend Engineering Ltd	04205	9,316,000
KNH/T/65/2020-2021	Construction of Oxygen - Generating Plant-works	Debra Ltd	04206	15,917,874
KNH/T/65/2020-2022	Construction of Oxygen Generating Plant- Purchase of Equipment	Debra Ltd	0174310	65,949,741
KNH/T/60/2020-2021	Purchase of Equipment	Debra Ltd	Various	14,602,325
KNH/T/60/2020-2021	Purchase of Equipment	Total Hospital Solutions	Various	3,615,153

Contract	Item	Supplier	LSO/LPO	Amount
KNH/T/58/2020-2021	Construction of Internal Roads	Scopes Project Ltd	04201	18,035,320
KNH/T/62/2020-2021	Construction of Laundry Building	Watercore Services Ltd	04203	37,292,470
KNH/T/63/2020-2021	Construction of Mortuary Building	Rimun Ventures Ltd	04204	49,219,625
KNH/T/61/2020-2021	Construction of Kitchen-works	Good Luck Logistic Ltd	04202	40,075,596
KNH/T/59/2020-2021	Purchase of Equipment	JIMTEC Services	Various	24,676,210
<b>Total</b>				<b>293,141,914</b>

3.4.67 The audit team further noted that the procurement process had been completed and works had commenced but no payment had been made as at the time of the audit. However, the status of projects that had already commenced were as summarized in the table below.

Table 34: Project Completion status for Othaya Referral Hospital

Project	Status (Completion)
Construction of Laundry	15%
Construction of Kitchen	10%
Construction of Oxygen Plant	8%
Construction of Mortuary	4%

COVID-19 Medical Allowances for Front Line Health Workers - Kshs. 156,795,000

3.4.68 Kenyatta National Hospital received a total of Kshs. 156,795,000.00 on 7 July, 2020 through AIE No. A 685723 for payment of Allowances for the Frontline Health Workers. The allowance was paid in the months of July, August and September 2020.

3.4.69 KNH paid 4,680 permanent and pensionable health workers a total of Kshs. 153,315,000 as Frontline Health-Worker's Allowance in the months of July, August and September 2020 leaving a balance of Kshs. 3,480,000.00. However, KNH did not pay any temporary Frontline Health-Workers yet they had worked in the same period from April to June, 2020.

3.4.70 In a letter referenced Ref: KNH/HR/333/75 dated 19 October, 2020 referring to SRC circular Ref. No. SRC/TS/COG/3/61/48, the Director KNH requested for more funds to pay the Frontline Health Workers from internal accounts through the hospital's Short-Term Contracts Account. It was noted that a total of Kshs. 36,155,000 was

requested for these payments. This amount included a balance of Kshs. 3,480,000.00 which had not been exhausted in the initial amount of Kshs. 156,795,000 allocated to pay the front-line health workers.

3.4.71 Out of this amount, KNH paid Kshs. 33,811,500 to 1,198 Temporary staff in October 2020 leaving a balance of kshs. 2,343,500.00 as detailed in the table below;

Table 35: Un-utilized Frontline Health Workers Allowances for KNH

Frontline Health Workers (Temporary Staff)	PV no	No. Of Staff paid	Amount paid (Kshs)
October Doctors & Nurses-Main Hospital)	0152	435	17,071,000.00
October (Mbagathi)	0153	396	11,797,500.00
October (General Staff (clerks, support staff etc.)	0154	367	4,943,000.00
Total		1198	33,811,500.00
Balance			2,343,500.00

3.4.72 The audit team noted that these payments were made from KNH accounts and not from the initial Kshs.156,795,000. allocated to pay the front-line health workers.

Conversion of day care Centre to a COVID-19 ward for healthcare workers - Kshs. 140,000,000

3.4.73 The funds provided for the conversion of the day care center to a COVID-19 ward for Health Care Workers amounting to Kshs. 140,000,000 had not yet been utilized as at 30 October, 2020. According to the Supply Chain Management Department, KNH advertised the tender in the daily Nation dated 10 November, 2020 under tender number KNH/T/73/2020-2022 with a closing date of 01 December, 2020. As at the time of audit, the procurement process was still ongoing.

COVID-19 Emergency response - Kshs.350,000,000

3.4.74 Out of the Kshs.350,000,000 disbursed to KNH for emergency response, Kshs. 43,915,820 was reallocated to KNH-Othaya Referral Hospital for capital projects leaving a balance of Kshs. 306,084, 180. As at 30 October, 2020 KNH had committed Kshs. 27,571,524.00 in form of local service orders to the various suppliers for the items listed in the table below;

Table 36: COVID-19 Emergency response - Kshs.350,000,000

Firm	Description of Items	Request NO	Tender No.	Quantity requested	Delivery	Amount Committed
M/s Mullighan rehab services ltd	Scrub suits and patients' identification bands	128/10/20-21	KNH/T/2A/2018-2020	6668	350 Pieces	1,890,378
M/S lablink ltd	Respiratory KN95 MASK	135/10/20-21	KNH/T/72/2020-2021	20000	20000 pieces	1,800,000
M/s Hospital comfort company	Disposable surgeon gowns reinforced	125/10/20-21	KNH/T/2A/2019-2020	5001	Not delivered	5,131,026
M/s Hospital comfort company	Disposable Aprons	123/10/20-21	123/10/20-21	20000	4300	753,800
M/s Crown solution Ltd	Disposable Gloves	117/11/20-21	117/11/20-21	4000	Not delivered	2,880,000
M/s Quillar Enterprise	Pair of pre-sterile Gloves	89/11/20-21	89/11/20-20	100000	10000 pieces	4,450,000
M/s Outlook Innovation Ltd	Disposable surgeon Mask	110/10/20-21	KNH/T/72/2020-2021	16000	Not delivered	10,320,000
M/s Medi Surge Enterprise	Surgeon Mask	133/10/20-21	KNH/T/2A/2018-2020	666	666	346,320
		<b>Total</b>				<b>27,571,524</b>

3.4.75 M/s Mullighan Rehab supplied 350 of the 6,668 Scrub suits and patients' identification bands. They issued a credit note dated 28 October, 2020 indicating that they will not supply the balance of 6,318 amounting to Kshs. 1,795,878. It is not clear why they failed to supply the goods as requested by KNH. Further, there was no evidence of inspection and acceptance reports by the Kenyatta National Hospital to confirm the quality and quantity of items delivered.

3.4.76 As at the time of the audit M/S Hospital Comfort Company had delivered 4,300 disposable aprons to KNH out of 20,000 which was required. M/S Lablink, Quillar

Enterprises and M/S Medisurge Enterprise had delivered all the merchandise ordered but had not yet been paid the total amount of kshs. 6,596,320. M/S Crown Solution Limited and M/s Outlook Innovation Ltd were yet to deliver disposable gloves and disposable surgeon masks respectively.

### **Donations**

Donations from KEMSA to Mbagathi IDU - Kshs. 6,984,708,939

- 3.4.77 KNH with the resources allocated to them to equip Mbagathi IDU could only afford to equip it to 20 bed capacity. A meeting held on 4 March, 2020 however gave KNH the authority to increase the bed capacity to 120 beds. The CEO of Kenyatta National Hospital wrote a letter Ref KNH/SCM/ADM/43 dated 4 March, 2020 to KEMSA to assist in acquiring the additional equipment.
- 3.4.78 KNH identified the suppliers of hospital equipment. The supplier would then invoice KNH for the budgetary proportion for 20 beds and then invoice KEMSA for the proportion for 100 beds. Through this arrangement, KEMSA supplied beds and medical equipment worth Kshs. 6,984,708,939 as detailed in APPENDIX XIX. All such supplies were recognized in KNH books as donations.

### **Failure to value donations in kind received contrary to section 47 (8) of the PFM Act, 2012**

- 3.4.79 According to Section 47 (8) of the PFM Act 2012, the recipient of a grant or donation from a development partner shall record the amount or value of the grant or donation in its books of accounts.
- 3.4.80 During the period 1 March, 2020 to 31 July, 2020, Kenyatta National Hospital received donation in terms of Masks, Ventilators, Face Shields, Gowns and other materials and equipment relating to COVID-19 from KEMSA and other Donors as detailed in APPENDIX XX.
- 3.4.81 A review of the KNH Annual Report and Financial Statements for the year ended June 30, 2020 under note 8 revealed that the COVID-19 Donations had not been disclosed contrary to Section 47 of PFM Act 2012. The donations captured under note 8 were General Donation in Kind that were not COVID-19 related.

#### Donation Items Not taken on Charge

3.4.82 Section 159 (2) of the PPADA Act 2015 provides that an Accounting Officer of a procuring entity shall record goods, works and services received. Further Section 162 indicates that no inventory shall be used until taken on charge and as a basis for ensuring that all items are properly accounted for and put in proper use as intended by the procuring entity. The audit could not ascertain whether some of the items donated to KNH were taken on charge since no store records were available. The list of the items whose store records were not available is as shown in **APPENDIX XXI**.

#### Verification of Othaya-KNH C-HERP Ventilators

3.4.83 According to Reference Letter MOH/DC/9/1/33 dated 2 June, 2020 from the Ministry of Health to Gadian Health Systems, 5 ventilators were to be delivered by Gadian Health System to Othaya Referral Hospital.

3.4.84 Gadian Health Systems delivered the 5 ventilators to Othaya Referral Hospital. A review of Internal Memo: KNH/SDCS/112/Vol.1/42 from Office of the Senior Director Clinical Services to Chief Executive Officer dated 19 June, 2020 communicates a request for authority to move the 5 Othaya ventilators to KNH- Main Hospital. The authority was granted on the same day by the Chief Executive Officer.

3.4.85 On 30 June, 2020, 5 ventilators were Issued from Othaya ICU to KNH-Main Hospital through Counter Requisition Issue and Voucher S11 No 3633641 and were received at KNH Main store on the same date through Counter and Requisition Issue Voucher No 3635555. They were then taken on charge on the same date through Store Ledger & Stock Control Card (S3) No 000553. They were then Issued for use on 06 August 2020 at KNH Private Wing HDU.

#### Status of isolation centres

3.4.86 The audit team did not carry out Physical Verification of the store balances & isolation centers at Kenyatta National Hospital because of the spike of COVID-19 confirmed cases in the hospital and its facilities. However, according to letter Ref: KNH/FIN/47/VOL.1/ (70) dated 11 November, 2020, the hospital had set up an isolation centre detailed as follows;

3.4.87 The hospital mobilized existing medical equipment to set up the isolation centre for health care workers at the Day Care Centre consisting of 22 beds in May 2020

awaiting the procurement of equipment as per the designated funds of Kshs. 140 million. The mobilized equipment was sourced from Mbagathi and the Main Hospital.

3.4.88 The Mbagathi isolation facility was envisaged to have a capacity of 120 beds but when it was set up, considering Ministry of Health guidelines set up for COVID-19 care and dialysis services, 70 beds were installed to provide for the recommended spacing.

3.4.89 The Hospital has set up and equipped other isolation/treatment units in the hospital to serve different groups of COVID-19 patients as highlighted below:

Table 37: Status of Isolation Centres at the Kenyatta National Hospital

Unit	Population served	Bed capacity	Critical care beds
Main KNH IDU CCU	Confirmed COVID 19 critical care patients	8	8
Ward 42 and 41	Very sick suspected and confirmed COVID 19 patients	57	15 (HDU)
Medical wards (7A, 7D, 10B)	Suspected and Confirmed COVID 19 medical patients awaiting transfer to isolation unit	79	6
Surgical Wards (5C)	Suspected and Confirmed COVID 19 surgical patients awaiting transfer to isolation unit	32	0
Paediatric ward (3c)	Suspected and Confirmed COVID 19 children awaiting transfer to isolation unit	38	6
Obstetric unit	Suspected and Confirmed COVID 19 pregnant women	10	

### **Kenyatta University Teaching Research and Referral Hospital (KUTRRH)**

Amount of funds received by the KUTRRH for Covid-19

3.4.90 It was established that, the Kenyatta University Teaching and Referral Hospital received an amount of Kshs. 1,294,416,150 for the COVID 19 related activities as detailed below:

Table 38: Amount of funds received by the KUTRRH for Covid-19 related activities

	Source and purpose	Amount (Kshs)	Bank Name and Branch	Recipient bank account
1	GOK for the Frontline Health Workers Allowances	12,270,000.00	KCB TRM	1258637243
2	GOK for the compensation for recruitment of health workers to address the COVID-19 crisis	245,196,150.00	KCB TRM	1258637243
3	GOK Infrastructure Development	526,500,000	KCB TRM	1258637243
4	GOK Recurrent Expenditure	500,000,000	KCB TRM	1258637243
	Amount received from the Ministry of Health	1,283,966,150		
5	IGAD Staff Apartment- 51 Units	10,450,000	KCB TRM	1258637243
	<b>Total Receipts</b>	<b>1,294,416,150</b>		

#### Utilization of the funds

The Frontline Health Workers Allowances - Ksh 12,270,000

3.4.91 The above amount was utilized for Health workers allowances as required by the AIE received. However, some legible health workers were not captured and this resulted to an extra expenditure of Kshs. 1.27M which was utilised from the Recruitment of Health Workers Fund. This is unlike other entities that opted to utilize their Own Source Funds or salary vote funds.

The Covid Grant for Recruitment of Health workers - Ksh.245,196,150

3.4.92 Based on the work plan and budget provided, it was noted that, there was a budget line whose main activity in the COVID-19 pandemic response workplan was to hire Clinical and non-clinical staff to handle the COVID-19 patients. According to the letter from the PS to the Ministry of Health referenced MOH/FIN/1/A VOL II (435) dated in 01 April, 2020, an Authority to incur Expenditure (AIE) Number 685887 of

Kshs. 245,196,150.00 was issued to the Kenyatta University Teaching Research and Referral Hospital to cater for the recruitment of additional health workers to address the COVID-19 pandemic for a period of three months up to 30 June, 2020.

3.4.93 A review of the expenditures charged to the Covid-19 Grant for Recruitment of Health workers established that an amount of Kshs. 1.27Million being the additional expenditure for the payment of the Frontline Health Workers Allowances was charged from these funds. The funds were appropriated and purposed for the compensation and recruitment of health workers to address the COVID-19 crisis and was therefore used without express authority from the National Treasury but based on a board meeting that decided and made approval to proceed to pay the extra frontline healthcare workers allowances.

3.4.94 From the extract of the recruitment plan availed, KUTRRH was to hire a total of 568 staff who were to be paid a total salary of the KShs. 245,196,150 for a period of 3 months ending 30 June, 2020. Based on the payrolls provided, as at July, 2020, there were 165 staff plus other additional temporary staff who had been paid a total of Kshs. 88,717,996.08 as at July, 2020 as per the utilization report availed for the 245m funds. The Fund therefore was underutilized as at 30 June, 2020.

3.4.95 Further, the audit noted that some 50 newly recruited staff were sent to Seychelles for a two year support mission and their monthly remuneration is being charged from the fund. The 50 newly recruited staff are serving in another country institution contrary to the purpose of the funds. This mission being a government-to-government agreement should have received its own funding and not the institution's conditional fund. As at October 2020, KUTRRH had utilized a total of Kshs. 203,536,078.01, leaving a balance of Kshs. 41,660,071.99 still unutilized as detailed below:

Table 39: Expenditure by KUTRRH for Recruitment of Healthcare Workers

DETAILS	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	TOTAL
SALARIES	6,918,291.47	12,928,501.36	16,552,427.86	16,869,340.39	16,669,036.80	16,531,170.00	16,091,170.01	102,559,937.89
MEDICAL INSURANCE			9,327,274.00			5,236,217.38		14,563,491.38
TRAINING	9,998,400.00							9,998,400.00
TRAVELLING PER DIEM	1,850,761.00							1,850,761.00
STAFF UNIFORMS	3,350,000.00							3,350,000.00
GRATUITY PROVISION							31,793,580.75	31,793,580.75
COVID TEAM		4,308,600.00	3,898,800.00	2,715,600.00	9,325,600.00	8,178,200.00	10,052,650.00	38,479,450.00

DETAILS	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	TOTAL
LOCUM STAFF								
FRONTLINE ALLOWANCE						940,456.99		940,456.99
TOTAL	22,117,452.47	17,237,101.36	29,778,501.86	19,584,940.39	25,994,636.80	30,886,044.37	57,937,400.76	203,536,078.01
ACTUAL SPENT								203,536,078.01
BALANCE OF THE FUND								41,660,071.99
AMOUNT RECEIVED								245,196,150.00

GOK Infrastructure Development - 526,500,000

Payment for Expenditures incurred before COVID-19 was declared in Kenya - Ksh. 12,388,797

3.4.96 Section 43 (1) of the Public Finance Management Act, 2012 requires that an Accounting Officer may reallocate funds from authorised use but may not reallocate funds where - (a) the funds are appropriated for transfer to another government entity or person; (b) the funds are appropriated for capital expenditure except to defray other capital expenditure; (c) the reallocation of funds is from wages to nonwages expenditure; or (d) the transfer of funds may result in contravention of fiscal responsibility principles.

3.4.97 Section (2) further requires that, an Accounting Officer for a National Government entity, other than a State Corporation, may reallocate funds between programs, or between Sub-Votes, in the budget for a financial year if— (a) there are provisions in the budget of a program or Sub-Vote which are unlikely to be utilised; (b) a request for the reallocation has been made to The National Treasury explaining the reasons for the reallocation and The National Treasury has approved the request; and (c) the total sum of all reallocations made to or from a program or Sub-Vote does not exceed ten percent of the total expenditure approved for that program or Sub-Vote for that financial year.

3.4.98 The special audit, established that KUTRRH had utilized Kshs. 177,029,923.20 out of the Kshs. 526,500,000 received as GoK Covid Grant for Development. KUTRRH also had commitments of Kshs. 99,920,436.69. Review of the related payment vouchers revealed that the institution had reallocated Kshs. 12,388,797 to previous commitments made before COVID-19 Pandemic was declared in Kenya. The authority to reallocate the COVID-19 Funds for these payments was not availed to the special audit. The table below gives details of the payments and expenditure whose

procurement had commenced and in some cases goods delivered before the COVID-19 period of March 2020, but payments were made using the Conditional Covid Grants.

Table 40: Expenditure by KUTRRH before COVID-19 was declared a pandemic in Kenya

Purpose of payment	L.P.O No.	Amount (Kshs)	Remarks
Supply & installation of AC system at the main pharmacy store	1757585	3,323,897	User request on 15 <sup>th</sup> Feb, 2020. Internal memo REF: KUTRRH/PRS/F1/366
Supply @ delivery of fridge & freezer for food storage	3478305	1,870,000	User request on 4 <sup>th</sup> Mar, 2020. Internal memo REF: KUTRRH/CD/F1/74
Purchase of desktop computers for CEO & Board Chair	3478080	431,500	User request on 23 <sup>rd</sup> Jan, 2020. Internal memo REF: KUTRRH/ICT/REQ/109 RFQ done on 7 <sup>th</sup> Feb,
Installation of AC at clinical Lab	3473688	408,900	Certificate of completion states work completed on 31 <sup>st</sup> Jan 2020 REF: KUTRRH/IPRJ/F1/263
Supply of Ipad Pro 11 keyboard leather cases	3478075	594,000	RFQ done on 5 <sup>th</sup> Feb, 2020. REF KUTRRH/PD/SOP/F.01
Supply and delivery of pharmacy store racks	3473983	1,856,000	RFQ done on 24 <sup>th</sup> October, 2019 & professional opinion on 6 <sup>th</sup> Nov 2019 REF KUTRRH/PD/PO/VOL1(1520
Supply and fixing of non-slip matt		3,904,500	The approved requisition of Kshs. 3,664,625 budgeted amount for the service was dated 14 <sup>th</sup> October, 2019. The bid opening and the professional opinion were done on 22 <sup>nd</sup> January, 2020. Quotation NO.309/2019-2020/KUTRRH/PUR
<b>TOTAL</b>		<b>12,388,797</b>	

#### Delivery notes dated before tender opening and award - Kshs. 849,620

3.4.99 A review of Payment Voucher Number 1073 to Windson Services Ltd, quotation number .584/2019-2020/KUTRRH/PUR for the purchase of materials for creation of washrooms and Board Members lounge at the centre for specialized clinics, established that delivery notes attached to the payment vouchers were dated

between 10 April, 2020 to 13 April, 2020, which was before the bid opening and professional opinion that took place on 14 April, 2020. The reason for the service delivery before the tender opening was not given by the entity.

#### **The GOK Recurrent Covid-19 Grant -Kshs. 500 Million**

##### **Award of tender amounting to Kshs. 3,978,500**

3.4.100 Section 106 (5) of The Public Procurement and Asset Disposal Act, 2015 requires that, the following shall apply with respect to the contract resulting from a procurement by a request for quotations – (a) the procuring entity shall place a purchase order with the person submitting the successful quotation; (b) the person submitting the successful quotation shall confirm the purchase order in writing; and (c) an accounting officer shall consider recommendations for award arising from a contract under procurement by a request for quotations for approval or rejection.

3.4.101 The audit team noted that Request for Quotation approach was used in procurement for selecting and awarding a suitable company to supply the Covid-19 consumables. Medspan Laboratory Supplies Limited was awarded the tender amounting to Kshs. 3,978,500. It was established that the company had through an email on 2 April 2020 acknowledged the award and confirmed that it was able to supply 3 ply face masks at Kshs. 2,000 inclusive of VAT. However, it was awarded a tender to supply 3,300 and 5,570 pieces of N95 Masks and face shield at a cumulative amount of Kshs. 3,978,500.

##### **Services offered before Awarding of tender - Kshs. 1,350, 000**

3.4.102 The audit noted that services by Ragely Investment Ltd, Quotation NO. 422/2019-2020/KUTRRH/PUR/PROVISION OF FUMIGATION SERVICES were offered before the professional opinion was given. The Company provided a medical fumigation of ICU using magnesium phosphate chemical at a cost of Kshs. 1,350, 000. The Professional Opinion highlighted that the entity used the request for quotation in awarding the tender. The Public Procurement and Asset Disposal Act, 2015, Section 84(3) requires that, the Accounting Officer takes into account the views of the Head of Procurement in the signed professional opinion in making decision to award a tender

in request for quotation method. However, Ragely Investment Ltd offered the fumigation service between 24th - 26th February, 2020 which was before the tender opening and professional opinion that took place on 28th February, 2020 and 3rd March, 2020 respectively. The reason for awarding the tender to Ragely Investment Ltd before the bids were opened or even before a professional opinion was given was not provided by the entity.

#### Payments made to non covid-19 activities amounting to Kshs. 167,000

3.4.103 Section 54 (1) of The Public Finance Management Act (National Government) Regulations, 2015 requires that, except as provided for in the Act and these Regulations, an Accounting Officer of an entity may not authorize payment to be made out of funds earmarked for specific activities for purposes other than those activities.

3.4.104 The audit team noted that Smart Funeral Services was awarded a tender for supply and delivery of coffins for resale through a letter dated 29 January, 2020. It was established that funds for the Covid-19 were used to pay for supply of coffins done before establishment of KUTRRH as a covid-19 facility. The supplies amounting to Kshs. 167,000 was part of the cumulative payment amounting to Kshs. 959,000 made through Payment Voucher No. 001353. The details of the irregular payments are shown in the table below.

Table 41: Payments incurred by KUTRRH on non covid-19 activities

Date Sold	Description/Code	Quantity	Receipt No.	Supplier Price
25/02/2020	Half opening round bar H-004A	1	912021/912033	23,000.00
25/02/2020	Half opening round bar H-004A	1	12024/912031/68585	23,000.00
02/03/2020	Half opening swing bar H-004B	1	912040/912045	28,000.00
04/02/2020	High roof sliding R.B. H-003	1	0912043/925904	22,000.00
07/03/2020	Mwananchi coffin big H-0010A	1	925902	10,000.00
10/03/2020	Half opening round bar H-004A	1	925907	23,000.00
13/03/2020	Three in one -002	1	925916	15,000.00
16/03/2020	Doom swing bar handle -008A	1	925919/0925938	23,000.00
	Total			167,000.00

#### Utilization of IGAD funds - Kshs 10,450,000

3.4.105 The KUTRRH received Kshs. 10,450,000 from IGAD which was used to furnish the 51-unit staff apartments that are being used to quarantine the Covid-19 working staff. As at 30 June, 2020, KUTRRH had utilized Kshs. 11,091,156 resulting in an over expenditure of Ksh. 641,156. The audit noted various procurement risks such as inflation of prices and procurement of substandard goods. KUTRRH procured curtains at a cost of Kshs. 1500 per unit yet the user request had indicated unit cost of Kshs. 900 in tender NO. KUTRRH/DT/F1/053 amounting to Kshs. 1,907,066. Reason for this 60% markup was not explained and a market survey was not provided. A physical verification of the beds procured under tender No KUTRRH/PD/SOP/F.01 and delivered in June were of substandard quality and were already breaking apart.

#### Accountability of Donations

3.4.106 The sources of Covid-19 related goods available for use in KUTRRH were purchases and donations from both the National Government and private institutions. A schedule detailing the distribution of donations from KEMSA/MOH to counties and other MDAs was provided from KEMSA. The audit team conducted a document examination and physical verification to establish receipt of goods dispatched from KEMSA/MOH

3.4.107 It was established that the items had been received by the Kenyatta University Teaching Referral and Research Hospital as dispatched. The high moving consumables such as surgical gowns and face shields were already in use. The audit team therefore confirmed that indeed the number dispatched was received, properly recorded in the store bin cards and requisitioned before issuance. In addition, for the large machines such as the ventilators, the audit team was able to confirm their receipt and a further physical count confirmed that the 10 units were in the main store. However, no physical verification was done to ascertain the conditions of Comprehensive care ventilators store in the High Dependency Unit store since it was within the isolation zone for covid-19 patients.

3.4.108 It was also observed that there were donations in the KUTRRH schedule specified to be from KEMSA but not included in the schedule of donations that the audit team had received at KEMSA headquarters to facilitate verification in the Counties and

MDAs. It was therefore not possible to establish the accuracy of the donations dispatched to the facility as detailed in APPENDIX XXII.

#### **Failure to include estimate of non-cash donations in the budget**

3.4.109 Section 74 (4) of the Public Finance Management Act (National Government) Regulations, 2015 requires that where grants and donations are receivable in kind, the value of such donations shall be determined and included in the estimate and reflected as expenditure in the financial year.

3.4.110 The audit team examined the approved budgets and the succeeding supplementary budgets I and II in the financial year 2019/2020. It was established that the Kenyatta University Teaching Referral and Research Hospital did not estimate the value of donations received from KEMSA, MOH and other donors and consequently their values are not reflected in the Donations Schedule provided. In that respect, section 74 (4) of the Public Finance Management Act (National Government) Regulations, 2015 was contravened.

### **MOI TEACHING AND REFERRAL HOSPITAL**

#### **Planning and Budgeting**

##### **Absence of approved work plans, budgets, procurement plans and training plans specific to COVID-19 resulting in failure to utilize Government grants**

3.4.111 The special audit established that the hospital had only the Annual Work plan, procurement plan, training plan and budget for its normal hospital operations. On the contrary, there was no evidence of existence of approved budget, procurement plan and training plan specific to Covid-19 funds utilization for any of their sources of the Covid-19 Funds

##### **Amount of funds received/budgeted by Moi Teaching and Referral Hospital including recipient bank accounts**

3.4.112 The total amounts of funds received by the Moi Teaching and Referral Hospital (MTRH) for the COVID-19 activities are as detailed below:

Table 42: Amount of funds received by MTRH

	Source	Amount (Kshs.)	Bank name and branch	Recipient bank account
1	GOK Recruitment of Health workers	42,824,700	KCB	1103464329
2	GOK Health Workers allowances	106,680,000	KCB	1103464329
3	AIE Ministry of Health	400,000,000	KCB	1151682268
	<b>Amount received from MOH</b>	<b>549,504,700</b>		
4	<b>Own Source Revenue</b>			
	Covid 19 Emergency Fund (Financial year 2019/2020, Kshs.55,000,000 and Financial year 2020/2021 Kshs.100,000,000)	155,000,000	KCB	1103464329
	Emergency Fund (Financial year 2019/2020 Kshs.30,000,000 and Financial year 2020/2021 Kshs.30,000,000)	60,000,000	KCB	1103464329
	<b>Total</b>	<b>764,504,700</b>		

#### Utilization of COVID-19 funds by Moi Teaching and Referral Hospital (MTRH)

##### GOK Conditional Grants

3.4.113 As at 31 July, 2020, the Moi Teaching and Referral Hospital, had received funds from the National Government through the Authority to Incur Expenditures (A.I. Es) from the Ministry of Health amounting to Kshs. 400,000,000 as detailed below:

Table 43: GOK Conditional grants received by the MTRH

AIE No.	Financial Year	Vote-Account	AIE Date	Amount(Kshs.)
A685789	2019/2020	0-2630101	16/6/2020	200,000,000
A685779	2019/2020	0-2630101	30/6/2020	200,000,000
			<b>Total</b>	<b>400,000,000</b>

3.4.114 As at the time of the audit, the Funds were still held in the Hospital's Training center KCB Account number 1151682268 after being transferred from the hospital's main account no 1103464329 KCB, where it had been received. However, most of the money has been committed to various projects with some being past the award stage of procurement.

3.4.115 The special audit established that the Conditional grant from the Ministry of Health had been incurred by the Moi Teaching and Referral Hospital in two category of projects procured through open tender method as follows:

Table 44: Expenditures incurred on Conditional grants by the MTRH

Partciluars		Approved Budget (Kshs.)	Amount incurred (Kshs.)
1	Procurement and installation of ICU Medical Equipment and Medical appliances	200,000,000	99,230,241
2	To facilitate the pandemic infrastructure project at MTRH	200,000,000	104,925,959.47
<b>Total</b>		<b>400,000,000</b>	<b>204,156,200.47</b>

#### Procurement and installation of ICU Medical Equipment and Medical appliances

3.4.116 This procurement process was tendered under tender numbers MTRH/T/3/2020, MTRH33/2020 and MTRH/25/2020. As at the time of audit, an amount of Kshs.99,230,241 had been incurred as detailed below:

Table 45: Procurement and installation of ICU Medical Equipment by MTRH

Tender no	Contractor and LPO /LSO No	Amount(Kshs.)	Item	Remarks
MTRH/T/3/2020	Supply of Various equipment (see copy of	76,431,451	Supply, delivery, installation of medical equipment	Procurement still at the award stage. LPO has not been issued
MTRH33/2020	Ms Recot Enterprises Ltd	15,386,189.50	Supply, delivery, installation, testing and commissioning of HVAC at MTRH world bank isolation unit.	Procurement still at the award stage. LPO has not been issued
MTRH/25/2020	Ms Recot Enterprises Ltd	7,412,600	Supply, delivery, installation and commissioning of HVAC system in isolation Ward-Rafiki centre.	Procurement still at the award stage. LPO has not been issued
<b>Total</b>		<b>99,230,241</b>		

**The pandemic infrastructure project at MTRH**

3.4.117 This procurement process was tendered under tender numbers MTRH/T/24/2020 and MTRH/T/26/2020 as follows:

Table 46: Procurement process for the pandemic infrastructure project at MTRH

Tender No	Contractor and LPO /LSO No	Amount (Kshs.)	Item	Remarks
MTRH/T/24/2020	Ms Debra Ltd	98,480,959.47	Supply, delivery, installation, testing and commissioning of 1500lm oxygen plant	Tenders was at the award stage as at the time of our audit
MTRH/T/26/2020	Ms Medoquip Ltd	6,445,000.00	Supply, delivery, installation and commissioning of oxygen piping and accessories to isolation ward	Tenders was at the award stage as at the time of our audit
Total		104,925,959.47		

**Recruitment of health workers and payment of frontline health workers allowance by the National Government**

**Irregular payment of Health Workers Allowances to Non-eligible staff - Kshs. 2,695,000**

3.4.118 The Moi Teaching and Referral Hospital (MTRH) received an amount of Kshs. 106,680,000 from the Ministry of Health for the Frontline Health Workers Allowance and another Kshs. 42,824,700 for the recruitment of health workers on a 3-months contract. The appropriated amount for the Frontline Health Workers Allowance was Kshs. 106,680,000. However, a total payment of Kshs. 99,830,000 was

made thereby leading to a variance of Kshs. 6,850,000 on the appropriated amount. The Management of the MTRH did not account for the un-utilized amount of Kshs. 6,850,000.

3.4.119 It was also established that an amount of Kshs. 2,695,000 was paid as Allowances to non-eligible staff who were not Frontline Health Workers contrary to the SRC circular Ref. No. SRC/TS/COG/3/61/48 of 28 April, 2020 which had clearly indicated that only the Frontline Health Workers should be paid. The payments were explained to be relating to Covid-19 Health Committee Allowances as detailed in APPENDIX XXIII.

**Over payment of the Frontline Health Workers Allowances - Kshs. 1,055,000**

3.4.120 Further, some health workers were paid amounts exceeding the SRC allocation by Kshs. 1,055,000 as detailed below. No explanation was given on this issue.

Table 47: Over payment of the Frontline Health Workers Allowances by MTRH

NAME	COVID 19 STIPEND PAID (KSHS)	SRC APPROVED RATE (PM)	TOTAL TO BE PAID FOR 3 MONTH (KSHS)	EXTRA PAID (KSHS)
JOSEPHAT M. SABILA	85,000.00	15,000.00	45,000.00	40,000.00
JANE KARIUKI	90,000.00	15,000.00	45,000.00	45,000.00
TUM FLORENCE CHEPYEGON	105,000.00	15,000.00	45,000.00	60,000.00
DR. WILSON ARUASA	140,000.00	15,000.00	45,000.00	95,000.00
JACKLINE ODAWO OPONDO	105,000.00	15,000.00	45,000.00	60,000.00
OLE KUYO RICHARD	70,000.00	15,000.00	45,000.00	25,000.00
MISS. CAROLYN JERUTO SANG	105,000.00	15,000.00	45,000.00	60,000.00
KIMITEI ANDREW BOWEN K	90,000.00	15,000.00	45,000.00	45,000.00
TITUS KIPCHUMBA TARUS	110,000.00	15,000.00	45,000.00	65,000.00
DR. KIRWA PHILIP KIPTANUI	130,000.00	15,000.00	45,000.00	85,000.00
DR. MAINA KIPYEGON VICTOR	125,000.00	20,000.00	60,000.00	65,000.00
KOECH CALEB KIPROP	105,000.00	15,000.00	45,000.00	60,000.00
KOROS ELIJAH KIPKORIR	105,000.00	15,000.00	45,000.00	60,000.00
TOOTSE MUTU DANIEL	75,000.00	15,000.00	45,000.00	30,000.00
DR. KORIR DAISY C	120,000.00	15,000.00	45,000.00	75,000.00
DR. KWOPA EDITH W.K.	100,000.00	15,000.00	45,000.00	55,000.00
Dr. KIBET KIBOR KEITANY	100,000.00	15,000.00	45,000.00	55,000.00
DR. KIRUI NICHOLAS K.	125,000.00	15,000.00	45,000.00	80,000.00
MRS. MARGARET W. MUNGAI	40,000.00	15,000.00	45,000.00	5,000.00
<b>TOTAL - KSH</b>	<b>1,925,000.00</b>		<b>870,000.00</b>	<b>1,055,000.00</b>

3.4.121 The MTRH was further allocated Kshs. 42,824,7000 by the National Treasury to help in recruiting health workers on a contract basis. They considered a list of candidates previously approved and shortlisted in 2018 but had not been contracted. Further, the contract for the newly recruited staff was to end after three months but the audit analysis revealed that this was not the case. Management’s response on the issue is that due to increase in Covid-19 pandemic numbers, they are still retaining some doctors. This amount has therefore exceeded the appropriated amount of Kshs. 42,824,700 by Kshs. 3,737,991 as shown below:

Table 48: Payment of allowances by MTRH beyond the approved Budget

PERIOD	NO OF STAFF	TOTAL PAID (KSHS)
APRIL-20	27	5,491,585.90
MAY-20	27	5,491,585.90
JUN-20	76	10,926,099.43
JUL-20	80	12,326,710.23
AUG-20	80	12,326,710.23
TOTAL		46,562,691.69

**Utilization of COVID-19 funds from the Hospital’s own Funds  
Un-Accounted for Kshs.115,000,000**

3.4.122 Section 53 (1) of the Public Finance Management Act Regulation, 2015 provides that except as provided for in the Act and these Regulations, an Accounting Officer of an entity may not authorize payment to be made out of funds earmarked for specific activities for purposes other than those activities. Section 53 (2) further provides that a public officer who makes a payment contrary to paragraph (1) commits an offence under the Act.

3.4.123 It was established that, the Moi Teaching and Referral Hospital (MTRH) had funds set for emergency and for Covid-19 intervention as follows:

Table 49: Un-Accounted for Kshs.115,000,000 at MTRH

Funds	2019/2020 (Ksh)	2020/2021 (Ksh)	Total (Kshs)
Emergency Funds	30,000,000	30,000,000	60,000,000
Covid-19 Funds	55,000,000	100,000,000	155,000,000
<b>Total</b>	<b>85,000,000</b>	<b>130,000,000</b>	<b>215,000,000</b>

3.4.124 The Management of the Moi Teaching and Referral Hospital did not avail documents to support expenditures of Kshs. 85,000,000 incurred in the financial year 2019/2020 and Kshs. 30,000,000 incurred in the financial year 2020/2021. Under the circumstances, the special audit could not confirm the lawfulness and effectiveness of an amount of Kshs. 115,000,000 incurred by the Moi Teaching and Referral Hospital from Own Source funds.

3.4.125 It is recommended that further investigations should be conducted on utilization of the funds to establish any criminal activities.

#### Accountability of Donations

3.4.126 Items from the KEMSA were all well received at the station and had all been distributed as requisitioned by various users. Further, the hospital availed a documentation of all their donations including KEMSA donations having been valued and updated. The status of each of the items are in relevant books of accounts as at the time of audit. The total value of the donations received was Kshs. 27,959,182.

#### Financial and Non-Financial Reporting on Covid-19 funds

3.4.127 It was established that the Hospital produced and submitted to the Ministry of Health both financial and non-financial reports on utilization of COVID-19 funds as supported by minutes of the board meetings.

3.4.128 The Hospital holds weekly Emergency Covid-19 Committee meetings for both the hospital and Northern and Rift Economic Block (NOREB) regions. All these are supported by the availed board minutes.

**Disbursements to Quarantine facilities - Kshs. 700,000,000**

3.4.129 The Ministry of Health disbursed a total of Kshs. 700,000,000 to quarantine facilities as detailed in the table below:

Table 50 MOH Disbursements to Quarantine facilities

	Institution	Amount (Kshs)
1	Kenya Medical Training College	500,000,000.00
2	Kenya Medical Practitioners & Dentist Board	154,338,619.00
3	Moi Girls School	3,575,000.00
3	The Co-operative University	2,395,000.00
4	Lenana School	1,504,341.00
5	Jomo Kenyatta University of Agriculture & Technology	1,657,800.00
6	Kenya Medical Training College	18,251,500.00
7	Kenyatta University	7,577,850.00
8	Kenya Water Institute	1,134,000.00
9	St. George's Girls Secondary School	7,438,000.00
10	Corat Africa	750,000.00
11	Kenya Institute of Special Education	680,000.00
12	Nairobi School	697,890.00
	<b>Total</b>	<b>700,000,000</b>

3.4.130 Out of the Kshs. 700,000,000 disbursed, Kshs. 154,338,619 was paid to Kenya Medical Practitioners and Dentist Board as funds for payment of Quarantine Facilities verified Bills while the kshs. 500,000,000 paid to Kenya Medical Training College was to be utilized for COVID 19 Emergency response resultant expenditure for isolation services.

3.4.131 Section 104 of the Public Finance Management (National Government) ,2015 provides that all receipts and payment vouchers of public moneys shall be properly supported by pre-numbered receipt and payment vouchers and shall be supported by the appropriate authority and documentation.

3.4.132 It was established that payment voucher number 4040 being payment to Jomo Kenyatta University of Agriculture & Technology amounting to Kshs. 1,657,800 for 57 quarantined persons was paid on 30 June, 2020. However, only quarantine expenditure schedules for 51 individuals had been provided. The facility offered accommodation at the rate of Kshs. 4,000 per day for thirteen days meaning that Kshs.312,000 for the extra 6 persons may have been incurred for services not provided contrary to section 104 of the Public Finance Management (National Government), 2015.

**Disbursements by the MOH to other MDAs - Kshs.109,945,000**

3.4.133 The Ministry of Health disbursed a total of Kshs. 109,945,000 to other MDAs as detailed below.

Table 51 MOH Disbursements to other MDAs

s/no	MDA	Amount (Kshs)
1	PS State department for Public works	1,500,000.00
2	PS Ministry of Defense	75,000,000.00
3	PS for Broadcasting & Telecommunication	5,000,000.00
4	Director -General, National Youth Service	10,000,000.00
5	PS Ministry of Foreign Affairs	10,000,000
6	Kenya Medical Research Institute	8,445,000
7	Total	109,945,000

### 3.5 Utilization of the COVID-19 Funds by the COVID-19 Emergency Response Fund

#### GOVERNANCE AND OVERSIGHT FRAMEWORK

3.5.1 The Legal Notice No.38 of 27 March 2020, the Public Finance Management (COVID-19 Emergency Response Fund) Regulations, 2020 established the COVID-19 Emergency Response Fund Board with the principal object of mobilizing resources towards containing the spread, effects and impact of the pandemic. Section 4(2) of the Regulations outlines the purpose of the fund.

3.5.2 Section 7(1) of the COVID-19 Emergency Response Fund Regulation, 2020 established a Board responsible for the management of the fund. The Fund Board comprised of the following members appointed by the President through a press release by the State House Spokesperson on 30 March,2020 as per APPENDIX XXX

	Board Member	Capacity
1	Ms. Jane Karuku	Chairperson
2	Dr. Fred Matiang'i	CS, Ministry of Interior and Coordination of National Government
3	Hon. Wycliffe Oparanya	Chairperson, Council of Governors
4	Mr. Michael Joseph	Member
5	Mr. James Mwangi	Member
6	Dr. Narenda Raval	Member
7	Mr. Joshua Oigara	Member
8	Mr. Jeremy Awori	Member
9	Mr. Wachira Waruru	Member
10	Mr. Mohammed Hersi	Member
11	Ms. Phyllis Wakiaga	Member
12	Mr. Kennedy Kihara	Secretary


3.5.3 It was established that on 12 June 2020, the Fund Board registered the Kenya Covid-19 Emergency Fund Limited under the Companies Act, 2015 as a Company limited by guarantee. The audit noted that the Fund Board approved the establishment of the Fund as a corporate entity for procurement and logistics purposes in a Board meeting held on 14 April, 2020.

- 3.5.4 The certificate of incorporation indicates the Company Registration Number as CLG-PPFDDA and the registered office of the company as ALN House, Eldama Ravine Close Off Eldama Ravine Road, P.O. Box 200-00606 - Sarit Centre.
- 3.5.5 It was not clear why an entity established under the Public Finance Management (COVID-19 Emergency Response Fund) Regulations, 2020 as the COVID-19 Emergency Response Fund Board with clear governance, management structures, systems and procedures outlined in the Public Finance Management Act, 2012 and the attendant Regulations was again registered as a Company Limited by Guarantee under the Companies Act, 2015 indicating it was a private company receiving donations from well-wishers.
- 3.5.6 Further, the special audit sought advisories from the Office of the Attorney General & Department of Justice and the National Treasury on the status of the COVID-19 Emergency Response Fund. The advisories provided conflicting conclusions.
- 3.5.7 (i) The National Treasury advisory dated 8 February, 2021 maintained that the Covid-19 Emergency Response Fund was established pursuant to Section 24 (4) of the Public Finance Management Act, 2012. The Fund was therefore required to facilitate the Office of the Auditor-General to audit its expenditures in line with Article 229 of the Constitution, Public Finance Management Act, 2012 and Public Finance Management (Covid-19 Emergency Response Fund) Regulations, 2020 Legal Notice No.38 of 26 March, 2020.
- 3.5.8 (ii) The Solicitor General in an advisory dated 30 April, 2021 was of the opinion that the money raised through the framework of the COVID-19 Emergency Response Fund could not be deemed to have been collected under statutory authority since the antecedent statutory requirements for the establishment of such authority were not carried out in respect of the Fund. Consequently, the money under the fund would not fit within the definition of public money as articulated in Section 2 of the, Public Finance Management Act and would be outside the remit of the Auditor-General. However, the Solicitor General recommended that the Auditor-General undertake an audit of the Fund operations due to the public interest nature of the Fund and the nexus between the Fund and the Government for the purpose of securing effective COVID-19 mitigation outcomes.
- 3.5.9 Although the Solicitor-General seems to have concluded that the funds raised by the COVID-19 Emergency Response Fund were not public funds, the Auditor-General audited the funds based on the Regulations. The Fund Board has since submitted documents for audit to the Auditor-General.

## FUND ADMINISTRATION AND ACCOUNTABILITY

### Irregular Administration of the Fund

- 3.5.10 Section 9(1) of the PFM (COVID-19 Emergency Response Fund) Regulations, 2020 provides that the Principal Secretary to the National Treasury should be the Administrator of the Fund. The roles of the Administrator as provided in Section 9 (2) include to; supervision and control of the administration of the fund, establishing proper systems of control and oversight, cause proper books of account to be kept and other records relating to the fund, prepare financial statements for the fund and transmit to the Auditor-General for audit. Section 9(4) of the PFM (COVID-19 Emergency Response Fund) Regulations, 2020 provides that the Administrator of the Fund should designate officers under the National Treasury as the Secretariat to the Fund.
- 3.5.11 A review of the inauguration Board meeting minutes (MIN 5/1/4/20 held on 1 April 2020) notes that the Members were briefed about the Fund Regulations issued by the National Treasury but unanimously resolved to adopt a private sector steered approach for purposes of instilling and assuring public confidence in the process. The Board decided to develop its own procedures and workplan in the performance of its mandate.
- 3.5.12 There was no evidence that the Principal Secretary of the National Treasury exercised his duty as the Fund Administrator as provided by the Regulations establishing the Fund. Instead, the Fund Board engaged Ernst and Young, PwC, Deloitte and KPMG on pro-bono basis. A review of minutes of the Fund Board meeting held on 20 April 2020 established that the professional firms were incorporated to develop the requisite governance audit systems to ensure transparency in the Board operations. The professional firms were to provide support to the Fund Board operations and activities on roles that ought to have been the responsibility of the Administrator of the Fund. This significantly affected the application of the Government's Financial and Procurement Laws and Regulations in management of public funds.
- 3.5.13 The following are the roles of the professional firms engaged by the Fund Board:
- v) Ernst and Young (EY), is the Program Management Office, responsible for implementing the approved program design from end-to-end and managing overall real-time program reporting including donor specific reporting.

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- vi) PwC serves as the Fund Accountant with the responsibility of maintaining complete and accurate books of accounts managed by an ERP system that is reviewed and approved by the Board.
  - vii) KPMG provides assurance services by documenting key controls across the projects and committees and continuously ensures that they meet the defined key performance indicators and service level agreements and comply with approved procedures.
  - viii) Deloitte provides external audit services.

#### Absence of evidence of Revenue and Expenditure Estimates and Work Plan

- 3.5.14 Section 9 (2) (b) of the PFM (COVID-19 Emergency Response Fund) Regulations, 2020 requires the Fund Administrator to prepare estimates of the annual revenue and expenditure of the Fund relating to its obligations and operational expenses and submit it to the Board for adoption. Section 8(a) provides that upon adoption, the Board should recommend Estimates of the Annual Revenue and Expenditure from the Fund to the Cabinet Secretary of The National Treasury for approval.
- 3.5.15 No evidence was provided to the Auditor-General that revenues and expenditures to and from the Fund Account were prepared and communicated to the Cabinet Secretary of The National Treasury for inclusion in the 2019/2020 or 2020/2021 Budgets contrary to section 9(2)(b) of the PFM (COVID-19 Emergency Response Fund) Regulations, 2020.
- 3.5.16 In addition, there was no evidence that the Fund Board had developed a work plan to guide its operations and to ensure proper linkage between budgeting and planning for efficient and effective utilization of resources. Consequently, the special audit could not give assurance on the lawfulness and effectiveness of the Fund's expenditures and operations for the period under review. The Management explained that approved work plans and budgets were not applicable since the Fund was set up to address urgent procurement interventions based on dynamic conditions considering donations were received either in cash or in kind.

#### Approvals for opening the Bank Account

- 3.5.17 Section 10 (1) of the PFM (COVID-19 Emergency Response Fund) Regulations, 2020 requires the Fund Administrator to open Bank Accounts with the approval of the Board as may be approved by The National Treasury. The audit established that, the Fund opened a Bank Account with Absa Bank Kenya PLC, the account name being Kenya

COVID-19 Fund, Account Number 2042554653 at Absa Towers Branch. Though the decision to open the Bank Account was approved by the Fund Board, there was no evidence of approval by the Cabinet Secretary to The National Treasury for opening the Bank Account. The Fund also operated an MPESA pay-bill number 999000.

**Amount of funds received by the Covid-19 Emergency Response Fund Board**

3.5.18 An analysis of the bank statements provided reflects total cash inflows of Kshs.1,355,468,968 as at 31 December, 2020 which included contributions from private entities and individuals of Kshs.1,016,981,315 and contributions from Government Entities of Kshs. 338,487,653 as follows:

Source		Amount (Kshs)
1	Private Entities and Individuals	1,016,981,315
2	Government Entities	338,487,653
	<b>Total</b>	<b>1,355,468,968</b>

3.5.19 As at 31 December, 2020, the Kenya Covid 19 Fund Account held at Absa Bank had a balance of Ksh.855,468,918.

**Donations in Kind- Kshs.409,602,009**

3.5.20 The Kenya Covid-19 Emergency Response Fund Board had received donations in kind amounting to Kshs. 409,602,009 as at 31 December, 2020 as detailed below:

Category		Value (Kshs)
1	Health - Medical Supplies (PPE, Oxygen and Sanitizers)	286,702,300
2	Livelihood - Food items	113,375,328
3	Livelihood - Household items	9,524,381
	<b>Total</b>	<b>409,602,009</b>

3.5.21 The Kenya Covid-19 Emergency Response Fund Board provided a schedule indicating the donors, dates of distribution, items, quantities, and the costed value with an

explanation that the donors did direct delivery to the beneficiaries. As a result, the audit was not able to verify the donations in kind amounting to Ksh.409,602,009.

**PPEs distribution by the Kenya COVID-19 Fund and Equity Group Foundation**

**Procurement of 1<sup>st</sup> Tranche PPEs - Kshs.259,373,300**

3.5.22 In a Board meeting held on 19th May 2020, the Fund Board resolved (MIN 4/19/5/20) to have the Equity Group Foundation as the contracting entity for purposes of the initial purchases by the Board. This was an interim measure to allow the Secretariat to finalize the incorporation of a legal entity.

3.5.23 The Equity Group Foundation procured and paid for the 1st Tranche of PPE at Kshs. 259,373,300. This amount has been recorded in the Fund’s Books as a donation in kind from the Equity Group Foundation.

**Procurement of 2<sup>nd</sup> Tranche PPEs - Kshs.150,486,050**

3.5.24 The Covid 19 Fund Board procured for the 2<sup>nd</sup> Tranche of PPEs at Ksh.150,486,050 from various suppliers. Out of this Ksh.100,000,050 had been paid for by 31 December, 2020 as detailed below;

Date	Payee	Details	Amount (Kshs)
13/10/2020	Texplast Industries Limited	Rfb/Inv Nos 68050 69258/56 68985	20,000,050
18/09/2020	Alpha Knits Limited	Rfb/Invs 14235/182/179	14,000,000
18/09/2020	Texplast Industries Limited	Rfb/Supply of Reusable Cloth Face Masks Cs 390542	14,000,000
30/09/2020	Alpha Knits Limited	Rfb/Invs 14343 14295 14273 2nd Tranche Procurement Award	14,000,000
30/09/2020	Texplast Industries Limited	Rfb/Inv 68583 And 68838 2nd Tranche	14,000,000

Date	Payee	Details	Amount (Kshs)
15/09/2020	Manchester Outfitters Ltd	Rfb/ Inv 5631	12,000,000
30/09/2020	Manchester Outfitters Ltd	Rfb/Inv 5724 2 <sup>nd</sup> Tranche Procurement Award	12,000,000
<b>Total</b>			<b>100,000,050</b>

### Commitments


3.5.25 The fund had outstanding commitments of Ksh.50,486,000 as at 31 December ,2020 which were subsequently settled on 7 January, 2021.

Supplier	Items	31 December, 2020 Kshs
Superior Products Africa Limited	Goggles	3,400,000
Omega Apparels Limited	Gowns	5,511,000
Texplast Industries Limited	Surgical Masks	6,250,000
	Scrubs	12,000,000
	Coveralls	16,250,000
Bakpharm Limited	Face shield	2,475,000
Nairobi Enterprises Limited	Hair covers, Aprons, KN95	4,600,000
<b>Total</b>		<b>50,486,000</b>

3.5.26 The fund did not subject the procurement of the PPEs to the Public Procurement and Asset Disposal Act,2015 and the attendant Regulations. The Fund had resolved through (MIN 5/1/4/20) to adopt a private sector steered approach.

3.5.27 The Fund Board resolved (MIN 5/28/4/20) to use the TenderSure procurement system that would be supported by QED Solutions Limited on pro-bono basis. The following procurement process was applied;

3.5.28 The Fund relied on specifications provided by the Ministry of Health which were vetted/validated by the Fund's Technical Committee on Health. It was noted that Request for Quotation was sent to 72 bidders comprising of local manufactures and



direct importers using TenderSure System on 29 July, 2020 and closed on 5 August, 2020. Out of the 72 bidders, 41 bidders responded, they were automatically evaluated by the system and 28 passed the Quality Assurance.

- 3.5.29 The 28 bidders were then subjected to Technical Evaluation which was conducted in two parts; physical sample review and documentation due diligence and 24 suppliers with samples were approved. The bidders who passed both sample review and the quality assurance were considered for financial evaluation where suppliers were selected on lowest price per item.
- 3.5.30 From the evaluation, the most competitive suppliers were selected and recommended for award. The Fund Board approved the tender awards vide (MIN 2/27/5/20).

Procurement contract with Bedi Industries - Kshs. 48,165,000.

- 3.5.31 It was noted in a report dated 22 October, 2020 on supply and delivery of Personal Protective Equipment for COVID-19 Emergency Medical Care Health Workers (Batch 2) for Equity Group Foundation and COVID-19 Emergency Response Fund that, Bedi Industries had been engaged on 20 July, 2020 to supply 100,000 coveralls at a price of Kshs. 95,000,000. From the report, the first order for 50,700 coveralls of Kshs. 48,165,000 was placed immediately, with the balance of the 49,300 coveralls (Kshs. 46,835,000) to be ordered upon approval of the second PPE procurement cycle.
- 3.5.32 Although, the Contract and procurement documents for this engagement were not availed for audit review, the audit team noted that the report indicated the Contract was for 3 months and had lapsed on 20 October, 2020 before the second order was placed. The report stated that the second order was not placed because there was negative feedback from various institutions on the quality of the coveralls supplied and the second order was subject to approval of the procurement of second batch of PPE.
- 3.5.33 From the information above, the audit team could not ascertain whether the Equity Group Foundation or the Fund had appointed an Inspection and Acceptance Committee responsible for inspecting the goods delivered to confirm conformity with the required specification prior to receiving them. This control embedded in Section 48 of the Public Procurement and Asset Disposal Act, 2015 is a safeguard to ensure Public Entities procure goods that meet the technical specifications in the contract and achieve value for money. The special audit could not also establish whether the contract was between

the Equity Group Foundation and Bedi Industries as donations in kind or direct procurement from the Fund. In this regard, there is a risk that the Fund may not have realized value for money in the procurement of the 50,700 coveralls at Kshs. 48,165,000.

3.5.34 There was no evidence that the procurements were paid for by the Fund Board and the amounts had not been recorded in the Fund's Financial Statements as contribution in kind from the Equity Group Foundation.

**Utilization of the Cash Transfer Program Funds - Kshs. 400,000,000**

3.5.35 It was noted that there was a Cash Transfer Program of Kshs.400, 000,000 aimed at benefitting 100,000 Kenyans weekly in urban informal settlements for a period of one month. The mapping of the vulnerable categories of persons to benefit from the cash transfer programme would be guided by considerations such as persons who were on employment but rendered jobless due to COVID-19, persons within a family set up and those who had not been beneficiaries of funds from any Government related intervention. The Board approved the cash transfer programme on 2 June,2020 and Kshs. 400,000,000 was transferred to MPESA Holding Company Limited to be disbursed to the identified beneficiaries.

Date	Details	Amount (Kshs)
22/06/2020	MPESA HOLDING CO. LIMITED	100,000,000
17/07/2020	MPESA HOLDING CO. LIMITED	100,000,000
03/08/2020	MPESA HOLDING CO. LIMITED	100,000,000
11/08/2020	MPESA HOLDING CO. LIMITED	100,000,000
<b>Total</b>		<b>400,000,000</b>

3.5.36 The disbursements were done in 4 phases. Detailed Mpesa blasting reports showing the recipient's phone number, names, receipt number, dates and amounts disbursed were provided for audit from Safaricom through the Fund Accountants (PricewaterhouseCoopers). Location of the recipients was, however, not indicated, and as a result, the special audit could not therefore confirm if the beneficiaries were from urban informal settlements. The audit revealed that a total of 97,515 persons benefited from the cash transfer program. Out of these, 95,727 were registered Mpesa users while

1,788 were not registered. The highest amount disbursed to a beneficiary was Kshs 24,000 while the least amount disbursed was Kshs 1,000.

3.5.37 Analysis of the data provided revealed that, there were 38 payments done to the same Mpesa telephone number but with different names amounting to Kshs 72,000. Similarly, there were 7,850 beneficiaries who shared names but had different Mpesa telephone lines who were paid a total of Kshs.32,626,000. The identity card (ID) numbers of the recipients were not provided for audit and analysis. In absence of the identity card numbers and in view of the time constraint, the special audit was not able to independently verify that the recipients of the cash transfers were the bona fide beneficiaries or that the cash was received. Consequently, the lawfulness and effectiveness of utilization of the Kshs.400,000,000 could not be confirmed.

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