

REPUBLIC OF KENYA



Enhancing Accountability

REPORT

OF

THE AUDITOR-GENERAL

ON

NATIONAL LAND COMMISSION

**FOR THE YEAR ENDED
30 JUNE, 2023**

THE NATIONAL ASSEMBLY
PAPERS Laid

DATE: 22 FEB 2024

DAY

TUES

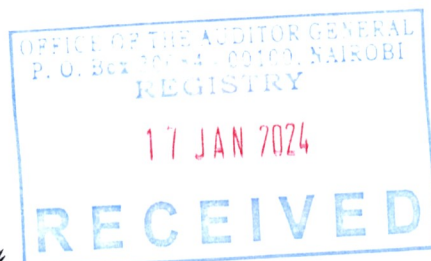
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Deputy Leader, majority party

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NATIONAL LAND COMMISSION

ANNUAL REPORT AND FINANCIAL STATEMENTS

FOR THE FINANCIAL YEAR ENDED

JUNE 30, 2023

**Prepared in accordance with the Cash Basis of Accounting Method under the International Public Sector
Accounting Standards (IPSAS)**

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National Land Commission
Annual Report and Financial Statements for the year ended 30th June 2023

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1. Acronyms and Glossary of Terms

AIE	Authority to Incur Expenditure
NLC	National Land Commission
CFO	Chief Finance Officer
HAU	Head of Accounting Unit
IPSAS	International Public Sector Accounting Standards
OCOB	Office of the Controller of Budget
OAG	Office of the Auditor General
PFM	Public Finance Management

2. Key Entity Information and Management

(a) Background information

The National Land Commission (NLC) is an Independent Constitutional Commission established under Article 67 of the Constitution of Kenya, 2010. It was operationalized through Acts of Parliament that gave effect to Article 67 of the Constitution, namely; the National Land Commission Act, 2012; the Land Act, 2012 and the Land Registration Act, 2012, to carry out its mandate as outlined both in the Constitution and in the aforementioned legislations. The Commission is not subject to direction or control by any person or authority; it is subject only to the Constitution and the law as stated in Article 249 (2) of the Constitution of Kenya.

Our Vision

Excellent administration and management of land for improved livelihoods and sustainable development.

Mission

To secure and manage public land and exercise oversight on use of land for the benefit of all Kenyans.

Core Values

- Professionalism
- Integrity
- Innovation
- Sustainability
- Inclusivity
- Equity

Motto

Our Land, Our Wealth, Our Heritage.

(b) Key Management

The entity's day-to-day management is under the following key organs:

Gershom Otachi - Chairperson



Gershom Otachi was appointed the chairperson of the National Land Commission (NLC), in September 2019 for a six-year term. He holds an LLB Degree from the University of Nairobi. He has been in legal practice as an Advocate for 29 years, appearing before all levels of Courts and Specialized Tribunals in Civil, Criminal, Land and property, Succession and Election disputes besides practice in other aspects of Commercial law and Conveyancing.

Previously he served as the chairperson of two state corporations; Policy Holders' Compensation Fund (PHCF) and Geothermal Development Company (GDC) for a total of six years.

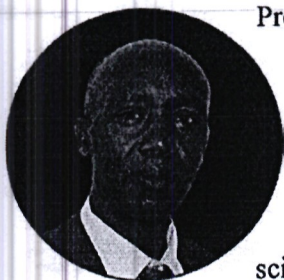
He is a member of the Law Society of Kenya, East African Law Society, International Commission of Jurists (Kenya), International Criminal Bar (ICB), International Association of Defence Lawyers (IADAD), Association of Defence Lawyers at the UNICTR (ADAD) of which he was Vice –Chairman for 6 years and is on the ICC list of Counsel and also represents NCJAC.

Gertrude Nduku Nguku – Vice Chairperson



Gertrude Nduku Nguku joined the Commission in 2019. She holds an LLB Degree from the University of Nairobi and a Master of Advanced Studies in Peace and Conflict Studies from the European University Center for Peace Studies in Austria. She was admitted to the bar in 1990 and is a recognized United Nations legal and judicial reform expert with over 30 years of national and international experience. She has advised governments on issues of land management, adjudication, settlement, investigations, registration, ADR and historical injustices. She has also represented public and private clients during litigation and arbitration of land cases in Kenya. She has served with United Nations missions in Europe and Asia to develop and manage complex government programs for ministries, municipalities, police and international judges. She is the chair of the Legal Affairs and Regulatory Committee and also represent the Commission in EPZA.

Prof James K Tuitoek - Commissioner

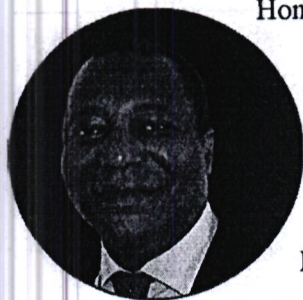


Prof. James K Tuitoek joined the Commission in November 2019.

Prof. Tuitoek holds a PhD from the University of Guelph and a Master's degree in Animal Science from the University of Manitoba both in Canada and a Bachelor of Science in Agriculture from the University of Nairobi.

He is a research specialist with key competencies in the areas of animal science. In his career, he has served in various senior management roles at Egerton University for a combined period of 19 years. He was a Lecturer, Dean of Faculty, Deputy Vice-Chancellor and later the Vice-chancellor, a position he held until he joined the Commission 2019. Prof. Tuitoek played a key role in the management of University Pension Plans, he was also instrumental in establishing favourable employee/labour relations and corporate governance. Prof Tuitoek heads the audit and risk management and HLI special committee in the Commission.

Hon. Samwel Kazungu Kambi - Commissioner



Hon. Samwel Kazungu was appointed a Commissioner in September 2019. He holds a Master in Business Administration (MBA) from the University of East Africa, Baraton and a Bachelor of Arts Degree in Development Studies from the same University. He is currently pursuing his PhD at Maseno University.

He was a Cabinet Secretary (CS) for the Ministry of Labour and Social Services between 2013 and 2015 and, therefore, was instrumental in spearheading the transition of staff from the National to 47 County governments. He was also a former member of parliament and has, previously, served in the capacity of the assistant minister in the Kenyan government.

Additionally, he has, previously, chaired the Coast Development Authority and was a Director at the Betting Control and Licensing Board. He worked as a Manager at Post Bank in his early years. He is in charge of the Finance Planning and Supply Chain Management Committee in the Commission and is a member of other Commission Committees.

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Hubbie Hussein Al-Haji - Commissioner



Hubbie Hussein Al-Haji joined the Commission in November 2019. She is an adept gender and human rights specialist with outstanding experience in sustainable development, livelihood and food security. She holds a Bachelor of Arts Degree in Developmental Studies from Kimmage Development Studies Centre – Kimmage Manor, Ireland. She also holds a Diploma in Community Development from the Kenya Institute of Social and Community Development Animal Health Diploma from Egerton University, Kenya.

She is a former executive director and a founding member of Woman Kind Kenya (WOKIKE), which has helped in eradicating poverty, promoting human rights and empowering women. She was the County Executive Committee member in Garissa County between 2013 and 2017 where she served in the Agriculture, Livestock, Fisheries and Irrigation Department and the Department of Health Services. Under the Health department, Garissa County was ranked as the best County in Kenya in the area of maternal and new borne health.

In 2006, she was awarded the Ralph Stone Memorial Award on women leadership in Washington DC and in 2010, she was awarded the prestigious award of the Order of the Moran of the Burning Spear (MBS), which was conferred by His Excellency the President of the Republic of Kenya. The UN Human Rights Office recognized her outstanding performance in Human Rights Advocacy as well.

She is the chair of the Commission's Human Resource, Administration and County Coordinators Committee.

Alister Murimi - Commissioner

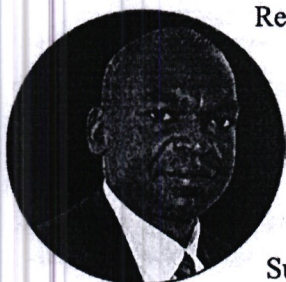


Alister Murimi joined the National Land Commission in November 2019. He has a Bachelor of Science Degree in Land Economics from the University of Nairobi, Kenya. He holds a Master of Science Degree in Business Administration, Construction and Real Estate at Henley School of Business from the University of Reading, United Kingdom. He also holds a Post Graduate Diploma in Project Management in 2006 from the Royal Institute of Chartered Surveyors (RICS). He also acquired several Diplomas and Certificates related to planning and management.

He is a Registered Estate Agent (2004), Registered Valuer (2003) and a Full Member of the Institution of Surveyors of Kenya. He has gained over seventeen (17) years of experience in diverse and dynamic

Real Estate and Construction sectors and, therefore, brings extensive knowledge and expertise to the Commission in matters related to land economics, valuation and sustainable development in the land sector. He is the chair of the Commission's Land Valuation and Taxation Committee.

Reginald Okumu - Commissioner



Reginald Okumu joined the Commission in November 2019. He has over 20 years of experience leading both profit and non-profit organizations. He holds a Master's Degree in Business Administration from Strathmore Business School, a Bachelor's Degree in Land Economics from the University of Nairobi, a Post Graduate Diploma in Valuation and Estate Management Surveying from the Institution of Surveyors of Kenya and a Certificate in Land Administration in Africa Searching for Land Tenure Security from the World Bank Institute.

He has served as the Chairman of the Institution of Surveyors Kenya and a Board Member of the National Housing Corporation. Additionally, he has served in various capacities including Chief Operating Officer, Director, Senior Valuer, Real Estate Development Advisor and Commercial Negotiator in different private sector organizations and professional services/consultancy firms. He is a Full Member of the Institution of Surveyors of Kenya, a Practicing Valuer and an Estate Agent by profession. He is well versed in the land estate sector, having specific expertise in land use and experience in acquisition, development, valuation, management and disposal. He is the chair of the Commission's Land Administration & Management, Natural Resources, Survey and GIM Committee and represent the Commission in LAPPSET board.

Hon. Esther Murugi Mathenge, EGH - Commissioner



Hon. Esther Murugi Mathenge joined the Commission in December 2020.

She is a holder of Master's degree from the Univesita Cattolica Del Sacro Cuore in Global Business and Sustainability in Social Entrepreneurship. She attained her first degree in Land Economics from the University of Nairobi, and is a registered member of the Institute of Surveyors in the Valuation and Estate Agents' Chapter and Land Management Chapter.

The former MP is also currently chair of the University Council's Corporate Affairs of Tangaza University, which is a constituent college of Catholic University of East Africa (CUEA).

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Hon. Esther has been a member of parliament and also served as a minister for Gender, Children and Social Affairs and the Minister of Special Programmes. Hon Mathenge has also worked with Government of Kenya as Land Administrator and several real estate companies. She is in charge of the Land Use Planning, Research and Counties Coordination Committee.

Hon. Tiyah Galgalo - Commissioner



The former legislator was appointed a Commissioner in September 2019 and sworn into office in December 2020. Hon. Tiyah Galgalo holds a Masters in Educational Administration and Planning from the University of Nairobi and a Bachelors in Education from Kenyatta University. She is a seasoned public administrator and an educationist in addition to being a champion for Disaster Risk Reduction (DRR), Governance & Gender, Monitoring & Evaluation and Resource Mobilization.

Hon. Galgalo previously served as a Commissioner at Interim Independent Electoral Commission (IIEC) besides being a member of the National Commission on Gender and Development and County Executive Committee member (CECM). She is in charge of the Corporate Communication, Advocacy, Partnerships and Resource Mobilization Committee and represent the Commission in SEZA

Ms. Kabale Tache Arero – Secretary/Chief Executive Officer



Ms. Kabale Tache Arero was appointed as the Acting CEO of the National Land Commission on 18th December 2018 and confirmed as a substantive CEO of the National Land Commission on 1st July 2023. She was instrumental in managing the transition following the exit of former Commissioners and the incoming of the, then, newly appointed Commissioners. Before her appointment to her current position, she was Director of Human Resources and Administration. She holds a Master's Degree in Business Administration (MBA) from Kenyatta University and a Bachelor's Degree in Human Resources. She is a full member of the Institute of Human Resource Management among other professional bodies.

Ms. Kabale is a seasoned career professional with over 20 years' wealth of successful experience providing human Resources, Operational and Strategic leadership in uniquely challenging environments. Dynamic, results-oriented leader with a strong track record of performance in both

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Government and quasi Government institutions including the banking sector. She is exemplary at the utilization of keen analysis, insights and team approach to drive organizational improvements and implementation of best practices. Her superior interpersonal skills have in the past, enabled her to resolve multiple and complex issues while also motivating staff to peak performance.

(c) Fiduciary Management

The key management personnel who held office during the financial year ended 30th June 2023 and who had direct fiduciary responsibility were:

No.	Designation	Name
1	Secretary/Chief Executive Officer (CEO)	Kabale Tache Arero
2	Director Finance & Planning (DFP)	Mr. Bernard Kibet Cherutich
3	Director Valuation & Taxation (DVT)	Ms. Joycelyn Makena
4	Director Land Administration (DLA)	Prof. David Kuria
5	Director Legal Affairs & Regulatory (DLAR)	Mr. Brian Ikol
6	Director Land Use Planning (DLUP)	Mr. Charles Kageema
7	Ag. Director Human Resource and Administration (DHRA)	Mr. Ben Bett Tuwai
8	Head Supply Chain Management (HSCM)	Mr. Mohamed Farah
9	Head Audit & Risk Management (HARM)	Mr. Peter Ochuodho Ouma
10	Head, Information & Communication Technology (HICT)	Mr. Amos Parletuan Kasaine
11	Head Communication, Corporate Affairs & Advocacy	Mr. Walter Menya

(d) Fiduciary Oversight Arrangements

To effectively discharge its mandate in exercise of the powers conferred under *Section 19 of the NLC Act 2012*, and to perform the Commission functions as per *Section 16 of the NLC Act*, the Commission has constituted the following Standing Committees:

- i. Audit & Risk Management Committee;
- ii. Finance, Planning and Supply Chain Management Committee,
- iii. Human Resources & Administration Committee;
- iv. Land Administration & Management, Natural Resources, Survey, and GIM Committee;
- v. Land Valuation and Taxation Committee;
- vi. Land Use Planning, Research and Counties Committee;
- vii. Legal Affairs and Alternative Justice Systems Committee;

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viii. ICT, Corporate Communications, Advocacy, Partnerships and Resource Mobilization Committee.

i. Audit and Risk Management Committee

The Committee is guided by the Audit Committee Charter that outlines its mandate and powers.

The main responsibilities include review of financial information, ensuring adherence to and/or compliance with various legislations, professional standards and Commission policies while maintaining oversight on internal control systems. The Committee also reviews, advises and makes recommendations regarding the Commission's risk management. The members of this Committee during the year under review were:

Commissioner	Prof. James Tuitoek	-Chairman
Commissioner	Reginald Okumu	-Member
Commissioner	Gertrude N. Nguku	-Member
Commissioner	Hon. Tiyah Galgalo	-Member
HARM	Peter Ochuodho	-Secretary

ii. Finance, Planning and Supply Chain Management Committee,

The functions of this Committee include guiding on policy, processes and procedures on financial management in the Commission; sourcing for funds to the Commission budget; oversight over the management of funds of the Commission including procurement; and guidance on ICT issues of the Commission including provision of conducive working environment and working tools. The members of this Committee during the year under review were:

Commissioner	Hon. Kazungu Kambi	-Chairman
Commissioner	Alister Murimi	-Member
Commissioner	Hubbie Hussein Al -Haji	-Member
Commissioner	Hon. Tiyah Galgalo	-Member
DFCP	Bernard Kibet Cherutich	-Secretariat
SCM	Mohamed Farah	-Secretariat
CP	Timothy Kariuki	-Secretariat

iii. Human Resource and Administration Committee

The functions of this Committee include guiding on policy, processes and procedures on staff management in the Commission; oversight over the management of human capital of the Commission including guidance on human resource management policy, staff recruitment, staff development and remuneration. The members of this Committee during the year under review were:

Commissioner	Hubbie Hussein	-Chairperson
Commissioner	Hon. Kazungu Kambi	-Member
Commissioner	Alister Murimi	-Member
Commissioner	Hon.Tiyah Galgalo	-Member
Ag.DHRA	Ben Bett	-Secretariat

iv. Land Administration & Management, Natural Resources, Survey & GIM Committee

The functions of this Committee are to advise the Commission on the natural resources and research aspects for sustainable land management; resolve natural resource and land use conflicts among stakeholders; ensure that sustainable land management is achieved by all state agencies responsible for its management; determine the capacity needs of the Commission in achieving its sustainable land management; review policies, guidelines, procedures and processes necessary for the Commission to achieve its mandate in natural resources; determine necessary interventions, at policy and operational levels required for the Commission to realize its oversight roles in natural resources management; determine the types of research necessary to achieve sustainable land management as provided for in the COK Article 67 (2) (d); and ensure that there is adequate communications to the citizens of Kenya on the Commission's mandate in the management of land and land resources.

The Committee discharges some of the most vital functions of the Commission including approval of applications for change of user; approval of applications for allocation of public land; approval of extension of leases; approval of applications for setting trust land; approval of applications for renewal of leases; approval of applications by County Governments for land exchange with individuals for public good; and discharge of approvals relating to or incidental to the functions of the Commission.

The members of this Committee during the year under review were:

Commissioner	Reginald Okumu	-Chairman
Commissioner	Hubbie Hussein Al Haji	-Member
Commissioner	Hon. Esther M.Mathenge	-Member
DLAM	Prof. David Ndegwa Kuria	-Secretariat

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Deputy Director Research Dr. Mary Macharia

-Secretariat

v. Land Valuation & Taxation Committee

The Constitutional mandate of this Committee is assessment of tax on land and premiums on immovable property in any area designated by law (Article 67(2) (g). The Committee sets policy direction and formulates rules, regulations and guidelines in respect to assesment of ground rents and stand premiums of new allocations; acquisition and compensation for public rights of way and wayleave as provided in the Land Act 2012 Sections 142-150; change of user and extension of user; lease renewals and extensions; sub-division of land; assesment and collection of rents, royalties and payments in respect to leases or licences; compulsory acquisition of land both at National and CountyGovernment levels. The Committee also provides oversight and guidance on key legal matters affecting the Commission including legal interpretations on the position of the Commission in regard to various cases at hand. The Committee is involved in the prioritisation of the inherited court cases and also any new cases arising out of land transactions. The Committee also guides on alternative dispute resolution methods with the aim of reducing the number of court cases to a bare minimum. Where and when necessary, the Committee seeks clarity from the courts and the Attorney General's office on any grey areas in the written law. The Committee also guides and reviews on investigations related to land matters touching on the Commission.

The members of this Committee during the year under review were:

Commissioner	Alister Murimi	-Chairman
Commissioner	Gertrude N.Nguku	-Member
Commissioner	Hon. Esther M.Mathenge	-Member
Commissioner	Hon.Kazungu Kambi	-Member
DVT	Joycelyn Makena	-Secretariat

vi. Land Use Planning, Research & Counties Committee.

The functions of this Committee are to advise the Commission on the natural resources and research aspects for sustainable land management; resolve natural resource and land use conflicts among stakeholders; ensure that sustainable land management is achieved by all state agencies responsible for its management; determine the capacity needs of the Commission in achieving its sustainable land management; review policies, guidelines, procedures and processes necessary for the Commission to achieve its mandate in natural resources; determine necessary interventions, at policy and operational levels required for the Commission to realize its oversight roles in natural resources management;

determine the types of research necessary to achieve sustainable land management as provided for in the COK Article 67 (2) (d); and ensure that there is adequate communications to the citizens of Kenya on the Commission's mandate in the management of land and land resources.

The Committee discharges some of the most vital functions of the Commission including approval of applications for change of user; approval of applications for allocation of public land; approval of extension of leases; approval of applications for setting apart of trust land; approval of applications for renewal of leases; approval of applications by County Governments for land exchange with individuals for public good; and discharge of approvals relating to or incidental to the functions of the Commission.

The members of this Committee during the year under review were:

Commissioner	Hon. Esther M.Mathenge	-Chairperson
Commissioner	Prof.James K.Tuitoek	-Member
Commissioner	Gertrude Nguku	-Member
Commissioner	Reginald Okumu	-Member
DLAM	Charles Kagama	-Secretariat
DDLA	Mary Ngundo	-Secretariat

vii. Legal Affairs & Alternative Justice Systems Committee

The Committee provides oversight and guidance on key legal matters affecting the Commission including legal interpretations on the position of the Commission in regard to various cases at hand. The Committee is involved in the prioritisation of the inherited court cases and also any new cases arising out of land transactions. The Committee also guides on alternative dispute resolution methods with the aim of reducing the number of court cases to a bare minimum. Where and when necessary, the Committee seeks clarity from the courts and the Attorney General's office on any grey areas in the written law. The Committee also guides and reviews on investigations related to land matters touching on the Commission.

The members of this Committee during the year under review were:

Commissioner	Gertrude N.Nguku	-Chairperson
Commissioner	Alister Murimi	-Member
Commissioner	Prof.James Tuitoek	-Member
Commissioner	Hon. Esther M.Mathenge	-Member
DLAE,	Brian Adungo Ikol	-Secretariat
Deputy DLAE	Edmond Kiplagat Gichuru	-Secretariat

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**viii. ICT, Corporate Communication, Advocacy, Partnerships & Resource Mobilization
Committee**

The functions of this Committee include guiding on policy, processes and procedures on Corporate Communication management in the Commission; sourcing for funds to the Commission budget; oversight over the management of funds of the Commission including procurement; and guidance on ICT issues of the Commission including provision of conducive working environment and working tools. The members of this Committee during the year under review were:

Commissioner	Hon.Tiyah Galgalo	-Chairperson
Commissioner	Reginald Okumu	-Member
Commissioner	Hubbie Hussein Al -Haji	-Member
Commissioner	Hon.Kazungu Kambi	-Member
HICT	Amos Parletuan Kasaine	-Secretariat

Other Oversight Activities

NLC has regular liaison with the Parliamentary Committee on land to ensure that issues of land are properly addressed and legislated. Similarly, Parliamentary Committee on Budgetary Appropriations and the National Treasury has oversight on the Commission's budgetary requirements, allocations and utilisation.

(e) Entity Headquarters

National Land Commission Headquarters

P.O. Box 44417-00100

316 Upper Hill Chambers

2nd Ngong Avenue

Nairobi, Kenya

(f) Entity Contacts

National Land Commission Contacts

P.O. Box 44417 - 00100, Nairobi

Telephone: 020 2187505

E-mail: info@landcomission.go.ke

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Website: www.landCommission.go.ke

(g) Entity Bankers

1. Central Bank of Kenya
Haile Selassie Avenue
P.O. Box 60000
City Square 00200
Nairobi, Kenya
2. National Bank Ltd
Upper Hill Branch, NHIF Building
P O Box 45219
GPO 00100
Nairobi, Kenya

(h) Independent Auditors

Auditor - General
Office of The Auditor General
Anniversary Towers, University Way
P.O. Box 30084
GPO 00100
Nairobi, Kenya

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(i) Principal Legal Adviser

The Attorney General
State Law Office & Department for Justice.
Harambee Avenue
P.O. Box 40112
City Square 00200
Nairobi, Kenya

3. Statement of Governance

Mandate of the Commission

The broad mandate of the Commission is to manage public land on behalf of the National and county governments. This mandate is carried alongside other Constitutional and statutory mandate. These mandate are derived from the Constitution of Kenya 2010; Sessional Paper No. 3 of 2009 on National Land Policy; the National Land Commission Act 2012; the Land Act 2012; the Land Registration Act 2012; the Community Land Act 2016; and Physical and Land Use Planning Act 2019.

The functions of the Commission as per Article 67(2) of the Constitution of Kenya 2010 are to:

- a. to manage public land on behalf of the national and county governments;
- b. to recommend a national land policy to the national government;
- c. to advise the national government on a comprehensive programme for the registration of title in land throughout Kenya;
- d. to conduct research related to land and the use of natural resources, and make recommendations to appropriate authorities;
- e. to initiate investigations, on its own initiative or on a complaint, into present or historical land injustices, and recommend appropriate redress;
- f. to encourage the application of traditional dispute resolution mechanisms in land conflicts;
- g. to assess tax on land and premiums on immovable property in any area
- h. designated by law;
- i. to monitor and have oversight responsibilities over land use planning throughout the country; and
- j. to perform any other functions prescribed by national legislation.

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Powers of the Commission

Section (6)(1) of the National Land Commission Act 2012 obligates the Commission to exercise all the powers necessary for the execution of its functions under the Constitution, the same law and any other written law.

Under Section (6) (2) of the same law, the Commission, without prejudice to the generality of subsection (1), has the powers to;

- Gather, by such means as it considers appropriate, any relevant information including requisition of reports, records, documents or any information from any source, including any State organ, and to compel the production of such information where it considers necessary;
- Hold inquiries for the purposes of performing its functions under the NLC Act;
- Take any measures it considers necessary to ensure compliance with the principles of land policy set out in Article 60 (1) of the Constitution.

Composition of the Commission

In compliance with Section 7(1) of the National Land Commission Act 2012, the Commission has **nine (9)** Commissioners where one is the Chairperson. The primary role of the Commissioners is policy making and, therefore, they operate in **eight (8)** different committees. On the other hand, the Secretariat is headed by the Secretary/CEO who is, also, the accounting officer of the Commission. The secretariat comprises **six (6)** Directorates, **four (4)** Departments and the 47 devolved County Coordination offices.

4. Statement by the Chairman of the National Land Commission

It is my profound privilege to present this Annual Report for Financial Year 2022/23, which has been prepared in compliance with Article 254 of the Constitution of Kenya and Section 33 of the National Land Commission Act, 2012. The Report details the activities and performance of the Commission over the past financial year in furthering the execution of our Constitutional, statutory and policy mandate.

As documented in this Report, we made considerable progress on our mission to secure and manage public land and exercise oversight on land for the benefit of all Kenyans whilst managing the unpredictable challenges that we encountered. One of the defining issues that perspicuously characterized the review period was climate change effects. The last year's events of the unprecedented drought, which was followed by floods were obvious manifestations and prove that the land sector has not been spared by the adverse effects of climate change. The Commission is cognizant of the fact that tackling the adverse impacts of climate change calls for collective efforts and, therefore, intends to, going forward, play its active role by responding to climate change through land governance. In this respect, the Commission will be at the forefront of developing frameworks for infusive climate smart land administration and management imperatives. Additionally, the Commission will continue sensitizing planning authorities in the national and county government levels to incorporate climate change adaptation measures in the development of land use plans. On the digitization and digitalization fronts, we remain solidly committed to expediting the development of Commission's systems on Ardhisasa platform and public land Cadastral as well as geo-referencing of public land parcels. Equally important, the anticipated launch of the Kenya's Natural Resources Atlas and geoportal in the coming financial year will enhance and buttress the Commission's digitization and digitalization efforts. The digitization and digitalization of land records, processes and resources are fundamental land reforms strategies for conclusively addressing the longstanding land question in Kenya.

What we achieved during the review period and what we aspire to achieve in the future is creditable to the support of our partners and key stakeholders in the land sector, including state and non-state actors. I, therefore, conclude by conveying my gratitude to all the Commission's treasured stakeholders and partners. I single out the President for his unwavering support and acknowledging that Constitutional Commissions and Independent Offices are integral to the prosperity and stability of Kenya. Specific to land matters, the Cabinet's approval of the full roll-out of the land digitisation programme- National

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Land Information Management System- is a compelling evidence that the Kenya Kwanza Administration supports the full realization of the land reform agenda in Kenya.



.....

Gershom Otachi Bw'omanwa

Chairman - National Land Commission

5. Statement by the Chief Executive Officer

I am pleased to present the financial statements of the National Land Commission for the Financial Year 2022/23 that ended on 30th June 2023. National Land Commission (NLC) is one of the ten Independent Constitutional Commissions listed under Article 248(2) of the Constitution of Kenya (COK) and is established under Article 67 of the same Constitution. On top of COK, the Commission draws its mandate from various Acts of Parliament but mainly the National Land Commission Act 2012, the Land Act 2012 and the Land Registration Act 2012. The Commission's budget is fully funded through exchequer funds by the National Treasury.

BUDGET ALLOCATION

In the financial year, 2022/23 The National Land Commission had a gross budget of Ksh. 1,482,435,786 Which was all recurrent in nature.

The Commission was to spend the gross budget under the following programmes:

Programmes	Approved Budget Allocation KShs	Actual Payments KShs	Variance KShs
General Administration	1,392,943,905	1,393,232,695	-288,790
Land Administration	62,693,060	59,987,284	2,705,776
Public Land Information System	4,399,209	4,029,278	369,931
Conflicts and Resolutions	22,399,612	20,825,195	1,574,417
Land Administration and Management	1,482,435,786	1,477,325,323	4,362,365

Programme: Land Administration and Management

This programme was allocated Ksh. 1,482,435,786 representing 100% of the budget. A total of Ksh. 1,477,325,323 was spent under this programme.

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COMPENSATION FUND

Under the Land Act 2012, NLC is mandated to undertake compensation on compulsory acquisition of land for development of projects by either the National Government or the County Governments. This is done in collaboration with the acquiring Government bodies that provide the compensation monies. During the current FY 2022/23, the Compensation Fund received Ksh. **48,916,847**. In addition, third party Deposit and Retentions available for payments to project affected persons was Ksh. **8,627,134,376**. for financial year 2023/34

In the current year under review, Ksh. **688,458,500** was paid out as administration cost in relation to various Government projects being implemented in different parts of the Country.

These payments relate to flagship projects geared towards achievement of Government goals under Vision 2030 blue print, Kenya Kwanza Government priority projects etc. These projects among others are in the areas of national roads network, seaports, water dams and reservoirs, national electricity transmission lines and the standard gauge railway.

During the FY 2022-23, NLC continued to engage various stakeholders on various matters that are critical to successful delivery of services for the people of Kenya, including civil society organizations (CSOs), the community and other Government institutions. The Commission has worked with key Organizations namely; Food Agriculture Organization (FAO), National Research Fund, NAMATI, IMPACT, Samburu Women Trust, Community Land Action Now (CLAN), Kenya Land Alliance, Kituo Cha Sheria, World Wide Fund for Nature (WWF) among other stakeholders. Key area of focus has been research on use of land and natural resources, community sensitization on various land laws and land transaction processes and resolution of various conflicts.

Key area of focus has been community sensitization on various land laws and land transaction processes and resolution of various conflicts. Lot of focus has also been capacity building to the devolved units of the Commission to enhance service delivery at the County level.

In regard to the implementation of its mandate during the FY 2022/23, NLC recorded a number of achievements towards this end which, among others include:

1. Preparation and issuance of 47 allotment letters to various schools and public institutions in a bid to secure public institutional land from illegal allocation and encroachment. Additionally, the Commission prepared and issued 10,505 allotment letters to facilitate access to alienate and alienated public land for settlement and development. Also, the Commission regularized 5,046 plots in urban allocation. In relation to Revenue Generation from Land and Land-based Resources, the Commission generated Kshs. 163,641,679 from processing and issuance of allotment letters, which was a tremendous improvement compared to Kshs. 15 million generated from the same in FY 2021/2022.
2. To support and enable the government's development agenda including Vision 2030 and its MTPs and the Big Four Agenda, the Commission, through compulsory acquisition of land, availed approximately 30,000.00 Hectares to various agencies for public purpose.
3. On sustainable management of natural resources, the Commission mapped ecologically-sensitive areas (ESAs) in four counties and issued over 10 advisories to various agencies including the advisory on the "Status of Gullies and Watercourses within Suswa ICD-Longonot Area (MGR/SGR Link)."
4. To mainstream land use planning in Kenya, the Commission developed two tools to monitor the implementation of NLUP and NSP; guided the preparation of eight county spatial plans by providing recommendations; undertook field visits to eight counties to monitor land use planning; reviewed and issued comments and advise on improvement of 27 urban land use plans; and issued four (4) advisories on the status of land use planning.
5. The Commission, also, developed four (4) research reports on land and use of natural resources and initiated five (5) other research/studies that are at different stages of completion and publication. The joint planning and holding of the inaugural National Research Conference in partnership with the National Research Fund was, also, one of the key highlights of the Commission.
6. Regarding land disputes and conflict management, the Commission admitted 1,700 disputed to be resolved through ADR/TDR/AJS mechanisms and 70 of these disputes were successfully resolved. Also, the Commission resolved and brought to a conclusion 97 cases that it had been enjoined in. The other key highlight of the year relates to providing redress of historical land injustice where the claim-

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receiving statutory period lapsed on 21st September 2021. The Commission received 3,663 HLI claims before lapse of this period.

7. Lastly on achievements, the Commission relocated its Headquarter offices to 316 Upper hill Chambers, which is more spacious, 57,000 Sq. Ft, and likely to positively impact service delivery to the people of Kenya.

Finally, I want to record the Commission's appreciation to the National Treasury for the funding provided since inception and look forward to our continued cordial relations in future. The support of Parliamentary Committee on Land in advancing the Commission's agenda in Parliament cannot go unrecognised. Similarly, the Parliamentary Committee on Budget Appropriations has supported the Commission in advancing its request for higher funding, thank you.



Kabale Tache Arero
Secretary/CEO

6. Statement of Performance against Predetermined Objectives for the FY 2022/23

Introduction

Section 81 (2) (f) of the Public Finance Management Act, 2012 requires that, at the end of each financial year, the accounting officer when preparing financial statements of each County Government Entity Government entities in accordance with the standards and formats prescribed by the Public Sector Accounting Standards Board includes a statement of the county government entity's performance against predetermined objectives.

This National Land Commission annual performance report covers the period from 1st July 2022 to 30th June 2023. It is prepared against the annual MTEF budget in accordance with the provided National Treasury guidelines where State Agencies are required to prepare Programme Based Budgets indicating activities and targets for every programmed activity to be undertaken.

The report covers activities undertaken within all the six (6) Directorates and four (4) Departments as per the organisational structure that guide implementation of planned activities within the Commission. The activities and targets therein are as contained in the Commission Annual Work plan for the period 1st July 2022 to 30th June 2023.

The achievement of some of the planned targets was hampered by:

1. Inadequate funds and austerity measures
2. Inadequate office space.
3. Inadequate technical staff

The major activities undertaken during the financial year are analysed per Directorate/Department as shown in respective sections.

Progress on the attainment of Strategic Objectives through Performance Contracting

For purposes of implementing and cascading the above development objectives to specific sectors, all the development objectives were made specific, measurable, achievable, realistic and time-bound (SMART) and converted into development outcomes. Attendant indicators were identified

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for reasons of tracking progress and performance measurement: Below we provide the progress on attaining the stated objectives:

Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
SP1: General Administration, Planning & Support Services	To improve work environment	Effective Service delivery	Size of office space acquired in Sq Feet for Head Quarters	0	This was not achieved but the acquisition process is ongoing
			No. of Commission's County Offices constructed	0	Not achieved due to lack of funds
			No. of Motor Vehicles acquired	0	Not achieved due to lack of funds
	To strengthen the Human Resources capacity	Enhanced skills, motivated and	No. of staff competent recruited	14	Not fully achieved. The recruitment process is ongoing for other 21 advertised positions and will be finalised in the FY 2023-2024
			Performance Management	1	Annual target achieved

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
		productive staff	System (PMS) in place		
			Performance Contracts-PCs in place	0	Process has been initiated. The Commission wrote to State Department for Performance Management to assist in training and development of a PC for the Commission.
			Reviewed Performance Management Appraisal Reports in place	1	FY 2022/23 staff performance appraisals were done and a report is in place
			No. of Commissioners and staff trained in various fields	649	Target was surpassed. This was made possible by online trainings undertaken by the Commission on various cross cutting issues
			Training Revolving Fund policy and	0	The draft Training revolving fund policy is scheduled for presentation to Human Resources, Administration Committee for deliberation & approval

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
			framework Developed		
			No. of staff benefiting from the Training Revolving Fund	0	Not done. Awaiting finalization of the Training Revolving Fund policy and framework
			Number of staff allocated mortgage facility	1	Ongoing. 7 No of staff applied for SNP houses in Mavoko-Syokimau. Awaiting approval by staff housing committee
			Number of staff allocated Car loans	1	
			Occupational Health and Safety Audit Report in place	1	Target achieved. Occupational Health and Safety Audit Report in place

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Programme	Strategic Objective	Outcome	Key Performance Indicator	Annual Achievement 2022/23	REMARKS
			% of Implemented recommendations from the Occupational Health and Safety Audit	100%	Achieved
			No. of staff sensitized on Integrity and Ethics issues	0	Not done due to lack of funds
			Policy on Alcohol & Drug abuse Developed	0	Draft policy in place and will be circulated to staff for comments/input before approval by Commission
			No. of staff sensitized on Disability mainstreaming	3	Target not fully achieved due to limited funds

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
			No. of staff sensitized on Gender mainstreaming	6	Target not fully achieved due to limited funds
			No. of staff sensitized on HIV/AIDS	150	Target not fully achieved due to limited funds
			No. of staff sensitized on Alcohol and Drug Abuse	0	Not achieved due to unavailability of funds to conduct sensitization
			Robust Staff Insurance covers	4	The four insurance covers are in place and operational i.e medical, group life, group personal Accident and Work Injury Benefits Act (WIBA).
	To strengthen internal systems and processes for	Efficiency in service delivery	No. of offices with LAN/WAN Connectivity at Head Quarters	4	Not fully achieved. Three counties and headquarters were connected to the internet. The remaining counties is ongoing

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Programme	Strategic Objectives	Outcomes / KPIs	Performance Indicators	Annual Achievement 2022/23	REMARKS
	efficient service delivery		and County offices		
			No. of systems replicated in the disaster recovery site (Cloud computing)	5	Target achieved. Contract renewal between Cloud service provider and NLC on Cloud based solution in place
			No. of licenses purchased & renewed	0	Not achieved. Technical specifications developed awaiting for tender to be floated
			No. of software's purchased	330	Not fully achieved due to funds
			No. of hardware purchased	0	Not achieved due to lack of funds
			No. of hardware repaired and serviced	11	Not fully achieved due to lack of funds

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
			No. Of Computing Infrastructure system upgraded and serviced	0	Not achieved due to lack of funds
			No. of automated and digitized systems developed	0	The process is ongoing.
			No. of Monitoring and Evaluation frameworks developed	0	Draft framework in place awaiting approval and digitization
			No. Of Monitoring and Evaluation Framework implemented	0	To be done after the finalization of the framework

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
			No. of quarterly monitoring reports in place	4	All the quarterly reports are in place
			Annual progress report in place	1	Achieved. FY 2021/22 Annual report in published and disseminated
			No. of Project Concept Notes developed	4	The Concept Notes were submitted to National Treasury awaiting approvals
			No. of audit reports in place	9	Finalization of the 3 Audits ongoing .
	To enhance corporate image of the Commission	Enhanced effective service delivery	No. of campaigns conducted to Improve awareness on NLC activities	13	The Commission conducted awareness campaigns on NLC activities. Target not fully achieved due to funds

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
			Brand manual developed and reviewed	1	Target achieved. Developed the Commission's Brand Manual and adopted by the Commission. New Letterheads, memos developed
			No of Communication Education, Publicity and Awareness (CEPA) Materials produced and disseminated	9500	Content development and printing of the general corporate fliers, Content development of Know your Land Rights Booklet and materials for the 2nd Regional Research conference held on 24-25/5/23.
			A service charter developed and in place	0	Draft service charter developed and in place. Finalization of the same is ongoing
SP 2: Land Administration and	To secure public institutional land	Secured public institutional land	No. of Letters of allotment prepared and issued for	151	Underachieved. There were no requests that were approved during this period. Requested were submitted in a Board papers form but none was approved.

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
Management Services			schools and public institutional land		
			No. of Tools to monitor implementation of guidelines developed	0	Not achieved due to lack of funds
			No. of Letters of allotment prepared	46	Target underachieved due to receipt of few applications during the period under review
	To regularize urban land allocations	Secured land rights	No. of letters of allotment prepared and issued in urban areas which are planned, surveyed and	931	Target under achieved due to changes on how processing of allocations were to be done. Most of the applications received were sent back to the County Governments to obtain direct approval from the CECM –in charge of lands

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
			owners identified		
			No. of vested and surrendered land parcels	2	Not done due to no funding to undertake fieldwork
	To enhance access to alienated and un alienated public land for development	Improved access/availability to public land	% of land leasing and tenure framework for public land in place	0	There were changes on how processing of allocations were to be done. Most of the applications received were sent back to the County Governments to obtain direct approval from the CECM –in charge of lands
			No. of settlement scheme parcels reserved for amelioration of disadvantaged persons	1	Target underachieved. Applications are processed upon receiving a formal request from the County Executive Committee Member in charge of Lands

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Programme	Strategic Objectives	Outcomes	Performance Indicators	Annual Achievement 2022/23	REMARKS
			No. of Public notices prepared and issued on renewal and extension of lease on public land	31	The Commission received a number of requests for new allocation, conversion of TOL to long term lease (1), regularizations (7) and formalizations (10). Out of which, eighteen (18) met the minimum requirements and were processed through the head of schedule and were later forwarded to the Land Administration & Management Committee and were approved subject to section 12 (7) of land Act, 2012. The eighteen notices are: Kiambu (6), Kirinyaga (3), Nyeri (3), Turkana (2), Murang'a (1), Nyandarua (1), Embu (1) and Kisii (1)
			No. of documented parcels of public land in Community and Settlements schemes	1	Not achieved. The Commission did not received any request from the County Executive Committee Member in charge of lands
			No. of reports in place on the	4	Report in place

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
			status of inventories urban centres		
			Amount of Revenue and AIA generated through letter of allotment fees, stand premium , annual rent, approval fees and consent fees (Kshs)	171.9M	Target was achieved and surpassed due to increased applications for approvals on land allocation, formalization, regularization and extension and renewal of leases processing
	To mainstream land use planning in	Liveable and competitive urban	Annual status report on land use planning in Kenya in place	1	Report in place

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Programme	Strategic Objective	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
	the national and county development agenda	areas and productive rural areas	% of Guidelines for preparation of land use and management plans for land held by public agencies developed	45%	Partially achieved due to insufficient allocation of funds
	To promote good land governance	Better land governance	No. of County spatial plans Monitoring and oversight reports prepared and issued to planning authorities	6	
			No. of Counties sensitised on preparation &		All counties were sensitized through advisories issued

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
			implementation of land use Plans		
			No. of Local Physical & Land Use Monitoring and oversights reports prepared and issued to planning authorities	26	Achieved
			No. of advisories prepared and issued	23	Shanzu scheme open space advisory issued., Konza Techno polis buffer zone plan. Mombasa County PDPs done in 4th quarter
			No. of Implementing agencies monitored and oversighted in	18	These are agencies sensitised during the Kenya Urban Forum

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
			the implementation of National Spatial Plans		
			No. of Implementing agencies monitored and oversighted in the implementation of National Land Use Plans	18	These are agencies sensitised during the Kenya Urban Forum
	To promote research on land and use of natural resources	Informed decision making, better planning and use of	No. of Policy Briefs and recommendations on land and use of natural resources made	0	

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
		land and natural resource	to appropriate authorities		
			No. of research reports on land and use of natural resources in place	1	Report on Sustainable Use and Exploitation of the Blue Economy to Support Livelihoods in Kisumu County in place. Concept notes in place on Sustainable Use and Protection of Fragile ecosystems, role of Communities in managing natural resources
			No. of publications and conference proceedings	1	2nd Regional Research conference held on 24-25/5/23 at Kenya School of Government, Nairobi

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
			No. of Workshops and conferences on Dissemination of research findings	10	5 stakeholders workshop done. Dissemination of research findings on the Land Use and Environmental Effects of Land Fragmentation and Tenants at will Report to Members of County Assembly and County Land Technical staff of Coastal Counties (Tana River, Mombasa, Kwale, Taita Taveta, Lamu and Kilifi) on 11-14 /4/23 , Embu on 2-4/5/23, Nairobi region Counties (Nairobi, Kiambu, Kajiado, Narok) on 8-13/5/23 and Nyeri on 12-16/6/23 .
			Commission's Resource Centre established	0	Ongoing.
	To enhance access to alienated and alienated public land for development	Improved access/availability to public land	No. of land acquisition projects on behalf of National and County government	2	The Commission only received two acquisition requests during the reporting period

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
			received and processed (approval)		
			Cumulative percentage of completion of the acquisition projects undertaken (process based)	70%	Target achieved

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
			No. of project compensation schedules	23	The schedules are for projects that awards have been issued to Project Affected Persons after approval by the Commission's plenary. Includes Lower Nzoia Irrigation & Flood Mitigation Project (Component: SCs, SD, MC 10 & GAPS), Construction of Maparasha Bridge & Approach Roads, Nairobi Western Bypass, East Africa Regional Transport Trade & Development Facilitation Project (Turkana Road Project), Kipsigak-Serem, Serem-Shamakhokho Roads, Construction of Mwala Cluster Water & Sanitation Project, Construction of Raw & Treated Water Gravity Mains from Thika Dam to Kigoro Treatment Plant to Gigiri and Gakira - Ngonda - Mununga, Gakonya - Mahuani & Makuyu Kambirwa - Mirira/Inc A2 Roads Project, Mwache Multipurpose Dam Project, Ngenda Water Supply Project, North Horr-Marsabit (B75) Road Project and Horn of Africa Gateway Development Project.

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
			No. of project compensation status reports	23	Target achieved. These are reports on the above projects that awards have been issued to Project Affected Persons after approval by the Commission's plenary
	To sustainably manage natural resources	Enhanced natural resource management for the benefit of all	No. of Natural resources theme-based Inventories established	5	Not fully achieved due to insufficient funds
			No. of registers for specific natural resources created	1	An Updated natural resources register in place
			No. of counties with Ecologically Sensitive Areas (ESAs) identified and	6	Nandi, Kakamega, Kisii, Vihiga, Homa Bay and Kwale Counties

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
			mapped for conservation		
			No. of initiatives taken to secure and protect fragile resources/ecosystems	6	6 Advisories on ESAs done for : Nandi,Kakamega, Kisii, Vihiga,Homa Bay and Kwale Counties
			No. of ESA monitoring reports	6	6 ESA Monitoring Reports done for: Nandi,Kakamega, Kisii, Vihiga,Homa Bay and Kwale Counties
			An atlas and geoportal of Kenya's ESAs in place	90%	Review of secondary information and analysis of gaps and issues, including Incorporation of the comments and inputs from the public participation is ongoing

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
			No. of advisories issued on sustainable natural resources management	23	7 Advisories on ESAs in: Nandi, Kakamega, Kisii, Vihiga, Homa Bay and Kwale Counties, Manguo Swamp 14 Climate-smart Advisories Advisories on NRM Economic Valuation Frameworks
			Natural resources governance and oversight frameworks developed	3	1. Country Position papers on the nexus between land and climate change developed under the Climate Change Treaty/ UNFCCC 2. National State of Environment (SoE) Report 3. Draft Blue Economy strategy
			No. of climate smart land roundtables held with stakeholders	4	1. Achieved. Participated in 2 technical preparatory caucuses and guided review of the global adaptation committee report for 2021/22; 2. Attended ELC @10nconference and moderated session on climate change in Kilifi ; 3. Led the Country's technical team that prepared the Country's position on land and climate change for the COP 27 in Sharmel Sheik, Egypt.

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
			No. of policy briefs and climate smart conditions generated and integrated in land administration and management	14	14 Climate-smart Advisories
			No of advisories on Inland and Marine-based blue-economy resources governance generated and shared with relevant stakeholders	1	Not achieved due to insufficient funds; 1. Lake Naivasha riparian land boundary demarcated

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
			Inland and marine waterbodies integrated plans in place	1	1. Not Achieved. Lake Naivasha riparian land boundary demarcated
			No. of Natural resource-based conflicts resolved	4	Target fully achieved. 1.Guided and provided key inputs for the development of an affidavit for the Nairobi River Riparian land (John Michuki Park) which is contested by Parties; while at the same participated in HLI sessions 2. Lake Naivasha Riparian Dispute 3. KARA Dispute 4.Got Ramogi Dispute
	To develop a comprehensive public land inventory and databases	Enhanced public land management	Report on documented acquired but unsurveyed public land	1	Report in place
			Project reports	0	

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Programme	Strategic Objective	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
SP 3. Public Land Information Management			No. of Reports on implementation of PLI Standards and guidelines	0	
			Functional enhanced PLI portal	0	This is an ongoing process and is done in conjunction with the Ardhi sasa
			Reports on Georeferenced PIDs and RIMs on public land	0	
SP4. Land Disputes and	To provide redress for Historical	HLI cases adjudicated	Reports on digitized public land	1	Achieved
			Regulations for HLI developed and in place	3	Admissibility criteria checklist reviewed and adopted 2. Corregendum of gazette notice 1995 of February 2021 done.

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
Conflict Resolutions	Land Injustices (HLI)		No. of HLI claims verified, analysed for admission	3503	Target achieved. All claims taken through Admissibility criteria.
			No. of HLI claims investigated	124	Investigative hearings conducted for : i) 18 claims(Otange Vs African University, Rea Vipingo claims, Kima Evictees, Kima Kimwe) ii) 94 claims (Mbari -62, Ogiek -31, Torongo-1) iii) 7 claims (Herti/ Isaak of Isiolo, Kalenjin Enterprises, Lembus Torongo, Absentee Landlords' claims in Kilifi , Kogony Council of Elders Vs KAA, Nyaimbo Welfare Association Vs County Government of Migori , Boundary dispute between Makueni, Taita Taveta and Lamu Counties) iv) 5 claims (2 Kima Kimwe (Physical) & Virtual, Kazungu Chogo Moli vs African University Trust , Kogony Council of Elders ,Boundary Dispute btwn Makueni, Taita Taveta and Kwale Counties)

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Programme	Strategic Objective	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
			No. of determinations/Recommendations made on HLI claims	5	1) 5 Determination finalized for: i) Ontulili Squatters Vs Angaine Family ii)Tunyai 'B' Adjudication Section iii) Kamnarock Farmers Group iv) Kiina Evictees v) Lembus Torongo. 2) Drafting of Determinations ongoing: i) All the Mbari claims(about 68) ii) Kalenjin Enterprise claim completed and at the Committee Stage iii) Writing of determination of preliminary objections on the Boundary Dispute btwn Makueni, Taita Taveta and Kwale Counties
	To provide redress to land disputes	Reduced land related conflicts	ADR/TDR guidelines developed and in place	0	

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
			Guidelines and standard operating procedures for case management in place.	1	Standard operating procedures for case management in place.
			Guidelines and standard operating procedures under Section 9 (e) of PLUPA developed and in place	0	
			No. of disputes admitted for resolution through ADR	774	Not fully achieved. This is an ongoing process

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Programme Strategic Objective	Outcome Key Performance Indicators	Annual Achievement 2022/23	REMARKS
	and TDR mechanisms.		
	% of disputes resolved through ADR and TDR mechanisms.	42%	Not fully achieved. This is an ongoing process
	% of litigation cases attended, complaints received and resolved from institutions and individuals	75%	Target achieved and surpassed due to the increased number of the Commission's lawyers and also increase in their facilitation to attend court sessions
	No. of reports on case management highlighting	4	Reports in place

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Programme	Strategic Objectives	Outcomes	Key Performance Indicators	Annual Achievement 2022/23	REMARKS
			cases heard and cases determined		

7. Management Discussion and Analysis

Key Performance Highlights

Below is an overview of the financial performance for the year ended 30th June 2023 as reported in the detailed financial statements together with the commentary and comparative analysis against budget and prior year for the key items in the financial statements.

Financial Performance Summary

Actual Performance against Budget for Year to 30th June 2023

Financial Performance	Budgeted Performance	Actual	Variance	%
	KShs	KShs	KShs	Utilisation Variance
Total Receipts	1,482,435,786	1,477,653,243	4,782,543	100%
Total Payments	1,482,435,786	1,477,325,323	5,110,463	100%
Surplus for the Year		327,919		

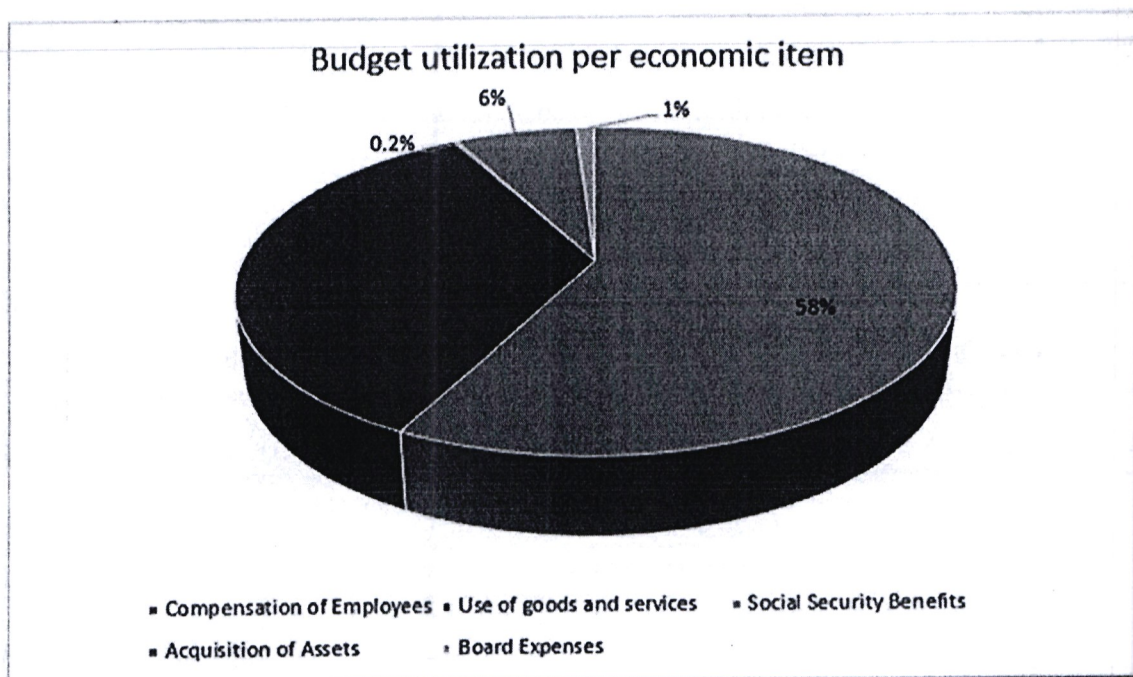
Actual receipts and payments by the NLC stood at 100% utilisation

Budget Utilisation

The National Land Commission spent **Ksh. 1,477,325,323** against an approved budget of **Ksh. 1,482,435,786** representing absorption of **98%**. Utilisation of the budget was carried out through various activities (economic classifications) as shown in the chart below:

	Approved Budget Allocation	Actual Payments	Variance
Compensation of Employees	1,081,842,750	1,076,088,076	5,754,674
Use of goods and services	354,906,140	352,285,377	2,620,763
Social Security Benefits	16,047,250	16,020,962	26,288
Acquisition of Assets	29,639,646	32,930,908	(3,291,262)
Total Payments	1,482,435,786	1,477,325,323	5,110,463

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It is noted that 58% of the National Land Commission's budget was used on compensation of employees, 35% on use of goods and services, 6% utilised in Acquisition of assets and 1.2 % on board expenses and social security benefits.

Current Year Performance against Prior Year

Financial Performance	Year to 30 th June 2023 KShs	Year to 30 th June 2022 KShs	Change KShs	% Change
Total Receipts	1,745,958,381	2,106,722,464	(360,764,083)	-83%
Total Payments	2,165,783,823	2,245,807,290	(80,023,467)	-87%
Surplus for the Year	(419,825,443)	(139,084,825)		

Total receipts decreased by 83% due to decreased funding from other Government entities for compensations while there was decrease of 87% in payments attributed to the compensation for affected persons.

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Receipts

The National Land Commission's receipts mainly comprise of exchequer releases from the National Treasury and Transfers from other government entities to the compensation fund. Other receipt sources include interest earned from compensation fund.

The total receipts for FY 2022/2023 stood at **Ksh. 1,745,958,381** representing 83% decrease from **Ksh. 2,106,722,464** for FY 2021/2022. (break down as below)

Total Receipts Breakdown

	2022-2023	2021-2022	Change	%
	Ksh	Ksh		Change
Transfers from National Treasury	1,477,653,243	1,712,475,921	(234,822,678)	-14%
Transfers from Other Government Entities	48,916,847	95,636,681	(46,719,834)	-49%
Other Revenues B/F	219,388,291	298,609,862	(79,221,571)	-27%
TOTAL REVENUES	1,745,958,381	2,106,722,464	(360,764,083)	-120%

The increase in total receipts is because of the fact that the closing fund balances of the compensation fund has been treated as receipts in the period under review

Payments

The National Land Commission's payments mainly comprise of payments of compensation fund, employee compensation, use of goods and services and acquisition of assets.

The total payments for FY 2022/2023 stood at **Ksh. 1,745,958,381** representing a 87% decrease from **Ksh 2,106,722,464** for FY 2021/2022. The decrease in payment was due to completion of mega projects and reduced remittance from the acquiring bodies during the year under review.

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Total Payment Breakdown

	2022/2023	2021/2022	Change	% Change
	Kshs	Kshs		
PAYMENTS				
Compensation of Employees	1,076,088,076	988,938,745	87,149,331	9%
Use of goods and services	352,285,377	589,814,663	(237,529,286)	-40%
Social Security Benefits	16,020,962	3,548,375	12,472,588	352%
Acquisition of Assets	32,930,908	111,909,766	(78,978,858)	-70%
Other Expenses-Compensation	688,458,500	533,662,770	154,795,730	23%
Board Expenses	-	17,932,972	(17,932,972)	-100%
TOTAL PAYMENTS	2,165,783,823	2,245,807,290	(80,023,467)	4%

Further analysis is here below;

- Use of goods decreased by 40% due increased budgetary allocation by the National Treasury.
- Acquisition of assets decreased by 70% is because development budget had been transferred to ministry of ICT
- Administration expenses Compensation increased by 23% is due to increase in funds received from acquiring Entities for projects.

Financial Assets Summary

	2022/2023	2021/2022	Change	% Change
	Kshs	Kshs		
FINANCIAL ASSETS				
Cash and Cash Equivalents				
Bank Balances	8,729,772,986	9,976,355,615	(1,246,582,629)	-15%
Cash Balances				
Total Cash And Cash Equivalents	8,729,772,986	9,976,355,615	(1,246,582,629)	-15%
Accounts Receivables	3,888,019	3,223,707	664,312	21%
TOTAL FINANCIAL ASSETS	8,733,661,005	9,979,579,322	(1,245,918,317)	-15%

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Bank balances decreased by 15% because of increase in payments of PAPs.

Cash Flows and Cash Position

Cash and bank balances held by National Land Commission as at 30th June 2023 was **Ksh. 8,729,772,986** compared to **Ksh 9,976,355,615** held as at 30th June 2022. The breakdown of the cash and bank balances is as summarized in the table below.

Cash and Bank Balance

	As at 30 th June 2023	As at 30 th June 2022	Change	%
	KShs	KShs	KShs	Change
Bank Balances	8,729,772,986	9,976,355,615	(1,246,582,629)	-15%
Cash Balances	-	-	-	-
Total	8,729,772,986	9,976,355,615	(1,246,582,629)	-15%

Bank balances decreased by 15% because of increase in payments of PAPs. And decrease of receipts from other government entities

Cash Flow Activities

The table below summarizes cash flows generated and used from various activities.

	2022-2023	2021-2022	Change	%Change
	KShs	KShs		
Net cash flow from operating activities	(1,213,651,721)	(5,990,451,378)	1,876,189,596	-46%
Net cash flows from Investing Activities	(32,930,908)	(111,909,766)	78,583,858	-70%
Net cash flow from financing activities	-	-	-	-
Net Increase in cash and cash Equivalent	(1,246,582,630)	(6,102,361,144)	(1,797,210,740)	-56%
Cash and cash equivalent at BEGINNING of the year	9,976,355,615	16,078,716,760	(6,102,361,145)	-36%
Cash and cash equivalent at END of the year	8,729,772,985	9,976,355,615	(5,944,798,431)	-15%

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Net cash flows utilised in investing activities increased due to acquisition of assets. Net cash flows utilised in operating activities decreased due to a decrease in amounts utilised in the transfers from other government entities



Kabale Tache Arero
Secretary/CEO

8. Environmental and Sustainability Reporting

a) Sustainability strategy and profile

The top management especially the accounting officer should refer to sustainable efforts, broad trends in political and macroeconomic affecting sustainability priorities, reference to international best practices and key achievements and failure.

b) Environmental performance /climate change/ mitigation of natural disasters

The National Land Commission is yet to establish an environmental policy to guide its operations. Nevertheless, The Commission has adopted the use of ICT in order to minimise on the use of paper work.

c) Employee welfare

The National Land Commission has put in place the following policies to guide while undertaking employee's welfare:

- Human Resources Manual Policy

d) Operational practices

The organisation should outline its efforts to:

i. Responsible Supply chain and supplier relations

Explain how the organisation maintains good business practices, treats its own suppliers responsibly by honouring contracts and respecting payment practices.

e) Community Engagements-

During financial year 2022/2023, The National Land Commission did not have any approved strategies on community engagement. However, during the period under Covid 19 pandemic, The Commission mobilised Kshs 625,000 From the Chairperson, Commissioners and members of the secretariat. The amount was handed over to the Covid 19 Fund for the purpose of fighting and containing the spread of the Covid 19 virus

*National Land Commission
Annual Report and Financial Statements For the year ended 30th June 2023*

9. Statement of Management Responsibilities

Section 81 (1) of the Public Finance Management Act, 2012 requires that, at the end of each financial year, the Accounting Officer for a National Government Entity shall prepare financial statements in respect of that entity. Section 81 (3) requires the financial statements so prepared to be in a form that complies with relevant accounting standards as prescribed the Public Sector Accounting Standards Board of Kenya from time to time.

The Accounting Officer in charge of The National Land Commission is responsible for the preparation and presentation of the entity's financial statements, which give a true and fair view of the state of affairs of the entity for and as at the end of the financial year ended on June 30, 2023. This responsibility includes: (i) maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period, (ii) maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the entity, (iii) designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud, (iv) safeguarding the assets of the entity; (v) selecting and applying appropriate accounting policies, and (vi) making accounting estimates that are reasonable in the circumstances.

The Accounting Officer in charge The National Land Commission accepts responsibility for the entity's financial statements, which have been prepared on the Cash Basis Method of Financial Reporting, using appropriate accounting policies in accordance with International Public Sector Accounting Standards (IPSAS). The Accounting Officer is of the opinion that the entity's financial statements give a true and fair view of the state of entity's transactions during the financial year ended June 30, 2023, and of the entity's financial position as at that date. The Accounting Officer in charge of The National Land Commission further confirms the completeness of the accounting records maintained for the entity, which have been relied upon in the preparation of the entity's financial statements as well as the adequacy of the systems of internal financial control.

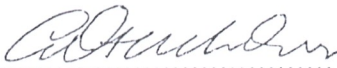
The Accounting Officer in charge of The National Land Commission confirms that the entity has complied fully with applicable Government Regulations and the terms of external financing covenants (where applicable), and that the entity's funds received during the year under audit were used for the eligible purposes for which they were intended and were properly accounted for. Further the Accounting Officer confirms that the entity's financial statements have been prepared in a form that complies with relevant accounting standards prescribed by the Public Sector Accounting Standards Board of Kenya.

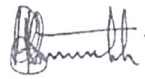
Approval of the financial statements

The National Land Commission financial statements were approved and signed by the Accounting Officer on 20th September 2023.


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Kabale Tache Arero

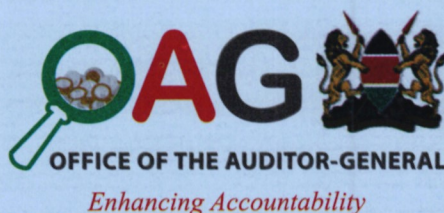
Secretary /CEO


.....
Gershom Otachi
Bw'omanwa
Chairman


.....
CPA Bernard Kibet
Cherutich
Director Finance and
Corporate Planning
ICPAK M/No: 5816

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REPORT OF THE AUDITOR-GENERAL ON NATIONAL LAND COMMISSION FOR THE YEAR ENDED 30 JUNE, 2023

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure that the Government achieves value for money and that such funds are applied for the intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment and the internal controls, developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of National Land Commission set out on pages 1 to 44, which comprise of the statement of financial assets and financial liabilities as at 30 June, 2023, and the statement of receipts and payments, statement of

cash flows and the statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of the National Land Commission as at 30 June, 2023, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Misclassification of Expenditure

The statement of receipts and payments reflects Kshs.1,076,088,076, Kshs.352,285,377 and Kshs.32,930,908 in respect to compensation of employees, use of goods and services and acquisition of assets respectively as disclosed in Notes 4, 5 and 7 to the financial statements. Review of the expenditure schedules and other supporting documents revealed that expenses totalling Kshs.5,592,044 were charged to incorrect expenditure items without approval of The National Treasury as detailed in the table below: -

Item	Note	Vote-Head Total (Kshs.)	Amount Wrongly Charged (Kshs.)	Correct Expenditure Item to be Charged
Compensation to Employees				
Basic Salaries	4	707,983,544	90,730	Training Expense
Use of Goods and Services				
Domestic Travel and Subsistence	5	27,380,193	385,000	Training Expense
Foreign Travel and Subsistence	5	2,631,700	1,014,800	Other Operating Expenses
Training Expense	5	7,279,630	975,400	Other Operating Expenses
Other Operating Expenses	5	14,839,937	945,200	Training and Hospitality Supplies and Services

Item	Note	Vote-Head Total (Kshs.)	Amount Wrongly Charged (Kshs.)	Correct Expenditure Item to be Charged
Acquisition of Assets				
Purchase of Office Furniture and General Equipment	7	751,800	751,800	Hospitality Supplies and Services
Purchase of Specialized Plant, Equipment and Machinery	7	250,506	250,506	Other Operating Expenses
Research Studies, Project Preparation, Design and Supervision	7	1,178,608	1,178,608	Other Operating Expenses and Training
		Total	5,592,044	

Management did not provide an explanation for the misclassification of the expenditure amounting of Kshs.5,592,044.

In the circumstances, the accuracy and classification of the compensation of employees, use of goods and services and acquisition of assets expenditures amounting to Kshs.5,592,044 could not be confirmed.

2. Failure to Refund Expenses Through the Compensation Fund

The statement of receipts and payments reflects an amount of Kshs.688,458,500 in respect of other payments which as disclosed in Note 8 to the financial statements includes administrative costs totalling Kshs.687,528,980. Review of the ledger supporting administrative costs revealed that a payment of Kshs.100,000,000 was made to a local law firm on 21 October, 2022 from the Compensation Fund account held in a local bank following a court ruling related to case No. E106 of 2022 dated 07 October, 2022.

Further, the approval to pay was given through resolutions of 118th Commission meeting held on 21 October, 2022 which resolved that the money be paid from Compensation Fund account and the same be reimbursed upon provision of the budget by The National Treasury. In addition, the Commission's CEO was instructed to write to The National Treasury seeking the refund of the payment. However, as at the time of audit in November, 2023 the funds had not been received from The National Treasury and had therefore not been refunded to the Compensation Fund account as required. Management explained that the Commission is still pursuing The National Treasury for provision of sufficient budgetary allocation to ensure that the refund of the amount of Kshs.100,000,000 is done.

In addition, the administrative costs amount of Kshs.687,528,980 further includes an amount of Kshs.12,700,000 paid to a local Company for purchase of two (2) Hyundai Palisade motor vehicles which was paid from the Compensation Fund account to fund the Commission's expenditure. The Commission refunded amounts of Kshs.9,000,000 and Kshs.3,000,000 from its Recurrent account on 24 February, 2023 and 27 June, 2023 respectively leaving a balance of Kshs.700,000 outstanding as at 30 June, 2023. Although Management explained that the Commission is still pursuing The National Treasury for provision of sufficient budgetary allocation to ensure that the refund of the amount of Kshs.700,000 is done, the Commission irregularly utilized funds related to land compensation against the resolutions made during the 118th Commission meeting.

In the circumstances, the regularity of the expenditure amounting to Kshs.100,700,000 could not be ascertained.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Land Commission Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Emphasis of Matter

1. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,482,435,786 and Kshs.1,745,958,381 respectively resulting to an over-funding of Kshs.263,522,595 or 18% of the budget. Similarly, the Commission expended Kshs.2,165,783,823 against an approved budget of Kshs.1,482,435,786 resulting to an over-expenditure of Kshs.683,348,037 or 46% of the budget.

The over-funding and over-expenditure were mainly caused by unbudgeted transfers to other Government entities, miscellaneous receipts and other payments. Although Management has explained that the Commission does not budget for administration receipts and payments, no reason or justification has been provided for incurring expenditure without an approved budget and annual work plan as required.

2. Pending Bills

Note 18.2 and 18.3 to the financial statements reflects pending accounts payable amounting to Kshs.731,555,911 which comprised of amounts of Kshs.102,572,123, Kshs.577,835,389 and Kshs.51,148,399 in respect of supply of services, outstanding litigation expenses and pending staff payables respectively. However, bills amounting to Kshs.531,496,351 constitutes opening balances from prior years which were not settled during the year when they occurred. Management did not provide an explanation on why the pending bills did not form a first charge in the year under review.

Further, Management did not provide an analysis of the other pending staff payables as recommended in the reporting template issued by the Public Sector Accounting Standards Board.

Failure to settle bills during the year to which they relate distorts the budget implementation of the subsequent year as the outstanding bills form a first charge on resources available and exposes the Commission to litigation due to unpaid staff claims.

My opinion is not modified in respect of these matters.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

Other Matter

Unresolved Prior Year Matters

In the audit report of the previous year, some issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. Although the issues were subsequently presented before the Public Accounts Committee, they remained unresolved as at the time of the audit in November, 2023.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1. Unsatisfactory Partitioning Works at the National Land Commission Offices

The statement of receipts and payments and Note 8 to the financial statements reflect other payments amounting to Kshs.688,458,500 which further includes expenditure totalling Kshs.687,528,980 in respect to administrative costs. Review of the supporting ledger revealed that a payment of Kshs.35,000,000 was made to a Company as a part payment in respect to partitioning works to the National Land Commission Offices whose procurement was done through the direct procurement method. The contract for the works was signed between the contractor (also the landlord) and National Land Commission on 25 January, 2022 at a contract sum of Kshs.130,009,167. However,

review of records revealed that the contractor presented an invoice of Kshs.146,137,739.25 which was more than the contract sum of Kshs.130,009,167 by an amount of Kshs.16,128,572 or 12% of the original contract sum vide the final account summary dated 31 May, 2022. Although the extra claim of Kshs.16,128,572 was disputed by the Commission vide a letter dated 22 June, 2022 there was no further correspondence from the contractor concerning the claim.

Further, there were indications of poor workmanship in the partitioning resulting in leakages during the rainy season in the Chairman's office, the Chief Executive Officer's office and pool and four (4) Commissioners' offices and the entrance to another Commissioner's office while the partitioning works was not budgeted for during the year under review. Management explained that the cause of leakages in some of the offices of the Commission was due to defects in the original structure of the building and not the partition works carried out by the contractor. This unsatisfactory situation was communicated to the landlord of the building vide a letter dated 2 November, 2023 but no response was provided for audit verification.

In addition, Management did not provide any evidence that the anomalies had been included in the Commission's project inspection team's reports.

In the circumstances, the value for money realized from the expenditure of Kshs.35,000,000 incurred could not be confirmed.

2. Failure to Comply with the Approved Staff Establishment

Review of human resource records revealed that the Commission has an approved staff establishment of one thousand two hundred and sixteen (1,216) staff. However, and as previously reported, there were five hundred and forty- five (545) staff in post resulting in an overall variance or understaffing of six hundred and seventy-one (671) staff or 55% of the expected staffing levels.

Management has explained that the Commission is in the process of recruiting the requisite staff subject to sufficient budgetary allocation and approval by The National Treasury. Consequently, failure to recruit and retain the optimal number of employees may hinder the effective delivery of services by the Commission. This is contrary to Section A.15 of the Human Resource Policies and Procedures Manual for Public Service, May 2016, which states that the functions of Ministerial Human Resource Management Advisory Committees (MHRMAC) entail making recommendations to the Authorized Officer regarding: - inter alia establishment and complement control.

In the circumstances, Management was in breach of the public service policies and procedures.

3. Non-Compliance with One Third Basic Pay Rule

Review of the Commission's staff payroll revealed that for all the twelve (12) months of the year there were employees whose salary deductions exceeded two thirds of their basic salaries. This is contrary to Section 19(3) of the Employment Act, 2007 which requires that deductions made by an employer from the wages of his/her employee at any one time shall not exceed two thirds of such wages.

In the circumstances, Management was in breach of the law and this may expose the staff to pecuniary embarrassment.

4. Officers on Acting Capacity Beyond Stipulated Time

Review of the Commission's payroll and other human resources records revealed that during the year there were twenty-five (25) employees who continued to serve in acting capacities beyond the stipulated six (6) months period. This is contrary to Section 5.6 of the Commission's Human Resource Policy Manual which provides that acting appointments will be made for a minimum of thirty (30) days and maximum of six (6) months duration.

In the circumstances, the Management was in breach of the Human Resource Policy Manual.

5. Long Outstanding Third-Party Deposits and Retention Balances

Review of records revealed that included in the third-party deposits and retention balance of Kshs.8,627,134,376 are long outstanding balances held for various projects under the Kenya National Highways Authority amounting to Kshs.1,339,275,083 which were completed several years ago. No explanation was provided for not paying the intended beneficiaries as required by the law. This is contrary to Section 115(1) (b) of the Land Act, 2012 which states that after notice of an award has been served on all the persons determined to be interested in the land, the Commission shall, promptly pay compensation in accordance with the award to the persons entitled thereunder, except in a case where the person entitled does not consent to receive the amount awarded.

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

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

1. Management of Grounded Motor Vehicles

Review of the motor vehicle register and other records provided revealed that the Commission has fifty-two (52) motor vehicles out of which thirteen (13) or 25% were grounded during the year under review. Although Management provided the details of various defects on the grounded vehicles, no reason was provided for the failure to address those defects.

Further, physical inspection of the motor vehicles revealed that two (2) motor vehicles listed below have been grounded at various garages for a long period of time.

Reg. No.	Model	Remarks by Management
GKB 651S	Nissan Van	Unserviceable
GKB 499D	Toyota	Unserviceable

The motor vehicle register further includes two (2) vehicles (KCK 366A and KBZ 177N) bearing private registration plates and had been donated by Development Partners to the Commission. However, Management did not provide an explanation as to why the motor vehicles had not been registered in the name of the Commission.

In the circumstances, the effectiveness of controls relating to management of motor vehicles could not be confirmed.

2. Lack of Commission Evaluation

During the year under review, the Commission did not carry out the evaluation of its performance, that of its committees and that of the Secretary/CEO as required by the Commission's charter. This is contrary to Article 27 of the Commission's charter on performance evaluation of the Commission which states that on an annual basis, the Commission shall undertake an evaluation of its functions as a collective agency. In particular, the Commission will evaluate the annual performance of the Commission itself, the Commission committees, and the Commission Secretary/CEO. The evaluation will be conducted in accordance with the evaluation tools which will be developed and agreed upon by the Commission.

Management explained that the Commission is in the process of putting in place tools and criteria which will be agreed by the Commission as required by the Commission charter.

In the absence of the evaluation report on the performance of the Commission, it was not possible to rate the performance of the Commission and recommend changes or improvements where necessary.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal controls, risk management and overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal controls as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal controls, risk management and governance.

In preparing the financial statements, Management is responsible for assessing the Commission's ability to continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to terminate the Commission or to cease operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the Commission's financial reporting process, reviewing the effectiveness of how Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied

in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal controls in order to give an assurance on the effectiveness of internal controls, risk management and overall governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal controls would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal controls may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal controls.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Commission's ability to continue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Commission to cease to continue to sustain its services.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Commission to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal controls that are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence and communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.


FCPA Nancy Gathungu, SBS
AUDITOR-GENERAL

Nairobi

25 January, 2024

11. Statement of Receipts and Payments for the Year ended 30th June 2023

Description	Note	2021-2022		
		2022-2023	Restated	2021-2022
		Kshs	Kshs	Kshs
RECEIPTS				
Exchequer releases	1	1,477,653,243	1,712,475,921	1,712,475,921
Transfers from Other Government Entities	2	48,916,847	95,636,681	8,100,559,635
Miscellaneous Receipt	3	219,388,291	298,609,862	298,609,862
TOTAL RECEIPT		1,745,958,381	2,106,722,464	10,111,645,418
PAYMENTS				
Compensation of Employees	4	1,076,088,076	988,938,745	988,938,745
Use of goods and services	5	352,285,377	589,814,663	589,814,663
Social Security Benefits	6	16,020,962	3,548,375	3,548,375
Acquisition of Assets	7	32,930,908	111,909,766	111,909,766
Other Payments	8	688,458,500	533,662,770	14,597,577,100
Board Expenses	9	-	17,932,972	17,932,972
TOTAL PAYMENTS		2,165,783,823	2,245,807,290	16,309,721,620
SURPLUS/ DEFICIT		(419,825,443)	(139,084,825)	(6,198,076,203)

Note:

The Commission prepared the current financial statement using a different approach from the previous years, where the transfers from acquiring entities were recognized as part of the Commission income instead of recognizing transfer as accounts payable. Henceforth, the Commission will adopt and report its statement of receipts and payments using the current approach for consistency. Financial statements for financial year 2021-2022 have been restated to reflect the correct position. It was not practical to reinstate the financial statement beyond the period above. The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved on 20th September 2023 and signed by:

.....
Kabale Tache Arero
 Secretary /CEO

.....
Gershom Otachi Bw'omanwa
 Chairman

.....
CPA Bernard Kibet Cherutich
 Director Finance and
 Corporate Planning
 ICPAK M/No: 5816

National Land Commission

Annual Report and Financial Statements For the year ended 30th June 2023

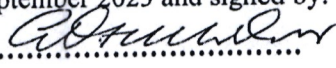
12. Statement Of Financial Assets And Financial Liabilities As At 30th June 2023

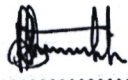
Description	Note	2021-2022		
		2022-2023	Restated	2021-2022
		Kshs	Kshs	Kshs
FINANCIAL ASSETS				
Cash and Cash Equivalents				
Cash and Bank Balances	10	8,729,772,985	9,976,355,615	9,976,355,615
Total Cash And Cash Equivalents		8,729,772,985	9,976,355,615	9,976,355,615
Imprest And Advances	11	3,888,019	3,223,707	3,223,707
TOTAL FINANCIAL ASSETS		8,733,661,004	9,979,579,322	9,979,579,322
FINANCIAL LIABILITIES				
Third Party Deposits & Retentions	12	8,627,134,376	9,453,227,251	9,967,360,452
NET FINANCIAL ASSETS		106,526,628	526,352,071	12,218,870
REPRESENTED BY				
Fund balance b/fwd.	13	526,352,071	665,436,896	(377,583,235)
Prior year adjustments	14	-	-	6,587,878,307
Surplus/Deficit for the year		(419,825,443)	(139,084,825)	(6,198,076,202)
NET FINANCIAL POSITION		106,526,628	526,352,071	12,218,870

Note:

The Commission prepared the current financial statement using a different approach from the previous years, where the transfers from acquiring entities were recognized as part of the Commission income instead of recognizing transfer as accounts payable. Henceforth, the Commission will adopt and report its statement of receipts and payments using the current approach for consistency. Financial statements for financial year 2021-2022 have been restated to reflect the correct position. It was not practical to reinstate the financial statement beyond the period above. The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved on 20th September 2023 and signed by:


Kabale Tache Arero
Secretary /CEO


Gershom Otachi Bw'omanwa
Chairman


CPA Bernard Kibet Cherutich
Director Finance and
Corporate Planning

13. Statement of Cash Flows For The Year Ended 30th June 2023

Description	Note	2022-2023 Kshs	2021-2022 Restated Kshs	2021-2022 Kshs
OPERATING ACTIVITIES				
Receipts				
Exchequer Releases	1	1,477,653,243	1,712,475,921	1,712,475,921
Transfers from Other Government Entities	2	48,916,847	95,636,681	8,100,559,635
Miscellaneous Receipts	3	219,388,291	298,609,862	298,609,862
Total Receipts		1,745,958,381	2,106,722,464	10,111,645,418
Payments				
Compensation of Employees	4	1,076,088,076	988,938,745	988,938,745
Use of goods and services	5	352,285,377	589,814,663	589,814,663
Social Security Benefits	6	16,020,962	3,548,375	3,548,375
Other Payments	8	688,458,500	533,662,770	14,597,577,100
Board Expenses	9	-	17,932,972	17,932,972
Total Payments		2,132,852,915	2,133,897,524	16,197,811,855
Adjusted for:				
Adjustments during the year				
Prior Year Adjustments	14			6,587,878,307
Decrease/Increase in Accounts Receivables	15	(664,312)	78,377	78,377
Decrease/Increase in Deposits and Retentions	16	(826,092,875)	(5,963,354,695)	(5,898,243,749)
Net adjustments		-	-	689,712,935
Net cashflow from operating activities		(1,213,651,722)	(5,990,451,378)	(5,396,453,502)
CASHFLOW FROM INVESTING ACTIVITIES				
Acquisition of Assets	7	(32,930,908)	(111,909,766)	(111,909,766)
Net cash flows from Investing Activities		(32,930,908)	(111,909,766)	(111,909,766)

National Land Commission

Annual Report and Financial Statements For the year ended 30th June 2023

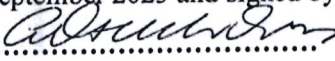
CASHFLOW FROM FINANCING ACTIVITIES				
Net cash flow from financing activities		-	-	-
NET INCREASE IN CASH AND CASH EQUIVALENT		(1,246,582,630)	(6,102,361,143)	(5,508,363,267)
Cash and cash equivalent at START of the year		9,976,355,615	16,078,716,760	15,484,718,882
Cash and cash equivalent at END of the year		8,729,772,985	9,976,355,615	9,976,355,615

Note:

The Commission prepared the current financial statement using a different approach from the previous years, where the transfers from acquiring entities were recognized as part of the Commission income instead of recognizing transfer as accounts payable. Henceforth, the Commission will adopt and report its statement of receipts and payments using the current approach for consistency. Financial statements for financial year 2021-2022 have been restated to reflect the correct position. It was not practical to reinstate the financial statement beyond the period above. The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved on 20th September 2023 and signed by:

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Kabale Tache Arero
Secretary /CEO

.....

Gershom Otachi Bw'omanwa
Chairman

.....

CPA Bernard Kibet Cherutich
Director Finance and
Corporate Planning
ICPAK M/No: 5816

National Land Commission
Annual Report and Financial Statements For the year ended 30th June 2023

14. Statement of Comparison of Budget and Actual Amounts for FY 2022/23

Revenue/Expenditure Item	Original Budget	Revised Budget	Actual Amount	Difference	Percentage of Total Budget
RECEIPTS					
Exchequer releases	1,558,300,000	(75,864,214)	1,482,435,786	4,782,543	100%
Transfers from Other Government Entities	-	-	48,916,847	(48,916,847)	-
Miscellaneous Receipts	-	-	219,388,291	(219,388,291)	-
Total Receipts	1,558,300,000	(75,864,214)	1,482,435,786	(263,522,595)	118%
Payments					
Compensation of Employees	1,026,000,000	55,842,750	1,076,088,076	5,754,674	99%
Use of goods and services	383,040,502	(28,134,362)	354,906,140	2,620,763	99%
Social Security Benefits	-	16,047,250	16,020,962	26,288	100%
Acquisition of Assets	149,259,498	(119,619,852)	29,639,646	(3,291,262)	111%
Other Payments	-	-	688,458,500	(688,458,500)	-
Total Payments	1,558,300,000	(75,864,214)	1,482,435,786	(683,348,037)	146%
Surplus/Deficit	-	-	-	(419,825,443)	-

(a) Variance analysis:

The overutilization of Acquisition of Assets was due to supplementary budgets done after expenditure had been committed.

**National Land Commission
Annual Report and Financial Statements For the year ended 30th June 2023**

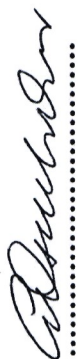
(b) Reallocations within the year:

The changes between the original and final budget are as a result of reallocations and supplementary budget done during the year.

The Commission prepared the current financial statement using a different approach from the previous years, where the transfers from acquiring entities were recognized as part of the Commission income instead of recognizing transfer as accounts payable. Henceforth, the Commission will adopt and report its statement of receipts and payments using the current approach for consistency. Financial statements for financial year 2021-2022 have been restated to reflect the correct position. It was not practical to reinstate the financial statement beyond the period above. The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved on 20th September 2023 and signed by:

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Kabale Tache Arero
Secretary /CEO

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Gershom Otachi Bw'omanwa
Chairman

.....


CPA Bernard Kibet Cherutich
Director Finance and Corporate Planning
ICPAK M/No: 5816

13 (a) Statement of Comparison of Budget and Actual Amounts: Recurrent for FY 2022/23

Revenue/Expense Item	Original Budget a	Adjustments b	Final Budget c=a+b	Actual on Comparable Basis d	Budget Utilisation Difference e=d-c	% of Utilisation Difference to Final Budget f=d/c %
RECEIPTS						
Exchequer releases	1,468,000,000	14,435,786	1,482,435,786	1,477,653,243	4,782,543	100%
Transfers from Other Government Entities	-	-	-	48,916,847	(48,916,847)	-
Miscellaneous Receipts	-	-	-	219,388,291	(219,388,291)	-
Total Receipts	1,468,000,000	14,435,786	1,482,435,786	1,745,958,381	(263,522,595)	118%
PAYMENTS						
Compensation of Employees	1,026,000,000	55,842,750	1,081,842,750	1,076,088,076	5,754,674	99%
Use of goods and services	383,040,502	(28,134,362)	354,906,140	352,285,377	2,620,763	99%
Social Security Benefits	-	16,047,250	16,047,250	16,020,962	26,288	100%
Acquisition of Assets	58,959,498	(29,319,852)	29,639,646	32,930,908	(3,291,262)	111%
Other Payments	-	-	-	688,458,500	(688,458,500)	-
Board Expenses	-	-	-	-	-	-
Total Payments	1,468,000,000	14,435,786	1,482,435,786	2,165,783,823	(683,348,047)	146%
Surplus/Deficit	-	-	-	(419,825,443)	419,825,443	

**National Land Commission
Annual Report and Financial Statements For the year ended 30th June 2023**

Notes

a) Variance analysis:

The overutilization of Acquisition of Assets was due to supplementary budgets done after expenditure had been inquired.

b) Reallocations within the year:

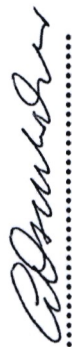
The changes between the original and final budget are as a result of reallocations and supplementary budget done during the year.

The Commission prepared the current financial statement using a different approach from the previous years, whereby the transfers from acquiring entities were recognized as part of the Commission income instead of recognizing transfer as account payable. Henceforth, the Commission will adopt and report its statement of receipts and payments using the current approach for consistency

The entity financial statements were approved on 20th September 2023 and signed by:


.....

**Kabale Tache Arero
Secretary /CEO**


.....

**Gershom Otachi Bw'omanwa
Chairman**


.....

**CPA Bernard Kibet Cherutich
Director Finance and Corporate
Planning
ICPAK M/No: 5816**

National Land Commission
Annual Report and Financial Statements For the year ended 30th June 2023

13 (b) Statement of Comparison of Budget and Actual Amounts: Development for FY 2022/23

Revenue/Expense Item	Original Budget a	Adjustments b	Final Budget c=a+b	Actual on Comparable Basis d	Budget Utilisation Difference e=c-d	% of Utilisation f=d/c%
RECEIPTS						
Exchequer releases	90,300,000	(90,300,000)	-	-	-	-
Total Receipts	90,300,000	(90,300,000)	-	-	-	-
Payments						
Acquisition of Assets	90,300,000	(90,300,000)	-	-	-	-
Grand Total	90,300,000	(90,300,000)	-	-	-	-
Surplus/Deficit	-	-	-	-	-	-

c) Reallocations within the year:

The changes between the original and final budget are as a result of reallocations and supplementary budget done during the year.

The entity financial statements were approved on 20th September 2023 and signed by:

.....
Kabale Tache Arero

Secretary /CEO

.....
Gershom Otachi Bw'omanwa

Chairman

.....
CPA Bernard Kibet Cherutich

Director Finance and Corporate
Planning
ICPAK M/ No: 5816

*National Land Commission
Annual Report and Financial Statements For the year ended 30th June 2023*

13 (c) Budget Execution by Programmes and Sub-Programmes for FY 2022/23

Program	Sub Program	Description	Approved Budget	Actual Payments	Variance
113000000		Land Administration and Management	0	-630.05	630.05
	113010000	Land Administration and Management	0	-630.05	630.05
	113050000		0	0	0
	113060000		0	0	0
	113070000		0	0	0
114000000			0	0	0
	114010000		0	0	0
115000000			0	-400	400
	115010000		0	-400	400
116000000			0	0	0
	116010000		0	0	0
119000000			1,482,435,786.00	1,478,074,451.45	4,361,334.55
	119010000		1,392,943,905.00	1,393,232,694.65	-288,789.65
	119020000		62,693,060.00	59,987,284.20	2,705,775.80
	119030000		4,399,209.00	4,029,278.00	369,931.00
	119040000		22,399,612.00	20,825,194.60	1,574,417.40
		Grand Total	1,482,435,786.00	1,478,073,421.40	4,362,364.60

15. Notes to the Financial Statements

1. Statement of Compliance and Basis of Preparation

The financial statements have been prepared in accordance with Cash-basis International Public Sector Accounting Standards (IPSAS) as prescribed by the Public Sector Accounting Standards Board (PSASB) and set out in the accounting policy note below. This cash basis of accounting has been supplemented with accounting for; a) receivables that include imprests and salary advances and b) payables that include deposits and retentions. The financial statements comply with and conform to the form of presentation prescribed by the PSASB. The accounting policies adopted have been consistently applied to all the years presented.

2. Reporting Entity

The financial statements are for the National Land Commission. The financial statements encompass the reporting entity as specified under Section 81 of the PFM Act 2012 and also comprise of the Land Compensation fund implemented by the entity:

3. Reporting Currency

The financial statements are presented in Kenya Shillings (Kshs), which is the functional and reporting currency of the Government and all values are rounded to the nearest Kenya Shilling.

National Land Commission
Annual Report and Financial Statements For the year ended 30th June 2023

Significant Accounting Policies

The accounting policies set out in this section have been consistently applied by NLC for all the years presented.

a) Recognition of Receipts

The *NLC* recognises all receipts from the various sources when the event occurs, and the related cash has been received.

(i) Transfers from the Exchequer

Transfers from the exchequer are recognized in the books of accounts when cash is received. Cash is considered as received when payment instruction is issued to the bank and notified to the receiving entity.

(ii) External Assistance

External assistance is received through grants and loans from multilateral and bilateral development partners. Grants and loans shall be recognized in the books of accounts when cash is received. Cash is considered as received when a payment advice is received by the recipient entity or by the beneficiary. In case of grant/loan in kind, such grants are recorded upon receipt of the grant item and upon determination of the value. The date of the transaction is the value date indicated on the payment advice. A similar recognition criteria is applied for loans received in the form of a direct payment. During the year ended 30th June 2023, there were no instances of non-compliance with terms and conditions which have resulted in cancellation of external assistance loans.

(iii) Miscellaneous receipts

These include Appropriation-in-Aid and relates to receipts such as proceeds from disposal of assets and sale of tender documents. These are recognized in the financial statements the time associated cash is received.

Significant Accounting Policies (Continued)

b) Recognition of payments

The Entity recognises all payments when the event occurs, and the related cash has been paid out by the *Entity*.

i) Compensation of Employees

Salaries and wages, allowances, statutory contribution for employees are recognized in the period when the compensation is paid.

ii) Use of Goods and Services

Goods and services are recognized as payments in the period when the goods/services are paid for. Such expenses, if not paid during the period where goods/services are consumed, shall be disclosed as pending bills.

iii) Acquisition of Fixed Assets

The payment on acquisition of property plant and equipment items is not capitalized. The cost of acquisition and proceeds from disposal of these items are treated as payments and receipts items respectively. Where an asset is acquired in a non-exchange transaction for nil or nominal consideration and the fair value of the asset can be reliably established, a contra transaction is recorded as receipt and as a payment. A fixed asset register is maintained and a summary provided for purposes of consolidation. This summary is disclosed as an annexure to the financial statements.

Significant Accounting Policies (Continued)

iv) In-kind contributions

In-kind contributions are donations that are made to the Entity in the form of actual goods and/or services rather than in money or cash terms. These donations may include vehicles, equipment or personnel services. Where the financial value received for in-kind contributions can be reliably determined, the *NLC* includes such value in the statement of receipts and payments both as receipts and as payments in equal and opposite amounts; otherwise, the contribution is not recorded.

v) Third Party Payments

Included in the receipts and payments, are payments made on the entity's behalf to third parties in form of loans and grants. These payments do not constitute cash receipts and payments and are disclosed in the payment to third parties in the statement of receipts and payments as proceeds from foreign borrowings or grants.

c) Cash and Cash Equivalents

Cash and cash equivalents comprise cash on hand and cash at bank, short-term deposits on call and highly liquid investments with an original maturity of three months or less, which are readily convertible to known amounts of cash and are subject to insignificant risk of changes in value. Bank account balances include amounts held at the Central Bank of Kenya and at various commercial banks at the end of the financial year. A bank account register is maintained, and a summary provided for purposes of consolidation. This summary is disclosed as an annexure to the financial statements.

Restriction on Cash

Restricted cash represents amounts that are limited/restricted from being used to settle a liability for at least twelve months after the reporting period. This cash is limited for direct use as required by stipulation. Amounts maintained in deposit bank accounts are restricted for use in refunding third party deposits and retentions

Significant Accounting Policies (Continued)

d) Imprests and advances

For the purposes of these financial statements, imprests and advances to authorised public officers and/or institutions which were not surrendered or accounted for at the end of the financial year are treated as receivables. This is in recognition of the government practice where the imprest payments are recognized as payments when fully accounted for by the imprest or Authority to Incur Expenditure (AIE) holders. This is an enhancement to the cash accounting policy. Other accounts receivables are disclosed in the financial statements.

e) Third party deposits and retention

For the purposes of these financial statements, deposits and retentions held on behalf of third parties have been recognized on an accrual basis (as accounts payables). This is in recognition of the government practice of retaining a portion of contracted services and works pending fulfilment of obligations by the contractor and to hold deposits on behalf of third parties. This is an enhancement to the cash accounting policy adopted for National Government Ministries and Agencies. Other liabilities including pending bills are disclosed in the financial statements.

f) Pending Bills

Pending bills consist of unpaid liabilities at the end of the financial year arising from contracted goods or services during the year or in past years. As pending bills do not involve the payment of cash in the reporting period, they recorded as 'memorandum' or 'off-balance' items. When the pending bills are finally settled, such payments are included in the Statement of Receipts and Payments in the year in which the payments are made.

Significant Accounting Policies (Continued)

g) Budget

The budget is developed on a comparable accounting basis (cash basis except for imprest and deposits and retentions, which are accounted for on an accrual basis), the same accounts classification basis, and for the same period as the financial statements. The original budget was approved by Parliament in June 2022 for the period 1st July 2022 to 30th June 2023 as required by Law and there were 2 number of supplementary adjustments to the original budget during the year.

A comparison of the actual performance against the comparable budget for the financial year under review has been included in the financial statements. Government Development Projects are budgeted for under the MDAs but receive budgeted funds as transfers and account for them separately. These transfers are recognised as inter-entity transfers.

h) Comparative Figures

Where necessary, comparative figures for the previous financial year have been amended or reconfigured to conform to the required changes in presentation.

i) Subsequent Events

There have been no events after the financial year end with a significant impact on the financial statements for the year ended 30th June 2023.

j) Prior Period Adjustment

During the year, there were no errors that have been corrected.

k) Related Party Transactions

Related party means parties are related if one party has the ability to:

- a) Control the other party or

Significant Accounting Policies (Continued)

- b) Exercise significant influence over the other party in making financial and operational decisions, or if the related party entity and another entity are subject to common control.
- Relates party transaction is a transfer of resources of obligations between related parties regardless of whether a price is charged.

1) Contingent Liabilities

A contingent liability is:

- a) A possible obligation that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or
- b) A present obligation that arises from past events but is not recognised because:
 - i) It is not probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation; or
 - ii) The amount of the obligation cannot be measured with sufficient reliability.

Some of contingent liabilities may arise from: litigation in progress, guarantees, indemnities. Letters of comfort/ support, insurance, Public Private Partnerships, The *NLC* does not recognize a contingent liability but discloses details of any contingencies in the notes to the financial statements unless the possibility of an outflow of resources embodying economic benefits or service potential is remote. Note 17.5 and *Annex 7* of this financial statement is a register of the contingent liabilities in the year.

National Land Commission
Annual Report and Financial Statements For the year ended 30th June 2023

Notes to the Financial Statements

1 Exchequer releases

Description	2022-2023	2021-2022 Restated	2021-2022
	Kshs	Kshs	Kshs
Total Exchequer Releases for quarter 1	242,491,502	283,445,217	283,445,217
Total Exchequer Releases for quarter 2	360,328,907	376,889,878	376,889,878
Total Exchequer Releases for quarter 3	246,810,113	264,141,365	264,141,365
Total Exchequer Releases for quarter 4	628,022,721	787,999,461	787,999,461
TOTAL	1,477,653,243	1,712,475,921	1,712,475,921

Note:

Financial statements for Financial year 2021-2022 have been restated to reflect the correct position.

2 Transfers from other Government Entities

Description	2022-2023	2021-2022 Restated	2021-2022
	Kshs	Kshs	Kshs
Transfers from National Government entities	-	-	6,778,586,705
Administrative receipts	48,916,847	95,636,681	95,636,681
Transfer from Exchequer National Treasury SGR	-	-	1,226,336,249
TOTAL	48,916,847	95,636,681	8,100,559,635

Note:

Financial statement for Financial year 2021-2022 have been restated to reflect the correct position.

Notes to the Financial Statements (continued).

2b) Transfers from other Government entities

Description	2022-2023	2021-2022 Restated	2021-2022
	Kshs	Kshs	Kshs
Kenya Railways Corporation	-	-	1,773,618,670
KENHA	-	-	3,199,190,991
KERRA	-	-	-
KPA	-	-	-
Ministry Of Water & Irrigation	-	-	1,804,433,826
Ministry of Education	-	-	797,370
Athi Water Works Agency	-	-	545,847
Administrative Receipts-Transfers from NLC GoK	48,916,847	95,636,681	95,636,681
Total	48,916,847	95,636,681	6,874,223,385
CBK SGR compensation	-	-	1,226,336,249
TOTAL	48,916,847	95,636,681	8,100,559,635

Note:

Financial statements for Financial year 2021-2022 have been restated to reflect the correct position.

3 Miscellaneous Receipts

Other Receipts

Description	2022-2023	2021-2022 Restated	2021-2022
	Kshs	Kshs	Kshs
Interest Received from NBK Compensation Fund	219,388,291	298,609,862	298,609,862
TOTAL	219,388,291	298,609,862	298,609,862

Note:

Financial statements for Financial year 2021-2022 have been restated to reflect the correct position.

National Land Commission
Annual Report and Financial Statements For the year ended 30th June 2023

Notes to the Financial Statements (continued).

4 Compensation to Employees

Description	2022-2023	2021-2022	
		Restated	2021-2022
	Kshs	Kshs	Kshs
Basic salaries of permanent employees	707,983,544	639,401,226	639,401,226
Personal allowances paid as part of salary	277,328,790	258,737,722	258,737,722
Pension and other social security contributions	90,775,743	90,799,797	90,799,797
TOTAL	1,076,088,076	988,938,745	988,938,745

Note:

Financial statements for Financial year 2021-2022 have been restated to reflect the correct position.

5 Use of Goods and Services

Description	2022-2023	2021-2022	
		Restated	2021-2022
	Kshs	Kshs	Kshs
Communication, supplies and services	3,969,875	7,151,393	7,151,393
Domestic travel and subsistence	27,380,193	22,938,812	22,938,812
Foreign travel and subsistence	2,631,700	1,608,510	1,608,510
Printing, advertising and information supplies & services	3,658,970	7,231,266	7,231,266
Rentals of produced assets	140,010,936	57,047,993	57,047,993
Training expenses	7,279,630	6,185,329	6,185,329
Hospitality supplies and services	21,805,051	25,824,856	25,824,856
Insurance costs	108,199,997	128,455,844	128,455,844
Office and general supplies and services	7,928,642	15,995,901	15,995,901
Fuel Oil and Lubricants	9,877,487	8,277,075	8,277,075
Other operating expenses	14,839,937	261,982,324	261,982,324
Routine maintenance – vehicles and other transport equipment	4,641,140	1,730,601	1,730,601
Routine maintenance – other assets	61,820	45,384,760	45,384,760
TOTAL	352,285,377	589,814,663	589,814,663

Notes to the Financial Statements (continued).

Note:

Financial statements for Financial year 2021-2022 have been restated to reflect the correct position.

6 Social Security Benefits

Description	2022-2023	2021-2022 Restated	2021-2022
	Kshs	Kshs	Kshs
Government pension and retirement benefits	16,020,962	3,548,375	3,548,375
TOTAL	16,020,962	3,548,375	3,548,375

Note:

Financial statements for Financial year 2021-2022 have been restated to reflect the correct position.

7 Acquisition of Assets

Description	2022-2023	2021-2022 Restated	2021-2022
	Kshs	Kshs	Kshs
<u>Non-Financial Assets</u>			
Purchase of Vehicles and Other Transport Equipment	12,000,000	32,999,312	32,999,312
Purchase of Office Furniture and General Equipment	751,800	8,297,439	8,297,439
Purchase of Specialized Plant, Equipment and Machinery	250,506	38,794,137	38,794,137
Research, Studies, Project Preparation, Design & Supervision	1,178,602	1,799,778	1,799,778
Sub Total	14,180,908	81,890,666	81,890,666
<u>Financial Assets</u>			
Domestic Lending and On-lending	18,750,000	30,019,100	30,019,100
Sub Total	18,750,000	30,019,100	30,019,100
TOTAL	32,930,908	111,909,766	111,909,766

National Land Commission
Annual Report and Financial Statements For the year ended 30th June 2023

Notes to the Financial Statements (continued).

Note:

Financial statements for Financial year 2021-2022 have been restated to reflect the correct position.

8 Other Payments

Description	2022-2023	2021-2022 Restated	2021-2022
	Kshs	Kshs	Kshs
Bank Charges-NBK Account Compensation fund	929,520	1,543,600	1,543,600
Administrative costs	687,528,980	532,119,170	532,119,170
Other expenses-Payments on behalf of other govt entities-CBK	-	-	1,718,841,202
Other expenses-Payments on behalf of other govt entities-NBK	-	-	12,345,073,128
Payments Returned and Paid Back	-	-	-
TOTAL	688,458,500	533,662,770	14,597,577,100

Note:

Financial statements for Financial year 2021-2022 have been restated to reflect the correct position.

9 Board Expenses

Description	2022-2023	2021-2022 Restated	2021-2022
	Kshs	Kshs	Kshs
Emoluments for Executives	-	12,770,529	12,770,529
Domestic Travels Commissioners	-	5,162,443	5,162,443
TOTAL	-	17,932,972	17,932,972

Note:

Financial statements for Financial year 2021-2022 have been restated to reflect the correct position.

National Land Commission
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Notes to the Financial Statements (continued).

10: Bank Accounts

Name of Bank, Account No. & currency	Indicate whether Rec, Dev, deposit e.t.c	2022-2023 Kshs	2021-2022 Restated Kshs	2021-2022 Kshs
Central Bank of Kenya, 1000202211 Kshs	Recurrent	327,919	361,004	361,004
Central Bank of Kenya, 1000221828 Kshs	Development	1	1	1
Central Bank of Kenya,	Deposits	-	-	-
Central Bank of Kenya, Compensation Fund.1000316578 Kshs	Fund	-	1,063,508,982	1,063,508,982
National bank of kenya 010010032980000 Compensation Fund Kshs	Fund	8,729,445,065	8,912,485,628	8,912,485,628
Total		8,729,772,985	9,976,355,615	9,976,355,615

Note:

Financial statements for Financial year 2021-2022 have been restated to reflect the correct position.

11: Imprests and Advances

Description	2022-2023 Kshs	2021-2022 Restated Kshs	2021-2022 Kshs
Government Imprests	-	14,700	14,700
Salary advances	3,888,019	3,209,007	3,209,007
TOTAL	3,888,019	3,223,707	3,223,707

National Land Commission
Annual Report and Financial Statements For the year ended 30th June 2023

Imprests and advances aging analysis.

Financial statement for Financial year 2021-2022 has been restated to reflect the correct position. Description	2022-2023 Kshs	% of the total	2021-2022 Kshs	% of the total
Under one year	3,888,019	100%	3,223,707	1000%
1-2 years				
2-3 years				
Over 3 years				
Total	3,888,019	100%	3,223,707	1000%

12.Third party deposits and retention

Description	2022-2023 Kshs	2021-2022 Restated Kshs	2021-2022 Kshs
Deposits-	9,453,227,251	15,416,581,946	15,865,604,201
Receipts	4,881,922,837	8,100,559,635	8,100,559,635
Other Receipts	-	-	298,609,862
Payments	(5,708,015,712)	(14,063,914,330)	(14,597,577,100)
Unapplied payables b/f	-	-	300,163,854
Additions	-	-	-
Returned Payables	-	-	-
Total	8,627,134,376	9,453,227,251	9,967,360,452

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Annual Report and Financial Statements For the year ended 30th June 2023

Ageing analysis:	2022-2023 Kshs	% of the Total	2021-2022 Kshs	% of the Total
Under one year	8,627,134,376	-	9,453,227,251	100%
1-2 years				
2-3 years				
Over 3 years				
Total	8,627,134,376	-	9,453,227,251	100%

Note:

Financial statements for Financial year 2021-2022 have been restated to reflect the correct position.

13. Fund Balance Brought Forward

Description	2022-2023 Kshs	2021-2022 Restated Kshs	2021-2022 Kshs
Bank accounts	9,976,355,615	16,078,716,760	15,484,718,882
Cash in hand	-	-	-
Imprests And Advances	3,223,707	3,302,084	3,302,084
Third Party Deposits & Retentions	(9,453,227,251)	(15,416,581,946)	(15,865,604,201)
TOTAL	526,352,071	665,436,898	(377,583,235)

Note:

Financial statements for Financial year 2021-2022 have been restated to reflect the correct position.

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Annual Report and Financial Statements For the year ended 30th June 2023

14. Prior Year Adjustments

	Balance b/f	Adjustments	Adjusted	Adjusted **	Adjustments
	FY 2021/2022	during the	Restated		
	as per audited	year relating	2021/2022		
	Financial	to prior		Balance b/f	FY
	statements	periods		FY 2021/2022	2021/2022
Description of the error	Ksh	Ksh	Kshs	Kshs	Kshs Ksh
Bank account balances	-	-	-	-	-
Cash in hand	-	-	-	-	-
Third Party Deposits & Retentions	-	-	-	-	-
Imprest & Advances	-	-	-	-	-
Add/Less loss/profit attributable to Compensation fund	-	-	-	-	-
TOTAL	-	-	-	-	-

Note:

Financial statements for Financial year 2021-2022 have been restated to reflect the correct position.

15 (Increase)/ Decrease in Advances and Imprests

Description of the error	2022-2023	2021-2022	
	2022-2023	Restated	2021-2022
	KShs	Kshs	KShs
Receivables as at 1st July (a)	3,223,707	3,302,084	3,302,084
Receivables as at 30th June (b)	3,888,019	3,223,707	3,223,707
(Increase)/ Decrease in Receivables (c = (b-a))	(664,312)	78,377	78,377

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Annual Report and Financial Statements For the year ended 30th June 2023

Note:

Financial statements for Financial year 2021-2022 have been restated to reflect the correct position.

16. Increase/ (Decrease) in Retention and Third-Party Deposits

Description of the error	2022-2023	2021-2022 Restated	2021-2022
	KShs	Kshs	KShs
Payables as at 1st July (a)	9,453,227,251	15,416,581,946	15,865,604,201
Payables as at 30th June (b)	8,627,134,376	9,453,227,251	9,967,360,452
Increase/ (Decrease) in payables c = (a-b)	826,092,875	5,963,354,695	5,898,243,749

Note:

Financial statements for Financial year 2021-2022 have been restated to reflect the correct position.

17 Related Party Disclosures

The following comprise of related parties to the National Land Commission

- i) Key management personnel that include the Cabinet Secretaries and Accounting Officers
- ii) Other Ministries Departments and Agencies and Development Projects;
- iii) County Governments; and
- iv) State Corporations and Semi-Autonomous Government Agencies.

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18. Other Important Disclosure

18.1 Related party transactions:

	2022-2023	2021-2022 Restated	2021-2022
	Kshs	Kshs	Kshs
Key Management compensation			
Emoluments for Executives	-	12,270,529	12,770,529
Domestic Travels Commissioners	-	5,162,443	5,162,443
Foreign Travels Commissioners	-	-	-
Airtime for Commissions	-	-	-
Sub Total	-	17,932,972	17,932,972
<u>Transfers to related parties</u>			
Transfers to the Other Ministries Departments and Agencies			
Transfers to other State Corporations and Semi-Autonomous Government Agencies	18,750,000	30,019,100	30,019,100
<u>Transfers from related parties</u>			
Transfers from the Exchequer	1,477,653,243	1,712,475,921	1,712,475,921
Transfers from other MDAs	4,881,922,837	95,636,681	95,636,681
Transfer from Counties	-	-	-
Total Transfers from related parties	6,378,326,080	1,838,131,702	1,838,131,702

Financial statement for Financial year 2021-2022 has been restated to reflect the correct position.

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18.2 Pending Accounts Payable (See Annex 1)

	Balance b/f FY: 2021/2022	Additions for the period	Paid during the year	Balance c/f FY: 2022/2023
Description	Kshs	Kshs	Kshs	Kshs
Construction of Buildings	-	-	-	-
Construction of Civil Works	-	-	-	-
Supply of Services	17,424,209	102,572,123	17,424,209	102,572,123
Supply of Services Litigation	487,150,351	204,542,534	113,857,496	577,835,389
Total	504,574,560	307,114,657	131,281,705	680,407,512

18.3: Pending Staff Payables (See Annex 2)

	Balance b/f FY: 2021/2022	Additions for the period	Paid during the year	Balance c/f FY: 2022/2023
Description	Kshs	Kshs	Kshs	Kshs
Staff Claims	26,921,791	51,148,399	26,921,791	51,148,399
Middle Management	-	-	-	-
Union Employees	-	-	-	-
Others	-	-	-	-
Total	26,921,791	51,148,399	26,921,791	51,148,399

18.4 Progress on follow up of Prior Years Auditor-General's recommendations.

The following is the summary of issues raised by the Auditor-General during the prior year and management comments that were provided.

Issues/ Observations from Auditor-General		Management comment	
1869.	Unsupported Prior Year Adjustments The statement of assets and liabilities reflects prior year adjustments of Kshs. 6,587,878,307 as disclosed in Note 14 to the financial statements. However, Management did not provide any evidence to support the prior year adjustments. In the circumstances, the validity, accuracy and completeness of the prior year adjustments of Kshs. 6,587,878,307 could not be confirmed.	<i>The statement of Assets and Liabilities reflects prior year adjustments of Kshs. 6,587,878,307 as disclosed in Note 14 to the financial statements. Prior year adjustments are arising as a result of changes in payments movements during the Financial Year.</i> <i>Kshs. 6,587,878,307 as disclosed in Note 14 to the Financial Statements is made up of Current year acquisition funds receipts, Interest earned on the balances, Accounts payables for the current year under review, Payment paid and bounced back during the year under review. This is so since the Commission prepares its financial statements by use of Cash Basis Accounting system (IPSAS) as opposed to Accrual Accounting system. However, the same has been demonstrated below for your review and schedule of the evidence attached.</i>	Resolved Not Applicable

Notes / Observations from Auditor		Management Comments	
Description of the Prior Year Adjustments		2021-2022	KShs
Current Year Receipts		8,100,559,635	
Add Interest		298,609,862	
Less Payments		(14,597,577,100)	
Less Unapplied (Payables)		(300,163,854)	
Previous Unapplied Funds Paid in Current Year		(89,306,850)	
Increase/ (Decrease) in payables c=(a-b)		6,587,878,307	
*These figures represent the movement difference between the opening payables and the closing payables.			

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Issue / Observations from Auditor	Management's Comments	Status (Resolved / Pending)	Timeframe (Resolution / Response)
Pending Bills Note 14.2 to the financial statements reflects pending bills balance of Kshs. 531,496,362 comprising of Kshs. 17,424,210, Kshs. 487,150,361 and Kshs. 26,921,791 in respect of supply of goods, supply of services and staff payables, respectively. These bills were not paid during the year under review but were instead carried forward to the financial year 2022/2023. Further, pending bills totaling Kshs. 6,279,400 were not adequately supported with the necessary documentation. In the circumstances, the existence of the pending bills of Kshs. 6,279,400 could not	<i>The Commission did not provide a comprehensive status report on the pending bills balance that were disclosed in the previous Audited financial statement as at close of Audit exercise.</i> <i>The Commission did its best within the budgetary constraint environment to settle some of the pending bills. Attached is movement schedule of pending bills indicating amount paid as a first charge and the outstanding balance. Pending bills totaling Kshs 6,279,400 has been fully supported.</i>	Resolved	Not Applicable
1870.			

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	be confirmed and failure to settle bills during the year to which they relate distorts the budget implementation of the subsequent year as the outstanding bills form a first charge on resources available	Contingent Liabilities Note 14.2 and Annex 7 to the financial statements reflect contingent liabilities totaling Kshs. 490,961,706 arising from legal fees, court cases and awards against the Commission. Further, the contingent liabilities balance includes an amount of Kshs. 11,000,000 in respect of legal fees out of which an amount of Kshs. 9,021,651 has remained outstanding since certification by the court on 4 January, 2019.	<i>The non-payment of kshs 9,021,651.00 is due to non-availability of the budget allocation by the National Treasury, However, with the allocated amounts in the subsequent Financial Year 2022/23 the Commission managed to pay the stated claim and attached is the pending bill movement schedule and bank statement extract.</i>	Resolved Not Applicable

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Issues/Objections from Auditor General		Management Comments	Status (Reviewed) Not Reviewed	Timeframe (First Date Reviewed Last Date Reviewed)
	In the circumstances, the non-payment of the outstanding amounts may attract further avoidable expenses through interest and penalties charged on late payments.			
1872.	Non-Compliance with One Third Basic Pay Rule Review of the Commission's staff payroll revealed that, during the year under review, there were twenty-six (26) employees whose salary deductions exceeded two-thirds of their basic salaries. This was contrary to Section 19(3) of the Employment Act, 2007 which requires that deductions made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages	The Commission did not Comply with One Third Basic Pay Rule because of the following reasons; a) Tax incentives by the government during the Covid 19 period gave staff more room for facility negotiations and hence after the reversal of the incentives several staffs were affected. However, moving forward, the Commission has ensured full compliance with section 19 (3) of the employment Act, 2007. b) There were some staff also who have been affected by court cases involving family matters where the court has issued a decree and failure to implement court	Resolved	Not Applicable

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	In the circumstances, Management was in breach of the law.	orders will lead to contempt proceedings against the Commission. Attached is a schedule for your perusal.													
1873	Officers on Acting Capacity beyond Stipulated Time Review of the payroll and other staff records revealed that eight (8) employees serving as County coordinators continued to serve in acting capacities and receive acting allowances beyond six (6) months. This was contrary to Section 5.6 of the Commission's Human Resource Policy Manual which provides that acting appointments will be made for a minimum of thirty (30) days and maximum of six (6) months duration.	The officers were holding acting position for more than Six Months. The acting position has remained so because of the ongoing court cases on the affected positions. The situation will be normalized as soon as the cases are determined. <table> <tr> <th>S/N O.</th> <th>PF No.</th> <th>SUBSTANTIVE POSITION</th> <th>ACTING POSITION</th> <th>Effective Date</th> <th>Confirmed</th> </tr> <tr> <td>1</td> <td>NLC20130011</td> <td>Director HR & Admin</td> <td>Ag. Secretary /CEO</td> <td>20.12.2018</td> <td>1st July 2023</td> </tr> </table>	S/N O.	PF No.	SUBSTANTIVE POSITION	ACTING POSITION	Effective Date	Confirmed	1	NLC20130011	Director HR & Admin	Ag. Secretary /CEO	20.12.2018	1 st July 2023	Resolved Not Applicable
S/N O.	PF No.	SUBSTANTIVE POSITION	ACTING POSITION	Effective Date	Confirmed										
1	NLC20130011	Director HR & Admin	Ag. Secretary /CEO	20.12.2018	1 st July 2023										

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Issue / Observations from Auditor		Management comments		Status (Resolved / Pending)		Timeline (Due date / Actual date)	
In the circumstances, the Management was in breach of the Human Resource Policy Manual.	2	NLC201 40039	Deputy Director HR & Admin	Ag.Director-HR & Admin	20.12.2018	Regularization in progress	
	3	NLC201 50121	Principal Land Administration Officer	Ag.Coun ty Coordinator	01.08.2020	Regularization in progress	
	4	NLC201 50152	Principal Land Administration Officer	Ag.Coun ty Coordinator	01.08.2020	Regularization in progress	
	5	NLC201 50156	Principal Land Administration Officer	Ag.Coun ty Coordinator	01.08.2020	Regularization in progress	
	6	NLC201 50201	Principal Land	Ag.Coun ty	01.08.2020	Regularization in progress	

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Name of the Issue / Observations from Auditor		Management comments				
			Administrati on Officer	Coordin ator		
		7	NLC201 50122	Chief Land Administrati on Officer	Ag.Coun ty Coordin ator	Regularizati on in progress
		8	NLC201 50157	Principal Land Administrati on Officer	Ag.Coun ty Coordin ator	Regulariza tion in progress
1874	Irregular Engagement of Legal Services The statement of receipts and payments reflects expenditure totaling Kshs. 589,814,663 in respect of use of goods and services, as disclosed in Note 5 to the financial statements, which includes other operating expenses of Kshs. 261,982,324.	The Commission initially did not honor the Lawyers' fees given that procurement process for the same was not dully followed to the later. However, the Lawyers went to Court and got judgements requiring the Commission to settle their bills. Non-compliance with such Court orders would result to the Commission facing contempt of court proceedings. The Commission diligently defended the bills of costs with the costs going down to a great extent.				
					Resolved	Not Applicable

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Issue / Observations from Auditor	Management Comments	Status	Timeframe								
The latter amount includes an expenditure of Kshs. 91,816,642 that was paid to a law firm on 21 June, 2022 due to various miscellaneous civil applications. However, review of records revealed that the Attorney General did not authorize the engagement of the law firm. This was contrary to Section 17(1) of the Office of the Attorney General Act, 2012 which provides that no Ministry or Department shall engage the services of a consultant to render any legal services relating to the functions of the Attorney General without the approval of the Attorney General. In the circumstances, Management was in breach of the law.	Arising from these circumstances the Commission resolved that the CEO seeks legal advice from the Office of the Attorney General on how the Commission should handle the adjudged orders and decrees in view of the gaps in the procurement process. Vide a letter Ref. No. NLC/LEGAL.GEN.VOL.III/49 dated 8th April, 2022. The Attorney General responded vide letter Ref. No. AG/CONF/21/72/2 Vol. II dated 25th April, 2022 and advised that the payments could be effected for cases without pending court cases and those that have pending appeals should be considered by the Court of Appeal. Further, vide letter Ref. No. AG/CONF/21/72/2 Vol. II dated 24th May, 2022 the Attorney General also issued another advisory advising the Commission to settle the pending bills as follows; (Annexure 5) <table><tr><th>V/no.</th><th>Date</th><th>Amount</th><th>Interest Charged</th></tr><tr><td></td><td></td><td></td><td></td></tr></table>	V/no.	Date	Amount	Interest Charged						
V/no.	Date	Amount	Interest Charged								

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Management Committee

Issue / Observation From Auditor

Prof. Tom Ojienda and Associates	Nlc 5409	20.06.2 022	10,111,833	505,592
Prof. Tom Ojienda and Associates	Nlc 5411	20.06.2 022	1,005,633	222,506
Prof. Tom Ojienda and Associates	Nlc 5410	20.06.2 022	52,351,685	4,395,360
Prof. Tom Ojienda and Associates	Nlc 5408	20.06.2 022	21,259,913	850,396.52
Prof. Tom Ojienda and Associates	Nlc 5407	20.06.2 022	556,500	557,223.5
Total			85,207,457	6,531,078

It's worth noting that the Commission is defending other legal pending bills (related to the above matter) at the Court of Appeal.

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Issue/ Observations from Auditor		Management comments		Status (Resolved/Not Resolved)	Timeframe (Period/Quarter/Year)
1875	Avoidable Interest Expense on Legal Fees Review of court records in relation to Civil Application No. 363 of 2014, between an Investment Company and the Commission, revealed that the court awarded the plaintiff a sum of Kshs. 20,679,403 which comprised of the decretal amount of Kshs. 15,318,382 and interest of Kshs. 5,361,021 at a rate of 12% from 19 December, 2017. The interest expense of Kshs. 5,361,021 was an avoidable charge to public funds which arose from the delay by the Commission in settlement of the payment due to the Company.	<i>The Commission has continued to lobby for budget allocation in order to settle such expenditure. However, non-availability of the budget allocation by Parliament and the National Treasury citing budget constraints on the resource envelope has hampered the efficient dispensing of the matters. Attached is a demonstration of the Commission continuous engagement with GoK on funding the Commission to enable it settle the bills in time to avoid accrual of interest. This is beyond the control of NLC</i>	Resolved	Not Applicable	

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Management Comment	In the circumstances, value for money on the expenditure of Kshs. 5,361,021 incurred on the interest expense could not be ascertained.	Failure to Update the Fixed Assets Register Annex 4 to the financial statements on summary of fixed assets register reflects a balance of Kshs. 744,537,853 as at 30 June, 2022 as the historical cost of assets. However, the fixed asset register provided for audit lacks critical information like the cost of the assets as well as other requisite disclosures contrary to the requirements under the guidelines on assets and liabilities by The National Treasury.	<i>The fixed asset register submitted for audit by the Commission did not comply with the Treasury template in its reporting as it was not updated on some items like the cost and depreciation as well as other requisite disclosures. However, moving forward, the Commission has prepared a comprehensive assets and liabilities register in a prescribed template as issued by the National Treasury. It is also worth noting that the Commission prepares the financial statement in accordance with IPSAS cash basis of accounting method under IPSAS. The revised register is attached.</i>	Resolved Not Applicable
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National Land Commission
Annual Report and Financial Statements For the year ended 30th June 2023

Issue / Observations from Auditor		Management Comments		Status	Timeframe
	In the circumstances, the effectiveness of controls relating to management of fixed assets could not be confirmed.				
1877	Staffing Levels below Approved Staff Establishment Review of human resource records revealed that the Commission has an approved staff establishment of one thousand two hundred and sixteen (1,216) staff against five hundred and forty-eight (548) staff members in post thus resulting in an overall under establishment of six hundred and sixty-eight (668) personnel. This is due to low budgetary allocation from the National Treasury. The situation will be normalized as soon as the budget for recruitment of additional staff is allocated by the National Treasury. It is worth noting that the same has been gradually been implemented upon continuous budgetary provision by Parliament and the National Treasury,	<i>The Commission has an approved staff establishment of one thousand two hundred and sixteen (1,216) staff against five hundred and forty-eight (548) in post resulting in an overall under establishment of six hundred and sixty-eight (668) personnel. This is due to low budgetary allocation from the National Treasury. The situation will be normalized as soon as the budget for recruitment of additional staff is allocated by the National Treasury. It is worth noting that the same has been gradually been implemented upon continuous budgetary provision by Parliament and the National Treasury,</i>	Resolved	Not Applicable	

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Management Comments			
Issue	Observations from Auditor	Management Comments	
	attract and retain competent employees required for efficient and effective service delivery, appointments shall be made with the approval of the Commission and shall be within the approved establishment. In the circumstances, failure to recruit and retain the optimal number of employees may hinder the effective delivery of services by the Commission.		

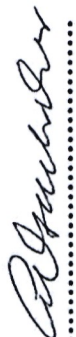
*National Land Commission
Annual Report and Financial Statements For the year ended 30th June 2023*

Guidance Notes:

- (i) Use the same reference numbers as contained in the external audit report.
- (ii) Obtain the “Issue/Observation” and “management comments”, required above, from final external audit report that is signed by Management.
- (iii) Before approving the report, discuss the timeframe with the appointed focal persons within your entity responsible for implementation of each issue.
- (iv) Indicate the status of “Resolved” or “Not Resolved” by the date of submitting this report to National Treasury.

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Kabale Tache Arero
Secretary /CEO

.....


Gershom Otachi Bw'omanwa
Chairman

.....


CPA Bernard Kibet Cherutich
**Director Finance and Corporate
Planning**
ICPAK M/No: 5816

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16. Annexes

Annex 1 - Analysis of Pending Accounts Payable

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Supplier of Goods or Services	Particulars	Date when bill submitted	Original Amount	Balance at the beginning of the year	Additions during the year	Amount paid during the year	Outstanding Balance	Comment
Postal Corporation of Kenya	Provision of Courier Services	G to G	4,857,507.00				4,857,507.00	
Tom Autocare	Provision of Motor Vehicle Maintenance Services	1/7/2022	381,640.00				381,640.00	
Miken Terprises	Provision of Motor Vehicle Maintenance Services	1/7/2022	171,680.00				171,680.00	
Mavuno(k) Auto Masters	Provision of Motor Vehicle Maintenance Services	1/7/2022	340,112.00				340,112.00	
Welma Agencies	Provision of Motor Vehicle Maintenance Services	1/7/2022	340,112.00				340,112.00	
Greencom Enterprises Solutions Ltd	Provision of Motor Automation of an integrated e- Commission management system and digitization of records	2/2/2022	7,854,500.00				7,854,500.00	
Longrock Tours & travel	Provision of Air ticketing Services	1/7/2022	3,480,191.00				3,480,191.00	
Click N Tell Ltd	Renewal of firewall licences	1/7/2022	2,950,000.00				2,950,000.00	
Agani Tours and Travel	Provision of Air ticketing Services	1/7/2022	1,361,135.00				1,361,135.00	
Touch World	Provision of Air ticketing Services	1/7/2022	1,352,380.00				1,352,380.00	
316 UPPER HILL CHAMBERS Premier Safaris	Mar, April, May & June 2023 Electricity Bill	1/3/2022	1,800,000.00				1,800,000.00	
	Provision of Air ticketing Services	1/7/2022	346,200.00				346,200.00	
Sarova Panafric Hotel	Provision of Conference Services	1/7/2022	1,423,200.00				1,423,200.00	

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Wholesales Ltd	Designing and Printing of IEC Materials	1/7/2022	285,000.00				285,000.00
Lake Naivashs Crescent	Provision of Conference Services	1/7/2022	1,508,000.00				1,508,000.00
APA	Provision of Medical Insurance	18/01/2022					
		2	522,223.52				522,223.52
Utalii Hotel	Provision of Conference Services	G to G	210,000.00				210,000.00
Maanzoni Hotel	Provision of Conference Services	1/7/2022	420,000.00				420,000.00
Lake Nakuru Lodge	Provision of Conference Services	1/7/2022	260,000.00				260,000.00
Kenya Bankers	Provision of Conference Services	1/7/2022	554,190.00				554,190.00
KONZA Technopolis	Provision of Cloud Services	21/5/2022	2,800,000.00				2,800,000.00
	Training		2,540,160.00				2,540,160.00
316 UPPER HILL CHAMBERS	Portioning of office space	21/12/2022	35,009,167.00				35,009,167.00
CFAO	Motor vehicles	Public Works	30,001,725.00				30,001,725.00
ICPAK	ICPAK Annual Seminar 2023	1/7/2022	1,803,000.00				1,803,000.00
MISC, CAUSE NO. 22 OF 2017	Litigation expenses: Case no.		9,311,199.00				9,311,199.00
CIVIL APPLICATION NO. 66 OF 2019	Litigation expenses		566,500.00				566,500.00
MISCLENOUS APPLICATION NO. 29B OF 2016	Litigation expenses		297,300,323.00				297,300,323.00
MISC APP NO.259 OF 2023	Litigation expenses		35,911,654.00				35,911,654.00
JR MISC NO. 22 OF 2017	Litigation expenses		1,228,140.00				1,228,140.00

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JUDICIAL REVIEW NO. 34 OF 2016	Litigation expenses	52,351,685.00				52,351,685.00
JR MISC NO. 22 OF 2017	Litigation expenses	10,000,000.00				10,000,000.00
JUDICIAL REVIEW NO. 34 OF 2016	Litigation expenses	724,781.60				724,781.60
PETITION NO.E002 OF 2021	Litigation expenses	959,150.00				959,150.00
JUDICIAL REVIEW NO. 383 OF 2014	Litigation expenses	20,679,403.00				20,679,403.00
JUDICIAL REVIEW NO. 49 OF 2020	Litigation expenses	3,480,000.00				3,480,000.00
CIVIL APPLICATION NO.363 OF 2014	Litigation expenses	873914.00				873,914.00
CIVIL APPLICATION NO. 47 OF 2020	Litigation expenses	2, 139,729.00				2,139,729.00
MAKUENI PETITION NO. 6 OF 2018	Litigation expenses	252,000.00				252,000.00
ELC MISC E083 OF 2022	Litigation expenses	1,495,842.00				1,495,842.00
CIVIL APPEAL NO. 248 OF 2020 & 196 OF 2020	Litigation expenses	27,910,350.00				27,910,350.00
CIVIL APPLICATION NO.E005 OF 2023	Litigation expenses	79,917,036.54				79,917,036.54
KISUMU CIVIL APPEAL NO. E247 OF 2022 & ELDORET MISC. NO. 29B OF 2016.	Litigation expenses	3,580,000.00				3,580,000.00
CIVIL APPLICATION NO. E004 OF 2023	Litigation expenses	11,610,000.00				11,610,000.00
	Litigation expenses	2,692,230.00				2,692,230.00

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JUDICIAL REVIEW CAUSE NO. 10 OF 2019	Litigation expenses				1,120,300.00		1,120,300.00
CIVIL APPLICATION NO.E005 OF 2023	Litigation expenses				2,043,555.00		2,043,555.00
PETITION NO. 7 OF 2016	Litigation expenses				680,000.00		680,000.00
JUDICIAL REVIEW NO. 6 OF 2019	Litigation expenses				623,959.00		623,959.00
CIVIL APPEAL NO. 40 OF 2017	Litigation expenses				456,004.50		456,004.50
THIKA ELC PETITION NO. 14 OF 2019	Litigation expenses				336,442.00		336,442.00
JUDICIAL REVIEW CAUSE NO. 10 OF 2019	Litigation expenses				351,846.00		351,846.00
ELC JR NO. 16 OF 2017	Litigation expenses				7,240,682.00		7,240,682.00
PETITION NO. 7 OF 2016	Litigation expenses				338,450.00		338,450.00
JUDICIAL REVIEW NO. 6 OF 2019	Litigation expenses				1,660,213.00		1,660,213.00
					680,407,511.26		680,407,511.26

National Land Commission
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Annex 2 - Analysis of Pending Staff Payables

Supplier of Goods and Services	Particulars	Original Amount	Balance at the beginning of the year	Addition During the year	Amount paid During the year	Outstanding Balance	Comments
	Staff Claims	51,148,398.78				51,148,398.78	
		51,148,398.78	-	-	-	51,148,398.78	

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Annex 3 - Analysis of Other Pending Payables

Name	Brief Transaction Description	Date Payable Contracted	Original Amount	Amount Paid To-Date	Outstanding Balance		Outstanding Balance Previous Year	Comments
					Current Year	c=a-b		
			a	b		c=a-b		
Amounts due to National Govt Entities								
1.								
2.								
Sub-Total								
Amounts due to County Govt Entities								
3.								
4.								
Sub-Total								
Amounts due to Third Parties								
5.								
6.								
Sub-Total								
Others (specify)								
7.								
Sub-Total								
Grand Total								

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Annex 4 – Summary of Fixed Asset Register

Asset class	Historical Cost b/f (Kshs)	Additions during the period (Kshs)	Disposals during the period (Kshs)	Transfers in/(out) during the year (Kshs)	Historical Cost at end (Kshs)
Land	-	-	-	-	-
Buildings and structures	-	-	-	-	-
Transport equipment	94,097,279	12,000,000	-	-	106,097,279
Office equipment, furniture and fittings	139,810,580	751,800	-	-	140,562,380
ICT Equipment, Software and Other ICT Assets	148,546,070	-	-	-	148,546,070
Machinery and Equipment	186,775,877	250,506	-	-	187,026,383
Biological assets	-	-	-	-	-
Infrastructure Assets- Roads, Rails	-	-	-	-	-
Heritage and cultural assets	-	-	-	-	-
Intangible assets	107,118,722	1,178,602	-	-	108,297,324
Domestic lending	68,189,325	18,750,000	-	-	86,939,325
Work in Progress	-	-	-	-	-
Total	744,537,853	32,930,908	-	-	777,468,761

(NB: The balance as at the end of the year is the cumulative cost of all assets bought and inherited by the Ministry, Department or Agency. Additions during the year should tie to note 18 on acquisition of assets during the year. Ensure this section is complete and covers all the entity's assets. Ensure the complete fixed asset register is separately prepared as per circular number 5/2020 and follow up reminder of circular No.23/2020 of The National Treasury)

Annex 5 – List of Projects implemented by NLC

Ref	Project Name	Principal activity of the project	Accounting Officer	Project consolidated in these financial statements (yes/no)
1	xxx	xxx	xxx	yes/no
2	xxx	xxx	xxx	yes/no

National Land Commission

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Annex 6 – List of SCs, Sagas and Public Funds Under NLC

Ref	SC, SAGA or Public Fund's name	Amount transferred during the year	Inter-entify reconciliations done? (yes/no)
1	xxx	xxx	Yes/no
2	xxx	xxx	Yes/no
3	xxx	xxx	Yes/no

Annex 7 – Contingent Liabilities Register

Nature of Contingent Liabilities	Amount
TOTAL	

Annex 8: Reporting of Climate Relevant Expenditures

Project Name	Project Description	Project Objective	Project Activity	Q1	Q2	Q3	Q4	Source of Funds	Implementing Periods

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Annex 9: Disaster Expenditure Reporting Template

Column I	Column II	Column III	Column IV	Column V	Column VI	Column VII
Programme	Sub-programme	Disaster Type	Category of disaster related Activity that require expenditure reporting (response/recovery/mitigation/preparedness)	Expenditure item	Amount (Kshs.)	Comments

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Annex 10 Salary Advances as at 30th June 2023

	Employee No.	Employee Name	Date Advanced	Balance
1	NLC20130002	Kasaine Amos Parletuan	3-Feb-2023	100,000
2	NLC20140017	Abdullah Ali Ibrahim	30-Sep-2022	66,667
3	NLC20140024	Horow Fatuma Abubakar	30-Sep-2022	200,000
4	NLC20140029	Rotich Andrew Cheruiyot	18-Apr-2023	275,000
5	NLC20140049	Chepkemai Rebecca	6-Apr-2023	450,000
7	NLC20140084	Galgalo Habiba	30-Sep-2022	89,394
9	NLC20140096	Ibrahim Hassan Alio	25-Jan-2023	175,000
10	NLC20150101	Malik Abdallah	21-Feb-2023	40,000
11	NLC20150143	Righa Daniel Mwakio	7-Dec-2022	291,667
12	NLC20150145	Otieno Willis Onyango	30-Sep-2022	50,000
13	NLC20150151	Chebii Simon Kipkoech	8-Nov-2022	41,667
14	NLC20150241	Irungu Mary Wakonyo	21-Feb-2023	26,667
15	NLC20150253	Mukhtar Ungiti	22-Mar-2023	117,000
16	NLC20150269	Ketora Bonface Ramaita	17-May-2023	36,667
17	NLC20150290	Gitonga David Mbugi	20-Apr-2023	55,000
18	NLC20150295	Binyanya Chrispol Barare	21-Feb-2023	14,667
19	NLC20150300	Mohamed Ibrahim Sheikh	24-Feb-2023	96,000
21	NLC20150358	Matu Annpauline	6-Apr-2023	52,500
22	NLC20150367	Caroline Grace Wanja	30-Sep-2022	16,667
23	NLC20150371	Lokelima Dorcas Cherop	21-Feb-2023	33,333
24	NLC20150384	Audrey Masitza Masitza	6-Mar-2023	66,667
25	NLC20150412	Elema Hassan Boneya	21-Feb-2023	40,000
26	NLC20150423	Barasa Moses Napwora	17-Jan-2023	21,000
27	NLC20150430	Bartuiyot Gideon	3-Apr-2023	44,000
28	NLC20150453	Ringera Leonard Murerwa	18-May-2023	73,333
29	NLC20160458	Fares Lekosek Fares	30-Sep-2022	35,333
30	NLC20170488	Kimomo Josephine Mukui	21-Feb-2023	30,000
31	NLC20170501	Roba Roba Guyo	22-Mar-2023	45,000

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32	NLC20170507	Nyang'au David Onyancha	30-Aug-2022	33,333
33	NLC20180516	Laibuta Moses Kimathi	11-May-2023	650,375
34	NLC20210537	Abdullahi Daudin Maalim	5-May-2023	412,500
35	NLC20210540	Peris Chepkosgei	22-Mar-2023	45,000
36	NLC20210581	Mutai Ken Kipchirchir	18-May-2023	66,000
37	NLC20210589	Haji Mohamed Ismail	22-Mar-2023	90,000
40	NLC20210626	Wahome Winnierose Wangui	9-Dec-2022	7,583
				3,888,019

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Annex 11- Reports Generated from IFMIS

IFMIS financial reports to be presented on request.