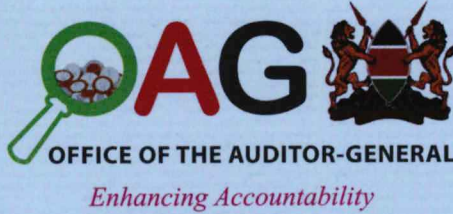


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③ JL
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24 June, 2024

① DDLPS

Please deal
Sili
01/07/24

Mr. Samuel Njoroge, CBS
Clerk of the National Assembly
P.O. Box 41842-00100
NAIROBI

② HTO
To acknowledge, read and
ensure tabling.

Dear

Njoroge

SPECIAL AUDIT REPORT ON SERVICING OF EXTERNAL LOANS IN KENYA

08/07/24

The Special Audit Report of the Auditor-General on Servicing of External Loans in Kenya is now complete as provided for under Section 39(1) of the Public Audit Act, 2015.

Enclosed, please find a copy of the Special Audit Report.

Yours

Sincerely

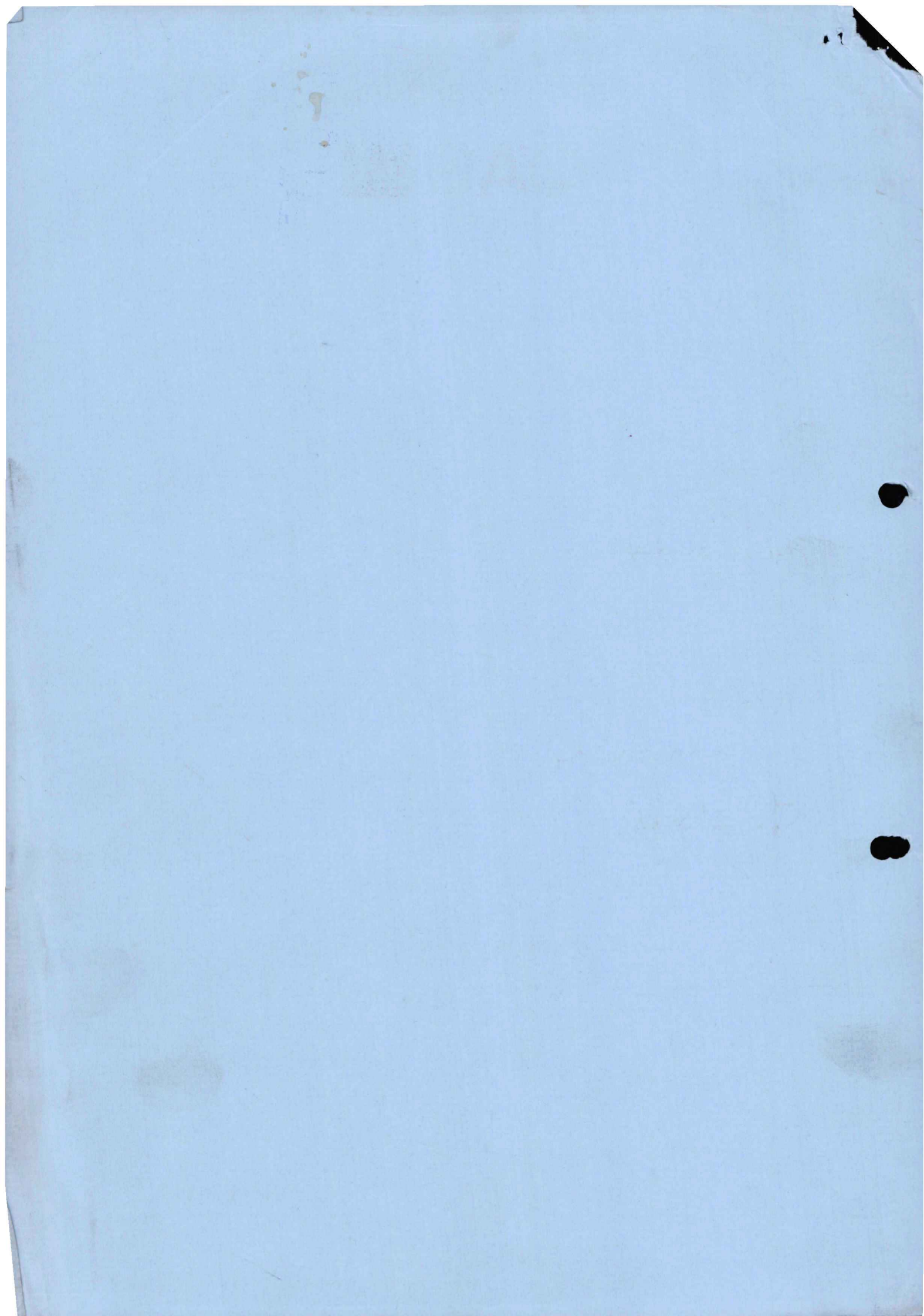
Nancy Gathungu
FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL


Copy to: Mr. Felix Koskei, EGH
Chief of Staff and Head of Public Service
Executive Office of the President
NAIROBI

Prof. Njuguna Ndung'u, CBS
Cabinet Secretary
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Dr. Chris K. Kiptoo, PhD, CBS
Principal Secretary
The National Treasury
NAIROBI






THE NATIONAL ASSEMBLY
 PARLIAMENT OF KENYA

DATE: 23 JUL 2024 DAY: TUESDAY

TABLED BY:	Hon. NAUMI WAGO, MP D/Majority Whip
CLERK-AT THE-TABLE:	IMZOPU MWALE



AUDITOR-GENERAL'S SPECIAL AUDIT REPORT ON DEBT SERVICING OF EXTERNAL LOANS IN KENYA

JUNE 2024



VISION

Making a difference in the lives and livelihoods of the Kenyan people



MISSION

Audit services that impact on effective and sustainable service delivery



OUR CORE VALUES

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TABLE OF CONTENTS

LIST OF ABBREVIATIONS	vi
DEFINITION OF TERMS.....	vii
1.0 EXECUTIVE SUMMARY	1
2.0 INTRODUCTION AND BACKGROUND	17
Introduction.....	17
Debt Repayment Process Flow	18
Objective of the Audit	20
Scope of the Audit and Limitations	20
Audit Approach and Methodology	21
Audit Sample	21
Document Review	22
Analytical Review	22
Physical Verification	22
Interviews	22
Audit Phases	22
Report Structure	23
3.0 DETAILED FINDINGS	24
A. Variances in Budgeted, Approved and Actual Debt Service Amounts Due to Exchange Rate Differences.....	24
B. Inadequate Adherence to Loan Due Dates While Servicing Debt.....	25
C. Inadequate Transparency and Clarity on Period in Processing PA Before Loan Due Date and Exchange Rates Applied During Actual Payments Between The National Treasury, Controller of Budget and The Central Bank of Kenya.....	27
D. Inadequate Loan Contracting Process Assessment Due to Insufficient Information	28
E. Commitment Fees and Other Charges	31
F. Status of the Sampled Projects Loans	35
4.0 CONCLUSION.....	43
5.0 IRREGULARITIES AND WEAKNESSES IN DEBT SERVICING AND RECOMMENDATIONS	46

6.0 APPENDICES.....	49
Appendix I: The Terms of reference for the Audit and Detailed Procedures	49
Appendix II: Analysis of 90 Payment Advices Sampled for Audit.....	50
Appendix III: Process for Processing External Debt Payments	55
Appendix IV: 32 Project Loans Sampled for Audit.....	59
Appendix V: Non-Adherence to Loan Due Date while Servicing Debt.....	61
Appendix VI: Responses from The National Treasury on Non-Adherence to Payment Advices Due Dates	64
Appendix VII: Substantive Tests Performed on 32 Sampled Dormant Loans.	65
Appendix VIII: Commitment Fees Paid on Undisbursed Loan Balances from the 32 Sampled Project Loans	70
Appendix IX: Completed Projects with Undrawn Balances	73
Appendix X: Auditor's Remarks on Reponses Submitted by The National Treasury..	77

LIST OF TABLES

Table 1: Comparison Analysis of Budget Estimates Vs CoB Vs CBK Actuals for FYs 2020/2021 to 2022/2023.....	24
Table 2: Breakdown of PAs whose Payment did not adhere to Loan Due Dates in FYs 2020/2021 2021/2022 and 2022/2023.....	26
Table 3: Completed KENGEN projects with Undrawn Amounts.....	33
Table 4: Commitment Fees Paid on The Nairobi Underground Electric Power Distribution Network Projects	34
Table 5: Other Charges Paid on The Nairobi Underground Electric Power Distribution Network Projects	34
Table 6: Servicing of Debt Related to Kisumu Urban Project	36
Table 7: Servicing of Debt Related to Kimira-Oluch Smallholder Farm Improvement Project	37
Table 8: Servicing of Debt Related to Kenyatta university Teaching, Research and Referral Hospital Project.....	38
Table 9: Servicing of Debt Related to Sondu-Homabay- Kisii (Awendo) Electrification Project	39
Table 10: Servicing of Debt Related to Geothermal Power Plant Olkaria IV (Invest).....	41
Table 11: Status of the Ongoing Project as at the Time of Field Verification	41
Table 12: Servicing of Debt Related to Rabai - Kilifi Transmission Line	42
Table 13: Irregularities and Weakness in Servicing of External Loans and Corresponding Recommendation	46

LIST OF FIGURES

Figure 1: Bar Graph Debt Service Trend from FYs 2018/2019 to 2022/2023.....	17
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LIST OF ABBREVIATIONS

AC	-	Accounts
BPS	-	Budget Policy Statement
CBK	-	Central Bank of Kenya
CoB	-	Office of the Controller of Budget
CoK	-	Constitution of Kenya
CS	-	Cabinet Secretary
CS-DRMS	-	Commonwealth Secretariat-Debt Recording and Management System
DPDM	-	Directorate of Public Debt Management
DBFEA	-	Directorate of Budget, Fiscal and Economic Affairs
DMD	-	Debt Management Department
GoK	-	Government of Kenya
MDAs	-	Ministries Departments and Agencies
NT	-	National Treasury
OCOB	-	Office of the Controller of Budget
PA	-	Payment Advice
PDMO	-	Public Debt Management Office
PFMA	-	Public Financial Management Act
RMD	-	Resource Mobilization Department

DEFINITION OF TERMS

Concessionalality: A measure of the softness of a credit reflecting the benefit to the borrower compared to a loan at market rate. Technically, it is calculated as the difference between the nominal value and the present value of the debt service as of the date of disbursement, calculated at a discount rate applicable to the currency of the transaction and expressed as a percentage of the nominal value.

Commitment Fees: This is a fee charged by a creditor to a borrower to compensate the creditor for its commitment to put up the loan funds. Commitment fees typically are associated with unused credit lines or undisbursed loans.

Condition Precedent: This is a legal term describing a condition or event that must come to pass before a specific contract is considered in effect or any obligations are expected of either party.

Contracting: This is the process of entering into an agreement between two or more parties, especially one that is written and enforceable by law.

Debt Service: The amount of funds used for repayment of principal and interest of a debt.

Debt Sustainability: Sustainable debt is the level of debt which allows a debtor country to meet its current and future debt service obligations in full, without recourse to further debt relief or rescheduling, avoiding accumulation of arrears, while allowing an acceptable level of economic growth.

Disbursement: The actual transfer of financial resources or of goods or services by the lender to the borrower.

Domestic Borrowing: Government borrowing through issuance of local Government securities and direct borrowing from the Central Bank.

External Borrowing: Government borrowing from both official (Government or Government agencies) and private institutions domiciled outside the country.

Present Value: The present value (PV) is defined as the sum of all future cash flows (interest and principal) discounted at the appropriate market rate. For a loan, whenever the interest rate on a loan is lower than the market rate, the resulting PV is lower than its face value.

Public Debt: This refers to outstanding financial obligations of the Government arising from past borrowing. It includes Government guaranteed debts to State Corporations and Local Authorities.

Domestic Public Debt: Part of the overall debt owed by the Government to creditors domiciled in the economy. The debt includes money owed to commercial banks, non-bank financial institutions, individuals among others.

External Public Debt: Part of the overall debt owed by the Government to creditors domiciled outside the economy. The debt includes money owed to private commercial banks, other governments, or international financial institutions such as the IMF and World Bank.

1.0 EXECUTIVE SUMMARY

Background and Introduction

- 1.1 The World Bank Debt Handbook (2005) describes servicing of a loan as paying back of moneys previously borrowed from a lender according to the repayment terms or schedule specified in the financing agreement. The borrower pays principal amounts, interests and other charges like service charge, management fees, among others. In some circumstance, when a borrower fails to timely draw down or service the loans, penalties such as commitment fees, interest on delayed payment among others are charged.
- 1.2 According to the 2023 Medium Term Debt Strategy (MTDS), as at the end of December 2022, public and publicly guaranteed debt totalled Kshs.9,145.9 Billion in nominal terms, out of which external debt amount was Kshs.4,673.1 Billion while domestic debt was Kshs.4,472.8 Billion. Recently, the Country's tight financial position largely brought about by short term debt repayments, high interest rates and depreciating shilling has seen debt service expenditure increasing by Kshs.415.661 billion from Kshs.746.348 Billion (49% of total revenues) in FY.2018/2019 to Kshs.1,162.009 Billion (57% of the total revenues) in FY. 2022/2023.
- 1.3 The continuous increase in the cost of debt service was as a result of Kenya Shilling depreciating against major currencies. Over 50% of external debt portfolio is denominated in major currencies including US dollars at 68.1%; Euro at 19.8%; Chinese Yuan at 5.4%; Japanese Yen at 4.2 %: Great Britain Pound (GBP) at 2.3% while other currencies account for 0.2%. External Debt is therefore exposed to volatility of the foreign exchange rates. This implies that over 50% proportion of revenue is used to service debt.

Objective of the Audit

- 1.4 The primary objective of the audit was to determine whether the process of servicing external loans was adhered to as required under relevant laws, regulations and agreements and whether avoidable penalties were minimized.

Terms of Reference

- 1.5 The following Terms of References (TORs) guided the special audit: -
- (i) To establish the planned loan obligations falling due and their approved budget amounts.
 - (ii) To assess the correctness of the preparation of the loan's obligations falling due in the period under review.
 - (iii) To determine the external debt servicing obligations approved by the Exchequer for the period under review.
 - (iv) To determine the actual external debt service payments by CBK during the period under review.
 - (v) To identify and quantify variances between budget amounts, the prepared repayment schedules, approved amounts and actual payments.
 - (vi) To establish the dormant loans and assess the cost effect on debt servicing.

Audit Scope, Limitations of Scope and Limitations

- 1.6 The audit reviewed processes regarding servicing of external loans including budgeting, processing, approvals and payment of external debt service. Verification of sampled dormant project accounts that had not recorded any disbursement for at least one year or had attracted commitment fees among other charges were also reviewed. The audit covered external debt servicing activities and transactions from 01 July, 2020 to 30 June, 2023.
- 1.7 The special audit team experienced hindrances in provision of initial project documentation from The National Treasury and other Implementing Ministries and Agencies. In addition, fifteen (15) of the thirty-two (32) project loans sampled are dated between 1995 to 2010, which also presented a challenge in getting information, as the key project personnel had left employment, either upon project completion or due to retirement. The audit mitigated the challenges by collecting similar information through interviews and physical verification.

Audit Approach and Methodology

- 1.8 The audit was conducted in accordance with the International Standards of Supreme Audit Institutions (ISSAIs). The audit exercise entailed planning phase which involved obtaining relevant preliminary information from The National Treasury (TNT). The audit sampled a total of 90 Payment Advices (PAs) spread across the 3-year period under review. The audit also sampled thirty-two (32) project loans. Meetings and interviews were conducted with key stakeholders and in addition, document review, collection and analysis of evidence was done.

Summary of Findings

A. Variances in Budgeted, Approved and Actual Debt Service Amounts Due to Exchange Rate Differences

- 1.9 Review of The National Treasury's R50 Budget Estimates, Controller of Budget's Approval Schedules and R50 Bank Statements for the FYs 2020/2021, 2021/2022 and 2022/2023 revealed that the total actual amounts expended for servicing of external debt were Kshs.233,877,180,107, Kshs.255,741,432,404 and Kshs.388,807,792,682 respectively. This indicated an increase of Kshs.154,930,612,575, (approximately 66%) from Kshs.233,877,180,107 in FY 2020/2021 to Kshs.388,807,792,682 in FY 2022/2023.
- 1.10 In the period under review, estimates of debt servicing payments were over budgeted by an average of 10% compared to actual CBK debt servicing payments. Interviews with the debt managers indicated that during budget preparation for debt service obligations, there is normally approximately five (5)% provisioning to cater for foreign currency fluctuations as the loans fall due. The interviews further revealed that the provision, which is agreed upon together with the IMF, is an assumption and keeps changing according to the prevailing market environment.
- 1.11 In addition, the Controller of Budget (CoB) approved amounts varied with the CBK actual paid amounts as follows: for repayments of FYs 2020/2021 and 2021/2022, the repayments were less than the CoB approved amounts by Kshs.1,430,434,340 and Kshs.83,305,216,063 respectively. However, in the FY 2022/2023, the actual

repayments were more by Kshs.77,085,634,037. The audit established that the variances were attributed to the Exchequer requisitions being done using the CBK published exchange rates while seeking the CoB approval of the payment. It was explained this is usually reconciled with the actual payments at the CBK on monthly basis. It was further explained that the shortfall on exchange difference is normally approved by the CoB to replenish the account and to cushion for the subsequent monthly payments.

B. Inadequate Adherence to Loan Due Dates While Servicing Debt

- 1.12 Analysis of the sampled 90 PAs worth Kshs.99,880,753,437 revealed that only 29 PAs worth Kshs.53,961,004,929 were paid within the due dates, 50 PAs worth Kshs.45,015,364,555 were prepaid by a range period of between 3 to 14 days, while 11 PAs worth Kshs.904,383,952 were delayed by a range period of between 15 to 330 days.

C. Inadequate Transparency and Clarity on Period in Processing PA Before Loan Due Date and Exchange Rates Applied During Actual Payments Between The National Treasury, Controller of Budget and The Central Bank of Kenya

- 1.13 As revealed by the analysis of adherence to loan due dates while servicing debt, there were either delays or prepayments while servicing loans. On further inquiry of the expectations of each department in processing payments, it was revealed that there are no approved guidelines on what time period before due date each department is to take in preparing, control-checks and processing PAs.
- 1.14 Review of payment records further revealed that, in addition to the Kshs.450 per transaction fee that CBK charges, CBK charges an additional 1.5% to the Indicative Selling Rate while paying external debt on behalf of The National Treasury. This

forms the CBK Telegraphic Transfer (TT) ¹selling rate. Even though interviews with the CBK officials indicated that there is an understanding between TNT and the CBK on the same, this information is not explicitly disclosed in the Fiscal Agency Agreement.

D. Inadequate Loan Contracting Process Assessment Due to Insufficient Information

(i) Project Appraisal

- 1.15 The audit revealed that out of the 32 sampled project loans, only 18 project loans feasibility studies that clearly indicated the need for the projects were provided for review. Feasibility studies for the remaining 14 project loans were not provided for review hence the audit could not determine the necessity of the projects. Inadequate initial project documentation may result in insufficient scrutiny of project details before commencement of the budget cycle, leading to inefficiencies during implementation.

(ii) Public Participation

- 1.16 The audit established that there was public and other stakeholders' involvement in ten (10) project loans sampled. The remaining 22 project loans had no documentation or evidence to support public participation and therefore the audit could not establish if project stakeholders' views were incorporated before project implementation. Lack of public participation by stakeholders and beneficiaries may lead to lack of ownership by public, contribute to limited project support and limited project sustainability beyond completion.

(iii) Project Approvals

- 1.17 The audit obtained approval documents and correspondences for eleven (11) of the sampled project loans while twenty-one (21) project loans approvals were not provided for audit review. Risk of possibility of double financing, implementation of

¹ The CBK TT Rate is a foreign exchange rate published by the Central Bank of Kenya (CBK). It is the average buying and selling rate of major participants in the foreign exchange market at the open of trade every day. The rate is used as an indicator for the value of the Kenyan shilling on any particular day. The 1.5% margin is loaded on the Indicative Selling Rates to determine the CBK T.T. selling rate

similar projects and incurrence of costs outside the budget is therefore high due to inadequate project approval mechanisms.

(iv) Loan Negotiations

- 1.18 The audit team noted that out of the thirty-two (32) sampled project loans, only two (2) project loans, Sondu-Miriu Hydropower Project and Sang'oro Power Plant provided information on loan negotiations. The National Treasury (TNT) did not provide complete negotiation documents in support of the loans sampled. There is risk of inadequate understanding and implications of financing terms and conditions across parties of the project loan due to lack of documentation on loan negotiations.

(v) Legal Opinion/Clearance Details

- 1.19 The audit team established that only five (5) project loans had legal opinions from the Attorney General of Kenya. However, The National Treasury did not provide legal opinion documents for review for the remaining twenty-seven (27) project loans and as such, the audit could not establish the status of the legal advisories in respect to the loans. This in turn may lead to the implementing agencies not being able to meet conditions precedent in a timely manner and may further expose the Government to unfavorable financing terms thus leading to incurrence of avoidable costs.

E. Commitment Fees and Other Charges

- 1.20 Review of CS-DRMS data revealed that as at the end of the financial year 2022/2023, total commitment fees of Kshs.55,862,814,696 had been paid on external loans. Substantive test undertaken on the thirty-two (32) sampled projects revealed that total commitment fees paid on the projects for the same period under review was Kshs.1,908,866,563

- 1.21 The audit established that some of reasons for payment of commitment fees are as follows:

(i) Delays in Draw Down of First Disbursements

- 1.22 Of the 32 projects sampled, only two (2) project loans namely, Provision of Drilling Materials for eighty (80) Geothermal Wells at Olkaria Geothermal Field Project (Loan Key: 2012005) and, Sondu-Miriu Hydropower Project Sang'oro Power Plant (Loan

Key:2007101) drew down first disbursements on time. The other projects did not draw down funds due to inability to meet conditions precedent which included but not limited to, signing of the subsidiary loan agreement, delays in signing of the power purchase agreement, delays in compensation for acquisition of way leaves, delays related in issuing of no-objection certificates that would enable activities to start on site, and delays in provision of GoK counterpart funds among others.

(ii) Undrawn Balances after Project Completion

1.23 Review of records relating to three (3) Olkaria Projects managed by KENGEN revealed anomalies as follows: -

- a) Although, the projects are reported as completed, no reasons were given for retaining undrawn loan balances amounting to Kshs.12,561,868,297 as account balances for periods ranging between three (3) months to seven (7) years.
- b) Further, the undrawn loan balances on completed projects attracted unavoidable commitment fees amounting to Kshs.70,991,472.

(iii) Wastage of Kshs.626,458,045 due to Delay in Cancellation of Underground Electric Power Distribution Network Project in Nairobi Areas

1.24 Commitment fees amounting to Kshs.474,597,732 was paid for Underground Electric Power Distribution Network Projects undertaken in Kilimani-Hurlingham-Ngong Road-Statehouse-Lavington and Kileleshwa-Westlands-Parklands- Ngara-Riverside Roads, because the cancellation of the two (2) project loans took five (5) years. In addition, the two (2) projects incurred interest due to delayed payments of Kshs.151,860,313 resulting in payment of avoidable commitment fees and other charges amounting to Kshs.626,458,044.

F. Status of the Sampled Projects Loans

1.25 Audit inspection undertaken on the 32 sampled project loans to confirm actual utilization of loan and implementation status and to verify whether actual

implementation of projects met the objectives of the loan with a view of establishing whether value for money was obtained revealed the following anomalies;

- 1.26 Of the thirty-two (32) sampled project loans, seventeen (17) projects loans were completed, six (6) had stalled, six (6) were ongoing, two (2) had been cancelled and one (1) had missing documentation.

(i) Undrawn Loan Amounts of Kshs.68,896,985,983 for Completed Project

- 1.27 The seventeen (17) projects loans reported as having been fully implemented in accordance with project objectives, handed over to the respective implementing agencies and operational for the benefit of the public. However, the projects were holding undrawn loan amounts of Kshs.68,896,985,983 in their accounts despite the projects being completed. The National Treasury did not provide the reasons as why the projects were holding the undrawn loan amounts in their accounts despite having being completed.
- 1.28 The audit also noted that the Kisumu Urban Project was complete except for the Low Volume Access Roads a component which had stalled since the year 2021, when Agence Française de Développement (AFD) authorized the termination of the contract of Low Volume Access Roads. No new contractor had been appointed to complete the outstanding works since 2021.
- 1.29 A review of the minutes of the Tender Committee for Kisumu Urban Project dated 20 January, 2022, indicated that the contractor had abandoned the works and demonstrated lack of intention to continue performance of his obligations under the contract.
- 1.30 Further, a review of minutes for KUP meeting dated 09 June, 2021 revealed that material test results indicated that the Otonglo-Tiengere-Rota Road Bridge beams had failed and the contractor was notified accordingly. However, no action had been taken as at the time of audit in October 2023.
- 1.31 In the circumstances, it was not possible to confirm that value for money has been obtained in the loan amounting to EUR.40,000,000 equivalent to Kshs.4,085,360,000 and Kshs.1,382,042,187 so far redeemed.

(ii) Stalled Projects

1.32 The audit further established that six (6) projects had stalled as follows: -

(a) Kimira - Oluch Smallholder Farm Improvement Project

1.33 Review of records for the project indicated that the project stalled when works were 80% complete. The remaining 20% for minor canals reported to be co-financed through GoK counterpart funding totaling Kshs.3,950,829,889 had not been disbursed as at the time of audit.

1.34 However, during audit inspection in October 2023 and from the project status report of November 2022, the project had deteriorated and several works required rehabilitation and repair estimated at Kshs.791,352,096.

1.35 Records also show that there were pending bills amounting to Kshs.700,656,527 which continue to accrue interest in delayed payments. Review of the project status report for November 2022 indicates that the pending bills arose due to construction of major irrigation infrastructure which were completed in 2013 as well as supervision of minor civil works. Further review of pending bills verification report dated May 2020 indicates that the pending bills had no written variation approvals.

1.36 In addition, the Attorney General through letter REF: AG/CONF/8/210 dated 18 January, 2021, raised objection on provisional sums for contingencies and variation of prices in the project because the State Department did not comply with Section 47 of the Public Procurement and Disposal Act, 2005 and the Public Procurement and Disposal Regulations, 2006.

1.37 In view of the facts that there was nothing on the ground to show what the money was incurred on, it was not possible to confirm that value for money had been obtained in Kshs.632,121,074 so far redeemed in respect of ADF loan of UA.22,978,992 (Approx. Kshs.2,851,000,000) and GoK counterpart funding of Kshs.5,187,998,011.

(b) Kenyatta University Teaching, Research and Referral Hospital Project

1.38 Audit inspections undertaken in November 2023 indicate that the project objective of offering medical education to students had not been achieved because KU medical

students were not able to access the facility due to unresolved protracted disputes related to ownership of the Hospital between the Ministry of Health and Kenyatta University.

(c) Sondu - Homa Bay – Kisii (Awendo) Electrification Project

- 1.39 The project stalled at 83% completion rate because the main contractor went bankrupt and had been under receivership since 6 February, 2020. The performance guarantee had not been recovered four (4) years later.
- 1.40 In addition, TNT and KETRACO seem unable or unwilling to make any decision on the matter four (4) years later, and have instead opted to continue redeeming the loan without value-for-money being obtained.

(d) Cancer Care Treatment in Kisii Hospital Project

- 1.41 Audit inspections undertaken in October 2023 reveal that there was no activity on the project loan because both creditors; Saudi Fund for Development (SFD) and Arab Bank for Economic Development (BADEA) had not issued no-objection letters for awarding of tenders as at the time.
- 1.42 In the circumstances therefore, the objectives of the loan have not been met and no value for money has been obtained.

(e) Mombasa Gate Bridge Construction Project

- 1.43 Audit inspections undertaken in October 2023 revealed that there were delays in implementation of the project due to the consultant being engaged in investigations arising from the preliminary detailed design that showed differing findings from the feasibility study.

(iii) Project Loan with Inadequate Documentation

Geothermal Power Plant Olkaria IV (invest) Loan Key No. 2004010

- 1.44 The National Treasury did not provide the project file, project appraisal documents, loan negotiation minutes and analysis and expenditure documents for audit review, contrary to Section 9 of Public Audit Act (2015). In this regard, it was not possible to confirm the implementing agency for this project and its implementation site for purposes of audit inspection.

(iv) Ongoing Loan Projects

- 1.45 Field observation revealed that out of the thirty-two (32) sampled loan projects, only six (6) were ongoing. The six (6) projects and their respective completion rates at the time of physical verification were: Rabai Kilifi Transmission Line Project-73% complete; Mombasa Port Area Development Project-Phase II (Package 2)-90% complete; Mombasa Special Economic Zone; Regional Mombasa Port Access Road (core funded by EIB and GTZ); and Olkaria I Unit 1, 2 & 3 Geothermal Power works which had just started and ongoing respectively.

(v) Cancelled Loan Projects

- 1.46 The audit revealed that two (2) project loans namely: Underground Electric Power Distribution Network Project undertaken in Kilimani-Hurlingham-Ngong Road-Statehouse-Lavington and Kileleshwa-Westlands-Parklands-Ngara-Riverside Roads, contracted to China Shanghai Corporation for Foreign Economic and Technological Cooperation (SFECO) Group at CYN. 1,200 million (equivalent to Kshs.17,952.4 million) and Nari Group Corporation (NARI) at CYN 685 million (equivalent to Kshs.10,247.8 million) were cancelled. Kenya Power and Lighting Company through a Circular No. 76/18 dated 30 August 2018 indicate that several reinforcement and upgrades works had been undertaken in these areas using alternative funds, an indication that the loan was not required.

Conclusion

- 1.47 The objective of the special audit was to determine whether processes for servicing of external loans process were adhered to as required under relevant laws, regulations and agreements and whether avoidable penalties were minimized. In the period under review, FYs 2020/2021, 2021/2022 and 2022/2023, the actual amounts expended for debt servicing were Kshs.233,877,180,107, Kshs.255,741,432,404 and Kshs.388,807,792,682 respectively. These amounts were respectively eight (8%) percent, twenty-two (22%) and Zero (0%) percent respectively less than what was

budgeted for and one (1) percent, 25 percent and negative (-) 25 percent less than what was approved by the Controller of Budget.

- 1.48 These variances were majorly attributed to:
- i. Firstly, exchange rates fluctuations that occurred within the time difference between preparation of the budgets, payment requisitions, approvals and actual date when the loans were falling due;
 - ii. Secondly, due to the five (5) percent cushioning provision for exchange rate fluctuations during budget preparation and;
 - iii. Lastly, one and a half (1.5) percent additional rate CBK charges over and above the Indicative Selling Rate when processing debt payments.
- 1.49 Adherence to loan due dates was observed to be approximately below average as more than half of the PAs were processed after or before loan due date. This was attributed to delays in tracing the transaction files, Debt Suspension Negotiation Initiatives and delays by the Attorney General in issuing legal opinion. This was also attributed to inadequate clarity in each function requirement on processing of debt service payments across TNT, CoB and CBK as loans fall due. Further, the 1.5 percent additional rate CBK charges is not formally agreed and expressed across functions. This leads to inadequate transparency in debt operations.
- 1.50 There have been inconsistencies in loans transaction records between TNT's CS-RMS and Project Implementing Agencies. This implies that the Country's true debt position may not be accurately reported. To ensure accurate and complete reporting of debt transactions, TNT and Project Implementing Agencies should collaborate and coordinate in ensuring timely exchange of up-to-date loans transaction information and amounts. Secondly, the amalgamation of all non-principal transaction such as interest does not provide detailed transaction information in other fees such as interest due to late payments, making it difficult to establish total cost implications of late payments.
- 1.51 Inadequacies in project preparations, loan contracting and project implementation continues to negatively impact on debt service through payment of avoidable fees

such as commitment fees of Kshs.55,862,814,697 among others costs thereby compromising service delivery to citizens and value for money for tax payers. This can be attributed to inadequate project preparation, inadequate scrutiny and project approvals before commencing the budget cycle; inadequate scrutiny and negotiation of loan terms and; inadequate engagements by The National Treasury and the implementing agencies on the uptake of the loans.

1.52 As a result, the Government borrowing costs have increased due to payment of commitment fees, amounting to Kshs.55,862,814,697 interest on delayed contractor payments, delayed project outputs and incurrence of pending bills.

1.53 The Kenya shilling has been depreciating against major currencies in the recent past, and this has had a negative impact on the stock of external debt and external debt service costs, since over 60% of the external debt is denominated in US Dollars and other major foreign currencies.

Irregularities and Weakness and Recommendations

1.54 The following are irregularities and weakness observed during the audit of servicing of external loans and corresponding recommendations;

No.	Irregularities and Weaknesses	Recommendations
1.	Non-Adherence to debt servicing due dates	The National Treasury in collaboration with CoB and CBK should establish service level requirements for each department to guide in timely processing of PAs. The service level agreement and exchange rates applied should be agreed, formalized and communicated across functions to ensure transparency.
2.	Inadequate Transparency and Clarity on Apportionment of each Department's function in processing Payment Advices (PAs) before Loan Due Date and Exchange Rates Applied during actual payments amongst The National Treasury, Controller of Budget and The Central Bank	

No.	Irregularities and Weaknesses	Recommendations
3.	Inadequate Loan Contracting Process Assessment Due to Inadequate Information	To ensure that loan contracting is done to minimize cost and risk for borrowing, The National Treasury should ensure proper scrutiny and negotiation of loan terms,
4.	Delays in Drawdowns Resulting to Payment of Commitment Fees	ensure adequate involvement of the Project Implementing Agency during loan negotiation and preparation during uptake of the project loans.
5.	Loan Disbursement Records Inconsistencies Between CS-DRMS and Implementing Agencies Ledgers	Update and reconcile loans transactions to reflect the true position in both TNT debt system and Implementing agencies records. The National Treasury should finalize the migration of the debt management system from CS-DMS to Commonwealth Meridian. This will ensure that public debt management are up to date with the latest regulations and technology and consistent with organizational best practices thus ensuring transparency and effectiveness in coordinating public debt operations
6.	Project Inadequacies	The National Treasury should ensure adequate project appraisal prior to funding, adequate project gate keeping through full operationalization of the Public Investment Management Guidelines outlined in The National Treasury Circular No 16/2019 and finalization of establishment of the Public Investment Management Unit.

No.	Irregularities and Weaknesses	Recommendations
7.	Stalled Projects	<p>The National Treasury, the Project Implementing Agencies and relevant Public Finance Management Standing Committee through regulation 19 of the Public Finance Management Regulation, should ensure smooth implementation of entities objectives, review performance, regularly monitoring of budget implementation and timely monitor resolution of audit issues .In addition, collaborative informed and effective decisions on whether to revive, stop or re-structure objectives of these stalled projects should be based on a detailed assessment of these projects.</p>
8.	Counterpart Funding	<p>To avoid delays in draw down of first disbursement caused by delays in counterpart funding, The Accounting Officers in every national entity, while requesting for funding, should prioritize the projects which have already received approval. Further The National Treasury should consider the counterpart resource requirements to inform the National budget review and outlook paper budget sector ceilings as per PIM Guidelines outlined in The National Treasury Circular No 16/2019.</p>
9.	Inadequate Documentation	<p>The National Treasury and the respective Project Implementing Agencies should</p>

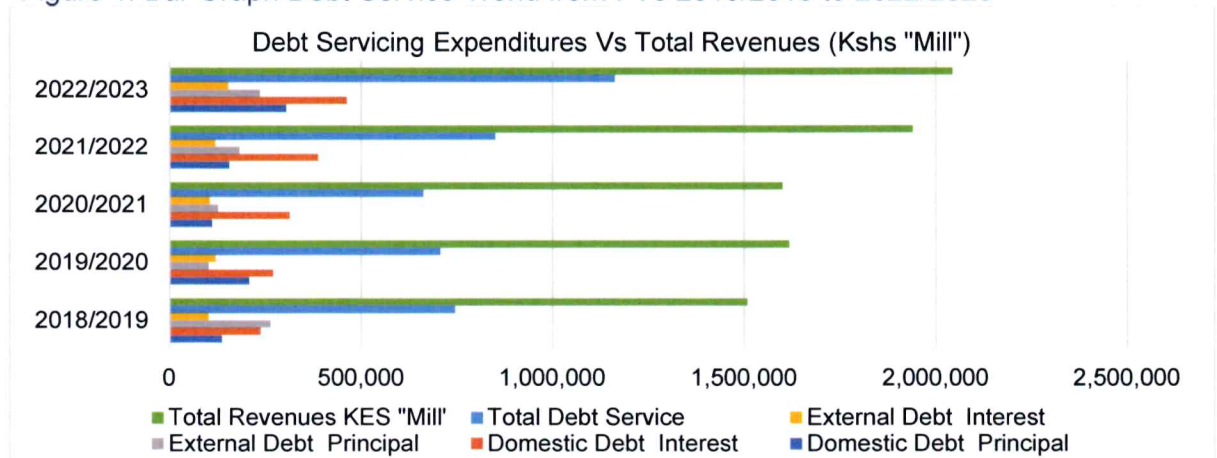
No.	Irregularities and Weaknesses	Recommendations
		adhere to Section 9 of The Public Audit Act 2015 that requires public officers to provide explanations, information and assistance in person and in writing when required to during audit.

2.0 INTRODUCTION AND BACKGROUND

Introduction

- 2.1 The World Bank Debt Handbook (2005) describes servicing of a loan as paying back of moneys previously borrowed from a lender according to the repayment terms or schedule specified in the financing agreement. The borrower pays principal amounts, interests and other charges like service charge, management fees, among others. In some circumstance, when a borrower fails to timely draw down or service the loans, penalties such as commitment fees and interest on delayed payment are charged.
- 2.2 According to the 2023 Medium Term Debt Strategy (MTDS), as at end of December 2022 public and public guaranteed debt totalled Kshs.9,145.9 Billion in nominal terms, out of which external debt amount was Kshs.4,673.1 Billion while domestic debt was Kshs.4,472.8 Billion. Recently the Country's tight financial position largely brought about by short term debt repayments, high interest rates and depreciating shilling has seen debt service expenditure increasing by Kshs.415.661 Billion from Kshs.746.348 Billion (49% of total revenues) in FY. 2018/2019 to Kshs.1,162.009 Billion (57% of the total revenues) in FY. 2022/2023. The increasing trends is as shown in bar graph in **Figure 1**.

Figure 1: Bar Graph Debt Service Trend from FYs 2018/2019 to 2022/2023



Source: OAG Analysis of Annual Public Debt Management Report 2021/2022, 2021/2022 Summary of National Government Audit Report and 2022/2023 Exchequer Publication.

2.3 As observed in **Figure 1**, the continuous increase in the cost of debt service was as a result of: Kenya Shilling depreciating against major currencies over 50% of external debt portfolio is denominated in major currencies including U.S dollars at 68.1%; Euro at 19.8%; Chinese Yuan at 5.4%; Japanese Yen at 4.2%; Great Britain Pound (GBP) at 2.3% while other currencies account for 0.2%. External debt is therefore exposed to volatility in foreign exchange rate volatility. This implies that over 50% proportion of revenue will be used to service debt.²

Debt Repayment Process Flow

2.4 The steps below show the servicing process from requisition of debt service payment advice by The National Treasury (TNT) to payment by the Central Bank of Kenya (CBK);

- (i) Creditor demand notes received, stamped endorsed by Director, Debt Management Department (DMD).
- (ii) Endorsed bills forwarded to Head, Debt Recording Section with instructions to process the payment.
- (iii) The Head, Debt Recording marks the demand notes to assigned officers.
- (iv) Assigned officers verify/check the bills against database, then indicate loan key and Accounts (AC) file number and mark the bills to Head, Settlement Section.
- (v) The Head, Settlement Section verify Director's endorsement, loan key and AC file number and marks the bill to drafting officers.
- (vi) The drafter retrieves the AC file from the Registry, drafts Payment Advice (PA) and forwards it to the examiner.
- (vii) The draft PA is examined and forwarded to authorizer for authorization to print the PA. The drafter then prints the PA and forwards it to Head, Settlement Section for signing.

² The National Treasury and Economic Planning Medium Term 2023 Budget Policy Statement pg.88

- (viii) The Head, Settlement Section signs the PAs and forwards them to Head, Accounting Unit for second signature and coding.
- (ix) The signed and coded PA is sent back to Head, Settlement Section.
- (x) The Head, Settlement Section forwards the PAs to the drafter who generates a list of all approved PAs. The list is then forwarded together with the PAs to Director, Debt Management Department.
- (xi) The Director endorses the PAs and generates a memo to Permanent Secretary, The National Treasury (PS/TNT).
- (xii) The PS/TNT signs the PAs and forwards the PAs back to Director, Debt Management Department.
- (xiii) The Director acknowledges the PS/TNT signature and forwards the PAs to Head, Settlement Section.
- (xiv) The Head, Settlement Section verifies the PAs and forwards them to PA drafters for preparation of Exchequer requisition.
- (xv) The Exchequer requisition is signed by the Head, Settlement Section and forwarded through Director, Debt Management to the Accountant General.
- (xvi) A copy of the requisition together with PAs, AC files and Loan agreements are forwarded to Controller of Budget.
- (xvii) The Accountant General raises a request to the CoB to fund the requisition.
- (xviii) The Controller of Budget verifies the requisition through PAs against the loan agreements and gives grant of credit vide a letter to CBK. The CoB then forwards the PAs, Loan Agreements and files back to Head, Settlement Section.
- (xix) The Head, Settlement Section submits the PAs to CBK for payments.
- (xx) The CBK makes payments and sends debit notes confirming payment to Head, Settlement Section

Objective of the Audit

- 2.5 The primary objective of the audit was to determine whether the process of servicing of external loan was adhered to as required under relevant laws, regulations and agreements and whether avoidable penalties were minimized.

Terms of Reference

- 2.6 The following Terms of References (TORs) guided the special audit: -
- (i) To establish the planned loan obligations falling due and their approved budget amounts.
 - (ii) To assess the correctness of the preparation of the loan's obligations falling due in the period under review.
 - (iii) To determine the external debt servicing obligations approved by the Exchequer for the period under review.
 - (iv) To determine the actual external debt service payments by CBK during the period under review.
 - (v) To identify and quantify variances between budget amounts, the prepared repayment schedules, approved amounts and actual payments.
 - (vi) To establish the dormant loans and assess the cost effect on debt servicing.

The detailed procedures for each of the TOR are as indicated in **Appendix I**.

Scope of the Audit and Limitations

Scope

- 2.7 The audit reviewed processes regarding servicing of external loans including budgeting, processing, approvals and payment of external debt service. Verification of sampled dormant project accounts that had not recorded any disbursement for at least one year or had attracted commitment fees among other charges were also reviewed. The audit covered external debt servicing activities and transactions from 01 July, 2020 to 30 June, 2023.

Limitations

- 2.8 The special audit team experienced hinderances in provision of project initial documentation from The National Treasury and other implementing Ministries and Agencies. In addition, 15 of the 32 project loans sampled are dated between 1995 to 2010, which also presented a challenge in getting information as the key projects' personnel had left, either upon project completion or retirement. The audit mitigated the challenges by collecting similar information through interviews and physical verification.

Audit Approach and Methodology

- 2.9 The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs) 100 on Fundamental Principles of Public Sector Auditing, ISSAI 400 on Compliance Audit Principles and International Standard on Auditing (ISA) 500 on Audit Evidence.
- 2.10 The team held various planning meetings on diverse dates between December 2022 and March 2023, while entry and exit meetings were held on 13 July, 2023 and 17 January, 2024 respectively. The audit team also held meetings with The National Treasury (TNT) debt officers, project loan officers, while at project implementation level the audit team held meetings with the ministry implementing agencies and parastatals implementing agencies between 09 September, 2023 to 02 November, 2023. Detailed plans were developed after the entry meeting and adopted during execution of the audit. The Special Audit applied the following audit approach and methodologies during execution.

Audit Sample

- 2.11 The audit sampled a total of ninety (90) Payment Advices (PAs) spread across the 3-year period under review as shown in **Appendix II**. In addition, the audit sampled thirty-two (32) project loans using purposive sampling whereby materiality and regional balance was used in order to assess the loan contracting processes, reasons for dormancy, estimate the penalties accrued and carry out physical verification on these projects.

Document Review

- 2.12 The audit team reviewed various documents such as budget estimates, cash plans, Controller of Budget (CoB) approvals and bank statements, payment advices, loan agreements, project appraisal documents, loan transactions ledgers, projects status and completion report to effectively gather evidence.

Analytical Review

- 2.13 Servicing of external loans is a joint and coordinated function of the Public Debt Management Office (PDMO), Accountant General, Controller of Budget and Central Bank of Kenya. Data was compared across the stages from budgeting all through processing of payments to actual payment as per external debt repayment procedures detailed in **Appendix III**.

Physical Verification

- 2.14 The audit team carried out physical verification of 32 dormant project loans accounts as shown in **Appendix IV**.

Interviews

- 2.15 The audit team interviewed officers from The National Treasury's, Directorate of Public Debt Management and Directorate of Accounting Services; The Controller of Budget, The Central Bank of Kenya (CBK), Project Implementing Ministries and Agencies. The evidence obtained through interviews were further analyzed, authenticated and corroborated before using it as evidence in the report.

Audit Phases

- 2.16 The audit was carried out in 2 (two) phases:
- i) Phase 1 (one) involved review of debt servicing project documents and correspondences and interviews with the Debt Recording and Settlement (Back Office) and Resource Mobilization (Front Office) Departments at The National Treasury (TNT). At this stage, substantive procedures were applied on the sampled 90 Payment Advices (PAs) to ascertain whether debt service procedures from budgeting, approvals and payments were effectively carried

out in minimizing cost and risk of borrowing and also to gather project background information of the 32 sampled projects.

- ii) Phase 2 (two) involved review of documents at the respective project Ministerial and parastatals level, field verification of 32 sample projects loans in order to assess project status, disbursement levels, and project objectivity among others.

Report Structure

2.17 This report is presented in the following format:

- i) Executive Summary
- ii) Background and Introduction
- iii) Detailed Findings
- iv) Conclusion
- v) Irregularities and Weaknesses in Servicing of External Loans and Recommendations
- vi) Appendices

2.18 The report should be read in its entirety in order to comprehend fully the approach and findings of the audit. The report has covered analysis and facts as understood with the aim of informing Parliament, The National Treasury and Project Implementing Agencies on debt servicing effectiveness and areas of improvement.

3.0 DETAILED FINDINGS

Establishment of Debt Servicing Budgeted Amounts, Approved Amounts and Actual CBK Amounts

A. Variances in Budgeted, Approved and Actual Debt Service Amounts Due to Exchange Rate Differences

3.1 Review of The National Treasury's external debt servicing R50 Budget Estimates, Controller of Budget's Approval schedules, R50 bank statement (indicating actual amount paid by CBK) for the FYs 2020/2021, 2021/2022 and 2022/2023 revealed that the total actual amounts expended for servicing of external debt were Kshs.233,877,180,107, Kshs.255,741,432,404 and Kshs.388,807,792,682 respectively. This indicated an increase of Kshs.154,930,612,575, (approximately 66%) from Kshs.233,877,180,107 in FY 2020/2021 to Kshs.388,807,792,682 in FY 2022/2023. The audit further established variances in revised budget estimates, Controller of Budget (CoB) approvals and actual Central Bank of Kenya (CBK) amounts as shown in **Table 1**.

Table 1: Comparison Analysis of Budget Estimates Vs CoB Vs CBK Actuals for FYs 2020/2021 to 2022/2023

Financial Year	Items			Variances Kshs		
	Budgeted Amounts (A)	Approved CoB Amounts (B)	Actual Amount Paid by CBK (C)	Budget Actuals (A-C)	Vs	CoB Approved Vs CBK Actuals (B-C)
2020/2021	253,345,027,086	235,307,614,447	233,877,180,107	19,467,846,979		1,430,434,340
2021/2022	328,125,462,100	339,046,648,467	255,741,432,404	72,384,029,696		83,305,216,063
2022/2023	389,450,044,813	311,722,158,646	388,807,792,682	642,252,131		(77,085,634,037)

Source: OAG Analysis of Budget Estimates, CoB Approved Schedules and Actual CBK Payments for FYs 2020/2021 to 2022/2023

3.2 In the period under review, estimates of debt servicing payments were over budgeted by average of 10% (including 8%, 22% and 0% in FY 2020/2021, 2021/2022 and 2022/2022 respectively) compared to actual CBK debt servicing payments. Interviews with the debt managers indicated that during budget preparation for debt service obligations, there is a five (5) % provisioning to cater for foreign currency fluctuations as the loans fall due.

- 3.3 The five (5)% is determined as an approximation of the long-term depreciation of the Kenya Shilling against other foreign currencies. However, in the last two (2) years, this fluctuation has been more than five (5)%. Interviews further indicated that the provision which is agreed upon together with the IMF is an assumption and keeps with regard to the prevailing market environment.
- 3.4 In addition, the CoB approved amounts varied with the actual CBK amounts as follows; repayments for the FYs 2020/2021 and 2021/2022, the actual repayments were less than the CoB approved amounts by Kshs.1,430,434,340 and Kshs.83,305,216,063 respectively. However, in the FY 2022/2023, the actual repayments were more by Kshs. 77,085,634,037. From review of Payment Advice (PAs) and The TNTs forwarding memo, it was established that the variance were attributed to the Exchequer requisition being done using the CBK published exchange rates while seeking the CoB approval of the payment. This is usually reconciled with the actual payments at the CBK on monthly basis. The shortfall on exchange difference is normally approved by the CoB to replenish the account and to cushion for the subsequent month payments.

Assessment of Correctness, Completeness and Accuracy of Debt Service Obligation and Variances

- 3.5 The audit sampled 90 Payment Advices (PAs) worth Kshs.96,963,220,045 comprising of 30 PAs each in each of the financial years 2018/2019, 2019/2020 and 2021/2022 as shown in **Appendix II** and subjected them to detailed substantive tests to ascertain correctness, completeness and accuracy of the payments.
- 3.6 The following inadequacies were observed:

B. Inadequate Adherence to Loan Due Dates While Servicing Debt

- 3.7 According to the loan agreements reviewed, it is the borrowers' obligation to pay the creditor according to the repayment terms and conditions including amounts to be paid in principal and interest, when to pay including the due dates, and penalties to be incurred in case of non-adherence among others. Further, according to Section 83 (b) and (e) of the PFM Regulations, 2015, sound cash management involves;

ensuring payments are made when due for efficient, effective and economical programme delivery and the government's normal terms for account; and avoiding prepayments for goods or services unless required by the contractual arrangements with the supplier.

- 3.8 A comparison analysis of the sampled 90 PAs worth Kshs.99,880,753,437, PA's loan due dates and the actual CBK payment dates revealed that;
- i) 29 PAs worth Kshs.53,961,004,929 were paid within the due dates,
 - ii) 11 PAs worth Kshs.904,383,952 delayed by a range period of between 15 to 330 days
 - iii) 50 PAs worth Kshs.45,015,364,555 were prepaid by a range period of between 3 to 14 days.
- 3.9 The specific PAs are detailed in **Appendix V**.
- 3.10 The breakdown of the PAs whose payment did not adhere to the loan due date in each financial year is as shown in **Table 2**.

Table 2: Breakdown of PAs whose Payment did not adhere to Loan Due Dates in FYs 2020/2021 2021/2022 and 2022/2023

FY	No of PAs Prepaid or Delayed			
	Prepayment By	Delayed By		
	3-13days	3-11days	25-28 days	330 days
2020/2021	17	2	0	0
2021/2022	17	2	2	0
2022/2023	16	1	1	1

Source: OAG Analysis of Payment Advices and R50 Bank Statements for FYs 2020/2021 to 2022/2023 of the 90 PAs Sampled for Audit

- 3.11 Responses from The National Treasury as shown in **Appendix VI** indicated that the reasons for delays in payment of the PAs was attributed to delays by Attorney General in issuing legal opinion, delays in tracing the transaction files and long period taken during negotiations Debt Service Suspension Initiatives (DSSI). The non-adherence to loan servicing due dates, for instance, late payment, may results to accrual of late payment interest. On the other hand, in some circumstances debt prepayment may not always be rewarding as advance settlements result in loss of

income to the borrower that might have been invested elsewhere at that time, and at times the lender may impose a penalty for the early clearance of the debt amount³. The audit was not able to determine the actual penalties costs incurred due to non-adherence of due dates since the PAs combined all the non-principal payments as interest.

C. Inadequate Transparency and Clarity on Period in Processing PA Before Loan Due Date and Exchange Rates Applied During Actual Payments Between The National Treasury, Controller of Budget and The Central Bank of Kenya

- 3.12 Section 64(1) (a) of the Public Finance Management Act, 2012 requires the Cabinet Secretary for The National Treasury to develop policies and financial frameworks in accordance with the Constitutional Principles within which the Public Debt Management Office (PDMO) operates. Further, Debt Performance Indicator (DPI)-1's legal framework as stated in Debt Management Performance Assessment Methodology 2021 recommends for primary or secondary legislation to have clear authorization in undertaking debt related transactions.
- 3.13 As shown in **Table 2** on comparison analysis of required loan due dates with actual payments date, there were delays and prepayments while servicing loans. Further inquiry of the expectations of each department in processing payments, revealed that there are no approved guidelines on what time period before due date each department is to take in preparing, controls-checks and processing PAs,
- 3.14 Review of payment records revealed that, in addition to the Kshs.450 per transaction that CBK charges, CBK charges an additional 1.5 percent to the Indicative Selling Rate⁴ while paying external debt on behalf of The National Treasury. This forms the CBK Telegraphic Transfer (TT) selling rate⁵. Even though interviews with the CBK

³ <https://fastercapital.com/content/Prepayment--The-Pros-and-Cons-of-Prepaying-Your-Loan-Note.html>

⁴ This is computed as the average rate for 18 domestic commercial banks. The rates are prepared using an excel worksheet that is linked to Refinitiv.

⁵ The CBK TT Rate is a foreign exchange rate published by the Central Bank of Kenya (CBK). It is the average buying and selling rate of major participants in the foreign exchange market at the open of trade every day. The rate is used as an indicator for the value of the Kenyan shilling on any particular day. the 1.5% margin is loaded on the Indicative Selling Rates to determine the CBK T.T. selling rate.

officials indicated that there is an understanding between TNT and the CBK on the same, this information is not explicitly expressed in the Fiscal Agency Agreement.

- 3.15 Inadequate transparency and clarity on apportionment of each Department's timeline in processing PA before loan due date and exchange rates applied during actual payments amongst The National Treasury, Controller of Budget and The Central Bank of Kenya may expose debt repayment transactions to operational and fraud risks, leading to loss of funds and high borrowing costs.

Dormant Loans and Their Effect on Debt Servicing

- 3.16 Review of Financial Statements and Commonwealth Secretariat Debt Recording and Management System (CS-DRMS) revealed that the special accounts for the financial years 2020/2021 and 2021/2022 had 164 and 66 special accounts respectively which recorded no activity or disbursement for at least one year. This list together with 2021 FY Audit Reports on Public Debt provided the sampling frame where the 32 project Loans were sampled. Further, the audit purposively sampled those projects with multiple loans allocations as disclosed in the financial statement, having the highest loan amounts together with earliest date of loan signature, across the three (3) out station cities Nakuru Kisumu and Mombasa.
- 3.17 The following observations were made:

D. Inadequate Loan Contracting Process Assessment Due to Insufficient Information

(i) Project Appraisal

- 3.18 Good project preparation practice requires that agencies prepare a concept paper that seeks to solve a problem and justify the initiation of the project. Further, Draft External Resource Manual 2019 provides that the project proposal on the basis of which external funding is sought must emanate from the implementing ministry or agency & signed by the accounting officer of the ministry making the request for external funding. The National Treasury then examines and scrutinizes these proposals.

3.19 The audit revealed that out of the 32 sampled project loans, only 18 project loans feasibility studies were provided for review, which clearly indicated the need for the projects. Feasibility studies for the remaining 14 project loans were not provided for review hence the audit could not determine the necessity for the projects. Inadequate initial project documentation may result in insufficient scrutiny of project details before commencement of the budget cycle, leading to inefficiencies during implementation. The details are as summarized in **Appendix VII**.

(ii) Public Participation

3.20 Article 201 of the Constitution of Kenya, 2010, provides that one of the guiding principles of public finance requires openness and accountability, including public participation on financial matters. Further, Regulation 205 of PFM Regulations, 2015, indicates, for the purpose of debt management operations and loan administration, the accounting officers of a national government entity shall be responsible for ensuring that during project identification and design, the intended beneficiaries are involved through public participation from planning through planning forums to enhance leadership, ownership, social accountability and sustainability of the project.

3.21 The audit established that there was public and other stakeholders' involvement in 10 (ten) project loans sampled. The remaining 22 project loans had no documentation evidence provided to support public participation and therefore the audit could not establish if stakeholders' views were incorporated before project implementation. Lack of public participation by stakeholders and beneficiaries may lead to lack of ownership by public and contribute to limited project support and limited project sustainability beyond completion. The details are as summarized in **Appendix VII**.

(iii) Project Approvals

3.22 Section 11 of the State Corporations Act, 1987 provides that not later than end of February each year, every state corporation shall cause to prepare and submit to The National Treasury for approval, estimates of the state corporation revenue &

expenditures for the following financial year accompanied by proposals for funding all projects to be undertaken by the state corporation, or the implementation of which will continue during the financial year to which those estimates relate. Further Section 11 (2) of the same Act provides that no annual estimates and proposals for funding projects shall be implemented until they have been approved by the Minister with concurrence of The National Treasury.

- 3.23 The audit obtained approval documents and correspondences for 11 of the project loans sampled while 21 project loan approvals were not provided for audit review. Therefore, there is a risk of double financing, implementing similar projects and incurring costs outside the budget due to inadequate project approvals. The details are as summarized in **Appendix VII**.

(iv) Loan Negotiations

- 3.24 Section 5.2.2 of the Macroeconomic and Financial Management Institute (MEFMI) of Eastern and Southern Africa Manual recommends that for effective loan negotiation, the negotiating team should be composed of well-trained professionals who can meaningfully engage the experienced negotiating teams of creditor institutions/countries to ensure that financing needs and payment obligations are met at the lowest possible cost in the market which is consistent with a prudent degree of risk, while ensuring that the overall level of public debt is sustainable. Therefore, there must be representation from the sector involved, the parent ministry, The National Treasury's PDMO and the government legal office (Attorney General).
- 3.25 The audit team noted that out of the 32 sampled project loans, only 2 (two) project loans, Sondu-Miriu Hydropower Project and Sang'oro Power Plant provided information on loan negotiations. The National Treasury did not provide complete negotiation documents in support of the loans sampled. There is risk of inadequate understanding and implications of the financing terms and conditions across parties of the project loan due to lack of documentation on loan negotiations.

(v) Legal Opinion/Clearance Details

- 3.26 Section 63 (d) of Debt and Borrowing Policy, 2020, provides that it is the function of the PDMO's Front Office to seek legal opinion from the Attorney General on loan contracts and liaising with implementing agencies to ensure that conditions precedents are fulfilled in time to save government from avoidable borrowing costs such as commitment fees. The Debt Management Performance Assessment (DeMPA) Tool, 2009, DPI-9 recommends that it is important for debt managers to receive appropriate legal advice and to ensure that the debt transactions they undertake are backed by sound legal documentation.
- 3.27 The audit team established that only 5 (five) project loans had legal opinions from the Attorney General of Kenya. However, The National Treasury did not provide legal opinion documents for review for the remaining 27 loans and as such, the audit could not establish the status of the legal advisories in respect to the loans. This in turn may lead to implementing agencies not being able to meet conditions precedent in a timely manner and may also further expose the Government to unfavorable financing terms leading to incurrence of avoidable costs.

E. Commitment Fees and Other Charges

- 3.28 Review of Regulations 193 and 194 (m), of the PFM Regulations, 2015, reveals that, it is the objective of the Public Debt Management Office (PDMO) to ensure that the government financial needs and its payments are met at the lowest possible cost with a prudent degree of risk. Further, PDMO is required to monitor and establish if the disbursement of loans raised by the government is in accordance with the agreed disbursement schedule.
- 3.29 Review of CS-DRMS data as at the end of financial year 2022/2023 revealed that total commitment fees paid on all external loans was Kshs.55,862,814,697.
- 3.30 Out of the total commitment fee paid, the audit carried out a substantive test on the sampled 32 project loans whose commitment fees amounted to Kshs.1,908,866,564 as detailed in **Appendix VIII**.

3.31 The Audit established that some of reasons for payments on commitment fee are as follows:

(i) Delays in Draw Down of First Disbursements

3.32 Only 2 (two) out of the 32 sampled projects loans, only two (2) projects namely; Provision of Drilling Materials for Eighty (80) Geothermal Wells at Olkaria Geothermal Field Project (Loan Key: 2012005) and, Sondu-Miriu Hydropower Project Sang'oro Power Plant (Loan Key:2007101) drew down first disbursements on time. The other projects did not draw down funds due to not meeting conditions precedent which include but were not limited to, signing of the subsidiary loan agreement; delays in signing of the power purchase agreement, delays occasioned by delays in compensation for acquisition of way leaves, delays related to issuing of no-objection certificates that would enable activities to start on site and delays in provision of GoK counterpart funds among others.

3.33 No explanation was provided on how TNT plans to mitigate against these risks, that contributes to huge loss of public fund through payment of unwarranted commitment fees.

(ii) Undrawn Balances after Project Completion

3.34 Review of Section 4.5(40) of the Debt and Borrowing Policy, 2020, states that loan proceeds from Official Development Assistance (ODA) will be utilized to finance projects in accordance with the relevant laws to ensure optimal absorption of borrowed funds. Further, no 18 of Public Investment Management (PIM) Guideline provides that it is the responsibility of the accounting officers to ensure efficient and effective utilization of resources that is expended in project execution.

3.35 Review of records relating to three (3) Olkaria Projects managed by KENGEN revealed anomalies as follows: -

- i) Although, these projects are reported complete, no reasons have been given for retaining undrawn loan balances amounting to Kshs.12,561,868,297 as account balances for periods ranging between three (3) months to seven (7) years.

- ii) Further, these undrawn loan balances on completed projects still attract commitment fees amounting to Kshs.70,991,472 as shown in **Table 3** below.

Table 3: Completed KENGEN projects with Undrawn Amounts

Project	Outstanding Loan Balance (FX)	Outstanding Loan Balance (Kshs)	Remarks/Years it remained unutilized	Remarks
Olkaria I unit 4&5 (JPY)	10,275,460,000	11,200,251,400	3 months as at time of audit	The project was completed in October 2016 and commitment fee of JPY 44,748,799.30 was paid on undrawn balance.
Olkaria II (EURO) (2001122)	863,321.70	150,701,435.952	Cancelled on May 8 2019. Project completion date was 2003	Planned Final date of disbursement 31/12/2002. Commitment fee paid on the undrawn balance was Euros 28,868.910
Kenya Olkaria IV Geothermal Field Production Wells Drilling Project (CNY)	53,866,346.13	1,210,915,461.0024	National treasury and Ministry of Energy yet to explain the validity of loan balance amounting to CNY53,866,346.13	Last date of disbursement was on 24 August 2012 and Commitment fee of CNY 764,053.55 was paid on the undrawn balance
	TOTAL	12,561,868,296.954		Total payment in Kshs. 70,991,471.97

Source: OAG Analysis of KENGEN Loans

(iii) Wastage of Kshs.626,458,045 due to Delay in Cancellation of Underground Electric Power Distribution Network Project in Nairobi Areas

3.36 Commitment fees amounting to Kshs.474,597,732 was paid for Underground Electric Power Distribution Network Project undertaken in Kilimani-Hurlingham Ngong Road-Statehouse-Lavington and Kileleshwa-Westlands-Parklands- Ngara-

Riverside Roads, contracted to China Shanghai Corporation for Foreign Economic and Technological Cooperation (SFECO) Group at CYN. 1,200 million (equivalent to Kshs.17,952.4 million) and Nari Group Corporation (NARI) at CYN 685 million (equivalent to Kshs.10,247.8 million) respectively.

- 3.37 Records further show that a decision was made to cancel these projects and the actual cancellation took 5 (five) years resulting in payment of Commitment Fees amounting to Kshs.474,597,732 as shown in **Table 4**.

Table 4: Commitment Fees Paid on The Nairobi Underground Electric Power Distribution Network Projects

Loan Key No.	Commitment Fees (CYN)	Commitment Fee Equivalent (Kshs)
2017042	20,299,999.88	318,901,261
2017043	9,856,388.75	155,696,470.93
TOTALS	30,156,388.63	474,597,731.93

Source: OAG Analysis of CS-DRMS Report 107 Loan Ledgers

- 3.38 In addition, there are other charges amounting to Kshs.151,860,313 that have been incurred on these two (2) loans as shown in **Table 5**.

Table 5: Other Charges Paid on The Nairobi Underground Electric Power Distribution Network Projects

Loan Key No.	Other Charges (CYN)	Other Charges Equivalent (Kshs)
2017042	6,000,000	96,675,000
2017043	3,425,000	55,185,312.50
TOTALS	9,425,000	151,860,312.5

Source: OAG Analysis of CS-DRMS Report 107 Loan Ledgers

- 3.39 Further review of records indicates that KPLC conceptualized the projects in 2012 and respective commercial contracts signed in February 2013 before the signing of the financing agreements in 2017.
- 3.40 Kenya Power and Lighting Company through a Circular No. 76/18 dated 30 August 2018 revealed that several reinforcement and upgrades works had been undertaken in these areas using alternative funds, an indication that the loan was not required.
- 3.41 However, when TNT was requested to change the project scope in line with KPLC's new listing of viable priority projects, the TNT instead advised KPLC to sign the

- on- lending agreements first, as a condition in the financing agreements, and seek amendments at a later stage after engaging with the contractors.
- 3.42 In an effort to repurpose the loan, KPLC requested the contractors through a letter dated 31 October 2017, to sign off an undertaking of changing the scope of the projects in line with their priorities, the contractor disagreed.
- 3.43 The Audit revealed that a proposal for cancellation of the loans was drawn by KPLC through The Ministry of Energy, however, it was acted upon on 12 January 2023 resulting in payment of avoidable commitment fees and other charges amounting to Kshs.626,458,044.

F. Status of the Sampled Projects Loans

- 3.44 According to Regulation 194 (1) (s) of the PFM Regulations of 2015, in addition to the provisions of Section 63 of the Act, the functions of the Public Debt Management Office established under Section 62 shall be to- coordinate, review and monitor the utilization of external resources including joint programming, joint work plans, joint visits, joint implementation, and monitoring and evaluation.
- 3.45 An audit inspection undertaken revealed that of the 32 sampled project loans, 17 projects were completed, six (6) had stalled, six (6) were ongoing, two (2) were cancelled and one (1) had missing documentation. To confirm the actual utilization of the loans and implementation status and verify whether the actual implementation of projects meets the objective of the loan with a view of establishing that the value of money has been obtained revealed anomalies as follows:

(i) Undrawn Loan Amounts of Kshs.68,896,985,984 for Completed Projects

- 3.46 Seventeen (17) projects loans reported as fully implemented in accordance with project objectives, handed over to the respective Implementing Agencies and operational for the benefit of the public were holding outstanding undrawn loan amounts equivalent to Kshs.68,896,985,984 in their accounts. The National Treasury did not provide reasons why these accounts were holding these funds despite completion of these projects. Details are shown in **Appendix IX**.

Low Volume Access Roads Component of the Kisumu Urban Project signed in 2010

- 3.47 The audit also noted that the Kisumu Urban Project was complete except for the Low Volume Access Roads a component which had stalled since the year 2021, when Agence Française de Développement (AFD) authorized the termination of the contract of Low Volume Access Roads. No new contractor had been appointed to complete the outstanding works since 2021.
- 3.48 The documentation held by TNT indicated that a total of Kshs.1,382,042,187 had been paid to the creditor encompassing actual interest, other fees and principal amounts as tabulated in **Table 6**.

Table 6: Servicing of Debt Related to Kisumu Urban Project

Transaction Type	EUR	Kshs
Interest Actual	2,863,769.14	349,248,743.92
Other Fees Actual	324,390.03	36,551,833.72
Principal Actual	8,076,395.46	996,241,609.58
GRAND TOTAL	11,264,554.63	1,382,042,187.22

Source: OAG Analysis of CS-DRMS Report 107 Loan Ledgers

- 3.49 Therefore, there was inadequate cost effectiveness being obtained in this loan which is now being redeemed while a component of the project which had stalled in 2021 when AFD authorized the termination of the contract of Low Volume Access Roads and no new contractor had been appointed to complete the outstanding works.
- 3.50 Further, a review of minutes for KUP meeting dated 09 June, 2021 revealed that material test results indicated that the Otonglo-Tiengere-Rota Road Bridge beams had failed and the contractor was notified accordingly. However, no action had been taken as at the time of audit in October 2023.
- 3.51 In the circumstances, it was not possible to confirm that value for money has been obtained in the loan amounting to EUR.40,000,000, equivalent to Kshs.4,085,360,000 and the Kshs.1,382,042,187 so far redeemed.

(ii) Stalled Projects

3.52 Audit further established that seven (7) projects loans had stalled as follows:-

(a) Kimira - Oluch Smallholder Farm Improvement Project

3.53 Review of records shows that loan amounting to UA.22,978,992 (or equivalent to Kshs.2,851,000,000) was signed between ADF and GoK on 14 July, 2006. Records maintained at TNT further show that Kshs.632,121,075 had been redeemed to the creditor in terms of actual interest, other fees actual and principal amounts as shown in **Table 7**.

Table 7: Servicing of Debt Related to Kimira-Oluch Smallholder Farm Improvement Project

Transaction Type	Currency	Amount in FX	Amount in Kshs
Commitment Fee Actual	JPK	9,328.12	1,171,844.78
	USD	563,667.59	70,645,992.19
Interest Actual	EUR	101,656.85	14,511,182.44
	JPK	77,168.62	8,223,996.18
	USD	1,850,854.45	270,365,359.11
Principal Actual	EUR	79,597.51	12,002,555.88
	JPK	40,849.52	6,718,180.03
	USD	1,630,453.35	248,481,964.35
		GRAND TOTAL	632,121,074.96

Source: OAG Analysis of CS-DRMS Report 107 Loan Ledgers

3.54 Further, review of records maintained for the project indicate that the project stalled when works were 80% complete. The remaining 20% for minor canals is reported to be co-financed through GoK counterpart funding total of Kshs.3,950,829,889 had not been disbursed as at the time of audit. However, during audit inspection in October 2023 and the project status report of November 2022, the project has deteriorated and several works require rehabilitation and repair is estimated at Kshs.791,352,096. Review of Pending Bills Verification Report dated May 2020 revealed that there are pending bills amounting to Kshs.700,656,527 which continue to accrue interest in delayed payments. Review of the project status report for November 2022 indicates that these pending bills arose due to construction of major

irrigation infrastructure which were completed in 2013 as well as supervision of minor civil works. Further review of the report indicated that the pending bill verification committee was unable to form an opinion on the payment of the bills and recommended the same to be forwarded to the Attorney General for a legal opinion.

3.55 In addition, the Attorney General through letter Ref: AG/CONF/8/210 dated 18 January, 2021, raised objection on provisional sums for contingencies and variation of prices in the project because the State Department did not comply with Section 47 of the Public Procurement and Disposal Act, 2005 and the Public Procurement and Disposal Act, Regulations, 2006. In view of the facts that there was nothing on the ground to show what the money was incurred on, it is not possible to confirm that value for money has been obtained in Kshs.632,121,075 so far redeemed in respect of ADF loan of UA.22,978,992 (Kshs.2,851,000,000) and GoK counterpart funding of Kshs.5,187,998,011.

(b) Kenyatta University Teaching, Research and Referral Hospital Project

3.56 Review of records show that Loan amounting to CNY.744,560,000 (or equivalent to Kshs.10,224,670,200) was signed between EXIM Bank of China and GoK on 11 June, 2011. As at the time of the audit, records maintained by TNT showed that Kshs.5,595,374,345.80 had been redeemed to the creditor in terms of actual interest, other fees and principal amounts as shown in **Table 8**.

Table 8: Servicing of Debt Related to Kenyatta university Teaching, Research and Referral Hospital Project

Transaction Type	Amount in CNY	Amount in Kshs
Commitment Fee Actual	16,950,523.45	246,658,837.52
Interest Actual	97,409,896.41	1,552,727,726.80
Other Fee Actual	7,445,600.00	111,502,327.36
Principal Actual	220,610,368.00	3,684,485,454.12
GRAND TOTAL	342,416,387.86	5,595,374,345.80

Source: OAG Analysis of CS-DRMS Report 107 Loan Ledgers

3.57 Audit inspection undertaken in November 2023 indicate that the project objective of offering medical education to students has not been achieved because Kenyatta

University medical students are not able to access the facility due to unresolved protracted disputes related to ownership of the hospital between the Ministry of Health and Kenyatta University.

(c) Sondu - Homa Bay – Kisii (Awendo) Electrification Project:

- 3.58 Review of records shows that the loan amounting to EUR.6,993,067.86 (equivalent to Kshs.797,209,736) was signed between Belgium and GoK on 21 August 2013. As at the time of audit, records maintained at TNT showed that Kshs.816,068,973, which is more than the loan amount, had been redeemed to the creditor in terms of actual interest, other fees and principal amounts as shown in **Table 9**.

Table 9: Servicing of Debt Related to Sondu-Homabay- Kisii (Awendo) Electrification Project

Transaction Type	Amount in EUR	Amount in Kshs
Commitment Fee Actual	47,997.35	5,633,965.03
Interest Actual	350,838.23	42,786,447.46
Other Fee Actual	18,756.18	2,249,028.06
Principal Actual	6,161,711.28	765,399,532.12
GRAND TOTAL	6,579,303.04	816,068,972.67

Source: OAG Analysis of CS-DRMS Report 107 Loan Ledgers

- 3.59 However, the project stalled at 83% completion rate because the main contractor went bankrupt and has been under receivership since 06, February 2020. The performance guarantee had not been recovered four (4) years later
- 3.60 In addition, TNT and KETRACO seem unable or unwilling to make any decision on the matter four (4) years later, and have instead opted to continue to redeem the loan without value-for-money being obtained.

(d) Cancer Care Treatment in Kisii Hospital Project

- 3.61 Review of the financing agreements indicates that USD.10,000,000 was sourced from Saudi Fund for Development (SFD) on 04 December, 2017 and a similar amount was sourced from Arab Bank for Economic Development (BADEA) on 03 June, 2015 for establishment of a cancer diagnostic and treatment center at the Kisii

Teaching and Referral Hospital to serve Kisii, Nyamira, Migori, Homabay, Narok and Bomet Counties with a total catchment population of six (6) million people.

3.62 Audit inspections undertaken in October 2023 reveal that there is no activity on the project loan because both Saudi Fund for Development (SFD) and Arab Bank for Economic Development (BADEA) had not issued no-objection letters for awarding of tenders. In the circumstances therefore, the objectives of the loan have not been met and no value for money has been obtained.

(e) Mombasa Gate Bridge Construction Project

3.63 Audit inspections undertaken in October 2023 revealed that there are delays in implementation of the project because the consultant is undertaking additional investigations arising from the preliminary detailed design that showed differing findings from the feasibility study.

(iii) Project Loans with Inadequate Documentation

Geothermal Power Plant Olkaria IV (Invest) Loan Key No. 2004010

3.64 The audit review of the project loan file maintained at TNT revealed that project finance agreement was signed between KfW Frankfurt Main and GoK on 23 September, 2004, for a credit facility amount of EUR.7,624,210 which was later revised upwards by EUR.3,000,000 to EUR.10,624,210 (equivalent to Kshs.1,280,631,649) through addendum agreement dated 1 December, 2011.

3.65 However, The National Treasury did not provide project file, project appraisal documents, loan negotiation minutes and analysis and expenditure documents for audit review contrary to Section 9 of Public Audit Act (2015). In this regard, it was not possible to confirm the implementing agency for this project and its implementation site for purposes of audit inspection and the project status.

3.66 In addition, examination of records maintained at TNT further show that Kshs.363,975,121. has so far been redeemed to the creditor in terms of actual interest, other fees actual and principal amounts as shown in **Table 10**.

Table 10: Servicing of Debt Related to Geothermal Power Plant Olkaria IV (Invest)

Transaction Type	Amount in EUR	Amount in Kshs
Commitment Fee Actual	123,082.42	12,769,837.56
Interest Actual	701,631.79	84,868,923.95
Principal Actual	2,179,000	266,336,359.70
GRAND TOTAL	3,003,714.21	363,975,121.21

Source: OAG Analysis of CS-DRMS Report 107 Loan Ledgers

3.67 In the absence of audit verification to confirm use of loan and its benefit to taxpayers, it is not possible to confirm that value for money has been obtained in credit facility totaling to Kshs.1,280,631,649 and Kshs.363,975,121 so far redeemed.

(iv) Ongoing Loan Projects

3.68 The audit revealed that out of the 32 project loans six (6) were ongoing. Their project status is summarized in **Table 11**.

Table 11: Status of the Ongoing Project as at the Time of Field Verification

Loan Project	Status % of Completion as at the time field verification	Remarks
Rabai Kilifi Transmission Line	73%.	Ongoing
Mombasa Port Area Development Project – Phase II (Package 2)	90%	The specific components: The Mwache Bridge was 99.2% complete, the Tsunza Viaduct was 90.1% complete while Mteza Bridge was 79.2% as at the time of audit.
Mombasa Special Economic Zone	Just started	The implementation of the Resettlement Action Plan by KPA was ongoing
Regional Mombasa Port Road Access Project Financed by two loans from EIB and GTZ	Just Started	The contractor had done site clearance of the first priority area, a distance of 4.25km.
Olkaria I Unit 1, 2 & 3 Geothermal Power Rehabilitation Project	Just Started	The project work started in the month of July 2023 and is ongoing.

Source: OAG Analysis of Project field verification

Rabai - Kilifi Transmission Line

- 3.69 Review of records shows that loan amounting to EUR.21,611,147.19 (equivalent to Kshs.2,524,181,992) was signed between French and GoK on 17 April,2017.
- 3.70 Records maintained at TNT also show that as at the time of audit, Kshs.713,429,277 had been redeemed to the creditor in terms of actual interest, other fees actual and principal amounts as shown in **Table 12**.

Table 12: Servicing of Debt Related to Rabai - Kilifi Transmission Line

Transaction Type	Amount in EUR	Amount in Kshs
Commitment Fee Actual	1,702,951.13	214,499,570.38
Interest Actual	537,246.51	75,988,319.15
Other Fee Actual	466,991.84	55,315,334.14
Principal Actual	2,645,758.02	367,626,053.42
GRAND TOTAL	5,352,947.5	713,429,277.09

Source: OAG Analysis of CS-DRMS Report 107 Loan Ledgers

- 3.71 However, the project has run into delays because of proposals for change of scope and provision of wayleaves which were not initially part of the original construction design, posing high risk of running into cost overruns and additional cost to taxpayers.

(v) Cancelled Loan Projects

- 3.72 Audit revealed that 2 (two) of the 32 project loans namely: Underground Electric Power Distribution Network Project undertaken in Kilimani-Hurlingham-Ngong Road-Statehouse-Lavington and Kileleshwa-Westlands-Parklands- Ngara-Riverside Roads, contracted to China Shanghai Corporation for Foreign Economic and; Technological Cooperation (SFECO) Group at CYN. 1,200 million (equivalent to Kshs.17,952.4 million) and Nari Group Corporation (NARI) at CYN 685 million (equivalent to Kshs.10,247.8 million) were cancelled.
- 3.73 The National Treasury responses and the corresponding audit remarks are as per **Appendix X**.

4.0 CONCLUSION

- 4.1 The objective of the special audit was to determine whether process for servicing of external loans were adhered to as required under relevant laws, regulations and agreements and whether avoidable penalties were minimized. In the period under review FYs 2020/2021, 2021/2022 and 2022/2023 the actual amounts expended for debt servicing were Kshs.233,877,180,107, Kshs.255,741,432,404 and Kshs.388,807,792,682 respectively. These amounts were respectively eight (8%), 22% and zero (0%) respectively less than what was budgeted for and one (1)%, 25% and negative (-) 25% less than what was approved by the Controller of Budget.
- 4.2 These variances were majorly attributed to:
- i. Firstly, exchange rates fluctuations that occurred within the time difference between preparation of the budgets, payment requisition, approvals and actual date when the loans were falling due;
 - ii. Secondly, due to the five (5)% cushioning provision for exchange rate fluctuations during budget preparation and;
 - iii. Lastly, one and a half (1.5) % additional rate CBK charges over and above the Indicative Selling Rate when processing debt payments.
- 4.3 Adherence to loan due dates was observed to be approximately below average as more than half of the payment advices were processed after or before loan due date. This was attributed to delays in tracing the transaction files, Debt Suspension Negotiation Initiatives and delays by the Attorney General in issuing legal opinion. This was attributed to inadequate clarity in each function requirement on processing of debt service payments across TNT, CoB and CBK as loans fall due. Further, the 1.5% additional rate CBK charges is not formally agreed and expressed across functions. This leads to inadequate transparency in debt operations. The National Treasury in collaboration with CoB and CBK should establish service level requirements for each department to guide in timely processing of PAs. The service level agreement and exchange rates applied should be agreed across functions, formalized and communicated across functions.

- 4.4 There have been inconsistencies in loans transaction records between TNT's CS-DRMS and Implementing Agencies. This implies that the country's true debt position may not be accurately reported. To ensure accurate, complete reporting of debt transaction, TNT and the Project Implementing Agencies should collaborate and coordinate in ensuring timely exchange of up-to-date loans transaction information and amounts. Secondly, the amalgamation of all non-principal transaction such as interest does not provide detailed transaction information in other fees such as interest due to late payments, making it difficult to establish total cost implications of late payments. Therefore, The National Treasury should ensure transparency while recording debt transactions for better understanding debt transaction and making informed corrective decisions.
- 4.5 Inadequacies in project preparations, loan contracting and project implementation continues to negatively impact on debt service through payment of avoidable fees such as commitment fees of Kshs.55,862,814,697 among other costs thereby compromising service delivery and value for money for taxpayers. This can be attributed to inadequate project preparation, inadequate scrutiny and project approvals before commencing the budget cycle; inadequate scrutiny and negotiation of loan terms, and; inadequate engagement by The National Treasury and the implementing agencies on the uptake of the loans.
- 4.6 As a result, the Government borrowing costs have increased due to payment of commitment fees including Kshs.55,862,814,696, interest on delayed contractor payments and delayed project output to benefit Kenyan citizens. To ensure effective and efficient management of public investment; including adequate project appraisal prior to funding and adequate project gate keeping, The National Treasury should fully operationalize the Public Investment Management (PIM) Guidelines outlined in The National Treasury Circular No 16/2019 and finalize the establishment of the Public Investment Management Unit (PIMU).
- 4.7 The Kenya shilling has been depreciating against major currencies in the recent past and this has had a negative impact on the stock of external debt and external

debt service costs since over 60% of the external debt is denominated in US Dollars and other major foreign currencies. To effectively manage the high cost of external debt servicing, The National Treasury should implement measures to curb the continued depreciation of the Kenya Shilling against the dollar to ensure that public debt is maintained sustainably over the long-term. In addition, Central Bank of Kenya should employ monetary strategies to ensure stability of macroeconomic factors that influence the foreign exchange rates.

5.0 IRREGULARITIES AND WEAKNESSES IN DEBT SERVICING AND RECOMMENDATIONS

5.1 The following irregularities and weakness and the corresponding recommendations were observed during the audit of servicing of external loans as shown in **Table 13** below;

Table 13: Irregularities and Weakness in Servicing of External Loans and Corresponding Recommendation

No.	Irregularities and Weaknesses	Recommendations
1	Non-Adherence to debt servicing due dates	The National Treasury in collaboration with CoB and CBK should establish service level requirements for each department to guide in timely processing of PAs. The service level agreement and exchange rates applied should be agreed, formalized and communicated across functions to ensure transparency.
2	Inadequate Transparency and Clarity on Apportionment of each Department's function in processing Payment Advices (PAs) before Loan Due Date and Exchange Rates Applied during actual payments amongst The National Treasury, Controller of Budget, The Central Bank and the Attorney General.	
3	Inadequate Loan Contracting Process Assessment Due to Inadequate Information	To ensure that loan contracting is done to minimize cost and risk for borrowing, The National Treasury should ensure proper scrutiny and negotiation of loan terms, ensure adequate involvement of the Project Implementing Agency during loan negotiation and preparation during uptake of the project loans.
4	Delays in Drawdowns Resulting to Payment of Commitment Fees	
5	Loan Disbursement Records Inconsistencies Between CS-DRMS and Implementing Agencies Ledgers	Update and reconcile loans transactions to reflect the true position in both TNT debt system and Implementing agencies records. The National Treasury should finalize the migration of the debt management system from CS-RDMS to Commonwealth Meridian. This will ensure that public debt management are up to date with the latest regulations and technology and consistent with

No.	Irregularities and Weaknesses	Recommendations
		organizational best practices thus ensuring transparency and effectiveness in coordinating public debt operations
6	Project Inadequacies	The National Treasury should ensure adequate project appraisal prior to funding, adequate project gate keeping through full operationalization of the Public Investment Management Guidelines outlined in The National Treasury Circular No 16/2019 and finalization of establishment of the Public Investment Management Unit.
7	Stalled Projects	The National Treasury, the Project Implementing Agencies and relevant Public Finance Management Standing Committee through regulation 19 of the Public Finance Management Regulation, should ensure smooth implementation of entities objectives, review performance, regularly monitoring of budget implementation and timely monitor resolution of audit issues .In addition, collaborative informed and effective decisions on whether to revive, stop or re-structure objectives of these stalled projects should be based on a detailed assessment of these projects.
8	Delay in Provision of GoK Counterpart Funding	To avoid delays in draw down of first disbursement caused by delays in counterpart funding, The Accounting Officers in every national entity, while requesting for funding, should prioritize the projects which have already received approval. Further the National Treasury should consider the counterpart resource requirements to inform the National budget review and outlook paper budget

No.	Irregularities and Weaknesses	Recommendations
		sector ceilings as per PIM Guidelines outlined in The National Treasury Circular No 16/2019.
9	Inadequate Documentation	The National Treasury and the respective Project Implementing Agencies should adhere to Section 9 of The Public Audit Act 2015 that requires public officers to provide explanations, information and assistance in person and in writing when required to during audit.

Source: OAG Analysis


 FCPA Nancy Gathungu, CBS

AUDITOR- GENERAL

21 June, 2024

6.0 APPENDICES

Appendix I: The Terms of reference for the Audit and Detailed Procedures

TOR	Detailed Procedure
i) To establish the planned loan obligations falling due and their approved budget amounts.	<ul style="list-style-type: none"> i. What are the planned external loans obligations principal and interest falling due in the period under review? ii. Have they been factored in the approved budget correctly? iii. What amounts have been set aside in case of variations?
ii) To assess the correctness of the preparation of the loans Obligations falling due in the period under review	<ul style="list-style-type: none"> i. Complete schedules for each loan having principal, interests, other fees among others. ii. Are payments consistent with the loan agreement terms and conditions? iii. Do they compare with the creditor's demand note for payments? iv. Are there avoidable costs incurred, such as Commitment fees?
iii) To determine the external debt servicing obligations approved by the Exchequer for the period under review	<ul style="list-style-type: none"> i. Have complete schedules from Accountant General been forwarded to the Controller of Budget in a timely manner? ii. Are the Approvals backed with requisition, PAs and Loan Agreement extract? iii. What foreign exchange rates are specified as at the time of processing?
iv) To determine the actual external debt service payments by CBK during the period under review	<ul style="list-style-type: none"> i. What are the external obligations/PAs paid by the Central Bank of Kenya? ii. Are the Payments adequately supported? iii. Are they acknowledged with Payment confirmations/Debit Notes? iv. What are the exchange rates used in each case? v. Are there other transactional charges that are incurred at this particular stage outside OCOB approvals and loan agreement requirements?
v) To identify, quantify, variances between budget amounts, the prepared repayment schedules, approved amounts and actual payments	<ul style="list-style-type: none"> i. Are there variances between Budget, PDMO Repayment Schedules, OCOB Exchequer releases and Actual amounts paid by CBK? ii. What are the reasons for the variances (Penalties due to late payments, Exchange rates fluctuations, other transaction charges)
vi) To establish the dormant loans and assess the cost effect on debt servicing.	<ul style="list-style-type: none"> i. What are the Dormant Loans whose project accounts indicates no activities for over one year? ii. What Loan contracting process was involved? iii. What are the Reasons for dormant Loans? iv. Quantify the penalties commitment fees to date v. Physical verification of projects/Status of the projects to date. vi. Decisions/Interventions/way forward on the dormant loans.

Appendix II: Analysis of 90 Payment Advices Sampled for Audit

No.	PA No	Bills - National Treasury							Controller of Budget			Actual CBK Payment Details
		Loan Name	Loan Key Number	Beneficiary	Currency	Total Amount in FX	Exchange Rate Applied	PA Total Amount in Kshs.	Amounts Approved (FX)	Exchange Rates Used	Amounts Approved Kshs.	Amount Paid by CBK Bank Statement
1	120689	Rural Access Roads Project	1976007	International Development Association	USD	13,926,827.67	119.4118	1,663,027,560.36	13,926,827.67	119.6735	1,666,672,211.17	1,703,529,560.55
2	121252	Isebania-Kisii-Ahero A1 Road	2016039	African Development Bank	USD	11,917,330.20	137.0794	1,633,620,473.42	11,917,330.20	137.7265	1,641,332,177.79	1,690,115,768.95
3	121283	S.P.A. Konza Techno City Project	2017032	UNICREDIT S.P.A.	EUR	30,308,723.21	148.6982	4,506,852,585.63			-	4,642,271,960.90
4	120606	Drilling Services -80 Geothermal wells	2012005	Export-Import Bank of China	USD	17,818,125.00	117.8029	2,099,026,797.56	17,818,125.00	117.9971	2,102,487,077.44	2,144,054,981.25
5	121176	Site and Serv Project-Dandora & other IBRD	1975005	International Development Association	USD	16,362,819.52	129.9824	2,126,878,551.98			-	2,233,033,979.85
6	120785	Kenya Airforce Three C27J SPARTAN	2017059	UNICREDIT S.P.A.	USD	13,479,630.68	120.5294	1,624,691,798.08	13,479,630.68	120.66	1,626,452,237.85	1,659,207,740.40
7	121236	International Sovereign Bond III 12-YRS.	2019008	Citi Bank N.A,London Office	USD	48,000,000.00	136.3618	6,545,366,400.00			-	6,709,920,000.00
8	121237	International Sovereign Bond III	2019007	Citi Bank N.A,London Office	USD	31,500,000.00	136.3618	4,295,396,700.00			-	4,403,385,000.00
9	121216	National Urban Transport Improv Project	2012014	International Development Association	USD	74,317,576.09	135.0735	10,038,335,113.99	74,317,576.09	135.5824	10,076,155,328.46	10,332,372,603.75
10	121187	Term Facility Agreement	2016038	China Development Bank	USD	91,882,206.52	131.8765	12,117,103,808.13			-	12,821,243,097.80
11	120691	Energy Sector Recovery Project	2004320	Nordic Development Fund	EUR	131,875.00	123.0129	16,222,326.19	131,875.00	121.6953	16,048,567.69	15,981,522.40
12	120692	Northern Corridor Transport Improvement	2004421	Nordic Development Fund	EUR	210,586.21	123.0129	25,904,820.39	210,586.21	121.6953	25,627,352.00	25,520,289.95
13	120696	Upper Tana Catchment Project	2020029	International Fund For Agricultural Development	EUR	22,822.01	121.6953	2,777,331.35	22,822.01	119.96	2,737,728.32	2,765,728.60
14	120697	Upper Tana Catchment Natural Resource	2012007	International Fund For Agricultural Development	EUR	260,876.25	121.6953	31,747,413.51	260,876.25	119.96	31,294,714.95	31,614,784.00
15	120631	Steam field Development Bogoria Silali Block	2014012	Kreditanstalt Fur Wiederaufbau	EUR	4,024,103.35	123.1859	495,712,792.86	4,024,103.35	122.0382	491,094,329.45	495,701,927.75
16	120784	Supply To Airforce of Three AW139 helic	2017056	UNICREDIT BANK S.P.A	EURO	3,586,541.89	120.3947	431,800,634.88	3,586,541.89	119.8682	429,912,320.58	430,946,679.25
17	120739	Road Maintenance Renewal Project	2005009	Export -Import Bank of Korea	KRV	735,633,380.00	0.09	66,207,004.20	735,633,380.00	0.0876	64,441,484.09	61,940,330.55
18	120765	Horticultural Handling Project	1993005	Japan International Cooperation Agency	JPY	51,092,883.00	0.8388	42,856,710.26	51,092,883.00	0.84511	43,179,106.35	42,376,334.95
19	120764	Mwea IrrigationProject & Bills	1993004	Japan International Cooperation Agency	JPY	14,495,540.00	0.8388	12,158,858.95	14,495,540.00	0.84511	12,250,325.81	12,022,571.85
20	120763	Export Development Loan	1993003	Japan International Cooperation Agency	JPY	209,063,102.00	0.8388	175,362,129.96	209,063,102.00	0.84511	176,681,318.13	173,396,518.65
21	121287	International Sovereign Bond 2021 Due 2033	2021011	Citi Bank N.A. London Office	USD	3,300.00	138.0559	455,584.47			-	467,082.00
22	121307	African Emergency Food Production	2023003	African Development Bank	EUR	157,500.00	148.1812	23,338,539.00			-	23,773,648.50
23	121249	Bagamoyo-HoroHoro-Lungalunga -Malindi RoadPr	2020018	African Development Bank	EURO	230,818.17	149.3182	34,465,353.67	230,818.17	148.6418	34,309,228.26	34,837,894.15

No.	PA No	Bills - National Treasury							Controller of Budget			Actual CBK Payment Details
		Loan Name	Loan Key Number	Beneficiary	Currency	Total Amount in FX	Exchange Rate Applied	PA Total Amount in Kshs.	Amounts Approved (FX)	Exchange Rates Used	Amounts Approved Kshs.	Amount Paid by CBK Bank Statement
24	121250	Operationalization of the Kenya Mortgage Refinan	2020007	African Development Bank	EURO	640,509.95	149.3182	95,639,792.82	640,509.95	148.6418	95,206,551.89	96,673,575.85
25	121251	Enable Youth Kenya Prgram	2018006	African Development Bank	USD	382,063.84	137.0794	52,373,081.95	382,063.84	137.5912	52,568,622.22	53,538,605.85
26	121308	The Fiscal Sustainability And Inclusive Green Growth Development Policy	2023006	International Bank for Reconstruction and Development	USD	1,250,000.00	138.7088	173,386,000.00			-	176,175,000.00
27	121274	Ruiru II Dam	2017030	Deutsche Bank AG, Paris Branch	EUR	610,157.99	149.2753	91,081,517.00	610,157.99	148.7953	90,788,641.17	92,491,897.15
28	120786	Ngong II Wind Farm Development	2012013	Fund For International Of (Spain) Firms	EURO	866,945.39	120.3412	104,329,248.57	866,945.39	119.3482	103,468,371.79	104,968,360.70
29	120787	Development Solar Energy	2012011	Fund For International Of (Spain) Firms	EURO	430,472.85	120.3412	51,803,619.34	430,472.85	119.3482	51,376,159.80	52,120,963.90
30	121220	Homa-Bay Cluster water Supply	2017039	CBC BANQUE SA	USD	337,025.56	149.3424	50,332,205.99	337,025.56	149.8553	50,505,066.40	51,080,537.50
31	119955	China Buyer Credit Agreement for Construction of Nairobi ICD Yard & Access roads	2017009	Export-Import Bank of China	USD	9,132,268.97	107.90	985,345,338.28	9,132,268.97	108.04	986,687,781.82	1,002,266,519.45
32	119976	Programme for rural Outreach of financial 1	2010021	International Fund for Agricultural Dev	USD	564,823.86	107.90	60,944,494.49	564,823.86	107.95	60,972,735.69	61,961,177.40
33	119987	Construction of 5 foot bridges in Mombasa & Langata Roads	202002	Banco Bilbao Vizcaya Argentaria	EURO	43,028.00	128.08	5,511,026.24	43,028.00	128.08	5,510,875.64	5,591,428.35
34	120032	Upgrade of Rift Valley Textile Factory	2016051	Export Import Bank of India	USD	225,626.25	108.62	24,507,658.65	225,626.25	108.73	24,531,552.47	24,922,675.55
35	120012	Farmers Group and Community Support Project	1991007	International Fund for Agricultural Dev	USD	20,923.04	108.30	2,265,965.23	20,923.04	108.30	2,265,965.23	2,311,995.90
36	120011	Spanish Export Buyer Credit	2013006	Deutsche Bank S.A.E	EURO	1,770,881.63	127.79	226,300,963.50	1,770,881.63	127.79	226,294,765.41	231,115,813.55
37	120080	Emacs Project (Phase II)/Concessional	2011004	Export Import Bank of China	CNY	14,268,034.19	16.95	241,867,435.18	14,268,034.19	17.04	243,171,533.50	247,446,236.50
38	120094	Olkaria IV Geothermal Drilling	2010001	Export Import Bank of China	CNY	28,057,778.49	17.04	478,104,545.47	28,057,778.49	17.04	478,191,524.58	486,597,635.00
39	120115	Ithanga Water supply project	2015022	KBC Bank NV	EURO	421,557.13	130.64	55,072,223.46	421,557.13	130.64	55,073,235.20	55,411,534.75
40	120140	IDA Bills	1991015	International Development Association	USD	6,172,129.29	110.50	682,031,396.38	6,172,129.29	110.82	683,973,765.47	696,956,839.40
41	120153	Term Loan Facilities	2017049	Eastern & Southern African Trade & Development Bank	USD	10,786,182.49	110.87	1,195,857,580.96	10,786,182.49	110.97	1,196,916,784.08	1,217,220,693.95
42	120155	Expansion of Water Supply and waste	2020026	European Investment Bank	EURO	43,020.83	128.12	5,512,005.13	43,020.83	128.74	5,538,376.89	5,641,936.60
43	120154	Vihiga Cluster Water Supply	2016034	Commerzbank AG	EURO	437,492.95	128.76	56,331,592.24	437,492.95	128.76	56,332,379.73	57,482,898.65
44	120159	Term Facility Agreement	2016038	China Development Bank Guizhou Branch	USD	83,956,771.88	111.16	9,332,290,539.42	83,956,771.88	111.25	9,340,434,346.29	9,568,553,291.15
45	120173	Kilimambogo-Githambo-Nyaga-Kiganjo	2008007	KBC Bank NV	EURO	481,174.57	129.54	62,332,364.26	481,174.57	129.27	62,199,752.55	62,378,460.75


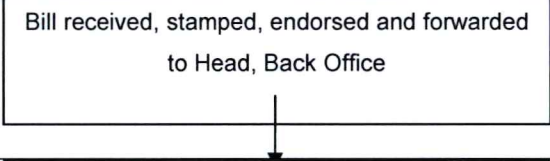
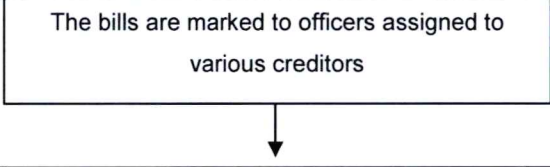
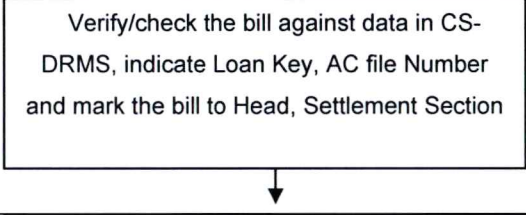
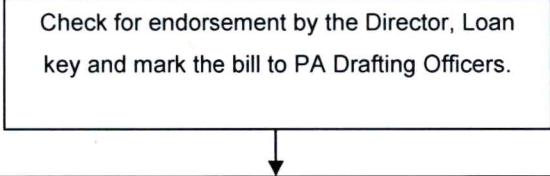
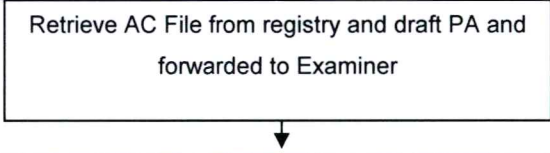
No.	PA No	Bills - National Treasury							Controller of Budget			Actual CBK Payment Details
		Loan Name	Loan Key Number	Beneficiary	Currency	Total Amount in FX	Exchange Rate Applied	PA Total Amount in Kshs.	Amounts Approved (FX)	Exchange Rates Used	Amounts Approved Kshs.	Amount Paid by CBK Bank Statement
46	120193	Kenya Navy Slipway Project	2017053	ING Bank A Branch of ING Diba AG	EURO	699,495.51	127.73	89,343,693.56	699,495.51	126.43	88,436,797.63	90,574,455.90
47	120226	Sovereign Bond 2021 Due on 2033 and 2034	20210111	Citigroup Global Markets Europe AG	USD	52,000.00	113.02	5,877,222.00	52,000.00	113.11	5,881,506.80	5,972,720.00
48	120215	International Sovereign Bond (6.875% Fixed rate Bond)	2014011	Citi Bank London Office	USD	68,750,000.00	112.73	7,749,946,875.00	68,750,000.00	112.96	7,765,800,625.00	7,893,875,000.00
49	120262	Rabai New Bamburi Cement Power Generation	2017025	Societe Generale Sucursal En Espana	EURO	159,899.19	127.76	20,428,912.39	159,899.19	128.25	20,506,319.59	20,805,443.00
50	120220	KPLC Grid Development	2005013	European Investment Bank	EURO	1,512,946.88	127.69	193,188,187.11	1,512,946.88	127.69	193,194,390.19	199,081,115.20
51	119825	Rural Private Enterprise Project Ph 1	1983016	US Agency for International Development	USD	291,578.05	109.57	31,948,731.78	291,578.05	110.28	32,156,072.93	33,563,549.30
52	120310	Mavoko Drinking Water Supply	2017035	Belfius Bank	EURO	868,234.85	128.87	111,889,946.06			-	112,951,710.45
53	120315	Upgrade of Rift Valley Textile Factory	2016051	Export Import Bank India	USD	229,748.01	113.65	26,110,195.07			-	26,515,217.80
54	120344	International Sovereign Bond due 2028	2018003	Citi Bank London Office	USD	36,250,000.00	113.73	4,122,585,625.00	36,250,000.00	113.73	4,122,585,625.00	4,188,687,500.00
55	120388	Upgrading Maternal and New Born Care Units in Kapenguria, Chepkorio and Makindu	2017055	Erste Group Bank - AG	Euro	25,000.00	127.77	3,194,337.50	25,000.00	127.22	3,180,545.00	3,209,025.00
56	120369	Garissa Sewerage Project	2007014	Arab Bank for Economic Development in Africa	USD	99,814.75	113.77	11,356,273.46	99,814.75	113.94	11,372,423.49	11,636,403.55
57	120363	Menengai Geothermal Development	2012003	African Development Bank	USD	56,510.82	113.77	6,429,433.78	56,510.82	113.94	6,438,577.23	6,588,031.35
58	120387	Supply of Computer Tomography CT Scanners to GOK Hospitals	2017057	China Development Bank - Liaoning Branch	USD	10,323,970.24	113.94	1,176,264,646.49			-	1,210,382,270.90
59	120413	Site and Serv Project - Dandora & Other	1975005	International Development Association	USD	14,496,834.62	114.11	1,654,275,839.31			-	1,698,449,144.05
60	120440	Mwea Irrigation Project	1993004	Japan International Corporation Agency	JPY	14,673,412.00	0.97	14,205,330.16	14,673,412.00	0.96	14,104,083.61	13,694,563.35
61	120441	Emergency Locust Response Project	2020015	International Development Association	EURO	312,810.99	126.51	39,572,248.13			-	39,936,923.15
62	120489	Second National Agr. Extension Project	1996008	International Fund for Agricultural Development	USD	12,898.17	115.61	1,491,104.67	12,898.17	115.64	1,491,597.26	1,520,823.20
63	120475	Olkaria 1 Geothermal Extension	2017045	European Investment Bank	EURO	196,754.21	125.39	24,671,010.39	196,754.21	125.39	24,670,774.29	24,491,491.85
64	120486	Rehab - Kiganjo Nanyuki Road	1988005	European Investment Bank	EURO	205,643.44	125.06	25,718,488.36	205,643.44	125.39	25,785,219.65	26,030,079.25
65	120533	Rural Electrification Ph 2 (Spain)	2001001	Fund for Internationalization of (Spanish) Firms	USD	136,266.28	116.20	15,833,746.56			-	16,159,818.10
66	120576	Export Credit Agreement	2014005	Unicredit Bank Austria AG	EURO	279,829.57	125.05	34,991,372.53	279,829.57	123.22	34,481,103.31	35,165,174.65

No.	PA No	Bills - National Treasury							Controller of Budget			Actual CBK Payment Details
		Loan Name	Loan Key Number	Beneficiary	Currency	Total Amount in FX	Exchange Rate Applied	PA Total Amount in Kshs.	Amounts Approved (FX)	Exchange Rates Used	Amounts Approved Kshs.	Amount Paid by CBK Bank Statement
67	119462	Limuru - Naivasha Road Mai Mahiu	2001372	Cassa Depositi E Prestiti SPA Fondo Rotativo Coop	EUR	33,151.71	125.00	4,143,963.75	33,151.71	128.2847	4,252,857.17	4,297,005.30
68	119534	Term Loan Facilities	2017049	Eastern & Southern African Trade & Dev Bank	USD	75,410,652.98	105.00	7,918,118,562.90	75,410,652.98	108.66	8,193,812,369.13	8,314,024,491.00
69	119461	Supply of Computer Tomography(CT) Scanners to GOK Hospitals	2017057	China Development Bank - Liaoning Branch	USD	11,080,522.30	105.00	1,163,454,841.50	11,080,522.30	108.4282	1,201,441,088.05	1,222,624,830.55
70	119529	Export Development Loan	1993003	Japan International Cooperation Agency	JPY	219,553,905.00	1	219,553,905.00	219,553,905.00	1.0287	225,855,102.07	230,192,609.00
71	119620	Rehab Kiganjo - Nanyuki Road	1988005	European Investment Bank	EUR	205,324.15	128.7671	26,438,995.36	205,324.15	129.8406	26,659,410.83	27,255,713.20
72	119622	RUIRU II DAM	2017030	Deutsche Bank AG, Frankfurt	EUR	443,373.30	128.4559	56,953,916.29	443,373.30	129.84	57,567,855.30	60,942,502.45
73	119589	Kenya Navy Slipway Project	2017053	ING BANK A BRANCH of ING - DIBa AG (Germany)	EUR	719,397.22	127.8388	91,966,877.33	719,397.22	127.54	91,751,921.44	95,889,318.70
74	119760	Olkaria - Lessos - Kisumu Transmission	2010020	Japan International Cooperation Agency (JICA)	JPY	203,480,000.00	1.053257	214,316,734.36	203,480,000.00	1.070051	217,733,977.48	222,950,797.70
75	119776	Hybridization of Kenya Power Mini Grids	2016059	Agence Francaise De Development(Paris)	EUR	86,679.21	135.6918	11,761,658.03	86,679.21	135.16	11,715,770.05	11,715,327.95
76	119777	Kericho - Sotik Road	1992006	European Investment Bank (Luxembourg)	EUR	50,593.30	135.6918	6,865,095.94	50,593.30	135.16	6,838,311.85	6,838,053.80
77	119770	Second National Agricultural Ext. Project	1991002	International Development Association	USD	5,254,691.35	111.51	585,950,632.44	5,254,691.35	111.72	587,054,117.62	587,054,117.60
78	119771	Affordable Housing Finance Proect	2019020	Intl Bank for Reconstruction & Development	EUR	554,681.36	135.1647	74,973,339.62	554,681.36	135.69	75,265,712.16	75,386,133.45
79	119818	Second Small Holder Agricultural Project	1972005	International Development Association	USD	7,635,844.01	109.2718	834,382,419.49	7,635,844.01	109.65	837,270,295.70	854,450,944.70
80	119815	ADB - Kenya Towns Sustainable Water Supply and Sanitation Program	2017001	African Development Bank	USD	2,215,780.51	109.1353	241,819,870.69	2,215,780.51	109.32	242,221,370.12	247,945,839.05
81	119828	Nairobi Rivers Basin Rehabilitation and Restoration	2019016	African Development Bank	EUR	75,496.40	135.0147	10,193,123.80	75,496.40	134.42	10,148,090.19	10,186,223.40
82	119940	International Sovereign Bond (6.875% Fixed Rate Bond)	2014011	Citi Bank N.A, London Office	USD	68,750,000.00	108.05	7,428,437,500.00	68,750,000.00	108.05	7,428,437,500.00	7,529,500,000.00
83	119906	Small Scale Irrigation & Value Addition Project	2016032	AfDB (JP Morgan Chase)	USD	530,434.98	107.3559	56,945,324.67	530,434.98	107.12	56,822,051.58	58,135,673.80
84	119920	Construction of Five Foot Bridges in Mombasa & Langata Road	2020003	Banco Bilbao Vizcaya Argentaria	EUR	229,666.59	129.8865	29,830,589.54	229,666.59	132.19	30,360,568.17	30,511,803.60
85	119934	S.P.A Konza Techno City Project	2017032	Unicredit S.P.A	EUR	639,998.48	132.1941	84,604,023.06	639,998.48	131.43	84,116,152.22	85,171,381.70
86	119885	Homa Bay Cluster Water Project	2017039	CBC Banque Brussels	EUR	339,484.13	130.3106	44,238,380.67	339,484.13	131.07	44,495,777.54	45,535,379.75
87	119881	Enable Youth Kenya Program	2018006	ADF	USD	220,740.28	107.5929	23,750,086.87	220,740.28	108.64	23,980,186.54	24,232,867.90

No.	PA No	Bills - National Treasury							Controller of Budget			Actual CBK Payment Details
		Loan Name	Loan Key Number	Beneficiary	Currency	Total Amount in FX	Exchange Rate Applied	PA Total Amount in Kshs.	Amounts Approved (FX)	Exchange Rates Used	Amounts Approved Kshs.	Amount Paid by CBK Bank Statement
88	119727	Galana/ Kulalu Food Security Project	2015016	Bank Leumi Le Israel B.M Israel	USD	3,359,755.49	109.9000	369,237,128.35	3,359,755.49	109.75	368,729,133.32	370,110,664.75
89	119691	Export Credit Facility	2013016	BNP Paribas Fortis	EUR	382,054.68	132.7912	50,733,499.42	382,054.68	132.89	50,772,163.36	50,212,185.80
90	119717	Garissa Sewerage Project	2007014	Arab Bank for Economic Development In Africa	USD	115,793.97	109.6471	12,696,473.01	115,793.97	109.90	12,726,093.11	12,911,027.65
						TOTALS		96,963,220,044.81			64,552,797,832.15	99,880,753,436.80

Source: OAG Analysis of 90 PAs, Payment Vouchers, CoB Approvals and Bank Statements

Appendix III: Process for Processing External Debt Payments

Procedure	Description	Responsibility
Processing of External Payments		
		Director, DMD
		Head, Back Office.
		Assigned Officers
		Head, Settlement Section.
		Drafting Officers

	<p>PA examined and forwarded to authorizer to authorize the printing of PA</p> <p style="text-align: center;">↓</p>	Examining Officers and Authorizer
	<p>PA forwarded to Head, Settlement Section who signs and forwards it to Head, and Accounting Unit for second signature</p> <p style="text-align: center;">↓</p>	Head, Settlement Section
	<p>The PA is signed and coded and forwarded back to Head, Settlement Section</p>	Head, Accounting Unit
	<p>The PAs forwarded to drafter to generates a list of all approved PAs</p> <p style="text-align: center;">↓</p>	Drafter
	<p>The approved list together with the PAs is forwarded to Director, Debt Management Department</p> <p style="text-align: center;">↓</p>	Head, Settlement Section
	<p>The PAs are endorsed and a memo is generated to PS/T.</p> <p style="text-align: center;">↓</p>	Director, Debt Management Department

	<p>The PAs are approved and forwarded back to Director, Debt Management Department.</p> <p style="text-align: center;">↓</p>	PS/T
	<p>Director acknowledges the PS signature and forwards the PAs to Head, Settlement Section</p> <p style="text-align: center;">↓</p>	Director, Debt Management Department
	<p>PAs are verified and forwarded to examiner to prepare Exchequer requisition,</p> <p style="text-align: center;">↓</p>	Head, Settlement Section
	<p>The prepared exchequer requisition is forwarded to Head, Settlement Section for signature.</p> <p style="text-align: center;">↓</p>	Examiners
	<p>The exchequer requisition is signed and forwarded through the Director, Debt Management Department to Accountant General.</p> <p style="text-align: center;">↓</p>	Head, Settlement Section
	<p>Copy of the requisition together with PAs, AC files and Loan Agreements are forwarded to Controller of Budget.</p> <p style="text-align: center;">↓</p>	Head, Settlement Section

	<p>A request to fund the requisition is raised to the Controller of Budget.</p>	Accountant General
	<p>The requisition and the PAs are verified against the Loan Agreements and grant of credit is given vide letter to CBK. The PAs, Files and Loan Agreements are forwarded back to Head Settlement Section.</p>	Controller of Budget
	<p>The PAs are then submitted to CBK for payment.</p>	Drafters
	<p>CBK makes payments and provide debit notes to Head Settlement Section confirming payment.</p>	CBK

Source: PDMO Procedures Manual

Appendix IV: 32 Project Loans Sampled for Audit

No	CSDRM S #	Loan Title	Creditor Name	Creditor Category	Borrower Category	Borrower Name	Agreement Date	Maturity Date	Revised Financed Amount	Currency
1	2015009_1	Cancer Care Treatment in Kisii Hospital Project	Arab Bank For Econ.Dev.In Africa	Multilateral	Central Government	GoK	03-06-15	30-04-45	10,000,000	USD
2	2017020_1	Cancer Center at Kisii Hospital	Saudi Development Fund	Bilateral	Central Government	GoK	01-01-17	30-11-44	37,500,000	SAR
3	2007101_1	Sondu - Miriu Hydropower Project Sangoro Power Plant	Government of Japan	Bilateral	Public Corporation	KENGEN	23-01-07	20-02-47	4,247,214	JPK
4	2004101_1	Sondu Miriu Hydro Power II	Government of Japan	Bilateral	Public Corporation	KPLC	20-02-04	20-02-44	10,380,985	JPK
5	1997101_1	Sondu Miriu Hydropower Project	Government of Japan	Bilateral	Public Corporation	KPLC	03-03-97	20-09-26	6,763,903	JPK
6	2013009_1	Sondu-Homa-Bay Electrification	KBC BANK	Bilateral	Central Government	GoK	21-08-13	10-08-22	6,161,711	EUR
7	2004001_1	South Nyanza Community Devt. Project	International Fund For Agricultural Dev.	Multilateral	Central Government	GoK	17-03-04	15-06-44	10,900,000	XDR
8	2009027_1	South Nyanza Community Dvpt Project	International Fund For Agricultural Dev.	Multilateral	Central Government	GoK	30-09-09	15-06-51	4,000,000	XDR
9	2006014_1	Kimira- Oluch Smallholder Farm Improvement Project	African Development Fund	Multilateral	Central Government	GoK	14-07-06	01-05-56	22,978,992	AUA
10	2010008_1	Kisumu Urban project	Agence Francaise De Development	Bilateral	Central Government	GoK	05-07-10	31-01-35	37,692,458	EUR
11	1995101_1	Mombasa Diesel Generating Power Plant	Government of Japan	Bilateral	Public Corporation	KPLC	24-03-95	20-03-25	8,506,364	JPK
12	2019022_1	Mombasa Gate Bridge Construction Project (I)	Government of Japan	Bilateral	Central Government	GoK	05-12-19	20-06-59	47,800,000	JPK
13	2017038_2	Mombasa Port Area Development Project- Phase II	Government of Japan	Bilateral	Central Government	GoK	04-07-17	20-07-47	12,466,000	JPK
14	2012023_1	Mombasa Port Area Road Project	Government of Japan	Bilateral	Central Government	GoK	12-06-12	20-01-43	27,691,000	JPK
15	2007103_1	Mombasa Port Development Programme	Government of Japan	Bilateral	Public Corporation	KPA	01-01-07	20-11-47	25,465,817	JPK
16	2020004_2	Mombasa Special Economic Zone Development Project (I)	Government of Japan	Bilateral	Central Government	GoK	27-02-20	20-09-59	37,090,000	JPK
17	2017025_1	Rabai Kilifi Transmission Line-SACE Portion	Societe Generale	Commercial Bank	Central Government	GoK	07-04-17	09-05-35	21,611,147	EUR
18	2007015_1	Rabai-Galu Project	KBC BANK	Bilateral	Central Government	GoK	26-10-07	30-09-25	11,557,106	EUR

No	CSDRMS #	Loan Title	Creditor Name	Creditor Category	Borrower Category	Borrower Name	Agreement Date	Maturity Date	Revised Financed Amount	Currency
19	2017060_1	Regional Mombasa Port Access Road	European Investment Bank	Multilateral	Central Government	GoK	28-08-17	15-08-38	50,000,000	EUR
20	2017027_1	Regional Mombasa Port Road Access Project	Govt of Fed. Republic of Germany – GTZ	Bilateral	Central Government	GoK	31-03-17	31-03-32	50,000,000	EUR
21	2010101_1	Olkaria 1 Unit 4 and 5 Geothermal Power Project	Government of Japan	Bilateral	Public Corporation	KENGEN	31-03-10	20-04-40	28,796,098	JPK
22	2018002_1	Olkaria 1 Units 1, 2 and 3 Geothermal Power Plant Rehabilitation Project	Government of Japan	Bilateral	Central Government	GoK	16-03-18	20-04-48	10,077,000	JPK
23	2010025_7	Olkaria 1 units 4 and 5	Agence Francaise De Development	Bilateral	Central Government	GoK	15-12-10	31-12-39	144,201,778	EUR
24	2017045_1	Olkaria I Geothermal (unit 6) and Olkaria I and IV Geothermal Extension Project Same as 2017062	European Investment Bank	Multilateral	Central Government	GoK	04-09-17	15-11-40	72,000,000	EUR
25	2010001_1	Olkaria IV Geothermal Production Wells Drilling Project	Exim Bank of China	Bilateral	Central Government	GoK	13-04-10	21-03-30	592,436,206	CNY
26	2001122_1	Olkaria Phase II Power Plant - Converted from DEM 1999005	Govt of Fed. Republic of Germany – GTZ	Bilateral	Central Government	GoK	31-12-01	31-12-39	12,259,930	EUR
27	2016031_1	Olkaria V Geothermal Power Development Project	Government of Japan	Bilateral	Central Government	GoK	09-03-16	20-04-46	45,690,000	JPK
28	2010022_9	Olkaria1 and1V Geothermal Expansion Project	European Investment Bank	Multilateral	Central Government	GoK	15-12-10	30-09-40	119,000,000	EUR
29	2012005_1	Provision of Drilling Materials for Eighty (80) Geothermal Wells at Olkaria Geothermal Field Project	Exim Bank of China	Bilateral	Central Government	GoK	23-05-12	21-07-32	367,788,462	USD
30	2004010_1	Geothermal Power Plant Olkaria IV-Invest	Govt of Fed. Republic of Germany – GTZ	Bilateral	Central Government	GoK	23-09-04	30-06-57	10,321,211	EUR
31	2010102_2	Rehabilitation and Expansion of the Hydropower Plant Kindaruma	Govt of Fed. Republic of Germany – GTZ	Bilateral	Public Corporation	KENGEN	16-11-10	30-06-24	39,100,000	EUR
32	2011010_1	Kenya Kenyatta University, Teaching, Research and Referral Hospital Project	Exim Bank of China	Bilateral	Central Government	GoK	17-06-11	21-03-32	716,983,704	CNY

Source: CSDRMS Extract

Appendix V: Non-Adherence to Loan Due Date while Servicing Debt

FY	Sample No.	PA No	Loan Name	Loan Key Number	Loan Payment Due Date	Date of Payments	Difference between Due Date and CBK Payment
2020/2021	6	120785	Kenya Airforce Three C27J SPARTAN	2017059	31-Oct-22	24-Oct-22	-7
	9	121216	National Urban Transport Improv Project	2012014	15-May-23	12-May-23	-3
	11	120691	Energy Sector Recovery Project	2004320	15-Sep-22	08-Sep-22	-7
	12	120692	Northern Corridor Transport Improvement	2004421	15-Sep-22	08-Sep-22	-7
	13	120696	Upper Tana Catchment Project	2020029	13-Sep-22	08-Sep-22	-5
	14	120697	Upper Tana Catchment Natural Resource	2012007	13-Sep-22	08-Sep-22	-5
	15	120631	Steamfield Development Bogoria Silali Block	2014012	01-Aug-22	26-Jul-22	-6
	16	120784	Supply to Airforce of Three AW139 helic	2017056	31-Oct-22	24-Oct-22	-7
	17	120739	Road Maintence Renewal Project	2005009	20-Oct-22	17-Oct-22	-3
	18	120765	Horticultural Handling Project	1993005	20-Oct-22	17-Oct-22	-3
	19	120764	Mwea Iggication Project & Bills	1993004	20-Oct-22	17-Oct-22	-3
	20	120763	Export Development Loan	1993003	20-Oct-22	17-Oct-22	-3
	22	121307	African Emergency Food Production	2023003	29-May-23	06-Jun-23	8
	23	121249	Bagamoyo-HoroHoro-Lungalunga - Malindi RoadPr	2020018	15-May-23	24-May-23	9
	24	121250	Operationalization of the Kenya Mortgage Refinan	2020007	15-May-23	24-May-23	9
	25	121251	Enable Youth Kenya Prgram	2018006	15-May-23	24-May-23	9
	26	121308	The Fiscal Sustainability And Inclusive Green Growth Development Policy	2023006	15-Jun-23	05-Jun-23	-10
	27	121274	Ruiru II Dam	2017030	13-Jun-23	05-Jun-23	-8
	28	120786	Ngong II Wind Farm Development	2012013	27-Oct-22	19-Oct-22	-8
	29	120787	Development Solar Energy	2012011	27-Oct-22	19-Oct-22	-8
30	121220	Homa-Bay Cluster water Supply	2017039	22-May-23	15-May-23	-7	

FY	Sample No.	PA No	Loan Name	Loan Key Number	Loan Payment Due Date	Date of Payments	Difference between Due Date and CBK Payment
2021/2022	31	119955	China Buyer Credit Agreement for Construction of Nairobi ICD Yard & Access roads	2017009	20/07/2021	15/07/2021	-5
	34	120032	Upgrade of Rift Valley Textile Factory	2016051	03/08/2021	06/08/2021	3
	35	120012	Farmers Group and Community Support Project	1991007	13/08/2021	09/08/2021	-4
	36	120011	Spanish Export Buyer Credit	2013006	15/07/2021	09/08/2021	25
	37	120080	Emacs Project (Phase II)/Concessional	2011004	21/09/2021	17/09/2021	-4
	38	120094	Olkaria IV Geothermal Drilling	2010001	21/09/2021	17/09/2021	-4
	39	120115	Ithanga Water supply project	2015022	24/09/2021	21/09/2021	-3
	40	120140	IDA Bills	1991015	01/11/2021	27/10/2021	-5
	42	120155	Expansion of Water Supply and waste	2020026	30/09/2021	28/10/2021	28
	43	120154	Vihiga Cluster Water Supply	2016034	15/11/2021	10/11/2021	-5
	44	120159	Term Facility Agreement	2016038	22/11/2021	19/11/2021	-3
	45	120173	Kilimambogo-Githambo-Nyaga-Kiganjo	2008007	30/11/2021	17/11/2021	-13
	46	120193	Kenya Navy Slipway Project	2017053	06/12/2021	02/12/2021	-4
	47	120226	Sovereign Bond 2021 Due on 2033 and 2034	20210111	12/12/2021	23/12/2021	11
	48	120215	International Sovereign Bond (6.875% Fixed rate Bond)	2014011	23/12/2021	20/12/2021	-3
	50	120220	KPLC Grid Development	2005013	20/01/2022	17/01/2022	-3
	51	119825	Rural Private Enterprise Project Ph 1	1983016	16/02/2021	12/01/2022	330
	55	120388	Upgrading Maternal and New Born Care Units in Kapenguria, Chepkorio and Makindu	2017055	31/03/2022	28/03/2022	-3
56	120369	Garissa Sewerage Project	2007014	01/04/2022	28/03/2022	-4	
57	120363	Menengai Geothermal Development	2012003	01/04/2022	28/03/2022	-4	
59	120413	Site and Serv Project - Dandora & Other	1975005	15/04/2022	11/04/2022	-4	

FY	Sample No.	PA No	Loan Name	Loan Key Number	Loan Payment Due Date	Date of Payments	Difference between Due Date and CBK Payment
	60	120440	Mwea Irrigation Project	1993004	20/04/2022	13/04/2022	-7
2022/2023	61	120441	Emergency Locust Response Project	2020015	01/05/2022	22/04/2022	-9
	62	120489	Second National Agr. Extension Project	1996008	14/05/2022	11/05/2022	-3
	63	120475	Olkaria 1 Geothermal Extension	2017045	16/05/2022	11/05/2022	-5
	64	120486	Rehab - Kiganjo Nanyuki Road	1988005	01/06/2022	25/05/2022	-7
	66	120576	Export Credit Agreement	2014005	30/06/2022	23/06/2022	-7
	67	119462	Limuru - Naivasha Road Mai Mahiu	2001372	14/10/2020	09/10/2020	-5
	68	119534	Term Loan Facilities	2017049	13/10/2020	09/10/2020	-4
	70	119529	Export Development Loan	1993003	19/10/2020	16/10/2020	-3
	71	119620	Rehab Kiganjo - Nanyuki Road	1988005	01/12/2020	26/11/2020	-5
	72	119622	RUIRU II DAM	2017030	13/12/2020	08/12/2020	-5
	73	119589	Kenya Navy Slipway Project	2017053	04/12/2020	30/11/2020	-4
	74	119760	Olkaria - Lessos - Kisumu Transmission	2010020	20/12/2020	16/12/2020	-4
	76	119777	Kericho - Sotik Road	1992006	04/01/2021	29/12/2020	-6
	81	119828	Nairobi Rivers Basin Rehabilitation and Restoration	2019016	15/02/2021	12/02/2021	-3
	86	119885	Homa Bay Cluster Water Project	2017039	25/05/2021	21/05/2021	-4
	87	119881	Enable Youth Kenya Program	2018006	14/05/2021	19/05/2021	5
	88	119727	Galana/ Kulalu Food Security Project	2015016	31/03/2021	27/04/2021	27
	90	119717	Garissa Sewerage Project	2007014	01/04/2021	29/03/2021	-3

Source: OAG Analysis

Appendix VI: Responses from The National Treasury on Non-Adherence to Payment Advices Due Dates

1.0 Late Payments of PAs

Records show that 14 PAs were paid after expiry of due date as follows:

Table 1: List of PAs Paid after Expiry of Due Date

No.	PA No.	Amount (KES.)	Payment Due Date	Actual CBK Payment Date	No. Of Delayed Days	Remarks
1.	121287	455,584.47	13/06/2023	14/06/2023	1	Payment was made on the due date, 14/06/2023.
2.	121307	23,338,539.00	29/05/2023	06/06/2023	8	Delay in Legal opinion approval by Attorney General - no penalty accrued
3.	121249	34,465,353.67	15/05/2023	24/05/2023	9	Transaction file could not be traced on time - no penalty accrued
4.	121250	95,639,792.82	15/05/2023	24/05/2023	9	Transaction file could not be traced on time - no penalty accrued
5.	121251	52,373,081.95	15/05/2023	24/05/2023	9	Transaction file could not be traced on time - no penalty accrued
6.	120032	24,507,658.65	03/08/2021	06/08/2021	3	Due date was 5/08/2021 and CBK paid on 6/08/2021 - no penalty accrued
7.	120011	226,300,963.50	05/07/2021	09/08/2021	25	Bill received Late due date 13/07/2021
8.	120155	5,512,005.13	30/09/2021	28/10/2021	28	Delay in Legal opinion approval by Attorney General - no penalty accrued
9.	120226	5,877,222.00	12/12/2021	23/12/2021	11	Payment made on 23/12/2021- no penalty accrued
10.	119825	31,948,731.78	16/02/2021	12/01/2022	330	PA was processed on time but was shelved because of the DSSI negotiation - no penalty accrued.
11.	120315	26,110,195.07	03/02/2022	04/02/2022	1	Payment was made on the due date, 04/02/2022.
12.	119934	84,604,023.06	13/06/2021	14/06/2021	1	Payment was made on the due date, 14/06/2021.
13.	119881	23,750,086.87	14/05/2021	19/05/2021	5	Due date was 15/05/2021. PA was submitted to CBK for payment on 12/05/2021. CBK paid 19/05/2021- no penalty accrued
14.	119727	369,237,128.35	31/03/2021	27/04/2021	27	Delay in Legal opinion approval by Attorney General

Source: OAG Analysis

These delays could contribute to additional costs in terms of interest on delayed payments.

Prepared by: Siyad Abdi

Checked by: Jared Birundu

Appendix IIIII: Substantive Tests Performed on 32 Sampled Dormant Loans.

No	Project Name	Creditor	Beneficiary	Date of Loan Agreement	Loan Amounts	Project Appraisal			Loan Negotiation	Legal Opinion/Clearance Details
						Project Feasibility Studies	Public Participation	Project Approval	Minutes Details / Representation / Important Amendments	
1	Olkaria V Geothermal Power Development project	JICA	KENGEN	9th March 2016	JPY 45,690,000,000	✓	✓	✓	x	x
2	Olkaria 1 and IV Geothermal Expansion Project	European Investment Bank	KENGEN	15th December 2010	119,000,000.00	✓	✓	✓	x	x
3	Olkaria I Unit 1, 2 & 3 Geothermal Power Rehabilitation Project	JICA	KENGEN	March 16 2018	10,077,000	✓	x	✓	x	x
4	Kenya Olkaria IV Geothermal Field Production Wells Drilling Project	EXIM Bank of China	Ministry of Energy	13th April 2010	(CNY670,000,000.00).	x	x	x	x	x
5	Olkaria 11 geothermal power plant	KFW	KENGEN	4/19/1999	€ 12,259,929.5	x	x	x	x	x
6	Olkaria IV Power Plant	AFD	KENGEN	15th December 2010	EUR 150,000,000	✓	✓	x	x	x
7	Geothermal Power Plant Olkaria IV (Investment)	KFW, Frankfurt am Main and the Republic of Kenya	The Government of the Republic of Kenya	23-Sep-04	Eur 7,624,210.69	x	x	x	x	x

No	Project Name	Creditor	Beneficiary	Date of Loan Agreement	Loan Amounts	Project Appraisal			Loan Negotiation	Legal Opinion/ Clearance Details
						Project Feasibility Studies	Public Participation	Project Approval	Minutes Details / Representation / Important Amendments	
8	Olkaria I Unit 4 and 5	Japan International Cooperation Agency (JICA)	Kenya Electricity Generating Company Limited	31-Mar-10	JPY 29,516,000,000.00	✓	✓	x	x	x
9	Provision of Drilling Materials for Eighty (80) Geothermal Wells at Olkaria Geothermal Field Project	The Export- Import (EXIM) Bank of China	The Government of the Republic of Kenya Represented by The Ministry of Finance	23-May-12	USD 382,500,000.000	✓	✓	✓	x	x
10	Olkaria 1 Geothermal Unit 6	European Investment Bank	GoK	28-Aug-17	Euros 72,000,000	✓	x	✓	x	x
11	Rehabilitation and Expansion of the Hydropower Plant Kindaruma	Govt of Fed. Republic of Germany - GTZ	Kenya Electricity Generating Company	16-Nov-10	Euro 39,100,000	✓	x	✓	x	x
12	Kimira- Oluch Smallholder Farm Improvement Project	African Development Fund	Ministry of Regional Development Authorities	14th July 2006	UA 22,978,992	x	✓	✓	x	x
13	Kenyatta University Teaching, Research and Referral Hospital Project	The Export-Import Bank of China	Kenyatta University	11th June 2011	RMB 744,560,000	x	x	x	x	x
14	Sondu-Miriu Hydro Power I Project	Overseas Economic Cooperation Fund	Kenya Power Company Limited	3-Mar-97	Jap Yen 6,933,000,000	x	x	x	✓	x

No	Project Name	Creditor	Beneficiary	Date of Loan Agreement	Loan Amounts	Project Appraisal			Loan Negotiation	Legal Opinion/Clearance Details
						Project Feasibility Studies	Public Participation	Project Approval	Minutes Details / Representation / Important Amendments	
15	Sondu-Miriu Hydro Power II Project	Japan Bank for International Cooperation (JICA)	Kenya Electricity Generating Company Limited (Kengen)	20-Feb-04	Jap Yen. 10,554,000,000	x	x	x	x	x
16	Sondu-Miriu Hydropower Project Sang'oro Power Plant.	Japan Bank for International Cooperation (JICA)	Kenya Electricity Generating Company Limited (Kengen)	23-Jan-07	Jap yen 5,620,000,000	x	x	x	✓	x
17	Sondu - Homa Bay – Kisii (Awendo) Electrification Project	KBC BANK NV	Ministry of Energy & KETRACO	21st August 2013	EUR 6,993,067.86	✓	x	x	x	x
18	Cancer Care Treatment in Kisii Hospital Project	Arab Bank For Econ.Dev.In Africa	Ministry of Health & County Government of Kisii	3rd June 2015	USD 10,000,000.00	x	x	✓	x	✓
19	Cancer Care Treatment in Kisii Hospital Project	Saudi Fund for Development (SFD)	Ministry of Health & County Government of Kisii	4/12/2017	USD 10,000,000.00	x	x	✓	x	✓
20	Kisumu Urban Project	Agence Francaise De Development	Ministry of Local Government & City of Kisumu	5th July 2010	EUR 40,000,000.00	✓	x	x	x	x
21	Mombasa Diesel Generating Power Plant (Kipevu 1)	Government of Japan	Kenya Power Company Limited	31-Mar-95	JPY 10,716,000,000	x	x	x	x	x
22	Mombasa Port Development Project	Government of Japan	Kenya Ports Authority	20-Nov-07	JPY 26,711,000,000	x	x	x	x	x

No	Project Name	Creditor	Beneficiary	Date of Loan Agreement	Loan Amounts	Project Appraisal			Loan Negotiation	Legal Opinion/Clearance Details
						Project Feasibility Studies	Public Participation	Project Approval	Minutes Details / Representation / Important Amendments	
23	Regional Mombasa Port Access Road	European Investment Bank	KENHA	8/7/2017 and renewed on 2 March 2022	EUROS 50,000,000	✓	x	x	x	x
24	Regional Mombasa Port Road Access Project	Government of Fed. Republic of Germany (GTZ)	KENHA	31 March 2017 and renewed on	EUROS 50,000,000	✓	x	x	x	x
25	Mombasa Gate Bridge Construction Project	Government of Japan	KENHA	5-Dec-19	JPY 47,800,000,000	✓	✓	x	x	x
26	Mombasa Special Economic Zone	Government of Japan - Japan International Cooperation Agency (JICA)	KENHA, KPA, KETRACO	27-Feb-20	JPY 37,090,000,000	✓	✓	x	x	✓
27	Mombasa Port Area Development Project - Phase II (Package 3)	Japan International Cooperation Agency (JICA)	KENHA	4-Jul-17	JPY12,466,000,000	✓	✓	x	x	✓
28	Mombasa Port Area Development Project - Phase (Package 2)	Japan International Cooperation Agency (JICA)	KENHA	2-Jun-12	JPY 27,691,000,000	✓	✓	x	x	x
29	Rabai Kilifi Transmission Line	Societe Generale	KETRACO	17-Apr-17	EUR 21,611,147.19	x	x	x	x	x
30	Rabai-Galu 132 KV Power Transmission Project	KBC Bank NV	Kenya Power and Lighting Company	26-Oct-07	EUR 11,557,106.24	x	x	x	x	✓

No	Project Name	Creditor	Beneficiary	Date of Loan Agreement	Loan Amounts	Project Appraisal			Loan Negotiation	Legal Opinion/Clearance Details
						Project Feasibility Studies	Public Participation	Project Approval	Minutes Details / Representation / Important Amendments	
31	Kenya Nairobi Underground Electric Power Distribution Network in Kilimani, Hurlingham, Ngong Road, State House and Lavington	The Export-Import Bank of China	Kenya Power and Lighting Company (KPLC)	15-May-17	CNY 1,200,000,000	✓	x	✓	x	x
32	Kenya Nairobi Underground Electric Power Distribution Network in Kileleshwa, Westlands, Parklands, Ngara and Riverside Area Project	The Export-Import Bank of China	Kenya Power and Lighting Company (KPLC)	15-May-17	CNY 685,000,000	✓	x	✓	x	x
					Totals of Provide Documentations	18	10	11	2	5

Source: OAG Analysis of 32 Sampled Loan Agreements and Project Documents

Appendix IVIII: Commitment Fees Paid on Undisbursed Loan Balances from the 32 Sampled Project Loans

No :	Project Name	Loan A/C	Loan Amounts	Effectiveness Date	Actual Date of 1st disbursement	Total Amounts Disbursement to date	Planned Date of Last Disbursement (Loan Agreement)	Actual Date of last disbursement	Balances	Commitments Fee Paid (FX Currency)	Commitments Fee Paid (Kshs Equivalent)
1	Kenya Olkaria IV Geothermal Field Production Wells Drilling Project	2010001	CNY 670,000,000.00	Effectiveness notice not provided		CNY 616,133,653.87			CNY 53,866,346.13	CNY 5,222,525.74	74,193,635.40
2	Olkaria 11 geothermal power plant	2001122	€ 12,259,929.5	04/19/1999	17/12/2003	11,918,975.33	12/31/2002	03/22/2005	863,321.70	€ 28,868.910	3,111,366.69
3	Geothermal Power Plant Olkaria IV (Investment)	Loan Key No:2004010	€ 7,624,210.69	03/22/2005	30/06/2007	10,624,210.69	Not Disclosed	05/10/2012	0	123,082.42	12,769,837.56
4	Olkaria I Unit 4 and 5	Loan Key No:2010101	JPY 29,516,000,000	09/27/2010	30/03/2012	JPY 19,064,544,620	Not Disclosed	22/0/2023	JPY 10,275,460,000	146,809,006.00	99,661,248.31
5	Provision of Drilling Materials for Eighty (80) Geothermal Wells at Olkaria Geothermal Field Project	Loan Key No: 2012005	USD 382,500,000	05/23/2012	25-Dec-12	382,500,000	NA	13/09/2017	0	3,737,029.64	341,667,543.53
6	Olkaria 1 Geothermal Unit 6	AC 37/205/038 2017045	€ 72,000,000	02/24/2018	4-May-21	28,868,904.09	8/7/2021	22-Jun-23	43,131,095.91	828,035.100	102,015,015.16
7	Rehabilitation and Expansion of the Hydropower Plant Kindaruma	A	€ 39,100,000	02/14/2011	6-Jun-12	39,100,049.91	12/31/2014	30-Jun-17	0	73,925.35	-

No :	Project Name	Loan A/C	Loan Amounts	Effectiveness Date	Actual Date of 1st disbursement	Total Amounts Disbursement to date	Planned Date of Last Disbursement (Loan Agreement)	Actual Date of last disbursement	Balances	Commitments Fee Paid (FX Currency)	Commitments Fee Paid (Kshs Equivalent)
8	Kenyatta University Teaching, Research and Referral Hospital Project	2011010	RMB 744,560,000		12/26/2011	CNY 737,615,029	N/A	On going	CNY 6,944,971	CYN 16,950,523.45	246,658,837.50
9	Sondu-Miriu Hydropower Project Sang'oro Power Plant.	KE-P24 2007101	JPY 5,620,000,000	5/23/2007	12/7/2007	4,313,341,481	5/23/2016	8/9/2016	JPY 1,306,658,519	JPY 3,939,527	-
10	Sondu - Homa Bay – Kisii (Awendo) Electrification Project	2013009	€ 6,993,067.86			€ 6,161,711.37				€ 47,997.35	5,633,965.03
11	Mombasa Port Development Project	AC 37/174/041 2007103	JPY 26,711,000,000	1/7/2009	3/26/2012	JPY 26,328,843,226	Nov-15	9/30/2016	JPY 382,156,774.00	JPY 4,844,000	3,695,316.96
12	Regional Mombasa Port Access Road	AC 37/205/039 2017027	€ 50,000,000		2023/04/13	€ 16,355,329.82	2023/04/13	Project ongoing	€ 33,644,670.18	€ 628,471.18	89,805,575.40
13	Regional Mombasa Port Road Access Project	AC 37/141/114 2017060	€ 50,000,000		2023/03/30	€ 8,438,150.59	31/12/2023	Project ongoing	€ 41,561,849.41	€ 718,750.00	77,744,945.85
14	Mombasa Port Area Development Project - Phase II (Package 3)	AC 37/174/049 2017038	JPY 12,466,000,000	Not indicated	15-Mar-22	JPY 5,106,603,610	Dec-21	20-Mar-23	JPY 7,359,396,390	0	-
15	Mombasa Port Area Development Project - Phase (Package 2)	AC 37/174/045 2012023	JPY 27,691,000,000	Not indicated	29-Mar-13	JPY 27,159,064,345	Aug-18	29-Jul-22	JPY 531,935,655	JPY 174,862,940	160,924,086.46
16	Rabai Kilifi Transmission Line	AC37/220/010 2017025	€ 21,611,147.19	Date of signing of the financing agreement (7 April 2017).	8-Jul-20	€ 12,132,553.93	26-Mar-24	15-May-23	€ 9,478,593.26	€ 1,702,951.13	214,499,570.38

No :	Project Name	Loan A/C	Loan Amounts	Effectiveness Date	Actual Date of 1st disbursement	Total Amounts Disbursement to date	Planned Date of Last Disbursement (Loan Agreement)	Actual Date of last disbursement	Balances	Commitments Fee Paid (FX Currency)	Commitments Fee Paid (Kshs Equivalent)
17	Rabai-Galu 132 KV Power Transmission Project	AC 37/2007/018 2007015	€ 11,557,106.24	18 months after coming into force of the credit.	24-Apr-08	€ 11,557,106.24	192 months after the starting date.	31-Mar-10	0	€ 17,939.76	1,887,886.89
18	Kenya Nairobi Underground Electric Power Distribution Network in Kilimani, Hurlingham, Ngong Road, State House and Lavington		CNY 1,200,000,000		16-Jan-18	0	not indicated	not applicable	project cancelled	CNY 20,299,999.88	318,901,261.91
19	Kenya Nairobi Underground Electric Power Distribution Network in Kileleshwa, Westlands, Parklands, Ngara and Riverside Area Project		CNY 685,000,000.00		16-Jan-18	0	not indicated	not applicable	project cancelled	CNY 9,856,388.75	155,696,470.93
Total Commitment Fees on Sampled Projects											1,908,866,563.96
Total Overall CTA											55,862,814,696.84
										Proportion of CTA of Sampled projects to the Total Amount	3.42%

Source: OAG Analysis of 32 Sampled Loan Agreements, Project Documents and CSDRMS Loan Transaction Ledgers

Appendix IX: Completed Projects with Undrawn Balances

N o.	Project Name	Loan A/C	Loan Agreement Details				Disbursement				Balances (Kshs) at the Current Exchange Rate	Project Physical Verification Project Status (Yet to Begin/Stalled) If Achieved the Objective
			Creditor	Beneficiary	Date of Loan Agreement	Loan Amounts	Actual Date of 1st disbursement	Total Amounts Disbursement to date	Actual Date of last disbursement	Balances (FX)		
1	Olkaria V Geothermal Power Development project	No. KE - P31	JICA	KENGEN	9th March 2016	JPY 45,690,000,000	3/28/2017	29,612,838,064.72	10/20/2022	16,077,161,935	17,524,106,509.15	Project is complete
2	Olkaria 1 and IV Geothermal Expansion Project		European Investment Bank	KENGEN	15th December 2010	119,000,000.00	12/27/2012	€ 77,171,051.46	8/5/2015	41,828,948.54	7,301,661,257.14	Complete
3	Kenya Olkaria IV Geothermal Field Production Wells Drilling Project	2010001	EXIM Bank of China	Ministry of Energy	13th April 2010	CNY 670,000,000		CNY 616,133,653.87		53,866,346.13	1,210,915,461.00	Complete. Twenty-six geothermal production wells were drilled as per the contract, thus achieving the project objective.
4	Olkaria 11 geothermal power plant	2001122	KFW	KENGEN	4/19/1999	€ 12,259,929.5	12/17/2003	11,918,975.33	3/22/2005	863,321.70	150,701,435.95	The project was completed and commissioned in 2003. Its operates within its objective of generating 70MWe through its two steam turbine generators, each with a nominal rating of 35 Mw.
5	Olkaria IV Power Plant	2010025	AFD	KENGEN	15th December 2010	EUR 150,000,000	10/12/2012	86,973,335.15	7/24/2015	63,026,664.85	11,001,934,616.22	The project was completed and commissioned in 2014. The project has achieved its objective of providing additional electricity by injecting 140MW to the KPLC national grid as per the purchasing power agreement and sustainability by having recycling system through re-injection wells.

No.	Project Name	Loan A/C	Loan Agreement Details				Disbursement				Balances (Kshs) at the Current Exchange Rate	Project Physical Verification
			Creditor	Beneficiary	Date of Loan Agreement	Loan Amounts	Actual Date of 1st disbursement	Total Amounts Disbursement to date	Actual Date of last disbursement	Balances (FX)		
6	Olkaria I Unit 4 and 5	Loan Key No:2010101	Japan International Cooperation Agency (JICA)	Kenya Electricity Generating Company Limited	31-Mar-10	JPY 29,516,000,000	30-Mar-12	JPY 19,064,544,620	22-Aug-23	10,275,460,000	11,200,251,400.00	The Project was successfully completed and handed over to KenGen in October 2016.
7	Provision of Drilling Materials for Eighty (80) Geothermal Wells at Olkaria Geothermal Field Project	Loan Key No: 2012005	The Export-Import (EXIM) Bank of China	The Government of the Republic of Kenya Represented by The Ministry of Finance	23-May-12	USD 382,500,000	25-Dec-12	382,500,000	13-Sep-17	0	-	The Implementing Agency KenGen did NOT Avail Project Completion and Handover Reports for review. However, the Audit Team Performed Actual Field Verification and Confirmed the Project Delivery of 89 Wells against the Planned/Targeted 80 Wells. The Audit Team Verified and Confirmed the existence of the Wells which are Categorized as follows: Cold Reinjection Wells (6 Units); Hot Reinjection Wells (7 Units); Make-Ups Wells (6 Units); Monitoring Wells (9 Units) and Production Wells (61 Units).
8	Olkaria 1 Geothermal Unit 6	AC 37/205/038	European Investment Bank	GoK	28-Aug-17	€ 72,000,000	4-May-21	28,868,904.09	22-Jun-23	43,131,095.91	7,528,964,102.05	Project achieved its Objective: Project Complete Commissioned on 26 July 2022, as at the time of verification the output was 80.53 Mw feeds into the National Grid Via Suswa Substation
9	Rehabilitation and Expansion of the Hydropower Plant	AC37/141/108	Govt of Fed. Republic of Germany - GTZ	Kenya Electricity Generating Company	16-Nov-10	€ 39,100,000	6-Jun-12	39,100,049.91	30-Jun-17	0	-	Project objective achieved & Completed on 21 st July 2013, output from 24MW to 30MW

N o.	Project Name	Loan A/C	Loan Agreement Details				Disbursement				Balances (Kshs) at the Current Exchange Rate	Project Physical Verification Project Status (Yet to Begin/Stalled) If Achieved the Objective
			Creditor	Beneficiary	Date of Loan Agreement	Loan Amounts	Actual Date of 1st disbursement	Total Amounts Disbursement to date	Actual Date of last disbursement	Balances (FX)		
	Kindaruma											
10	Sondu-Miriu Hydro Power I Project	KE-P21	Overseas Economic Cooperation Fund	Kenya Power Company Limited	3-Mar-97	JPY 6,933,000,000	2/18/1998	6,931,955,064.00	7/21/2007	(1,044,936.00)	- 1,138,980.24	Completed
11	Sondu-Miriu Hydro Power II Project	KE-P23	Japan Bank for International Cooperation (JICA)	Kenya Electricity Generating Company Limited (KENGEN)	20-Feb-04	JPY 10,554,000,000	11/24/2004	10,553,999,999.00	7/7/2009	1.00	1.09	completed
12	Sondu-Miriu Hydropower Project Sang'oro Power Plant.	KE-P24	Japan Bank for International Cooperation (JICA)	Kenya Electricity Generating Company Limited (KENGEN)	23-Jan-07	JPY 5,620,000,000	12/7/2007	4,313,341,481.00	8/9/2016	1,306,658,519	1,424,257,785.71	Completed in 2016 awaiting launching.
13	Kisumu Urban Project	2010008	Agence Francaise De Developpement	Ministry of Local Government & City of Kisumu	5th July 2010	€ 40,000,000.00	9/17/2012	EUR 34,613,123.48	12/6/2018	5,386,876.52	940,333,165.33	The project is complete, however, some infrastructure components were not completed in full, including the Otongolo Bridge, Jubilee Market.
14	Mombasa Diesel Generating Power Plant (Kipevu 1)	AC137/174/037	Government of Japan	Kenya Power Company Limited	31-Mar-95	JPY 10,716,000,000	1995/03/24	JPY 8,719,021,762	12-Dec-00	1,996,978,240	2,176,706,281.60	Complete. To promote the region's potential to cope with the region's increasing demand for electricity by constructing a power plant with a capacity of 75 MG in Kipevu, a suburb of Mombasa.
15	Mombasa Port Development Project	AC 37/17	Government of Japan	Kenya Ports Authority	20-Nov-07	JPY 26,711,000,000	3/26/2012	JPY 26,328,843,226	9/30/2016	382,156,774.00	416,550,883.66	Complete. To enhance container handling capacity by constructing a new container terminal and providing new handling facilities at the Mombasa Port with a

N o.	Project Name	Loan A/C	Loan Agreement Details				Disbursement				Balances (Kshs) at the Current Exchange Rate	Project Physical Verification Project Status (Yet to Begin/Stalled) If Achieved the Objective
			Creditor	Beneficiary	Date of Loan Agreement	Loan Amounts	Actual Date of 1st disbursement	Total Amounts Disbursement to date	Actual Date of last disbursement	Balances (FX)		
												larger goal of facilitating trade and economic development in Kenya, and neighboring countries in East Africa.
16	Mombasa Port Area Development Project - Phase II (Package 3)	AC 37/174/049	Japan International Cooperation Agency (JICA)	KENHA	4-Jul-17	JPY 12,466,000,000	15-Mar-22	JPY 5,106,603,610	20-Mar-23	7,359,396,390	8,021,742,065.10	Complete. The objective of the project is to facilitate smooth transportation around the Mombasa port area by constructing roads and bridges, thereby contributing to economic growth of Kenya and the surrounding region.
17	Rabai-Galu 132 KV Power Transmission Project	AC 37/2007/018	KBC Bank NV	Kenya Power and Lighting Company	26-Oct-07	€ 11,557,106.24	24-Apr-08	€ 11,557,106.24	31-Mar-10	0	-	Complete. Supply, installation and commissioning of equipment for the electrification network of the Rabai- Galu Project.
										TOTAL	68,896,985,983.76	

Source: OAG Analysis of 32 Sampled Loan Agreements, Project Documents and CSDRMS and Implementing Agencies Loan Transaction Ledgers

Appendix X: Auditor's Remarks on Reponses Submitted by The National Treasury

No.	Findings	The National Treasury Responses	Auditors Remarks
1	Variances in Budgeted, Approved and Actual Debt Service Amounts Due to Exchange Rate Time Difference	The increase in budgeted debt repayment is informed by maturing loans and estimated exchange rates. However, the prevailing market rates at a particular period may be different than projected.	The finding shows the overview and variance of the debt services variances is thus retained as is.
2	Variance between CoB approved amounts and the actual CBK amounts	The exchequer requisition is done using the CBK published exchange rates while seeking the CoB approval of the payment. This is usually reconciled with the actual payments at the CBK on monthly basis. The shortfall on exchange difference is approved by the CoB to replenish the account and to cushion for the following month payments.	The finding has been amended to capture the responses provided
3	Inadequate Adherence to Loan Due Dates While Servicing Debt	The National Treasury settles obligations due upon receipt of demand notes or bills. Some lenders have given TNT access to clients' connections which makes it easier for some bills to be processed on time. The National Treasury engages the lenders who do not send their bills in time for processing. Some clients like IFAD sends their bills on the due date but gives a period of one month to settle the bill.	Issue to be retained and the TNT responses added at Appendix V1.

No.	Findings	The National Treasury Responses	Auditors Remarks
4	Inadequate Adherence to Loan Due Dates While Servicing Debt	The fully processed PA's are settled on due date unless the due date is falling on a weekend or a public holiday. In case there is an amendment of a PA during the preparation, the due date cannot be repeated and thus is captured a day earlier. New loans which demands front end or commitment fee payment may delay if the legal opinion has not been signed by the AG. A schedule of the payments picked as late payment is attached to show they were settled within the due date. (see attached Annex 1A)	The finding is retained.
5	Inadequate Transparency and Clarity on Period in Processing PA Before Loan Due Date and Exchange Rates Applied During Actual Payments Amongst the National Treasury, Controller of Budget and the Central Bank of Kenya	The PDMO have operations manual which stands as a guidance while processing the payments. The PA's are subjected to various checks and controls during the process.	The finding is retained. The response does not adequately address the issue.
6	Inadequate Transparency and Clarity on Period in Processing PA Before Loan Due Date and Exchange Rates Applied During Actual Payments Amongst the	A projection for the month is shared with the Central Bank in advance to prepare the foreign currency needed. The PA have the due dates indicated on them during the process. The transaction files are forwarded to the Controller of Budget to confirm the validity of the payments	The finding is retained. The response is not directly related to the issue.

No.	Findings	The National Treasury Responses	Auditors Remarks
	National Treasury, Controller of Budget and The Central Bank	being made. The public debt uses the CBK published exchange rates to make requisitions.	
7	Non-provision of Loan Negotiation documents	The draft financing agreement can be negotiated through a round table discussions or through exchange of letters. Prior to operationalization of Public Debt and Borrowing Policy, 2020, most of the Agreements were negotiated through exchange of letters.	The finding is retained. Documentation on loan negotiation was not provided.
8	Legal Opinion/Clearance Details	A legal opinion is a condition precedent in the most of the financing agreements. However, some agreements do not require it. In this specific case, kindly provide a list of the 27 project loans to ascertain whether it was a condition precedent or not.	The finding is retained as is. The 27 loans were provided in Appendix IV
9	Delays in Drawing Down First Disbursements	The Treasury Circular No. 12/2018 was issued in 2018 on the Checklist of Mandatory Requirements that the Line Ministries must provide before seeking external financial support. These include: confirmation of the acquisition of land and wayleaves; prioritization and commitment of the GoK counterpart funds among others. This has therefore mitigated the Government against potential financial risks including payment of unnecessary commitment fees and other charges.	The finding is retained. The policy document mentioned is not being implemented effectively.
10	Undrawn Balances after Project Completion	The unutilized amount of Kshs. 11.2 billion from Olkaria 1 unit 4&5 was allocated to Olkaria 1 unit	The finding is retained.

No.	Findings	The National Treasury Responses	Auditors Remarks
		6 amounting to Kshs. 5.2 billion and Olkaria 1 Rehabilitation amounting to Kshs 4.9 billion. The implementation of the Olkaria 1 unit 6 is now complete and fully disbursed. The implementation of Olkaria 1 Rehabilitation was in 2022 and expected in 2026. The project has already disbursed Kshs. 1.3 billion.	Response is not satisfactory to the finding. The feedback from TNT confirms outstanding undisbursed amount of Kshs. 11b which was transferred to the two other projects. However, the audit reviewed the loan register and determined that it was not revised downwards by the same amount. Hence, this leads to the risk of overstatement of external debt register.
11	Wastage of <u>Kshs. 626,458,045.33</u> due to delay in Cancellation of Underground Electric Power Distribution Network Project in Nairobi Areas	The State Department for Energy and KPLC were unable to implement the project after getting other interventions to complete the project. The State Department for Energy requested the funds to be repurposed to finance different scope of the project. The proposal was not approved since it required a significant amendment to the financing agreement akin to signing a new financing agreement. This therefore necessitated the cancellation of the loan amount.	The response does not negate the finding, therefore, it is retained.
12	Stalled Projects: Kisumu Urban Project signed in 2010	The program had several projects which were successfully implemented and completed. The component on low volume access project had	According to the Public Finance Management (PFM) Regulations of 2015 Section 194 (1) (s), in

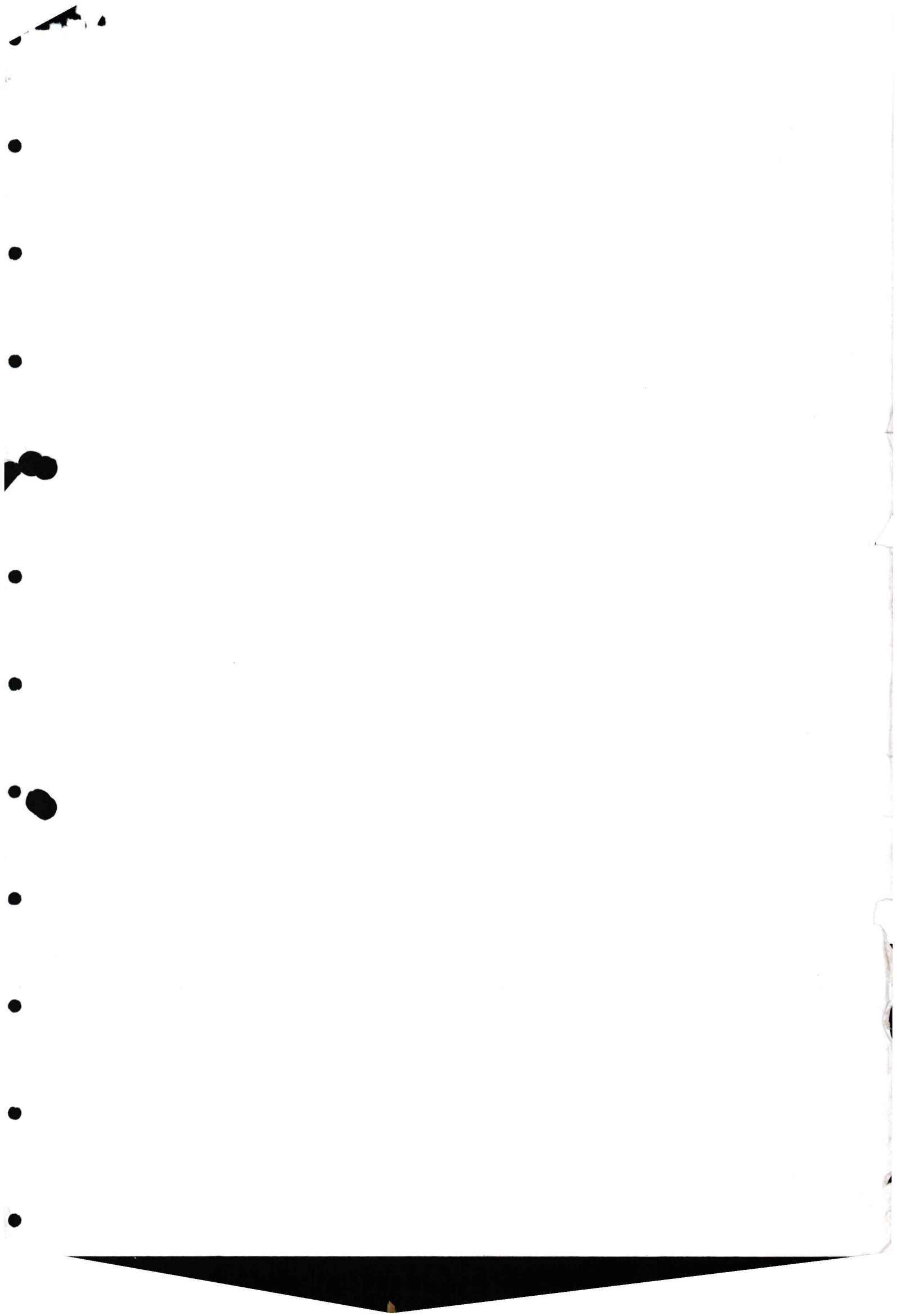
No.	Findings	The National Treasury Responses	Auditors Remarks
		<p>contractual issues and the project stalled. The State Department of the Housing and Urban Development as implementing Ministry should address the contractual issues. It is responsibility of the National Treasury as the Borrower to repay the drawn loan amount.</p>	<p>addition to the provisions of Section 63 of the Act, the functions of the Public Debt Management Office established under Section 62 shall be to-coordinate, review and monitor the utilization of external resources including joint programming, joint work plans, joint visits, joint implementation, and monitoring and evaluation.</p> <p>The finding remains as is.</p>
13	<p>Stalled Projects: Kimira - Oluch Smallholder Farm Improvement Project</p>	<p>The project stalled when the works were 80% complete and the remaining works were financed by GoK counterpart funding. Lake Basin Development Authority under the State Department for ASALs and Regional Development as implementing entity is responsible for restoration and sustainability of this project. It is responsibility of the National Treasury as the Borrower to repay the drawn loan amount</p>	<p>According to the Public Finance Management (PFM) Regulations of 2015 Section 194 (1) (s), in addition to the provisions of Section 63 of the Act, the functions of the Public Debt Management Office established under Section 62 shall be to-coordinate, review and monitor the utilization of external resources including joint programming, joint work plans, joint visits, joint implementation, and monitoring and evaluation.</p>

No.	Findings	The National Treasury Responses	Auditors Remarks
			The finding remains as is.
14	Stalled Projects: Kenyatta University Teaching, Referral and Research Hospital (KUTTRH)	It is noted that Kenyatta University is under the State Department for Higher Education and Research while Kenyatta University Teaching, Referral and Research Hospital (KUTTRH) is under the State Department of Medical Services. The State Department of Medical Services as per the Legal Notice No. 4 of 2019 became the end user for the project. The National Treasury wrote to the Exim Bank of China informing them to recognize the KUTTRH as the end user of the project (see Annex 1B).	The response does not negate the finding. The attached Annex 1B is dated 29 th January 2024, three months after the audit inspection.
15	Stalled Projects: Sondu - Homa Bay – Kisii (Awendo) Electrification Project	The Commercial Contract between KETRACO and the Contractor was terminated on account of bankruptcy of the Contractor. The overall completion rate of the project was at 83%. The National Treasury cancelled the undrawn loan amount and the Ministry of Energy was advised to finance the remaining project works using the exchequer.	The response does not address the issue of recovery of performance bond and the time taken to make a decision on the matter. The finding remains as is.
16	Stalled Projects: Cancer Care Treatment in Kisii Hospital Project	The Saudi Fund for Development and BADEA have issued 'No-objection' vide their letters dated 12 th October, 2023 and 18 th October, 2023 respectively for award of tenders (see Annex 2). The Ministry is expected to accelerate the project works with the project implementation period.	The no-objections were issued on 12 th October 2023 and 18 th October 2023 after audit inspections were carried out. These letters were not shared with audit team until ML was issued.

No.	Findings	The National Treasury Responses	Auditors Remarks
			<p>The SFD no-objection letter is not signed.</p> <p>The finding remains as is.</p>
17	Stalled Projects: Rabai - Kilifi Transmission Line	The State Department for Energy is expected to complete the original scope of the project within the implementation period. The new scope of the project is for additional project activities requires new approvals from relevant authorities.	<p>The response does not adequately address the issue.</p> <p>The finding remains as is.</p>
18	Delays in implementation of the Mombasa Gate Bridge Construction Project	The National Treasury has informed the State Department for Roads to implement the original scope of the project. The additional request to be implemented in the subsequent project phase. (see Annex 3)	<p>The response does not adequately address the finding.</p> <p>The issue is retained.</p>
19	Non provision of project files: Geothermal Power Plant Olkaria IV (Invest) Loan Key No. 2004010	<p>The Loan Agreement of Euro 7,624,210 was signed in 23rd September, 2004 between GoK and KfW and was later revised upwards by Euro 3,000,000 to Euro 10,624,210 through addendum dated 1st December, 2011 (see Annex 4).</p> <p>The National Treasury used to maintain lenders information in a general file as opposed to specific project file. There was no specific project file for this project. Some correspondences/letters relating to this project</p>	<p>The response qualifies the finding.</p> <p>It remains as is.</p>

No.	Findings	The National Treasury Responses	Auditors Remarks
		<p>were retrieved from a closed General file containing KfW and GIZ financed projects (see Annex 5). The implementing entity was Kenya Electricity Generating Company PLC (KenGen) under the State Department for Energy.</p> <p>The State Department for Energy and KenGen as the implementing entities can provide more information on this matter.</p>	

Source: The National Treasury Responses and Auditors Remarks



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