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ELEVENTH PARLIAMENT

THE KENYA NATIONAL ASSEMBLY – FIFTH SESSION

Directorate of Committee Services

THE TWENTY FIRST REPORT

OF THE

PUBLIC INVESTMENTS COMMITTEE

ON THE

AUDITED FINANCIAL STATEMENTS OF STATE CORPORATIONS

VOLUME I

MAY 2017

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LIST OF ABBREVIATIONS/ACRONYMS

ACFC	-	Agro-Chemicals and Food Company
Ag.	-	Acting
AG	-	Attorney General
AGOL	-	African Gas and Oil Company Limited
AT&H	-	African Tours & Hotels
AWSB	-	Athi Water Services Board
CBA	-	Collective Bargaining Agreement
CBK	-	Central Bank of Kenya
CDF	-	Constituencies Development Fund
CBM	-	Conventional Buoy Mooring
CEO	-	Chief Executive Officer
CFA	-	Collateral Financing Agreement
CID	-	Criminal Investigations Department
CLE	-	Council for Legal Education
CMA	-	Capital Markets Authority
CSW	-	County Statistical Officers
CT	-	computerized tomography
CWSB	-	Coast Water Services Board
DA	-	Direct Agreement
DCI	-	Directorate of Criminal Investigations
DGC	-	Dominion Group of Companies
DVC	-	Deputy Vice Chancellor
EACC	-	Ethics and Anti-Corruption Commission
ERC	-	Energy Regulatory Commission
EU	-	European Union
FY	-	Financial Year
GDC	-	Geothermal Development Company
GoK	-	Government of Kenya
HELB	-	Higher Education Loans Board
HR	-	Human Resources
IAS	-	International Accounting Standards
ICT	-	Information, Communications & Technology

IFRS	-	International Financial Reporting Standards
IPSAS	-	International Public Sector Accounting Standards
KACC	-	Kenya Anti-Corruption Commission
KASNEB	-	Kenya Accountants and Secretaries National Examination Board
KBRR	-	Kenya Bankers Reference Rate
KCA	-	Kenya Concession Agreement
KEBS	-	Kenya Bureau of Standards
KeNHA	-	Kenya National Highways Authority
KES	-	Kenya Shillings
KFSL	-	Kenya Ferry Services Limited
KMA	-	Kenya Maritime Authority
KPA	-	Kenya Ports Authority
KPC	-	Kenya Pipeline Company
KPLC	-	Kenya Power & Lighting Company
KPOSB	-	Kenya Post Office Savings Bank
KPTC	-	Kenya Posts & Telecommunications Corporation
KRA	-	Kenya Revenue Authority
KRC	-	Kenya Railways Corporation
KSG	-	Kenya School of Government
KTDA	-	Kenya Tea Development Authority
KTDC	-	Kenya Tourism Development Corporation
KU	-	Kenyatta University
KU	-	Kenyatta University
LBDA	-	Lake Basin Development Authority
LC	-	Letter of Credit
LPO	-	Local Purchase Order
Ltd	-	Limited
MOALF	-	Ministry of Agriculture, Livestock and Fisheries
MOU	-	Memorandum of Understanding
MIT	-	Moi Institute of Technology
MUHL	-	Moi University Holdings Limited
NACADA	-	National Authority for the Campaign against Alcohol & Drug Abuse
NCA	-	National Construction Authority
NCPB	-	National Cereals and Produce Board

NHIF	-	National Hospital Insurance Fund
NMC	-	Numerical Machining Complex
NSSF	-	National Social Security Fund
NTSA	-	National Transport Safety Authority
NWCPC	-	National Water Conservation & Pipeline Corporation
OMC	-	Oil Marketing Company
OPL	-	One Petroleum Ltd
OSMAG	-	Oil Spill Mutual Aid Group
PAYE	-	Pay-As-You-Earn
PCK	-	Postal Corporation of Kenya
PIEA	-	Petroleum Institute of East Africa
PPAD	-	Public Procurement and Asset Disposal Act
PPDA	-	Public Procurement and Disposal Act
PRE	-	Political Risk Event
PS	-	Principal Secretary
PwC	-	PriceWaterhouseCoopers
RVR	-	Rift Valley Railways
SAGA	-	Semi-Autonomous Government Agencies
SC	-	Senior Counsel
TARDA	-	Tana & Athi Rivers Development Authority
TFC	-	Tourism Finance Corporation
TKL	-	Telkom Kenya Limited
TSA	-	Transport and Storage Agreement
UGMH	-	Uasin Gishu Memorial Hospital
UPU	-	Universal Postal Union
USD	-	United States Dollar
WIP	-	Work in Progress
WSP	-	Water Service Providers

1.0 PREFACE

1.1 Committee Mandate

The Public Investments Committee is a select committee established under Standing Order No. 206 with the following mandate: -

(i) To examine the reports and financial statements of the public investments;

(ii) To examine the reports, if any, of the Auditor - General on the public investments; and

(iii) To examine, in the context of the autonomy and efficiency of the public investments, whether the affairs of the public investments are being managed in accordance with sound financial or business principles and prudent commercial practices.

In the execution of its mandate, the Committee is guided by the National Assembly Standing Orders 2013, the Constitution of Kenya, the National Assembly (Powers and Privileges) Act (Cap. 6), the State Corporations Act (Cap. 446), Public Procurement and Disposal Act, 2005 Public Procurement and Disposal Regulations, 2006 and the Public Audit Act, 2003 among others.

1.2 Committee Membership

The Committee consists of the following Members:

1) Hon. Adan Wehliye Keynan, CBS, MP - Chairperson
2) Hon. Anthony Kimani Ichung'wah, MP - Vice Chairperson
3) Hon. Francis Mwanzia Nyenze, EGH, MP
4) Hon. (Dr.) Oburu Oginga, MGH, MP
5) Hon. (CPA.) Thomas Ludindi Mwadeghu, CBS, MP
6) Hon. Adan Mohammed Nooru, MP
7) Hon. Franklin Mithika Linturi, MP
8) Hon. Wafula Wamunyinyi, MP
9) Hon. Elias Bare Shill, MP
10) Hon. Sammy Silas Komen Mwaita, MP
11) Hon. (Dr.) Paul Otuoma Nyongesa, EGH. MP
12) Hon. John Olago Aluoch, MP
13) Hon. (Eng.) John Kiragu, MP
14) Hon. Dorcas Kedogo, MP
15) Hon. Abdullswamad Sheriff Nassir, MP
16) Hon. Beatrice Nkatha Nyaga, HSC, MP

17) Hon. Bernard Munywoki Kitungi, MP
18) Hon. (Dr.) Chrisanthus Wamalwa Wakhungu, CBS, MP
19) Hon. Cornelly Serem, MP
20) Hon. (Eng.) Stephen Ngare, MP
21) Hon. Irungu Kang'ata, MP
22) Hon. Johana Kipyegon Ng'eno, MP
23) Hon. John Muchiri Nyaga, MP
24) Hon. John Ogutu Omondi, MP
25) Hon. Korei Ole Lemein, MP
26) Hon. Mary Sally Keraa, MP
27) Hon. Onesmus Muthomi Njuki, MP

1.3 Committee Secretariat

The Committee Secretariat is comprised of the following officers: -

1)	Ms. Susan Maritim	-	First Clerk Assistant
2)	Mr. Philip Lekarkar	-	Third Clerk Assistant
3)	Mr. Mohamed Boru	-	Third Clerk Assistant
4)	Mr. Joash Kosiba	-	Fiscal Analyst I
5)	Ms. Clarah Kimeli	-	Legal Counsel II
6)	Mr. Charles Atamba	-	Research Officer III

1.4 Proceedings of the Committee

The Committee held forty-five sittings in which it closely examined the audited financial statements of forty (40) State Corporations and the Reports thereon by the Auditor General up-to financial year (FY) 2014/2015.

In its inquiry into whether or not the affairs of the public investments were managed in accordance with sound business principles and prudent commercial practices, the Committee heard and received both oral and written evidence from Chief Executive Officers (Accounting Officers) of various State Corporations and other relevant witnesses. The recommendations on the issues raised by the Auditor General for the various State Corporations are found under appropriate sections of the Report of each particular State Corporation.

These Observations and Recommendations, if taken into account and implemented, will enhance accountability, effectiveness, transparency, efficiency, prudent management,

commercial viability and value for money in State Corporations and the public investments sector as a whole.

The records of evidence adduced, documents and notes received by the Committee formed the basis of the observations and recommendations of the Committee as outlined in the Report and can be obtained in the Minutes of the Committee proceedings hereto annexed as Volume II.

1.5 GENERAL COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

The 21st Annual Report of the Public Investments Committee (PIC) has closely examined and scrutinized audited financial statements of forty-one (41) State Corporations. In its examination and scrutiny of the audited financial statements of the various State Corporations, the Committee's primary approach was to elicit background information as to why particular course of financial and/or management actions were or were not taken, keeping in mind the relevant public financial management principles, public finance regulations, public procurements and asset disposal legislation, public procurement & asset disposal regulations, International Public Sector Accounting Standards (IPSAS) and International Financial Reporting Standards (IFRS) relevant for commercial state corporations. The Committee was also guided by the mandate and strategic objectives that each of the State Corporation is expected to achieve.

The following is a summary of the Committee's general observations and recommendations as per the findings on the audited financial statements of the forty State Corporations:

1. NON-REMITTANCE OF STATUTORY DEDUCTIONS

The Committee observed with a lot of concern that, some State Corporations were not remitting statutory deductions such as PAYE, NSSF Contributions, NHIF medical deductions, and SACCO deductions. For example, in FY 2014/2015, the Coast Water Services Board failed to remit statutory and other deductions totalling KES 48,414,090 and KES 122,792,740 in respect of the Paymaster General and Ukulima SACCO and other deductions respectively. In FY 2006/2007, 2007/2008 and 2008/2009, the Kerio Valley Development Authority had accumulated an amount of KES 24,966,224, in respect of staff deductions, which were not remitted to the relevant authorities. The Authority is therefore likely to incur heavy penalties and interest charges for non-compliance with relevant legislations. In FY 2012/2013, Tana & Athi Rivers Development Authority (TARDA) had arrears of KES 49,007,501.35 in respect of statutory deductions due to the Commissioner of VAT, National Social Security Fund (NSSF) and Barclays Trust Fund.

The Committee noted that some of the State Corporations used these statutory deductions such as pension dues and PAYE to meet deficits in allocations from the National Treasury and ensure their continued operation.

Committee General Recommendations

The Committee recommends that: -

(i) **State Corporations should settle all statutory deductions in a timely manner as provided for in the relevant legislation and financial regulations to avoid contravention of the law and incurring fines and penalties.**

(ii) **The Inspector-General of State Corporations should ensure that, all the pending statutory deductions with the various State Corporations are settled within three months after adoption of this Report and a status report on the matter submitted to the Clerk of the National Assembly, not later than six months after the adoption of this Report.**

(iii) **Chief Executive Officers (Accounting Officers) of State Corporations should ensure that their respective budgets are rationalized and expenditure maintained within approved budgets.**

2. LAND AND BUILDINGS

The Committee observed with a lot of concern that several State Corporations do not possess the title documents for the various assets that they own, including land and buildings. For example, in FY 2007/2008 and 2008/2009, the Auditor General noted that, ownership documents of the Postal Corporation of Kenya's sixty-eight (68) properties valued at KES 881,900,000, were not availed for audit review. Five (5) other properties belonging to the same Corporation situated at Bomet, Nanyuki, Machakos, Embakasi and Nairobi West had not been valued as at 30 June 2009. Further, the property in Embakasi appears to have been taken over by private developers, while the one in Nanyuki could not be traced.

In FY 2013/2014, the Kenya Revenue Authority's financial statements included 17 parcels of land without title deeds in various parts of the country valued at KES 378,000,000 with buildings valued at KES 829,050,000 which were transferred to the Authority by the Government at inception in 1995. The net book value of KES 9,533,366, however excludes one unvalued parcel of land in Machakos County without title deed and which was similarly transferred to the Authority by the Government in 1995. The balance, further, excludes an unvalued parcel of land in Taita Taveta County without title deed, and another in Shimoni Kwale, which is registered in the name of East African Common Services Authority.

Committee General Recommendations

The Committee recommends that: -

(i) **The Cabinet Secretary for Land, Housing and Urban Development and the Chairman, National Land Commission should put caveats on all the parcels of State Corporations' land that are in private hands.**

(ii) **The Cabinet Secretary for Land, Housing and Urban Development should within six months of the adoption of this Report, compile and submit to the National Assembly a status report on all parcels of land held by various State Corporations across the country, as a first step towards taking stock of lands assets held by the Government.**

(iii) **The Judiciary should also consider prioritizing conclusion of cases involving illegal acquisition of public land with the view of quickly resolving such cases and having the land restored back to the public.**

(iv) **The Chief Executive Officers (Accounting Officers) whose land and buildings have been illegally disposed should liaise with the Office of the Attorney General and the National Land Commission with a view to revoking all titles belonging to the respective Corporations that were irregularly allocated and in private hands and where necessary, institute legal proceedings against private individuals found to have illegally acquired public land.**

3. EXPENDITURES BEYOND THE APPROVED BUDGET

The Committee observed that, several State Corporations were spending beyond the approved budget in a financial year. It was also observed that: - some State Corporations re-allocated resources from capital budget item to pay for recurrent expenditure contrary to the State Corporations Act. This situation necessitated the affected State Corporations to seek post facto budget approvals, some of which are yet to be granted by the parent Ministry and/or the National Treasury. For example, during FY 2014/2015, Kibabii University had an over expenditure of KES 421,624,094.00 without the approval of the University Council. In FY 2014/2015, the University of Eldoret incurred an over expenditure of KES 31,254,366 without Board approval.

Committee General Recommendations

The Committee recommends that: -

(i) **Chief Executive Officers of all State Corporations which had an over-expenditure of their approved budget should obtain, within three months of the adoption of this Report, a post-facto approval of their revised budget from its Board, parent Ministry and the National Treasury if the expenditures were necessitated by factors beyond their control.**

(ii) **If the post-facto budget approval is denied, the responsible Chief Executive Officer (Accounting Officer) for the particular financial year should be held accountable and EACC should initiate an investigation within six months of adoption of this Report with a view to prosecute and surcharge the concerned officers in accordance with the law.**

(iii) **All State Corporations must seek timely approval of their budget and operate within the approved budgets at all times as stipulated by the relevant laws including the Constitution, State Corporations Act, Public Finance Management Act, 2012 and its Regulations.**

4. IRREGULAR PAYMENTS OF BOARD SITTING ALLOWANCES

The Committee observed that, the matter of payment of sitting allowances to public officers who are non-gazetted Board Members continues to recur. For example, during FYs 2010/2011 to 2013/2014, the Kenya Railways Corporation management paid sitting allowances totalling to KES 1,520,000 to public officers in attendance during the Board/Committee meetings.

The Committee, however noted that following the Statute Law (Miscellaneous Amendment) Act of June 2002, Section 10(1) of the State Corporations Act, Cap 446 was amended to allow public officers in receipt of a salary to be paid out of the funds of a state corporation. The Inspectors like other public officers invited to attend a Board / Committee meeting play a critical role as provided in the Law. The representative of the parent Ministry in the Board oversees that the Corporation is implementing the Ministry's policy as it was envisioned, while the representative of the National Treasury oversees the prudent utilization of financial resources. The Committee further noted that section 6(1)(a) and (e) requires independent Board members to be gazetted by name. In this regard, therefore, the public officers in the Board do not require to be gazetted since each public officer plays a role related to the office he is representing. This warrants parity of treatment for public officers who by law are required to attend Board and Committee meetings in State Corporations.

Committee General Recommendation

The Committee recommends that all Accounting Officers of the various State Corporations must at all times ensure that Section 10(1) of the State Corporations Act, Cap 466 laws of Kenya, as amended under the Statute Law (Miscellaneous Amendment) Act of June 2002, is fully complied with.

5. PROCUREMENT OF GOODS AND SERVICES

The Committee observed that, several State Corporations continue to violate the provisions of procurement law and regulations in their procurement of goods and services. For example, in FY 2004/2005, the Kenya School of Government's, Management Tender Committee awarded a tender to purchase a digital photocopier and its consumables at KES 1,686,998 and 3,437,095 respectively. The award was unprocedural as the Management Tender Committee was not authorized to award such contracts in excess of KES 1,000,000. Procurement procedures requires tenders of over KES 1,000,000 to be adjudicated by the

Council Tender Committee. As a result, the Auditor General could not confirm the validity of the procurement of the equipment and the resultant expenditure.

The procurement of goods and services by State Corporations in most instances, is marred by practices of single sourcing, contrary to the law. Further, the tendering process is at times circumvented or tailored to favour a particular service provider. This has led to costly delays and litigations as the award of the tender is challenged either in courts or at the Public Procurement Administrative Review Board.

Committee General Recommendations

The Committee recommends that: -

(i) **The National Treasury and Public Service Commission must ensure that qualified and competent personnel are seconded to strategic departments such as finance, procurement and human resource during inception of any new government entity.**

(ii) **Ethics and Anti-Corruption Commission (EACC) should within one month of adoption of this Report, initiate investigation of the officers of any State Corporation in this Report that violated procurement laws and regulations. The officers, if found culpable, should be prosecuted and surcharged in accordance with the law.**

(iii) **The Director- General, Public Procurement Regulatory Authority, should pursuant to section 41 of the Public Procurement and Asset Disposal Act (PPAD) 2015, debar any individual and/or company and its directors and associates found to have colluded with the officials of State Corporations in violation of the Public Procurement and Asset Disposal Act 2015 and its Regulations.**

6. DELAY IN AVAILING DOCUMENTS TO THE AUDITOR- GENERAL

The Committee is perturbed by persistent delays by some State Corporations in availing relevant documents to the Auditor–General contrary to the provisions of Article 229 of the Constitution of Kenya and Public Finance Management Act. These late delays in availing documents results in unnecessary audit queries. Frivolous reasons given for this delay include: poor record keeping or no record kept, documents could not be traced at the time of audit, documents are with parent ministry or donor agency and documents were not ready at time of audit. This delay provides an opportunity for manipulation of documents by rogue officers, encourages 'creative' accounting practices in the public sector and delays the finalization of audit reports at the expense of the Kenyan public. The Auditor General issued management letters to Chief Executive Officers to take action on audit queries before the final audit report is produced. However, the Committee observed that, there

were several cases where the Accounting Officers failed to act on the letters or acted late, leading to audit queries that would have otherwise been avoided.

Committee General Recommendations

The Committee recommends that: -

(i) **Chief Executive Officers (Accounting Officers) must at all times comply with the audit timelines as specified in Section 68(k) of the PFM Act 2012 and must take appropriate measures to resolve any issues arising from audit which may remain outstanding as required by Section 68(l) of the PFM Act 2012.**

(ii) **Chief Executive Officers (Accounting Officers) who submit or delay the submission of audit documents be held personally liable and be surcharged for such delays.**

(iii) **At the end of the three months after the financial year ends, the Auditor-General publishes and publicizes the names of all State Corporations that have submitted their complete financial statements for audit.**

(iv) **The Auditor-General should not accept any documents submitted after the end of six months after the end of each financial year, and instead should submit its report to the National Assembly for consideration as stipulated in Article 229 (4) of the Constitution.**

7. DELAY IN APPOINTMENT OF MEMBERS OF THE BOARD

The Committee observed that, some State Corporations operated without a Board of Directors for an inordinately long period of time. The reasons given for the delay was either because the previous Board had refused to vacate their offices or the Board appointments were yet to be finalized by the appointing authority. An example is the Sunset Hotel, which operated without Board of Directors in 2008/2009 financial year contrary to Section 6 of the State Corporations Act, Cap 446, thereby, putting the operations of the Hotel in a precarious situation.

Committee General Recommendation

The Committee recommends that, the relevant appointing authority for the respective Board Members ensures that all vacancies in the Boards of various State Corporations are filled in the shortest time possible and that the tenure of the Board members is staggered to avoid a situation where the term of all Board Members expires at the same time.

8. OUTSTANDING IMPRESTS

As was observed in its Nineteenth and Twentieth Reports, the Committee noted with concern, the continued abuse of imprest by officers. The Committee observed that, issuing of imprest and recovery of the same was either slow or non-existent in some State

Corporations while in some, recovery was either done after a long while or from terminal dues of staff when they were leaving the organization. There were several reported cases of outstanding imprests in various State Corporations. For example, in FY 2014/2015, the University of Eldoret had outstanding imprest of KES 49,758,002 out of which an amount of KES 43,259,595 relates to FY 2013/2014 period. The schedules availed for audit also indicated that the management granted imprest to officers who had not surrendered previous imprests contrary to Chapter 5.6.6 of the Government Financial Regulations and Procedures which requires that, no second imprest should be issued to any officer before the first imprest is surrendered or recovered in full from his/her salary. No reason was provided for non-recovery of these long outstanding imprests. Consequently, the Auditor General could not confirm the propriety of the imprest of KES 49,758,002.

Government financial regulations and procedures on imprests as supplemented by various circulars issued by the National Treasury from time to time clearly spelt out guidelines for management of imprests. The Committee faulted some Chief Executive Officers for failing to enforce these regulations leading to malpractices and loss of public funds.

Committee General Recommendations

The Committee recommends that: -

(i) **Chief Executive Officers should ensure that imprest advanced to officers is recovered within the stipulated period in accordance with section 92 of the Public Finance Management Act Regulations of 2015 which allows surcharging of officers for any imprest held beyond the stipulated seven (7) days after return to the work station.**

(ii) **Chief Executive Officers must immediately take necessary steps to ensure that all outstanding imprests within their jurisdictions are fully recovered. In cases where the CEO is not able to recover the imprests within 6 months from the due date, they be surcharged the full amount due.**

(iii) **The Cabinet Secretary for the National Treasury to undertake within three months after adoption of this Report, a review of the imprest system in State Corporations to determine its efficacy. The Report should also determine the future applicability of imprest system in State Corporations and propose viable alternatives that provide value for money.**

9. PRIOR YEARS' AUDIT QUERIES

Further to its recommendation contained in the 20th Report on Accounts of State Corporations that the Auditor-General ensures that until an audit matter is satisfactorily resolved, it should continue to appear in the subsequent audit reports of the Auditor General on the financial statements of the respective State Corporations; the Committee, following consultations with the Auditor General recommends that matters that have been

exhaustively addressed by the Committee and recommendations made, should not recur in subsequent reports of the Auditor General. For example, the Auditor General continues to issue the National Hospital Insurance Fund (NHIF) with a qualified opinion in respect of the following prior years' audit queries: Construction of Multi-Storey Car Park (FY 2011/2012 to 2014/2015) and Property, Plant and Equipment - Karen land (FY 2009/2010 to 2014/2015)

Committee General Recommendation

The Committee recommends that issues that have been satisfactorily resolved or comprehensively addressed by the Committee should be excluded from the subsequent Reports of the Auditor General, provided that the management has sufficiently disclosed these unresolved matters in the notes to their respective financial statements as required by the International Accounting Standard no. 37.

1.6 Acknowledgement

The Committee wishes to record its appreciation to the Office of the Speaker and the Clerk of the National Assembly for facilitating the work of the Committee in fulfilment of its mandate. The Committee is also grateful to the Chief Executive Officers of State Corporations and various witnesses who appeared and adduced evidence before it. Last but not least, the Committee sincerely thanks the staff of the National Assembly, Office of the Auditor General, the Inspectorate of State Corporations and the National Treasury for the services they rendered to the Committee. It is their commitment and dedication to duty that made the work of the Committee and production of this Report possible.

On behalf of the Members of the Public Investments Committee, I beg to table the Twenty First (21st) Report of the Public Investments Committee on the Audited Financial Statements of State Corporations pursuant to Standing Order 199.

Sign: ..... **Date:** 5-5-2017

HON. ADAN KEYNAN, CBS, MP

CHAIRPERSON, PUBLIC INVESTMENTS COMMITTEE

PUBLIC INVESTMENTS COMMITTEE

ADOPTION LIST

THE TWENTY FIRST (21ST) REPORT OF THE PUBLIC INVESTMENTS COMMITTEE ON THE ACCOUNTS OF STATE CORPORATIONS

We, the undersigned, hereby affix our signatures to this Report to affirm our approval:

DATE: 4TH MAY, 2017

	NAME	SIGNATURE
1.	Hon. Adan Wehliye Keynan, CBS, MP	
2.	Hon. Anthony Kimani Ichung'wah, MP	
3.	Hon. Francis Mwanzia Nyenze, EGH, MP	
4.	Hon. (Dr.) Oburu Oginga, MGH, MP	
5.	Hon. (CPA) Thomas Ludindi Mwadeghu, CBS, MP	
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14.	Hon. (Eng.) Stephen Ngare, MP	

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15.	Hon. Abdullswamad Sheriff Nassir, MP	
16.	Hon. Beatrice Nkatha Nyaga, HSC, MP	
17.	Hon. Bernard Munywoki Kitungi, MP	
18.	Hon. Chrisanthus Wamalwa, CBS, MP	
19.	Hon. Cornelly Serem, MP	
20.	Hon. Dorcas Kedogo, MP	
21.	Hon. Irungu Kang'ata, MP	
22.	Hon. Johana Kipyegon Ng'eno, MP	
23.	Hon. John Muchiri Nyaga, HSC, MP	
24.	Hon. John Ogutu Omondi, MP	
25.	Hon. Korei Ole Lemein, MP	
26.	Hon. Mary Sally Keraa, MP	
27.	Hon. Onesmus Muthomi Njuki, MP	

2.0 CONSIDERATION OF THE REPORTS OF THE AUDITOR GENERAL ON THE AUDITED FINANCIAL STATEMENTS OF STATE CORPORATIONS

2.1 AGRO-CHEMICAL AND FOOD COMPANY LTD (FY 2012/2013 - 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF AGRO-CHEMICAL AND FOOD COMPANY LTD FOR THE FINANCIAL YEARS 2012/2013 TO 2014/2015

Mr. Caleb O. Oguya acting Resident Director of Agro-Chemicals and Food Company Ltd accompanied by Mr. Edwin Owiti, Finance Manager; Mr. Joseph Andere, Chief Accountant and Mr. Abraham Barno, Alternate Director representing Principal Secretary, State Department of Agriculture appeared before the Committee on 17 February 2017, to adduce evidence on the Report of the Auditor General on the accounts of the Company for the financial years 2012/2013 to 2014/2015

1. **GOING CONCERN: FY 2012/2013 TO 2014/2015 ACCOUNTS**

The Committee heard that, during 2014/2015 financial year the Company made a loss of KES 201,276 which increased accumulated deficit to KES 6,802,260,465 as at 30 June 2015 (the net profit after tax decreased by KES 98,959,312 from KES 98,758,037 in the year 2013/2014 to a loss of KES 201,276 in the financial year 2014/2015).

The current liabilities of KES 8,728,849,256 exceeded its current assets of KES 1,344,855,781 by KES 7,383,993,475 as at 30 June 2015. The Company is therefore technically insolvent and the financial statements have been prepared on a going concern basis of the assumption that it will continue to receive financial support from the government, creditors and bankers.

Management Response

The Resident Director informed the Committee that, the accumulated negative equity arose due to the loan interest and the exchange losses on the GOK loans which were beyond the control of the management. The Management and the Board are equally concerned regarding the negative equity and remain hopeful that the financial restructuring process will be completed with the Privatization Commission to fully address this position.

Committee Observations

The Committee observed that: -

(i) **The accumulated negative equity arose owing to loan interest and the exchange losses on the GoK loans. The repayment of the loan is beyond the control of the Board and Management.**

(ii) **The Company is set to undergo privatization, having submitted a privatization proposal to the Privatization Commission and is awaiting its finalization by the Commission.**

Committee Recommendations

The Committee recommends that: -

(i) **The National Treasury should consider bailing out the Company before its value depreciates further and considers converting the loan into foreign currency to cushion the Company from the effects of depreciation of the local currency.**

(ii) **The Executive Director of the Privatization Commission expedites privatization of the Company once its financial position improves in order to regain its profitability.**

(iii) **The Company should diversify its product base by introducing new product lines to make it self-reliant on internally generated funds and to reduce over-reliance on the government and creditors.**

2. **CONTINGENT LIABILITIES: FY 2012/2013 & 2013/2014 ACCOUNTS**

The Committee heard that, as disclosed in note 21 (i) to the financial statements of 2013/2014 financial year, and as reported in the previous financial years, there is a pending tax demand od KES 229,517,721 from the Kenya Revenue Authority which is yet not finalized. There is also a pending demand of KES 634,644,435 from Kenya Revenue Authority in respect of the withholding tax assessment on interest paid to the National Treasury over a period of time. The matter is currently in court and he outstanding liabilities have not been recognized in the financial statements. Although the directors are of the opinion that this demand will be vacated and not crystallize into a liability. It has not been possible therefore to ascertain the extent of the liability that may arise as a result of these demands.

Management Response

The Resident Director informed the Committee that, the Company wrote to the National Treasury on the interpretation of the withholding tax demand of KES634,644,435 arising from a tax audit by Kenya Revenue Authority. The Ministry of Finance approved the waiver of the withholding tax of KES 634,644,435. However KRA has not granted a letter to ACFC vacating the demand. The Company will continue engaging KRA to have the demand vacated as this demand is not legitimate. The issue has also not been revisited by KRA after the response from the National Treasury.

Committee Observations

The Committee observed that, the National Treasury approved the waiver of withholding tax and exempted the Company from payment of withholding tax on government guaranteed loans in September 27, 2010. However, KRA has not granted

the Company letter vacating the demand of the tax.

Committee Recommendations

The Committee recommends that the National Treasury and Kenya Revenue Authority expedites the matter of vacating the withholding tax within six (6) months of the adoption of this Report.

3. TRADE AND OTHER RECEIVABLES: FY 2012/2013 & 2013/2014 ACCOUNTS

The Committee heard that, in the financial year 2013/2014 the trade and other receivables balances of KES 333,295,704 includes an amount of KES 81,274,625 owed by the Kenya Revenue Authority, out of which a figure of KES11,225,758 whose recoverability remains doubtful. Any additional provision that would have been necessary to cover these uncertainties has not been included in the financial statements.

Management Response

The Resident Director informed the Committee that, trade and other receivables balance of KES 333,295,704 includes an amount of KES 81,274,625 owed by the Kenya Revenue Authority KES 81,274,625 and not KES 83,513,337 as detailed below:

	Account	**Amount**
a	Withholding tax	46,071,025
b	Tax rebate excise duty	35,203,600
	Total	**81,274,625**

The difference of KES 2,238,712 is a long outstanding amount owed by some transporters on account of custom duties paid by ACFC on spirits exported to Europe.

The amount of KES 81,274,625 is brought forward balances whose refunds will be obtained on conclusion of other outstanding KRA issues.

The Company does not have an amount of KES 8,263,884 under dispute with KRA as it was resolved in the previous financial year.

The Management will continue following up with a view to obtaining refunds from foreign suppliers where possible.

Committee Observation

The Committee observed that: -

(i) The Company is owed long outstanding refund of KES 81,274,625 by KRA as upfront excise duty on sale of the Company's products to foreign suppliers.

(ii) There is a long outstanding amount of KES 2,238,712 which represents amount paid by the Company on behalf of customers in respect of upfront duty payment to KRA before orders for spirits could be executed.

(iii) The upfront duty payment by KRA is meant to aid its spirits-exporting customers to enable them execute their export orders in anticipation that KRA will make refunds of the paid excise duty since export of spirits were duty-free.

(iv) The Company is denied use of the funds by the continued withholding of the same by KRA.

(v) The Company's application of its financial resources in facilitating the execution of orders for its exporting customers impacts negatively on the finances of the Company.

Committee Recommendation

The Committee recommends that: -

(i) The Commissioner General of KRA expedites an audit of the requisite tax refund to confirm status of the refund of KES 81,274,625 in order to facilitate repayment of the outstanding debt owed to ACFC. This should be undertaken within six (6) months of the adoption of this Report.

(ii) The Resident Manager, ACFC and the Commissioner General KRA should review the use of the Company's finances to facilitate export orders on behalf of its customers, in view of the continued delay by KRA to process the refunds.

(iii) The Resident Manager ACFC pursues refunds from foreign suppliers who are mainly from Uganda and Tanzania and ensures that the debts are fully settled within six (6) months of adoption of this report.

4. EMPHASIS OF MATTER - FY 2014/2015 ACCOUNTS

a) Provision for Staff Leave

The Committee heard that, the state of financial position as at 30 June 2015 reflected an amount of KES 23,712,846 as current liabilities under provisions, which include provision for staff leave balance of KES 20,350,672. The Company Human Resource policy does not allow an employee to carry over leave days which are beyond 60 days. Accumulation of outstanding leave days by employees gives rise to potential liability for the government in terms of members of staff who may leave employment and have to be paid, as well as inefficiency and reduction in productivity due to fatigue.

b) Payment of Penalty

The Committee heard that, the Kenya Revenue Authority demanded total tax totalling KES 1,707,614 from the Company for non-remittance from the withholding tax not computed on imported service. The Company did not pay the tax due thereby incurring penalty and interest which were extra expenses to the Company. The payments interfered with the fund budgeted for other service and operations

c) **Road Grading, Gravel Patching and Compaction**

The Committee heard that, the Company awarded and paid KES 997,000 contract for road grading, gravel patching and compaction within the Company estate during 2014/2015, however no contract agreement dully signed by both parties was made available for audit review. This procurement was single sourced in contravention of the existing procurement laws and regulations.

Management Response

The Resident Director informed the Committee as follows:

a) **On the staff leave:** The Company has implemented its policy on staff leave and all employees with leave days beyond the stipulated leave days have proceeded on annual leave. This will ensure that ensure that employees take their outstanding leave days during the year and that all staff will under 60 days' allowable limit in order to reduce the potential liability. The Company will also harmonise the leave calendar to run concurrently with the financial year.

b) **Payment of Tax Penalty:** The tax penalty of KES 1,707,614 was for withholding tax not computed on an imported service. This was an error arising from interpretation of Income Tax Act and the Company will endeavour to declare and remit all taxes as and when due.

c) **Road grading, Gravel patching and compaction** – The Company has implemented the audit observation and ensure that contracts awarded for all projects are duly signed before commencement.

Committee Observations

The Committee observed that: -

(i) The Management breached its Human Resource Management policy by allowing staff to accumulate leave days over and above allowable limits of 60 days;

(ii) The tax penalty of KES 1,707,614 for withholding tax was an error arising from interpretation of Income Tax Act.

(iii) The contract for road grading, gravel patching and compaction within the Company estate during FY 2014/2015 was single sourced in contravention of the Public Procurement and Disposal Act, 2005 and Procurement Regulations, 2006.

Committee Recommendations

The Committee recommends that: -

(i) The Management should adhere to its Human Resource Policy and ensure that all employees take their full leave entitlement within the year it is earned. They may, however, carry forward up to a maximum of 60 days with the written

consent of the Management failure to which any unused leave beyond 60 days will be forfeited as stipulated by the policy;

(ii) The Resident Manager ensures that the Company meets all its financial obligations as and when they fall due and further ensure that the financial statements are free from material mis-statements.

(iii) The Resident Manager and the Members of the Tender Committee who single sourced the contract for road grading, gravel patching and compaction within the Company estate during 2014/2015 should be held liable and action taken against them in accordance with the law.

2.2 ATHI WATER SERVICES BOARD (FY 2004/2005 - 2013/2014)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE ATHI WATER SERVICES BOARD FOR THE FINANCIAL YEARS 2004/2005 TO 2013/2014

Eng. Malaquen Milgo, the Chief Executive Officer (CEO) Athi Water Services Board accompanied by Ms. Rose Nyaga; Head of Finance and Strategy, Mr. Jones Mwinzi; Supply Chain Manager, Mr. Michael Kimotho; Administration Manager and Eng. S. A. O Alima; Deputy Director Ministry of Water and Irrigation appeared before the Committee on 25 February 2016 to adduce evidence on the audited accounts of the Board for the financial years 2004/2005 and 2013/2014.

1. BOARD EXPENSES - FY 2004/2005 ACCOUNTS

The Committee heard that, the during the 2004/2005 financial year the budgeted expenditure of the Board was KES 5,870,000 while the actual expenditure amounted to KES 7,935,853.40 as at 30 June 2005 thereby exceeding budgetary provisions by KES 2, 065,853.40 contrary to Section 11 and 12 of the State Corporations Act. The Board justified the over-expenditure due to an increase of the Board members' allowances by the Government from KES 10,000 to KES 20,000

Back dated to 1 July 2004 through the Office of the President Circular No. OP(CAB 9) /21/2A/LII/43 dated 24 November 2004. However, the circular also provided that the implementation of such allowances was subject to individual Corporation's capabilities to finance expenditures thus prompting the Ministry's Circular dated 4 March 2004 which the allowances payable to the Board Members was reviewed downwards to KES 13,000 with effect from January 2005citing the Board's inability to sustain Board's allowances at a higher level and its reliance on the Exchequer. The Board however continued to pay the higher allowances ignoring the Ministry's circular letter. Satisfactory explanation has not been given as to why Government guidelines were not respected.

In addition, one of the four officers appointed by the parent Ministry to act as the CEO in March 2004 was overpaid by KES 1,310, 340 as salary arrears contrary to the Office of the

President Circular dated 23 November 2004 which spelt out terms and conditions of the CEOs of the Board. Under the circumstances, it is not possible to confirm the propriety of the Board's expenses and allowances paid to senior staff.

Management Response

The CEO informed the Committee that, the over expenditure was as a result of Circular No OP (CAB.9)/21/2A/LII/43 from the Office of the President (OP) dated 24 November 2004 President (OP) which increased Board members sitting allowances from KES 10,000 to KES 20,000.00. The increase was back dated to 1 July 2004. The Board sitting on 20 January 2005 passed a resolution to pay sitting allowances as per the circular from the OP as opposed to the circular from the Permanent Secretary (PS) Ministry of Water and Irrigation, MWI. On 26 July 2006 the PS issued a circular increasing the Board allowances. The payment was to cover for services offered by officers seconded to the Board during preparation for the Nairobi Water and Sewerage institutional restructuring project (NWSIRP) funded through a grant from the World Bank which provided funding for operationalization of AWSB and NWSC before the management staff were recruited. The payment was upon approval by the BOD. The preparatory work was necessary before the two institutions could commence operations.

Committee Observation

The Committee observed that, the Board had obtained post facto approval on the over-expenditure from the parent Ministry. However, it had not sought the approval of the National Treasury as required by law.

Committee Recommendation

The Committee recommends that the Authority should seek post facto approval on the over-expenditure from the National Treasury.

2. BANK DEPOSITS: FY 2006/2006 ACCOUNTS

The Committee heard that, included in the Board's investment of KES 25,728,894 is an amount of KES 10, 000,000 of surplus funds which was placed in a commercial bank contrary to Treasury Circular No. 10 of 15 July 1992 which require state corporations to place any surplus funds in Treasury bills and bonds. Although the Board has explained that this was to cater for a loan repayment whose grace period was 7 years, it was not clear why the same could not be invested in accordance with the regulations. The investment was therefore made in breach of financial regulations.

Management Response

The CEO informed the Committee that, amount was placed in a call deposit with the Cooperative Bank call account which was earning an interest to help meet working capital requirements. The current accounts were not giving any interest and the idea was to

cushion against the bank charges. The money was recalled back into the current account after it had earned KES 800,000 in interest. The funds were recalled to the main operation account after the issue was raised by the auditors.

Committee Observation

The Committee observed that: --

(i) **The deposit of the surplus funds in a commercial bank was irregular and contrary to Treasury Circular No. 10 of 15 July 1992 which requires state corporations to place any surplus funds in Treasury bills and bonds.**

(ii) **If the Board had invested the surplus funds in Treasury bills and bonds, the Board would have most likely earned a higher interest from the investment.**

Committee Recommendation

The Committee recommends that: -

(i) **The Chief Executive Officer ensures that the Board invests its surplus funds in Treasury bills and bonds where Board would most likely earn higher interest from the investment.**

(ii) **The Chief Executive ensures that the Board adheres to the provision of Treasury Circular No. 10 of 15 July 1992 which require states corporations to place any surplus funds in Treasury bills and bonds.**

3. UNQUALIFIED REPORTS: FY 2006/2007 - 2009/2010 ACCOUNTS

The Committee heard that, the Board obtained unqualified audit report from the Auditor General during the financial years 2006/2007 to 2009/2010.

Committee Observation

The Committee commended the management for sound financial management and prudent use of resources during the period under review.

4. PLANT PROPERTY AND EQUIPMENT: FY 2010/2011 & 2013/2014 ACCOUNTS

The Committee heard that, the Board inherited non-current assets of undetermined value previously owned by the Ministry of Water and Irrigation and the National Water Conservation and Pipeline Corporation in respect of water distribution infrastructure which have not been incorporated in the financial statements. Further, the property, plant and equipment balance of KES 7,172,720,189 as at 3oth June 2011 also excludes projects funded through capital grant to Gatanga Water Scheme amounting to KES12, 058,670.

In the circumstances, the accuracy of plant, property and equipment balance of KES 13,577,293,697 as at 30 June 2014 cannot be confirmed.

Management Response

The CEO informed the Committee that, Athi Water Services Board (AWSB) inherited non-current assets previously owned by the Ministry of Water and Irrigation and National Water Conservation and Pipeline Corporation. The Board engaged a consultant Trans County Valuers who valued the assets. As a result of the advent of the devolution process AWSB found it necessary to carry out a revaluation of assets which categorized the assets into four registers as a result of the cross county nature of the water operations and infrastructure. These four registers are, the National or Cross County Assets, the Nairobi County Assets, Kiambu County Assets and Gatanga Assets under Murang'a County.

The valuation reports have been sent to the Transition Authority and the Ministry of Water and Irrigation for further direction on the same.

The value of the inherited assets does not form part of the reported assets valued at KES 13,577,293,697 and that the accuracy of the reported assets is not in doubt.

Athi Water Services Board is yet to get a policy direction from the Transition Authority as to which assets should be transferred to Counties and which ones should remain with the Water Service Boards.

Committee Observation

The Committee observed that: -

(i) **The Transfer Plan which envisaged transfer of staff, operational assets and water infrastructure within the AWSB area of operation had taken too long due to unclear legal guidelines on how the transfer was to be effected.**

(ii) **The verification and transfer of assets had taken inordinately long to be completed due to a lack of willingness on the part of NWCPC management. The parent Ministry had also failed to provide direction and lead role in the verification and transfer of assets process in line with the spirit of devolution.**

Committee Recommendation

The Committee recommends that the Ministry of Water and Irrigation and National Water Conservation and Pipeline Corporation expedites the verification and transfer of assets to Athi Water Service Board and other Water Service Boards included in the same Transfer Plan.

5. **NON-COMPLIANCE WITH LEGAL NOTICE NO. 101 OF AUGUST 2005 – TRANSFER PLAN: FY 2010/2011 –2013/2014 ACCOUNTS**

The Committee heard that, according to the transfer plan under the Water Act, 2002 which was operationalized vide Legal Notice No. 101 of August 2005, the Water Service Boards were to have taken over assets, staff and other infrastructure inherited from the Ministry of

Water and Irrigation and National Water Conservation and Pipeline Corporation (NWC&PC). However, nothing seems to have been done to date as Athi Water Services Board, the Ministry of Water and Irrigation and National Water Conservation and Pipeline Corporation had not yet finalized the evaluation of assets as at 30 June 2011.

The Board is therefore in contravention of the Legal Notice No. 101 of August 2005 and the Water Act, 2002 on the transfer plan.

Management Response

The CEO informed the Committee that, the transfer plan had envisaged transfer of staff operational assets and water infrastructure within the AWSB area of operation. Operational assets and staff were transferred to the water service providers who continued with the operations previously undertaken by the local authorities and Government corporations such as National Water Conservation and Pipeline Corporation. However the transfer of water infrastructure could not be completed due to various reasons:

- The Ministry of Water and Irrigation needed to do the transfer for all the utilities together and so all the valuations were to be completed so that the transfer could be done.
- There were legal considerations as to how the transfer would be done and who held the titles to the infrastructure where the facilities were located.
- Athi Water Services Board carried out a valuation of the former GOK and NWCPC assets in its area of operations while awaiting further direction from the Ministry of Water and Irrigation.

Committee Observation

The Committee observed that: -

(i) **The Transition Authority's term ended before concluding the audit and transfer of assets and roles from National Water Pipeline and Conservation to Water Service Boards.**

(ii) **Athi Water Services Board was yet to get a policy direction from the Transition Authority as to which assets should be transferred to Counties and which ones should remain with the Water Service Boards before the Authority's term ended.**

Committee Recommendations

The Committee recommends that the Intergovernmental Relations Technical Committee should formulate a policy to guide, facilitate and coordinate the transfer of assets and roles from the Ministry of Water and Irrigation and National Water

Conservation and Pipeline Company, the Counties and Water Boards which were not finalized by the defunct Transition Authority.

6. DEBTORS: FY 2010/2011- 2013/2014 ACCOUNTS

The Committee heard that, debtors balance of KES 1, 105,820,559 as at 30 June 2011 includes debtor's balances due from Water Service Providers which differed from the figures shown in the books of the respective Water Service Providers as indicated below:

Water Service Provider	Balance as per Board (KES)	Balance as per WSP (KES)	Variance (KES)
Nairobi City Water & Sewerage Co.	1,038,471,809	915,689,414	122,782,395
Oloolaiser Water and Sanitation Co.	3,804	126,510	-122,706
Thika Water and Sanitation Co.	36,025,340	34,792,182	1,233,158
Gatundu South Water Co.	2,680,871	383,881	2,411,110
Kiambu Water and Sewerage Co.	6,771,751	6,840,544	-68,793
Kikuyu Water and Sewerage Co	2,362,426	2,779,212	-416,786
Limuru Water and Sewerage Co	703,698	782,229	-78,531
Githunguri Water and Sewerage Co	1,394, 330	846,579	968,468

The above variances had not been reconciled or explained as at 30 June 2011. In the circumstances the accuracy and full recoverability of the debtors' balance of KES 1,105,820,559 as at 30 June 2011 could not be confirmed.

Further, the statement of financial position as at 30 June 2014 reflects debtors amounting to KES 3,665,312,331 which includes an amount of KES 2,610,015,724 owing from the Nairobi City Water and Sewerage Company, an amount of KES 506,783 related to a long outstanding imprest from the Machakos District Water Officer and an amount of KES 600,000 owing from Umande Trust. These amounts are long outstanding and their recoverability appears doubtful.

In the circumstances, the accuracy and full recoverability of the debtors' balance of KES 3,665,312,331 as at 30 June 2014 could not be confirmed.

Management Response

The CEO informed the Committee that, AWSB circularized and confirmed with the auditors that the figures provided by AWSB were the correct figures. The matter was resolved.

On the debts owed by Nairobi City Water and Sewerage Company and a former Machakos District Water Officer, the Board is following on the two cases of debtors as follows:

A letter has been done to the PS Ministry of Water and Irrigation to assist in recovery of the KES 506, 783 issued to the former District Water Officer, Machakos District at the time.

In addition, AWSB issued a demand note to Umande Trust who since fully settled the amount owing of KES 600,000.

The Board has now entered into a Deed of Settlement (DoS) with the Nairobi City Water and Sewerage Company Limited. The DoS provides a plan to settle all the amounts outstanding to Athi Water Services Board.

Committee Observations

The Committee observed that: -

(i) **The required documents on the reconciliation schedules of the debtors' figure were not availed to the Office of the Auditor-General at the time of review for verification.**

(ii) **The Board had taken inordinately long to pursue debts of 2,610,015,724 owing from the Nairobi City Water and Sewerage Company, an amount of KES 506,783 related to a long outstanding imprest from the Machakos District Water Officer and an amount of KES 600,000 owed by Umande Trust.**

Committee Recommendations

The Committee recommends that: -

(i) **The CEO AWSB aggressively pursues the recovery of KES 2,610,015,724 debt owed by the Nairobi City Water and Sewerage Company, an amount of KES 506,783 related to a long outstanding imprest from the former Machakos District Water Officer and an amount of KES 600,000 owed by Umande Trust and report progress to the National Assembly within six (6) months of the adoption of this Report.**

(ii) **The CEO forwards the name of the former Machakos District Water Officer for listing and publication by the Credit Reference Bureau.**

2.3 BUKURA AGRICULTURAL COLLEGE (FY 2009/2010 - 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF GOLF HOTEL FOR THE FINANCIAL YEARS 2009/2010 TO 2014/2015

Dr. Richard Wekesa, the Chief Executive Officer/Principal Bukura Agricultural College accompanied by Ms. Catherine Ng'ang'a, Board Director; Mr. Samuel Okero, Senior Accountant and Mr. Charles Mutinda, Accountant appeared before the Committee on 24 February 2017, to adduce evidence on the Report of the Auditor General on the accounts of the College for the financial years 2009/2010 to 2014/2015.

1. PAYABLES: FY 2009/2010 & 2010/2011 ACCOUNTS

The Committee heard that, included in the payables balance of KES 25,013,276 and as reported in the previous year is an amount of KES 9,182,745 relating to pending bills, salary claims, security charges and stores debts inherited from the Ministry of Agriculture. The amount had not been analysed with the result and thus its validity and accuracy could not be ascertained.

Management Response

The Principal informed the Committee that, analysis of the pending bills was done and the Board acknowledged only KES 2,020,679. The remaining bills worth KES 7,722,908 were not fully supported by relevant documents and therefore dishonoured.

Committee Observation

The Committee observed that: -

(i) Most of the payables are long pending bills dating back to 2005 relating amounts owed by the College to its suppliers, employees salary claims from Ministry of Agriculture before the College was delinked and security charges. Failure to honour the payments as and when the fall due may cause loss of creditworthiness, penalties, lawsuits and liquidation of the College.

(ii) All the bills were verified by the College Audit Committee which found out that not all qualify for payment as some lacked prerequisite supporting documents like invoices, promissory notes and LPOs, signatures of the Principal and Procurement Officer thus it was difficult to authenticate the claims without records to support.

(iii) The College acknowledged the pending bills with supporting documents.

Committee Recommendation

The Committee recommends that: -

(i) **The Principal ensures that the College settles all verified pending bills due to its creditors, and that in future, the College the settles the bills within a defined period of time to avoid accumulation of pending bills.**

(ii) **The Principal and the Senior Accountant ensure that the College maintains accurate records of its payables and invoices are matched against purchase orders or delivery notes before processing payments.**

2. PROPERTY, PLANT AND EQUIPMENT: FY 2010/2011-FY 2014/2015 ACCOUNTS

a) Works in Progress - Library Block

The Committee heard that, the reported figure of KES 433,614,347.00 included an amount of KES 25,132,723.00 for the Library Block under works in progress which had been completed and commissioned on 30 June 2010. Completion certificate was not availed.

Management Response

The Principal informed the Committee that, as reported in the financial statements, the amount of KES 25,152,723.00 was correctly reflected as works in progress since the Library Block was still under construction. The certificate of completion was issued on 31 August 2010.

Committee Observation

The Committee observed that, the certificate of completion for the Library Block was issued on 31 August 2010 and not before the end of the financial year 30 June 2010.

Committee Recommendation

The Committee recommends that the Principal ensures that the College projects are completed on schedule, as per the contract agreement.

b) Buildings and Developments

The Committee heard that, a balance of KES 678,211,011 as at 30 June 2013 excludes buildings and developments on College land held by Bukura ATC, Bukura Rural Health Centre, Bukura Kilimo Girls Secondary School and Bukura Kilimo Primary School, all valued at KES 126,115,300

Management Response

The Principal informed the Committee that, located within the College land are other public institutions namely Bukura ATC, Bukura Rural Health Centre, Bukura Kilimo Girls Secondary and Kilimo Primary School. These Institutions are not directly under the control of the College.

The buildings were excluded in the financial statements since they are not owned by the College, even though they are located within the College land. The College could not recognize them as its own assets.

Committee Observations

The Committee observed that: -

(i) **The College stands on two parcels of land namely L.R No. Butsotso/Bukura/1660 measuring 96.5 Ha and L.R. No. Butsotso/Bukura/1664 measuring 94.87 Ha. Most of the College buildings are situated on land L.R No. Butsotso/Bukura/1660 formally held by the County Council of Kakamega in trust for the Ministry of Agriculture. It is on the same piece of land that Bukura Agricultural Training Centre, Bukura Rural Health Centre, Bukura Kilimo Girls Secondary School and Bukura Kilimo Primary School are situated. Land L.R. No. Butsotso/Bukura/1664 contains farm, graze land and trees;**

(ii) **The College carried out valuation of the entire piece of land in 2012 but excluded some assets on it since they do not belong to it;**

(iii) **The College submitted a request for issuance of title deed to the Commissioner of Lands on 8 December 2010 but is yet to be issued. Further, the College requested for the title deed from the Commissioner of Lands for the trustee land through the then Ministry of Local Government on 24 February 2011;**

(iv) **The College was issued with allotment letter and is awaiting title deed from National Land Commission in respect of L.R No. Butsotso/Bukura/1660; and**

Committee Recommendations

The Committee recommends that the College's Principal liaises with the Principal Secretary, State Department of Agriculture and the National Land Commission to fast-track the transfer of land, L.R No. Butsotso/Bukura/1660 and L.R. No. Butsotso/Bukura/1664, to the College.

c) Land Ownership

The Committee heard that, the statement of financial position reflects property, plant and Equipment balance of KES 695,069,010.00 as at 30 June 2014. However, and as previously reported, ownership title for land measuring approximately 96.5 hectares (128.4 Hectares in 2011) valued at KES 71,400,00.00 remain in the name of the defunct County Council of Kakamega.

Management Response

The Principal informed the Committee that, currently the College has an allotment letter from National Lands Commission and is in process of acquiring title deed. Land was transferred to College by Registrar Commissioner of Lands and given Reg. No

Bukura/Butsotso/1660 issued with allotment awaiting certificate of title from Registration of Lands.

Committee Observation

The Committee observed that, the College was issued with allotment letter and is awaiting title deed from the National Land Commission in respect of the said parcel of land.

Committee Recommendation

The Committee recommends that the College's Principal liaises with the Principal Secretary, State Department of Agriculture and the National Land Commission to fast-track the transfer of land, L.R No. Butsotso/Bukura/1660 and L.R. No. Butsotso/Bukura/1664, to the College.

d) Work in Progress - Hostel Block

The Committee heard that, plant, property and equipment balance of KES 433,614,347.00 as at 30 June 2011 included an amount of KES 147,606,947.00 being work in progress out of which KES 65,824,161.00 relates to the Hostel Block that ought to have been completed by 10 Dec 2007 as per signed contract. However, the Hostel Block had not been completed as at 30 June 2011.

Management Response

The Principal informed the Committee that, the Hostel Block was still under construction as at 30 June 2011. The certificate of practical completion was issued on 26 Nov 2012. The delay was due to limited funding from GoK.

Committee Observation

The Committee observed that, the construction of the Hostel block was completed 5 years behind schedule due to delayed funding from the exchequer.

Committee Recommendation

The Committee recommends that the Principal ensures that the College's projects are well completed as per the contract requirements.

3. ASSETS INHERITED BY THE COLLEGE: FY 2010/2011 ACCOUNTS

The Committee heard that, the statement of financial position reflects total assets amounting to KES 457,049,385 as at 30 June 2011 out of which assets amounting to KES 377,954,810.00 were inherited from the Ministry of Agriculture at inception of the College. It was not clear how the valuation figure of KES 377,953,810 was arrived at.

Management Response

This Principal informed the Committee that, the figure of KES 377,954,810 was based on the valuation by the Ministry of Land valuers in 2007 before the College was delinked. However, the figure is not accurate since the valuation report has a figure of KES 273,600,000

Committee Observation

The Committee observed that, the valuation value of KES 377,954,810 was based on valuation undertaken by the Ministry of Land valuers in 2007 before the College was delinked. The College, however, insists that the valuation report reflects a figure of KES 273,600,000.

Committee Recommendations

The Committee recommends that the Principal ensures that the College engages the services of professional valuers to determine the correct value of its assets.

4. **BANK OVERDRAFT: FY 2011/2012**

The Committee heard that, included in the current liabilities figure of KES 19,421,339.99 as at 30 June 2012 is a bank overdraft of KES 130,417.00 whose supporting documents were not availed for audit review.

Management Response

The Principal informed the Committee that, the reported bank overdraft was not a debit balance at the bank but an overdrawn cashbook – withheld cheques belonging to clients.

Committee Observations

The Committee observed that, College had credit balances in its bank accounts. There were, however, withheld cheques in the same accounts which resulted in debit cashbook balances/over withdrawals in the cash book. The bank accounts were therefore, not over withdrawn.

Committee Recommendation

The Committee recommends that the Principal and the Finance Manager ensure that cheques/cash are drawn against available balances in the bank accounts.

5. **INACCURACY AND INCOMPLETENESS OF THE FINANCIAL STATEMENTS: FY 2012/2013 ACCOUNTS**

The Committee heard that, during the year under review, the College received a grant of Euros 749,984.00 from the Netherland Initiative for Capacity Development in Higher Education (NICHE). However, the grant was not indicated in the financial statements.

Management Response

The Principal informed the Committee that, the NICHE Project is jointly run by Bukura Agriculture College and Q-point BV which is Dutch Service Provider of the total donor grant, Bukura was to control EUR 248.105 while of point BV was to control EUR 501,879. The project was to run for four years from November 2015 and the disbursement is issued as per the annual budget.

The Accounts were not included in the Financial Statement due to the requirement by the donor that separate books of accounts be maintained and audited independent of the College activities. However, the grant was recognized in the subsequent years.

Committee Observation

The Committee observed that: -

(i) **The College was awarded a grant by Netherland Initiative for Capacity Development in Higher Education (NICHE) for improving dairy and horticulture programs to meet the requirements of the labour market and contribute to food security and commercialization of the sector;**

(ii) **The donor awarded grants to the College with obligations that the College maintains separate financial statements for the projects funded by the donor thus the grants were not included in the books of accounts of the College.**

(iii) **Goods and equipment purchased in connection with the project were included in the books of accounts of the College after the lapse of the project time.**

6. SUSTAINABILITY OF SERVICES/GOING CONCERN: FY 2013/14 & 2014/2015 ACCOUNTS

The Committee heard that, during the financial 2013/2014 the College recorded a deficit of KES 2,997,282 which brought accumulated deficit to KES 37,927,924 as at 30 June 2014. During the 2014/2015 financial year the College recorded a surplus of KES 10,671,028 which reduced accumulated deficit to KES 27,256,896 as at 30 June 2015. The College operated on an unfavourable cash flow and was unable to meet its obligations as and when they fell due and in particular it failed to pay contractors amount of KES 27,491,6551.00.

Management Response

The Principal informed the Committee that, as correctly observed the College had an accumulated deficit of KES 27,256,896.00 in the year ending 30 June 2015. In order to address this challenge, the College has widened its revenue base by acquiring and installing a milk processing plant which is expected to boost the revenue for the College, setting up an irrigation system to ensure constant supply of horticultural produce and fodder for livestock. In addition, the College has introduced new courses both regular and short and this will increase the enrolment hence the increased revenue that will lead to sustainability.

Committee Observations

(i) **The College is operating on a negative capital and was, therefore, unable to meet its financial obligations as and when they fell due;**
(ii) **The financial position of the College has, however, since improved, following the measures put in place by the management.**

Committee Recommendation

The Committee recommends that the Principal ensures that the College continues to implement strategies to improve it revenue generation and improve the financial position of the College. Further, the College should put in place austerity measures to ensure that it records a surplus.

7. STALLED CONSTRUCTION OF HOSTEL: FY 2013/14 ACCOUNTS

The Committee heard that, the construction of Educational Complex at a scaled down figure of KES 189,118,238.00 was to be completed within 52 weeks from May 2010. The College has so far spent KES 133,765,000.00 on the project which remain stalled to date due to underfunding.

Management Response

The Principal informed the Committee that, the College had no hostel under construction by then. There was, however, an education complex under construction. The project was to be completed within 52weeks from May 2010 but this has not happened owing to underfunding from the GoK.

Committee Observation

(i) **The Committee observed that, the project stalled because of inadequate funding from the Government.**
(ii) **The delayed completion of the project may lead to escalation of cost of the project due to cost overrun.**
(iii) **The College is expecting KES 70 million in the FY 2016/2017 Supplementary Budget, to complete the construction.**

Committee Recommendation

The Committee recommends that the Principal Secretary, Ministry of Agriculture, in consultation with the National Treasury, avails adequate funds for the completion of the project.

8. UNACCOUNTED INVESTMENT: FY 2014/2015 ACCOUNTS

The Committee heard that, the financial statement as at 30 June 2013 indicated that the College had KES 6,223,841.00 in the Fixed Deposit Account (Co-op Bank) to earn interest. However, the statement of financial position reflects the balance as nil as at 30 June 2014.

Management Response

The Principal informed the Committee that, investment was liquidated on 4 July 2013 during the year to support operations of the College. The money was transferred to the College's current account and made payments.

Committee Observation

The Committee observed that, the deposits were withdrawn on various dates to meet various financial obligations of the College.

Committee Recommendation

The Committee recommends that the Authority ensures that all supporting documents are availed to the Office of the Auditor General for verification during the audit process to confirm the actual position of various matters of interest to the Auditor General.

9. BUDGET CONTROL AND PERFORMANCE COMPLIANCE: FY 2014/2015 ACCOUNTS

The Committee heard that, the College's budgeted revenue was KES 219,441,063 against a collection of KES 218,302,461.00 resulting to a shortfall of KES 1,138,602.00 for the year ended 30 June 2015. Expenditure totalled to KES 207,631,433.00 against a budget of KES 196,920,854.00

The College has not put in place an information technology security policy to assure data integrity and confidentiality.

Management Response

The Principal informed the Committee that, the College failed to meet its budgeted revenue due to failure to attain the projected number of students for the certificate course. The College had projected to receive 120 students who were to pay KES 44,800 each but only 98 students reported. This led to under achievement of the projected fee by KES 985,600. In addition, the farm revenue was not attained due to adverse weather conditions.

The over expenditure was as a result of factoring in depreciation of the assets which was not provided for in the budget. The Information Communication Technology policy is now in place.

Committee Observations

The Committee observed that: -

(i) The College had a budget deficit of KES 1,138,602 in the financial year 2014/2015 owing to under enrolment of students for the certificate course;

(ii) The College had also not put in place an ICT security policy framework to assure data integrity and confidentiality, but has since done so.

Committee Recommendation

The Committee recommends that the Principal ensures that the College implements the security controls that conform to the best practice.

2.4 CAPITAL MARKETS AUTHORITY (FY 2004/2005 – 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE CAPITAL MARKETS AUTHORITY FOR THE FINANCIAL YEARS 2004/2005 TO 2014/2015

Mr. Paul Muthaura, Acting Chief Executive Officer Capital Markets Authority accompanied by Mr. Wycliffe Shanuali; Director Market Operations, Mr. Edwin Njamura; Director Corporate Services, Mr. Luke Ombaka; Acting Director Regulatory, Policy and Strategy appeared before the Committee on 14 April 2016 to adduce evidence on the Report of the Auditor General on the accounts of the Authority for the financial years 2004/2005 to 2014/2015 and Approval of the Rights Issue of the National Bank of Kenya

AUDITED ACCOUNTS FOR FINANCIAL YEARS 2004/2005 TO 2014/2015

The Committee heard that, the Auditor General issued the Authority with an unqualified audit opinion for the accounts of FYs 2004/2005 to 2014/2015.

Further, the Authority is a wholly self-financing entity generating income from market levies, approval fees and investment income among others and where opportunities arise it collaborates with other international funding partners for financing of large critical mission programs to enhance service delivery.

The Committee further heard that, the Auditor General audited the Authority for FYs 2006-2011 and from the year 2012 to date, the Authority is audited by RSM Ashvir Auditors appointed by the Auditor General.

Committee Observations

The Committee commended the CMA management for sound financial management for ten (10) consecutive years.

2.5 COAST WATER SERVICES BOARD (FY 2012/2013 - 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE COAST WATER SERVICES BOARD FOR THE FINANCIAL YEARS 2012/2013 TO 2014/2015

Mr. Joseph Omwange, the Ag. Chief Executive Officer of Coast Water Services Board accompanied by Mr. Stephen Kivuva (Finance Manager), Mr. Martin Tsuma (Technical Manager), Mr. Stanslus Jira (Procurement Manager) and Mr. Alex Masake (Company Secretary) appeared before the Committee to adduce evidence on the report of the Auditor General on the financial statements of the Board for the financial years 2012/2013, 2013/14 and 2014/15.

1. PROPERTY, PLANT AND EQUIPMENT - 2012/2013 – 2014/2015 FINANCIAL YEARS ACCOUNTS

The Committee heard that, as previously reported, the property plant and equipment balance of KES 1,392,615,690 as at 30 June 2015 (2013/2014 KES 287,265,459) excludes assets of undetermined value transferred to the Board from the Ministry of Water and Irrigation and National Water Conservation and Pipeline Corporation pursuant to Legal Notice No.101 of August 2005. Further, included under note 14 to the financial statements from the year under review is an amount of depreciation amounting to KES 112,058,778 which is at variance with the recalculated depreciation figure of KES 133,513,934, resulting to unreconciled or unexplained variance of KES 21,455,156.

In the circumstances, the accuracy validity and completeness of the property, plant and equipment balance of KES 1,392,615,690 as at 30 June 2015 and the depreciation of KES 112,058,778 for the year then ended, could not be ascertained.

Management Response

The CEO informed the Committee that, Coast Water Services Board inherited assets previously owned by Ministry of Water and Irrigation and National Water Conservation and Pipeline Corporation (NCWPC) as per the provisions of Water Act (2002). However, from the onset, the Board was not issued with an asset register or listing of the assets handed over to for verification.

At the time of the transfer of the properties, the transfer documents were not signed by either party and this made verification more complicated for Coast Water.

As a way forward, the Board complied its own Asset Inventory for assets handed over so as to facilitate the process of transfer but proof of existence and ownership has become another stumbling block, for in some instances, even the Ministry does not have ownership documents for some properties which are in the schedule of handed over properties.

Currently, negotiations are still ongoing with NWCPC on the best way possible to finalize the process.

Committee Observations

The Committee observed that: -

(i) The matter of transfer of assets from NWCPC to Coast Water Services Board and other Water Service Boards across the country was dealt with by the Committee in its 19th Report and not much progress has been made in regard to the transfer.

(ii) The Board did not maintain an asset register and thus a physical verification of the plant, property and equipment could not be undertaken.

(iii) Coast Water Service Board held meetings with the NWCPC and a joint Committee was formed to look into the matter of the Asset Register. The joint Committee was scheduled to submit a report on the transfer which was yet to be submitted at the time of audit.

(iv) The land where CWSB offices are located in Mombasa belongs to the Ministry of Water and Irrigation although the Ministry does not have ownership records making it difficult to pursue the Title Deed.

(v) Coast Water Services Board had lost a number of its pieces of land to private individuals, including the land at Shanzu Staff Housing where each of the 42 units are owned by individuals.

Committee Recommendation

The Committee recommends that: -

(i) The Ministry of Water and Irrigation ensures that the transfer of assets from the National Water Conservation and Pipeline Corporation to CWSB and other water service boards across the country is finalized within six (6) months of adoption of this Report;

(ii) The Ministry of Water and Irrigation engages the Ministry of Lands and the National Land Commission with the aim of acquiring ownership documents of the said parcels of land;

(iii) The CEO ensures that the Board maintains an asset register as a financial prudence measure.

(iv) The CEO seeks a court order for immediate eviction of the illegal occupants from its parcels of land and Shanzu Staff Housing and puts a caveat on its properties.

2. TRADE AND OTHER RECEIVABLES: FY 2012/2013- 2014/2015 ACCOUNTS

The Committee heard that, the trade and other receivables balance of KES 2,121,971,031 as at 30 June 2015 (2013/2014 KES 1,697,001,020) includes long overdue debts of KES 84,427,767 due from Mombasa Water and Sewerage Company Limited and a further sum of KES 3,052,616 relating to overdue outstanding imprest. As reported in the previous year, no reason has been provided for the failure to have the receivables recovered. Further and as previously reported, the Water Services Providers balances reflected in the Board as at 30 June 2015 differ with the figures shown in the books of the respective Water Service Providers as shown below:

Water Service Provider	Balance as per Board KES	Balance as per Water Company KES	Difference KES
Mombasa Water & Sewerage Company	1,007,818,274.00	714,947,386.64	292,870,887.36
Malindi Water & Sewerage Company	346,778,414.00	229,882,098.09	116,896,315.91
Kilifi Mariakani Water & Sewerage Company	371,019,659.00	250,209,761.00	120,809,898.00
Kwale Water & Sewerage Company	110,430,875.00	62,687,260.00	47,743,615.00
Tavevo Water & Sewerage Company	274,219,605.00	201,932,073.00	72,287,532.00
Lamu Water & Sewerage Company	4,707,569.00	2,735,810.00	1,971,759.00
Total	2,114,974,396.00	1,462,394,388.73	652,580,007.27

The above total difference amounting to KES 652,580,007 has not been reconciled or explained.

In the circumstances, the accuracy and valuation of the trade and other receivables balance of KES 2,121,971,031 as at June 30, 2015 could not be confirmed.

Management Response

The CEO informed the Committee that, as at June 30, 2012 the total outstanding debt was reconciled and confirmed by all parties and a final report was adopted. The amount payable was KES 997,293,984.00.

Efforts to collect the debt have yielded minimal success and on December 21, 2015, CWSB sought a way forward from the parent ministry through letter REF NO. CWSB/B.M/6/VOL.11. The Board received a response from the Parent Ministry on January

4, 2016, the Principal Secretary on letter REF WD.3/31305/VOL.VIII/34 approved disconnection for all water service providers in the region for balances as from July 1, 2013.

The letter was copied to all Governors in the region and effectively disconnection was accordingly effected for a total amount for the period provided in the letter being KES 1,052,191,378.00.

Each county Government committed to the amount and gave an undertaking on how to clear the debt by June 2017. Currently reminders on their undertaking/commitments which they have failed to comply have been sent to the respective county Government indicating their outstanding balances and the consequences thereof.

From the foregoing, it is clear that, from the undertakings that the total debt is payable except for the amount before June 30, 2015 which the parent ministry will provide direction.

As pertains to the outstanding imprest of KES 3,052,616.00, an amount of KES 2,687,640.00 relates to staff who have left the Board and a provision for the same has already been proposed to the Board if no recovery will be made from their terminal dues as they have not been cleared by the Board. The balance of KES 364,976.00 has been accounted for accordingly.

Committee Observations

The Committee observed that: -

(i) **The Board was owed KES 2,114,974,396.00 as at 30 June 2015 by various Water Service Providers (WSPs) and the debt continues accumulating as they lack financial capacity to pay their debts;**

(ii) **CWSB sells a bulk of its water to the six Water Service Providers (WSPs) in the Coast region and the cost of water for most companies seems to be higher than the fair cost these companies charge their customers which affects their financial ability to pay the Board for the water supplied;**

(iii) **The Board is owed KES 3,052,616 relating to un-surrendered imprest by ex-staff who left the Board.**

Committee Recommendations

The Committee recommends that: -

(i) **The CEO ensures that the Board regularly reconciles payables and receivables between CWSB and the six water service providers it serves and ensures that all reconciliation and outstanding debts are well documented.**

(ii) **The Board reviews the policies in place governing management of debts in the CWSB to establish areas of weaknesses and recommend prudent debt**

management system, debt restructuring and write-off if any under the Limitation Act.

(iii) The County Governments of Mombasa, Kilifi, Kwale, Taita Taveta and Lamu under whose jurisdiction the indebted WSPs fall come up with measures to bail out the companies and fully settle the debts owed to CWSB within six (6) months of adoption of this Report.

(iv) The parent Ministry of Water and Irrigation intervenes and ensures that the County governments settle the debts owed by their respective WSPs;

(v) The CEO ensures that the outstanding imprest owed by ex-staff members are fully recovered from their terminal dues and further enforce the Board's policy on surrender of imprest by staff in addition to section 92 of the Public Finance Management Act Regulations of 2015 which allows surcharging of officers for any imprest held beyond the stipulated seven (7) days after return to the work station.

3. TRADE AND OTHER PAYABLES: FY 2012/2013 ACCOUNTS

The Committee heard that, as previously reported, included in the trade and other payables balance of KES 850,499,465 as at 30 June 2015 (2103/2014) KES 269,772,781) are unremitted statutory and other deductions totalling KES 48,414,090 and KES 122,792,740 in respect of the Paymaster General and Ukulima and other deductions respectively. The balances have been increasing over the years and there is no evidence of settlement. No explanation has been provided for the non-settlement of these statutory deductions. The Board is therefore in breach of the law.

In addition, no provisions in respect of penalties and interest resulting from non-payment of these deductions have been provided for in the financial statements. Consequently, the accuracy and completeness of the trade and other payables balance of KES 850,499,465 as at June 30, 2015 could not be confirmed.

Management Response

The CEO informed the Committee that, on non-payment by WSPs, the Board has not been settled to date. CWSB's precarious position was further aggravated when the Pension department sued CWSB and KRA attached the Board's bank accounts due to non-remittance of PAYE.

Currently the staff loans, Ukulima and other statutory deductions have been paid in full, save for KRA arrears where the Board is negotiating with KRA on the possible avenues on settlement. This came after the parent ministry impressed on KRA to withhold its intended attachment of CWSB assets.

The Board's position stays similar to the position in the previous financial year. Only that this time, the Board has made considerable strides, having already agreed with the concerned institutions on how to settle some of the outstanding debts. For example, Ukulima, staff check off loans, part of the pension, part of WARMA bills and PAYE portion have been cleared.

Committee Observations

The Committee observed that: -

(i) **The Board failed to remit statutory and other deductions totalling to KES 48,414,090 and KES 122,792,740 as at 30 June 2015 in respect of the Paymaster General (pensions), Ukulima and Kenya Revenue Authority, thus exposing the Board's assets to the risk of being attached.**

(ii) **The lack of funds to meet all its obligations is mainly contributed by poor debt management and cost of operations being higher than sources of revenue.**

Committee Recommendations

The Committee recommends that: -

(i) **The Board reviews its water tariffs charged on WSPs to enhance its revenue and enforce debt collection measures to obtain revenue to enable it meet its financial obligations and cover for losses.**

(ii) **The CEO ensures that the Board maintains its operational costs below its revenue.**

4. **TRADE AND OTHER PAYABLES: FY 2012/2013 ACCOUNTS**

The Committee heard that, trade and other payables balance of KES 846,796,744.00 as at June 30, 2013 (2011/2012) KES 458,413,795.00) includes an amount of KES 761,804,234 or about 90% owed to Kenya Power & Lighting Company that has not been supported with adequate records and reconciliation. There were no alternative procedures to satisfy myself as to the fair statement of the Trade and Other Payables balance of KES 1,900,468,669 as at June 30, 2013.

Management Response

The CEO informed the Committee that, reconciliation was undertaken to clear the issue of Kenya Power. The issue was cleared and the amount payable to Kenya Power to date is correct.

Committee Observation

The Committee observed that, the Board did not undertake reconciliation of trade and payables relating to debt owed to Kenya Power in 2012/2013 financial year and

no documents relating to debt were availed to the Auditor-General in time for verification.

The matter has since been resolved.

Committee Recommendation

The Committee recommends that the CEO ensures that the Board undertakes reconciliation of its accounts regularly and further avails all the documents to the Auditor- General for verification during the audit process.

5. WORLD BANK LOAN: FY 2013/2014 & 2014/2015 ACCOUNTS

The Committee heard that, as previously reported, included in the statement of financial position as at 30 June 2015 is an amount of KES 5,757,658,653 (2013/2014 KES 4,754,658,653) in respect of World Bank Loan as reported in note 18 to the financial statements. In the year 2008, the Government of Kenya entered into a financing agreement with the World Bank to finance water and sanitation services in Coast Province through Coast Water Services Board and agreed to disburse USD 45,203,760 at an interest rate of 1.5 percent per annum.

The repayment period was given as thirteen (13) years with effect from 30 March 2013 with an annual repayment being USD 4,906,636 for which the principal amount was USD3,168,030 and interest USD 1,738,606. Records confirming repayment of the loan were not provided or audit verification. In addition, during the year under review, it was observed that, the loan under IDA-4376-KE credit was denominated in foreign currency. International Public Sector Accounting Standards (IPSAS) 4 paragraph 27 requires foreign currency monetary items to be translated using the closing rate. However, the loan balance was translated on transaction date rate hence foreign exchange gain/loss was not determined. Further, the accounting policy on translation of foreign denominated transactions and balances was not disclosed in the notes to the financial statements in line with accounting standards.

In the consequence, it has not been possible to confirm whether the Board is adhering to the terms of the loan and that the loan balance of KES 5,754,658,653 as at June 30, 2015 is fairly stated and properly disclosed.

Management Response

The CEO informed the Committee that, repayment of the loan was pegged on water payment by Water Service Provider (WSPs) which have not been remitting the same to the Board for onward servicing of the loan.

However, efforts have been put in place to factor a loan repayment component in new proposed water tariff by the regulators, the Water Services Regulatory Board (WASREB)

which has given CWSB a green light to conduct public consultations. The Board will request Treasury for rescheduling of the loan repayment period for the tariff to be effected.

Committee Observations

The Committee observed that, the Board has defaulted in repaying the loan owing to poor revenue streams occasioned mainly by non-remittance of payment by various Water Service Providers in the Coast Region. Repayment of the loan was pegged on water payment by WSPs which have not been remitting the same to the Board for onward servicing of the loan.

Committee Recommendations

The Committee recommends that: -

(i) **The Board requests the Water Service Regulatory Authority (WASREB) to increase water tariffs so as to factor in a loan repayment component in the new proposed water tariffs.**

(ii) **The CEO CSWB requests the National Treasury to negotiate for rescheduling of the loan repayment period as the Board explores alternative sources of revenue to repay the loan.**

6. OTHER MATTER - 2013/2014 FINANCIAL YEAR ACCOUNTS

Non-Compliance with International Public Sector Accounting Standards (IPSAS)

The Committee heard that, 2013/2014 the financial statements prepared and submitted for audit did not comply with International Public Sector Accounting Standards as set and gazette by Kenya Gazette Notice number 5440 of 8 August 2014 which requires preparation of the Boards financial statement using International Public Sector Accounting Standards (Accrual Basis). The financial statements prepared and submitted for audit were prepared using International Financial Standards which are at variant with International Public Sector Accounting Standards (Accrual Basis) as prescribed by the Public Accountants Standards Board. In view of the above, the Board is in violation of the Treasury Circular.

Management Response

The CEO informed the Committee that, the 2013/2014 financial statements were not in conformity with the Public Sector Accounting Standards that were gazetted in August 2014 for the reason that the Kenya Gazette Notice number 5440 of 8 August 2014 was effected after CWSB accounts for FY 2013-2014 had been finalized in June 2014. The change was effected in the following FY 2014-2015 after training of requisite personnel for implementation of the same had been conducted by Treasury.

Committee Observation

The Committee observed that, the Board did not prepare the FY 2013/2014 financial statements in compliance with the International Public Sector Accounting Standards as set under the Kenya Gazette Notice number 5440 of 8 August 2014 which requires preparation of the Board's financial statement using International Public Sector Accounting Standards.

Committee Recommendation

The Committee recommends that the CEO ensures that the Board complies with the International Public Sector Accounting Standards in preparing its financial statements.

7. THE BOARD EXPENSES: FY 2014/2015 ACCOUNTS

The Committee heard that, the statement of comprehensive income indicates Board expenses of KES 12,495,049 as at June 30, 2015. The ledger revealed an expenditure of KES 12,495,049 whereas in the budget for financial year 2014/15, the approved expenditure was KES 7,401,000. Evidence of approval of the excess expenditure amounting to KES 5,094,049(69%) was not availed for audit verification.

Further, examination of payment vouchers supporting board expenses during the year under review indicated that the Chairman to the Board was paid for hospital charges of KES 216,961.60 after being hospitalized. It is not clear and the management has not explained the justification for the expense. In addition, the Chairman was paid sitting allowances amounting to KES 99,790 for attending Director's training between 26 to 28 February 2015 the same dates when he was said to be hospitalized. Also a claim of air ticket was made and paid to the chairman for attending this training. In the consequence, the propriety of Board expenses of KES 5,410,800 for the year ended 30 June 2015 could not be confirmed.

Management Response

The CEO informed the Committee that, there was a revised budget for the financial year in question, which was approved by the Board of Directors, which was to cover for the full financial year re-allocations.

On the payment the hospital bills for the Chairman, it was done by the Board as an outcome of there being no medical cover for staff and Board members by the time of payment of the Director's medical bill.

Pertaining the allowances paid to Director to attend a training, the allowances were paid to the said director before he travelled to Nairobi for the training. It is during the said training that he fell ill and was taken to hospital after he had incurred the travelling costs and other expenses hence the reimbursement for the air ticket.

Committee Observations

The Committee observed that: -

(i) **The Board did not seek National Treasury approval on over-expenditure of KES 5,094,049(69%) before incurring the expenditure;**

(ii) **The Board's Chairman did not refund the sitting allowance despite his non-attendance of the training due to medical reasons.**

Committee Recommendations

The Committee recommends that: -

(i) **The CEO seeks post-facto approval of KES 5,094,049 from the National Treasury for the over-expenditure in FY 2014/2015.**

(ii) **The CEO ensures that the Board complies with the Section 10 of the State Corporations Act and the *Mwongozo* Code of Governance for State Corporations on remuneration of Board's Chairpersons and Directors; and**

(iii) **The CEO ensures that Board Chairman refunds the sitting allowances amounting to KES 99,790 for his failure to attend the training.**

8. LOCAL TRAVEL AND ACCOMMODATION: FY 2014/2015 ACCOUNTS

The Committee heard that, note 10 to be the financial statements reflect a figure of KES18, 477,043 incurred during the year under review for local travelling and accommodation. However, examination of the records availed for audit review indicated that payments amounting to KES 7,065,421 on provision of air ticketing services were not supported by boarding passes and invitation letters. It was thus not possible to confirm whether the journeys took place and were official.

In the circumstances, the validity and accuracy of KES7, 067,421 incurred as local travelling and accommodation expenses for the year ended June 30, 2015 could not be ascertained.

Management Response

The CEO informed the Committee that, CWSB air-tickets are provided by an agent who has been prequalified to offer the services to the Board. Payments for the same therefore are supported by approved letters by the CEO or HR Manager. Attached to the same is an invoice and a LPO to support the same which are all attached to the payment voucher. Boarding passes are used to support imprest surrenders issued to the officers who use the air tickets to travel. All these documents are available and the same can be confirmed in the next systems audit.

The said amount was fully supported as stated above and a review can confirm the same.

Committee Observation

The Committee observed that, the management did not avail all the relevant documents to the Auditor-General for verification at the time of audit.

Committee Recommendation

The Committee recommends that the CEO avails all documents to the Auditor-General for verification during the audit process.

9. **OTHER MATTER: FY 2014/2015**

The CEO informed the Committee that, the Coast Water Services Board does not charge Tana River County for services provided as per a directive by the Regulator, the Water Services Regulatory Board (WASREB). This is why the County does not appear in the Audited Accounts of Coast Water Services Board.

Committee Observation

The Committee observed that, the Tana River County is exempted from payment of water service charge, following a directive by the Water Services Regulatory Board.

Committee Recommendation

The Committee recommends that the Water Services Regulatory Board provides a justification for exemption of Tana River County from payment of water services provided by the Coast Water Services Board. WASREB should also provide a time frame for which the county is exempted from such payments.

2.6 COUNCIL FOR LEGAL EDUCATION (FY 2000/2001 – 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE COUNCIL FOR LEGAL EDUCATION FOR THE FINANCIAL YEARS 2000/2001 TO 2014/2015

Prof. Kulundu Bitonye, the Secretary/ Chief Executive Officer, Kenya School of Law accompanied by Mr. Jones Otuke, Director Finance and Planning and Mr. Jairus Kirande, Senior Procurement Officer appeared before the Committee on 26 April 2016 and 14 June 2016 to adduce evidence on audited accounts of the Council for Legal Education for the 2000/2001 -2014/2015 financial years.

1. **FY 2001/2002 – 2011/2012 ACCOUNTS**

The Secretary/CEO informed the Committee that, Council for Legal Education (CLE)/ Kenya School of Law (KSL) operated jointly from 1995 to 2012/2013. Audited accounts for this period were prepared and audited as CLE/KSL financial statements. On delinking in 2014, KSL became the custodian of all financial records since CLE was not recognized in the chart

of accounts. All moveable and immovable CLE/KSL assets were ceded to the School since they were in the name of the School.

The Council prepared its first financial statements as a distinct entity in 2013/2014 financial year.

2. **OTHER MATTER – FY 2013/2014 ACCOUNTS**

The Committee heard that, although the Council was recently established as an autonomous body after being separated from the Kenya School of Law, necessary structures and management policies to enhance internal controls have not been put in place such as internal audit and risk management policy.

Management Response

The CEO informed the Committee that, CLE was newly established on delinking from Kenya School of Law. For the first year of operation, the Council operated with seconded staff from Kenya School of Law. The Council focused on development of its organizational structure to discharge the expanded mandate. The Council sought authority from the Chief of Staff and Head of Public Service on 16 June 2014 upon which it was granted authority to recruit on 30 June 2014.

The Council has now fully addressed the structures and management policies to enhance internal controls including recruitment of a competent internal auditor and development of requisite policies.

Committee Observation

The Committee observed that, during inception of the Council, the Council did not have its own staff and relied on staff seconded from the Kenya School of Law to run its operations.

Committee Recommendation

The Committee recommends that the parent Ministry, the Public Service Commission and National Treasury must ensure that qualified and competent personnel are promptly recruited on inception of any new government entity to efficiently run and manage the affairs of the entity.

3. **OTHER MATTER – FY 2014/2015 ACCOUNTS**

The Committee heard that, although the Council recruited the internal auditor, necessary structures and management policies to enhance controls had not been put in place such as internal audit risk and risk management policy.

Management Response

The CEO informed the Committee that, CLE recruited an internal auditor on 4 August 2015 after re-advertisement of the position. The Council did not have a risk management policy and the internal audit unit in 2014/2015 financial year. The risk management policy, including a risk matrix has been developed and will be presented to Council for approval.

Committee Observation

The Committee observed that, at the time of delinking from the Kenya School of Law, the Council had not put in place management policies to enhance controls such as internal audit risk and risk management policy.

Committee Recommendations

The Committee recommends that the CLE Council should develop and approve an internal control and risk management policy and monitor its effectiveness to enhance internal control in identifying risks related to fraud, risk of loss or misuse of assets of the Council.

2.7 ENERGY REGULATORY COMMISSION (FY 2012/2013 - 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF ENERGY REGULATORY COMMISSION FOR THE FINANCIAL YEARS 2012/2013 TO 2014/2015

Eng. Joseph Ng'ang'a, Director General, Energy Regulatory Commission accompanied by Mr. Edward Kinyua, Acting Director – Petroleum; Senior Manager - Finance & Strategic Planning; Mr. James Kilonzo, Senior Manager - Legal Affairs; Mr. Robert Mahenia, Chief Accountant Mr. Muznah Sisiwa, Mr. Titus Gitahi Alternate to Principal Secretary, Ministry of Energy and Petroleum appeared before the Committee on 27 October 2016 to adduce evidence on audited accounts of the Commission for 2012/2013 to 2014/2015 financial years and regulation of liquefied petroleum gas (LPG) sector.

1. UNQUALIFIED AUDITED ACCOUNTS: FY 2012/2013 TO 2014/2015 ACCOUNTS

The Committee heard that, the Commission received unqualified audit report from the Auditor General for the financial years 2012/2013 to 2014/2015 financial years.

The Committee commended the Commission for financial prudence during the years under review.

2. OTHER MATTER - OPERATIONALISATION OF THE AFRICAN GAS AND OIL COMPANY LIMITED (AGOL) AS A COMMON USER STORAGE

Background

African Gas and Oil Limited (AGOL) is an East African based independent company engaged in the handling of bulk Liquefied Petroleum Gas (LPG). It is a private company which was incorporated on the on 18th November 2004 and is headquartered in Mombasa, Kenya. It designs, constructs, owns, operates, and maintains an import and export LPG terminal. The company serves as a link between the LPG upstream importers and downstream (retailers and users) markets.

AGOL is projected to increase operations in accommodating international standards with accordance to the port's Master Plan and Kenya's Vision 2030. The company was awarded an international tender by KPA for long-term operation and maintenance of LPG tanker anchorage in the port of Mombasa.

The award of the tender for construction and operation of the terminal was reached through a competitive tendering process which involved the Ministry of Transport, Ministry of Finance and the Kenya Ports Authority with a sole objective of ensuring that the country accesses cheap and affordable LPG. The objective of developing the common user facility for the Oil Marketing Companies (OMCs) is to avert industry challenges in supply and storage under the Public Private Partnership (PPP) agreement

The Kenya Ports Authority (KPA) subsequently entered into a licence agreement with AGOL on 21st September 2007 to construct a common user handling facility for LPG at Kilindini Port in Mombasa. The licence agreement period was set at 33 years commencing from the full commercial operational date of the project.

In accordance with the licence agreement, and in particular the scope of the works, AGOL was tasked with the development of the Conventional Buoy Mooring (CBM) system comprising of the following features:

(i) Mooring Buoys - for safe positioning and securing of the LPG marine tanker during operations;

(ii) Flexible hose strings - for connecting the tanker manifold to the Pipeline End Manifold (PLEM)

(iii) Pipeline End Manifold (PLEM) – for connecting the hose strings to the submarine pipelines; and

(iv) Submarine Pipelines – for transporting LPG from the PLEM to the shore. The submarine pipelines were to run onshore to a Common User Manifold (CUM) where LPG companies intending to use the LPG marine facilities were to connect their respective bulk storage depots.

The Company developed a bulk storage and loading facility using its own resources as a value added service to the Oil Marketing Companies (OMCs) who do not have LPG storage facilities in Mombasa and those that are willing to use the CBM.

The AGOL storage facility is private and OMCs willing to utilize the facility have to enter into hospitality/throughput agreements with, and pay tariffs as determined by AGOL. However, OMCs have an option of developing pipeline connections from the CUM to their private facilities and only pay a shore handling charge of USD 22.65 per metric for use of the CBM. The CBM and the AGOL private LPG bulk storage and loading facility were commissioned in November 2012.

The storage facility was licensed by the Commission on 13th December 2012.

Committee Observations

The Committee made the following observations: -

AFRICAN GAS AND OIL LIMITED (AGOL)

1. **African Gas and Oil Limited (AGOL) is private Kenyan-owned independent company engaged in the handling of bulk Light Petroleum Gas (LPG) which was incorporated on the 18th November 2004. The directors/shareholders of the Company include;**
   - **(i) Mr. Brown M' Mbai M' Mata Odengo – Kenyan, nil shares**
   - **(ii) Mr. Mujitaba Mohammed Jaffer – Kenyan, nil shares**
   - **(iii) Mr. Alibbas Jaffer – Kenyan, nil shares**
   - **(iv) Mr. Shazeen Chatur – Kenyan, nil shares**
   - **(v) Agol Holdings Limited – Non director shareholder, 1000,000 shares**
2. **Formation of AGOL was driven by the desire to address the bottlenecks hindering the ready availability of LPG to consumers in the East African region.**
3. **The AGOL storage facility is private and OMCs willing to utilize the facility have to enter into hospitality/throughput agreements with, and pay tariffs as determined by AGOL. However, OMCs have an option of developing pipeline connections from the CUM to their private storage facilities.**
4. **AGOL was awarded the international tender by KPA for long-term operation and maintenance of LPG tanker anchorage in the port of Mombasa after a competitive open tendering process. The Company is projected to increase operations in accommodating international standards in accordance to the port's Master Plan and Kenya's Vision 2030.**

ONE PETROLEUM LTD (OPL)

5. One Petroleum Ltd (OPL) is an indigenous oil marketing company that was incorporated in November 2010 and fully owned by Kenyan nationals. It is licensed by the Energy Regulatory Commission (ERC) to carry out importation, wholesale and export of Petroleum Products such as: Bulk Unleaded Premium Mogas, Automotive gas oil, Illuminating Kerosene, Jet A1, Fuel Oil & Liquefied Petroleum Gas (LPG) in the East and Central African region.

6. The aforementioned plan is achieved through hospitality filling arrangement with African Gas & Oil Co. Ltd which has a state-of-the-art LPG Terminal located adjacent to the port of Mombasa in Miritini.

7. The Company has obtained all the relevant licenses for its operations and is a member of the Oil Spill Mutual Aid Group (OSMAG) as well as the Petroleum Institute of East Africa (PIEA).

8. The Company's facilities are in line with the Government's objective of promoting LPG as an efficient and clean source of energy. Therefore, OPL is guaranteed in sustaining the growing market.

9. OPL has built its reputation within the oil industry as an efficient company that never failed to meet its obligations, financially or otherwise as reflected by the the regulatory authority. Further, the Company has created a niche of customers, efficiency, quality and timely service for its customers.

10. From the Committee interrogation of the matter, it is clear that the two companies AGOL and OPL are legally established and registered Kenyan Companies doing legitimate business in the LPG industry.

Benefits of AGOL to the country

11. AGOL is beneficial to the country in the following ways: -

Benefits to shippers/importers:

(i) Following improved ship turn-around time, importers are able to negotiate for lower freight charges.
(ii) Fast discharge and elimination of demurrage.
(iii) Delivery/receipt of LPG in prime condition.
(iv) Reduced inventory costs following improvements in vessel scheduling to meet market requirements.
(v) Reduced insurance cost following major reduction in commodity losses.

Benefits to the Port:

(i) Improve status following commissioning of specialized facility for handling bulk LPG.

(ii) Potential to recover bulk cargo diverted to other ports.

(iii) Better utilization for appointed berth as this creates capacity for high tonnage.

(iv) Potential to penetrate non-traditional hinterland markets such as Ethiopia, Uganda, South Sudan.

(v) Recognition as a dispatch rather than demurrage port for LPG vessels.

Benefits to the National Economy:

(i) Attraction of hard currency lost when shipments diverted to other ports return to Mombasa.

(ii) Attraction of hard currency following attraction of transshipment trade.

(iii) Attraction of hard currency from extension of hinterland to non-traditional markets.

(iv) Consumers may reap benefits of a low cost outlay across the board in reduced price of the finished products.

(v) Creation of employment opportunities.

12. The Auditor General has never raised any query regarding the agreement between Kenya Ports Authority and African Gas and Oil Company Limited to construct a common user handling facility for Liquefied Petroleum Gas at Kilindini Port in Mombasa. This, therefore, implies that the process of award of the contract was conducted in accordance with the procurement laws and was done above board.

13. The allegations against the operations of AGOL are unsubstantiated and are not supported by any evidence but are generalised allegations by the industry competitors against the successful business operations of the Company.

Committee Recommendations

The Committee recommends that: -

1. **AGOL should continue executing agreement with the Kenya Ports Authority as per the terms and conditions of the licence agreement on use of the conventional facility to address the challenges hindering the ready availability of LPG to consumers in the East African region.**
2. **AGOL should further upscale its storage facility to increase its storage, efficiency and competitiveness to avert shortages in supply and storage of LPG in the country.**

3. The Government should encourage local investors such as AGOL by creating a conducive environment to conduct businesses which are key to economic growth and development and creation of employment opportunities.
4. The Committee commends the operations of AGOL which has addressed the constrained LPG supply in the country as well as benefited marketers through economies of scale from bulk LPG importation.
5. That the allegations against the operations of the Company by the sector players with regard to and execution of the Agreement with Kenya Ports Authority on the offshore import handling terminal in Mombasa should be brought to a close.
6. The Commission, in partnership with the Ministry of Energy, Anti- Counterfeit Agency and security agencies, should continuously undertake surveillance and raid counterfeit illegal gas refillers and operators in the LPG sector who pose great risk to consumers and route them out of the market and charge them in court.
7. The Commission periodically conducts impromptu visits at the border points to screen out any traders importing LPG through neighbouring countries such as Tanzania without a valid import licence. Further, the Commission should partner with the National Transport and Safety Authority (NTSA) and the Kenya National Highways Authority (KeNHA) to ensure that no LPG road tankers are allowed on the roads, or pass weigh bridges without valid transport licenses issued by the Commission in order to boost compliance.

2.8 GEOTHERMAL DEVELOPMENT COMPANY (FY 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE GEOTHERMAL DEVELOPMENT COMPANY FOR THE FINANCIAL YEAR 2014/2015

Eng. Johnson Ole Nchoe Managing Director Geothermal Development Company accompanied by Mr. Godfrey Shitsama, Acting General-Manager Finance; Ms. Doreen Tiren, Manager-Contract and Regulatory; Mr. Michael Mwangi, Alternate Director - Ministry of Energy and Petroleum and Mr. Reuben Ngosi - Manager Drilling Services appeared before the Committee to adduce evidence on the accounts of GDC for FY 2014/2015.

1. AUDITED ACCOUNTS OF GEOTHERMAL DEVELOPMENT COMPANY FOR THE FINANCIAL YEAR 2014/2015 ACCOUNTS

The Committee heard that, the Company received unqualified audit opinion from the Auditor General on the financial statements for the financial year 2014/2015.

The Auditor General however, pointed out three (3) matters of concern.

2. OTHER MATTERS

However, in his report the following issues were raised as significant matters arising from the audit as follows:

a) Board Governance and Effectiveness of Internal Audit Function

The Committee heard that, the Company's Board as currently constituted does not have a financial expert as envisaged in the Mwongozo Code of Governance for State Corporations which provides amongst other that a Board must have at least one Board member with sufficient expertise in financial management and accounting.

Management Response

The Managing Director informed the Committee that, the matter was brought to the attention of the appointing authority during the Company's Annual General Meeting held on 28 September 2016 which promised to appoint a financial expert to the Board.

Committee Observation

The committee observed that the absence of such Board Member limits the ability of the Board to effectively deliver on its mandate particularly provision of oversight to management on financial related matters and effectiveness of internal audit.

Committee Recommendation

The Committee recommends that the Cabinet Secretary for the Ministry of Energy ensure that the Company has a fully constituted Board with an expert in financial management and accounting.

b) The Contract for Rig Move Services

The Company entered into a rig mover services contract on 4 May 2011 for twelve rig moves covering a period of one year at a rate of KES 19,550,000 per move estimated 50 loads. The contract further provided for prorated incremental charge levy where the loads per move exceeded 50 loads. The services were retendered in 2012 and re-awarded to the previous contractor with a contract dated October 2012. The new contract was for a period of 2 years or 40 rig moves on a need basis and at a price of KES 42, 746,000 per move estimated to constitute 100 loads.

Amongst other clauses, the new contract provided for constant pay-out rate when the load is 100 loads or below but prorated incremental payment for loads exceeding 100; constant pay-out rate when the distance covered is 11 kilometres or less but prorated incremental payment for distance exceeding 11 kilometres; and penalties on GDC in the event of delays occasioned by its staff at the rate of KES 50,000 per truck and KES 160,000 per crane per day but on the other hand, if the contractor were to cause the delays, ii would only be liable to penalties of 0.001% of the unit contract price amounting to KES 427

At the time of concluding the audit, the contract was under investigation by the Ethics and Anti-Corruption Commission (EACC) for possible irregularities. Available information indicates that following EACC queries over the contract, The Company's management stopped the usage of the contracted services resulting in the contractor threatening to commence legal proceedings against it for breach of contract. The Auditor General did not receive all the required confirmations from the Company's legal representative of the threatened litigation claims against the Company and thus was unable to verify the completeness of the reported liabilities and contingent liabilities. In the circumstances it is not possible to confirm whether the revised contract provides value for money for the Company.

Management Response

The Managing Director informed the Committee that, GDC on 13 September 2016 issued a notice of termination to M/s Bonfide Clearing and Forwarding Company Ltd (the Contractor) of the contract for provision of rig move services.

The Contractor through its lawyers, M/s Kingori Kariuki Company & Advocates, in a letter dated 26 September 2016 responded to the notice of termination indicating they required payment owing for the works done as at the date of termination of the contract.

GDC responded on 28 September 2016 indicating that on the record GDC had no outstanding payments however the contractor was advised to present any unpaid invoices in its possession for works done.

On 14 October 2016, in response to the GDC letter above, the Contractor present a copy of one invoice No. 213/gdc/14 for KES 13,350,000.00. In addition, the contractor introduced a computation for loss of revenue on the remaining 24 moves for KES 1, 025,904,000.00

GDC responded on the 19 October 2016 indicating that it was looking into the invoices presented and will revert. On the same date GDC received a letter from the contractor dated 18 October 2016 seeking to refer the matter to a single arbitrator.

On 3 November 2016, GDC affirmed that all sums payable to the Contractor under the provisions of the contract had been in full and in particular the contract had no provision for mobilisation and demobilization as invoiced by the Contractor. Payment was provided for a complete move. The computation on loss of revenue cannot be supported as the contractor did not provide the services and GDC had a right to terminate the contract.

GDC has however in a bid to amicably settle the matter, invoked the provisions on dispute resolution under the contract and has requested the contractor to send its representatives to a meeting with a view to settle the matter or thereafter forward the matter for arbitration.

Committee Observations

The Committee observed that: -

(i) **GDC terminated the Rig Movement contract by a written notice in accordance with provision 19.1 of the Contract Agreement for GDC's convenience;**

(ii) **The Contractor disputed the termination of the contract by the Company and proceeded to appoint his own arbitrator with a view of resolving the dispute contrary to the provisions of the contract which provides that "in the event that the parties do not amicably settle the dispute, they shall proceed to arbitration as provided for in the contract agreement and in the event they do not agree on an arbitrator, the Chartered Institute of Arbitrators shall appoint one";**

(iii) **The matter of the controversial contract for rig move services is currently under investigations by Ethics and Anti-Corruption Commission and former Company officials are being investigated for irregular award of the contract and inflating the cost of rig move services;**

(iv) **GDC is currently building its own capacity for rig move services and has already acquired cranes that can lift 50 tonnes of load, in addition it has tendered for bigger cranes that can lift 70 tonnes.**

Committee Recommendations

The Committee recommends that: -

(i) **The Managing Director ensures that procurement of contracts by the Company is done in accordance with the Public Procurement and Asset Disposal Act 2015;**

(ii) **The Ethics and Anti-Corruption Commission expedites investigations into the rig movement contracts to bring a conclusion to the matter; and**

c) Vesting of Geothermal Wells developed by KENGEN

Included in the assets exploration and evaluation figure of KES 20,060,663,000 are costs totalling KES 8,377,275,157.90 in regard to drilling of 26 wells out of a total of 59 wells sunk using funds from the Government of Kenya. GDC during the year signed an agreement for sale of steam from the 59 wells at Olkaria to KENGEN and a total of KES 2.5 billion was billed and recognized as revenue. However, as at 30 June 2015, only the cost of the 26 wells drilled in Solaria as assets in the GDC books of accounts pending completion of the Government vesting process.

Management Response

The Managing Director informed the Committee that, GDC availed the information required on wells identity and wells value. The matter is awaiting finalization and issuance of the vesting order by the National Treasury.

Committee Observations

(i) The assets in form of wells worth KES 27 billion are neither in the GDC accounts nor KENGEN accounts. The wells were drilled directly by Government with GDC and KENGEN being the executing agents. KENGEN is charged with constructing power plants at the wells and the steam will be sold to KENGEN as a power producer while the revenue thereof shall be paid to GDC; and

(ii) The National Treasury had written to GDC directing the Corporation to process the vesting of the wells to itself. GDC and the Ministry of Energy and Petroleum started the process but it stalled at the National Treasury.

Committee Recommendation

The Committee recommends that the Principal Secretary, National Treasury should expedite the matter by issuing the vesting orders.

2.9 GOLF HOTEL (FY 2006/2007 - 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF GOLF HOTEL FOR THE FINANCIAL YEARS 2006/2007 TO 2014/2015

Mr. Reuben Argut, the General Manager of Golf Hotel accompanied by Ms. Risper Chichole, Accountant appeared before the Committee on 24 February 2017, to adduce evidence on the Report of the Auditor General on the accounts of the Hotel for the financial years 2006/2007 to 2014/2015.

1. FINANCIAL POSITION: FY 2006/2007 ACCOUNTS

The Committee heard that, although the Hotel realized a profit of KES1,472,623 during the year ended 30 June 2008 (2007-KES7,697,457), the balance sheet reflects net current liabilities of KES9, 251,010(2007-KES9,718,956). As previously reported the Hotel is still technically insolvent and cannot meet its financial obligations as they fall due including accrued Value Added Tax, Trade creditors and accrued audit fees of KES 15,417,523, KES3,140,936 and KES1,620,000 respectively. These financial statements have therefore been prepared on a going concern basis on the assumption that the Hotel will continue to receive financial assistance from the parent company and creditors.

Management Response

The General Manager informed the Committee that, from the Financial Statements of the year in review, it's true the Hotel was technically insolvent as at then. However, the Hotel has since been turned around and it's now profitable and has even been paying some dividends to the shareholders.

The Company is able to meet its obligations as and when they fall due and all the accrued expenses mentioned have been paid off.

Committee Observations

The Committee observed that: -

(i) **The financial position of the Hotel has significantly improved and is currently making profit and meeting its obligations as and when they fall due. All the accrued expenses have been paid off.**

(ii) **The Hotel is now in full compliance of all its statutory obligations as provided by law.**

(iii) **The Hotel recorded good financial performance for the last five consecutive years and is paying dividends to its shareholders.**

Committee Recommendation

The Committee commends the Management for the turn-around strategy to make the Hotel profitable.

The Committee recommends that the General Manger continuously formulates and puts in place marketing and operating strategies to ensure that the Hotel attracts more business, remains successful and effectively competes with privately-owned Hotels in the region.

2. DEBTORS AND PREPAYMENTS: FY 2006/2007 & 2008/2009 ACCOUNTS

The Committee heard that, trade and other receivables of KES14,751,178 have been arrived at following a write off in 2008/2009 of trade debts amounting to KES10,313,939. However, to date no schedules in support of the write off have been made available for audit review. In the circumstances, it has not been possible to confirm the accuracy of the trade and other receivables balance of KES14, 751,178 as at 30 June 2011.

Management Response

The General Manager informed the Committee that, indeed the Hotel at some point had debtors and prepayments that had not been properly analysed to the auditors' satisfaction. These were unsupported debts/receivables, which had been in the company's books for long but of which efforts by the new management to trace the supporting documents that gave rise to the amounts had been unsuccessful. The matter was escalated to the Board and the Board in its meeting of 18 September 2010 resolved to write off the debts amounting to KES 10,313,939 out of which KES 3,814,688 was supported by schedules while the difference of KES 6,499,251 had none as rightfully put by the auditors as well as other unsupported prepayments.

The write off was subsequently done against the provision of bad debts of KES 15,338,707 as at June 30, 2009.

Committee Observations

The Committee observed that, the Hotel had debtors and prepayments whose supporting documents could not be traced either because they were lost or misplaced owing to poor record keeping and/or professional negligence. The Board therefore resolved to write-off the debtors and prepayments amounts totalling KES 10,313,939 as the supporting documents could not be traced.

Committee Recommendations

The Committee recommends that: -

(i) The then General Manager and Finance Officer be held liable for the loss of the debtors and prepayments supporting documents which occasioned writing-off of debts amounting to KES 10,313,939.

(ii) The General Manager should ensure that the Hotel keeps and maintains proper records and accounts of all business transactions to facilitate the tracing and verification of documents as and when required.

(iii) The General Manager should further ensure that the Hotel procures a secure electronic backup system to ensure records are safely stored, regularly backed up and available as and when required.

3. PROPERTY, PLANT AND EQUIPMENT: FY 2006/2007 ACCOUNTS

The Committee heard that, as reported in previous years' audit reports, included in property, plant and equipment as at 30 June 2007 is land valued at KES 8 million whose ownership documents were not produced for audit verification. The title documents are said to have been charged to KTDC as security for a loan. However, the terms and conditions of the loan which necessitated the charge to the title could not be confirmed as the loan agreement was not produced for audit review. In the absence of the documents, it was not possible to confirm the ownership of the land on which the Hotel stands.

Management Response

The General Manager informed the Committee that, land title documents have since been received from KTDC and forwarded to the auditors for verification. The land is also no longer charged as a security. The matter had been resolved

Committee Observation

The Committee observed that, the title for the Hotel's land Kakamega Town/Block/III/159 was charged as security for a loan advanced by KTDC to the Hotel. On full repayment of the loan the title was discharged and handed over to the Hotel thereby resolving the matter.

4. CREDITORS AND ACCRUALS: FY 2007/2008 & 2008/2009 ACCOUNTS

The Committee heard that, according to note 1(g) ii, to the financial statements, land rent and interest on arrears payable to Kakamega Municipal Council as at 30 June 2009 stood at KES 14,840,883. However, a demand note from the Council produced for audit verification indicates that land rent and interest arrears stood at KES 45,897,414 as at that date resulting in an unreconciled and unexplained difference of KES 31,056,531. The Hotel had in the previous year indicated that it would conduct a joint reconciliation with the council in order to reach an amicable and acceptable settlement. However, no such settlement appears to have been reached during the year.

Management Response

The Hotel indeed engaged the Municipal Council on the issue and an agreement was reached as per the attached correspondence. The accumulated interest was waived and the principal amount settled. The Hotel is currently up to date with the payment of land and rates. The matter had been resolved.

Committee Observations

The Committee observed that: -

(i) **The Hotel had accrued land rent and interest on arrears payable to Kakamega Municipal Council amounting KES 14,840,883 as at 30 June 2009 which continued to attract interest of 3% per month as at February 2010.**

(ii) **During 2007/2008 & 2008/2009 financial years, the Hotel had not undertaken reconciliation of the arrears payable to Kakamega Municipal Council with respect to its land in Kakamega.**

(iii) **The Hotel paid the principal amount after it sought and was granted a waiver on interest by the Kakamega Municipal Council. The Hotel is currently up to date with the payment of land and rates.**

Committee Recommendation

The Committee recommends that the General Manager ensures that the Hotel settles its obligations as and when the fall due to avoid accumulating liabilities, accruals of interests and ligation cases.

5. ACCRUED MANAGEMENT, DIRECTORS' AND SECRETARIAL FEES: FY 2007/2008 & 2008/2009 ACCOUNTS

The Committee heard that, included in the balance sheet trade and other payables of KES 27,527,955 is an amount of KES 4,670,000 (KES 3,765,000 as at 30 June 2008) in respect of Management, Directors, and Secretarial fees accrued over 4years. Although the amount has been explained as being payable to KTDC for provision of services to the Hotel, no formal agreement between KTDC and the Hotel, to this effect no agreement was produced

for audit verification. Moreover, KTDC itself has not accrued the expenses in its accounts as part of income during the year under review. Consequently, and in view of the foregoing, it has not been possible to ascertain to ascertain the validity and accuracy of trade and other payable balance of KES 27,527,955 as at the 30 June 2009.

Management Response

The General Manager informed the Committee that, based on the query by the Auditor, the matter was escalated and the Hotel and TFC have since agreed that there was no concrete basis for charging this levies. The Hotel stopped accruing the levies in 2012.

It was agreed that the charges be written off and the Hotel is awaiting written authority for the write-off to be done. The amount now stands at KES 7,385,000 and is still carried under other payables in the Hotel's books. The issue was raised in the Board meeting of 15 February 2017 and the Hotel is hopeful that the Board will officially give a nod for the amount to be written off.

Committee Observations

The Committee observed:

(i) That as at the end of 2008/2009 financial years the Hotel had an amount of KES 4,670,000 in respect of Management, Directors and Secretarial fees accrued over 4 years, payable to KTDC for provision of services to the Hotel for which there was no formal agreement between KTDC and the Hotel.

(ii) The Hotel and TFC have since agreed that there was no concrete basis for charging these levies, TFC being the major shareholder of the Hotel. The matter has, therefore, since been resolved.

Committee Recommendation

The Committee recommends that the General Manager expeditiously pursues the writing off of the debt by the Hotel's Board following the agreement with KTDC.

6. NON-EXISTENCE OF BOARD OF DIRECTORS: FY 2008/2009 ACCOUNTS

The Committee heard that, although the terms of Board members have expired, no replacement had been appointed as at 30 June 2009 with the result that the functions performed by the Board were hampered.

Management Response

The General Manager informed the Committee that, the Hotel did not have a substantive Board in place for some time and the functioning of the Hotel was actually hampered. During this time, a few of the Directors sat by virtue of their offices e.g. representation of Kakamega County by Governor/Mayor & Managing Director of KTDC who are the main shareholders. A new Board was constituted in March 2010; their terms equally expired

after 3years and the Hotel currently has a newly appointed Board and the Hotel is therefore fully functional.

Committee Observation

The Committee observed that, the Hotel did not have a fully constituted Board between the period 2008 to March 2010 contrary to Section 6 of the State Corporations Act, Cap 446 which hampered the operations of the Hotel.

Committee Recommendation

The Committee recommends that the Cabinet Secretary responsible for Tourism ensures that a new Board is fully constituted in accordance with section 6(1) of the State Corporations Act immediately after the lapse of the term of the existing Board.

7. SHARE CAPITAL: FY 2009/2010 & FY 2010/2011 ACCOUNTS

The Committee heard that, as similarly reported in the previous year 2009/2010, and as indicated in note 9 to the financial year 2010/2011 financial statements, the statements reflect a share capital of 250,000 shares at KES 20, thus totalling to KES5,000,000. However, while 200,000 share certificates valued KES 4,000,000 were made available for audit verification the difference of 50,000 share certificates worth KES 1,000,000 were found missing at the Hotel premises.

Management Response

The shareholding of the Hotel is 80% by TFC and 20% by County government of Kakamega (formerly Municipal Council of Kakamega). The 200,000 shares availed were for TFC while the missing 50,000 were for the Municipal Council. Of the 50,000 share certificate worth KES 1,000,000 which was missing, 41,734 share certificate valued at KES 834,680 for Municipal Council has since been availed, a copy of which is hereby attached. The main shareholder, TFC has placed a search with the Registrar for the remaining 8,266 share certificate valued at KES 165,230.

Committee Observation

The Committee observed that, the Hotel which is supposed to be the custodian of its shares certificates is not in possession 50,000 share certificates worth KES 1,000,000.

Committee Recommendation

The Committee recommends that: -

(i) The General Manager ensures that the Hotel keeps and maintains proper records of all its documents and produce them for verification by the Auditor General as and when required.

(ii) **The General Manager should within three (3) months of the adoption of this Report conduct a search for the missing 50,000 share certificates and avail to the Auditor-General for verification.**

8. AUDIT FEES: FY 2009/2010 & FY 2010/2011 ACCOUNTS

The Committee heard that, as similarly as reported in the previous year 2009/2010 and as disclosed in Note 7, the Hotel has not settled audit fees amounting to KES 1,770,000 as at 30 June 2011 (KES 1,620,000 as at 30 June 2010) which has been outstanding for a considerably long period of time. This is contrary to Section 19(1) of the Public Audit Act, 2003. The hotel is therefore in breach of the law.

Management Response

The amount has since been cleared. Cheques No.12310 and 12311 were issued to the auditor General on 21/06/2012 and the Hotel is currently up to date with audit fees.

Committee Observations

The Committee observed that: -

(i) The Hotel failed to pay audit fees to the Auditor General for three consecutive financial years 2009/2010 and 2010/2011 contrary to Section 19(1) of the Public Audit Act, 2003;

(ii) The late payment was occasioned by the Hotel's weak financial position at the time. However, following improved financial performance, the Hotel cleared all outstanding fees owed to Office of the Auditor General.

Committee Recommendation

The Committee recommends that the General Manager ensures that the Hotel honours all financial obligations as and when they fall due.

9. INVESTMENT: FY 2010/2011 ACCOUNTS

The Committee heard that, current assets balance of KES 42,220,789 as at 30 June 2011 includes an investment amounting to KES 10 million. However, no authority from the board of directors was availed for audit review. In the circumstances, it was not possible to confirm whether the board approved the investment decision.

Management Response

The General Manager informed the Committee that, the said amount which had been placed in the fixed deposit account with KCB bank was paid back to the hotel together with interest. However, the Hotel has complied and seeks express prior approval before any investments are done.

Committee Observations

The Committee observed that: - -

(i) The Management made investments amounting to KES 10 million without authority from the Board of Directors and the National Treasury contrary to Treasury Circulars on investment of surplus funds; and

(ii) The then General Manager contravened Treasury Circular No. 10 of 1992 which directed that State Corporations invest surplus funds in Treasury bills and bonds.

Committee Recommendations

The Committee recommends that: -

(i) The then Hotel General Manager be held liable for contravening Treasury Circular No. 10 of 1992; and

(ii) The General Manager ensures that the Hotel complies with the Public Finance Management Act Section 28 (1) and Treasury Circular No. 10/1992 on investments of surplus funds.

10. DIRECTORS' ALLOWANCE AND EXPENSES: FY 2012/2013 ACCOUNTS

The Committee heard that, the Hotel incurred KES 174,275 on Directors' allowances and expenses. However, the gazette notice which appointed the directors' and board minutes to support the expenditure were not availed for audit verification.

Management Response

The General Manager informed the Committee that, the gazette notice appointing the directors as well as the minutes for the Board meeting held during the year were later forwarded to the auditors for verification and the issue has since been dropped.

Committee Observation

The Committee observed that, the Board of Directors was appointed on 1 April 2010 in accordance with Section 6(1) of the State Corporations Act through a Gazette Notice No. 3771. The Notice was, however, not availed to the Office of the Auditor General for verification at the time of audit.

Committee Recommendation

The Committee recommends that General Manager and the Accountant ensures that the Hotel maintains proper records on operations of the Hotel and promptly furnish the Office of the Auditor General with relevant documents for review and verification in compliance with Section 37(b) of the Public Audit Act, 2003.

11. KTDC LOAN – FINANCIAL YEAR 2011/2012 - FY 2013/2014 ACCOUNTS

The Committee heard that, long-term loan balance of KES 28,095,705 includes a loan of KES 16,496,000 obtained from KTDC in the financial year 2011/2012. However, as previously reported, the loan agreement and approval from the board of directors were not availed for audit review. Consequently, it has not been possible to confirm whether the KTDC loan as stated in the financial statements was fairly stated.

Management Response

The General Manager informed the Committee that, loan was obtained by the Hotel in June 2012 for the sole purpose of clearing VAT arrears which had accrued since 1992. It was repayable in 120 months at an interest rate of 9% p.a. The VAT arrears have since been cleared and the Hotel in now up to date with VAT and other tax obligations to KRA. The loan agreement as well as copy of the Board minutes approving the loan which has since been submitted to the Auditor General's office after receiving the documents from the parent Ministry. The hotel is servicing the loan accordingly and the issue has since been dropped.

Committee Observations

The Committee observed that: -

(i) **The Hotel failed to honour VAT payments to KRA between the period January 1992 and June 2002 thereby attracting arrears in interests and penalties. The Tourism Finance Corporation, therefore, advanced the Hotel a loan of KES 16,496,102 for the purpose of paying the outstanding VAT arrears on condition that the full loan together with interest at the rate of 9 % per annum be repaid within a period of ten (10) years with effect from September 2011.**

(ii) **The Hotel Management did not avail loan agreement of the said loan to the Auditor General as well as a copy of the Board minutes approving the loan at the time of audit. The documents were, however, availed later and the matter resolved.**

Committee Recommendations

The Committee recommends that: -

(i) **The General Manager ensures that the Hotel honours all its financial obligations as and when they fall due to avoid attracting interest in late payments.**

(ii) **The General Manager and the Accountant ensure that the Hotel maintains proper records and accounts of all business transactions to facilitate the tracing and verification of documents as and when required in accordance with Section 37(b) of the Public Audit Act, 2003.**

2.10 HIGHER EDUCATION LOANS BOARD (FY 2012/2013 - 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE HIGHER EDUCATION LOANS BOARD FOR THE FINANCIAL YEARS 2012/2013 TO 2014/2015

Mr. Charles Ringera, Chief Executive Officer of Higher Educations Loans Board accompanied by Mr. Shem Gichimu, Head of Finance and Mr. Kevin Lidoroh, Accountant appeared before the Committee on 25 August 2016 and 8 November 2016 to adduce evidence on audited accounts of the Board for 2012/2013 to 2014/2015 financial years.

1. LAND: FY 2012/2013 - 2014/2015 ACCOUNTS

The Committee heard that, the property, plant and equipment balance of KES 122,352,356 as at 30 June 2015 includes a parcel of land LR No. 209/13515 measuring 0.6 hectares situated at Upper Hill area, recorded at a cost of KES 44.588,742. Although the ownership documents indicate the land as belonging to the Board, a discrepancy between the deed plan at the Ministry of Lands and the actual position on the ground exists. Further, under separate circumstances, the Kenya Railways Corporation claims that the plot was illegally excised from the Corporation's Land by the Commissioner of Lands. Although the management has explained that the matter has since been taken up with the parent Ministry for resolution, no positive response appears to have been received as at 30 June 2015.

Consequently, it has not been possible to confirm the accuracy of the property, plant and equipment balance of KES 122,352,356 or ownership of parcel of Land LR No.209/13515 recorded at KES 44,588,742 as at 30 June 2015.

Management Response

The CEO informed the Committee that, the amount relates to the value of the parcel of land LR 209/13515 measuring 0.6 Hectares which is situated at Upper Hill area, Nairobi, valued at KES 44,588,742.00. The title of this parcel of land is in the name of HELB. However, Kenya Railways Corporation Staff Pension Scheme claims that the plot was illegally excised from the Pension schemes land by the Commissioner of Lands.

The matter was referred to the Inspectorate of State Corporations who appointed a Committee to look into the matter.

The matter is now in court after the Kenya Railways Staff Retirement Benefits Scheme filed a case in the Environment and Land Court in Nairobi. On 29 November 2014, the Court ordered that status quo on the land be maintained. Up to November 2015, the Benefits Scheme had not taken any action to have the matter fixed for hearing. In January 2016, HELB filed an application for the status quo order to be set aside and also to have the

Benefits Scheme deposit security for costs. The date for the hearing of the application had been set for 14 July 2016, but the court did not sit on that date. The court is yet to set a new hearing date, so the Board will continue to pursue this issue.

Committee Observations

The Committee observed that,

(i) **The Board purchased the parcel of land from a Mr. Paul Koinange with the aim of developing it to host its headquarters. The Board is in possession of ownership documents for the land;**

(ii) **The Kenya Railways Corporation Staff Pension Scheme however claims that the plot was illegally excised from the Pension Scheme land by the Commissioner of Lands. Further, a discrepancy exists between the deed plan at the Ministry of Lands and the actual position on the ground.**

(iii) **The matter has been pending in court since November 2014.**

Committee Recommendations

The Committee recommends that: -

(i) **The Board expedites conclusion of the court case pending before the Environment and Land Court in Nairobi.**

(ii) **The CEO ensures that the Board continues to pursue resolution of the issue of ownership of the land so as to develop it to host the HELB headquarters;**

(iii) **The Cabinet Secretary, Ministry of Education, Science & Technology takes up the matter and pursues it with his counterpart in the Ministry of Transport and Infrastructure with a view to amicably settling the matter.**

2. STUDENT LOANS: FY 2012/2013 - 2014/2015 ACCOUNTS

The Committee heard that, as disclosed in note 4 to the financial statements, matured loans to students, loan interest and user charges as at 30 June 2015 totalled to KES 29,163,926,490 out of which an amount of KES 3,293,818,387 was recovered during the year, leaving a balance of KES 25,859,862,592. Further, a sum of KES 53,120,661 representing refunds has been added back to raise the outstanding debt to KES 25,912,983,253.

When the provision for bad and doubtful debts of KES 1,299,361,105 is taken into account, the outstanding matured loans stood at KES 24,613,622,148 as at 30 June 2015. Also, no aging analysis was availed for audit review to determine the status of old loans. Although the Board has indicated that it has put measures in place to recover the outstanding loan and that there has been an increment in the loan amount recovered during the year compared to the previous year, the amount recovered still appear inadequate when compared to the total nurtured portfolio.

In the circumstances, it has not been possible to ascertain the accuracy and recoverability of the matured loans amounting to KES 24,613,622,148 as at 30 June 2015.

Management Response

The CEO informed the Committee that, the Board has continued to reduce the non-performing loans by using innovative ways to net loanees and increase loan recovery. This has resulted in continuous growth in recoveries from year to year. The measures employed include:

The Board has increased the loan repayment channels, which has increased the convenience and efficiency for loanees to remit their loan repayments. The repayment methods in place are:

(i) Banks network - HELB operates collection bank accounts in ten banks for ease of collection by loanees and employers.

(ii) Mobile banking - HELB loan repayments can be made through mobile service providers (M-Pesa and Airtel Money).

(iii) e-Commerce - Credit and Debit card - Both debit and credit (VISA and MasterCard) can be used to make loan repayments.

(iv) Online payments channels that make it convenient by loanees in the diaspora e.g. Wave, POAPay, M-Pesa (Int) and Simpay.

(v) ATM - Currently, HELB loanees can repay their loans through any of Equity Bank and PesaPoint ATMs.

(vi) Collaboration with Kenya Revenue Authority (KRA) as provided by the amendments to the Income Tax Act by 2005/2006 Finance Bill which gave HELB the rights to access KRA's database to trace beneficiary university graduates not repaying their loans.

(vii) Partnering with other institutions like NHIF, NSSF, NTSA, TSC and Government Ministries with large databases of Kenyans who are in gainfully employed.

(viii) Use of debt collection agencies to net defaulters

(ix) Embracing state of the art technology in managing student loans' disbursement and recovery.

(x) Public awareness and sensitization through the media and events such as trade fairs, university events and stakeholders consultative forums.

(xi) Enforced the requirements of the HELB Act Cap 213A (s. 15(2)) which stipulates that any loanee who does not remit to HELB each loan deduction due, be penalized an amount not less than five thousand.

(xii) Enforced the requirements of HELB Act Cap 213A (s. 17(1)) which demands that an employer who fails to deduct or does not remit to HELB after deducting, be charged a penalty of five (5) percent of the amount unpaid for every month that the amount remains outstanding.

(xiii) Smartcard technology – HELB is working with banks in rolling out a Smart Card Payment System. The Board successfully commenced using Smartcards at Kenya Methodist University (KEMU), Maasai Mara and Embu Universities through Family Bank, Jamii Bora Bank and Equity Bank. All disbursements of student loans will be done through smartcards once the project is fully rolled out in all universities. This will increase operational efficiency in the disbursement process and help HELB keep track of the beneficiaries after they exit the universities and therefore reduce the number of loan defaulters.

Committee Observations

The Committee observed that: -

(i) The Board has made significant achievement in recovery of outstanding loans from former students during the period under review year compared to the previous years after putting in place measures to recover the loans.

(ii) The amount recovered still appear inadequate compared to the total matured loan portfolio amounting to KES 24,613,622,148 as at 30 June 2015.

Committee Recommendations

The Committee recommends that: -

(i) The CEO of the Board undertakes a loan analysis exercise including age analysis for each of the loans and recommend the necessary measures to recover the outstanding loans.

(ii) The Board further needs to put measures in place to recover funds from graduates who work in the diaspora by working closely with the Ministry of Foreign Affairs and Department of Immigration in order to enforce repayment of loans.

(iii) The Board pursues its beneficiaries who employed in the informal sector such *as jua kali* and private business in order to increase funding of the revolving funds to the ever increasing number of needy students.

STATUS OF HELB FUNDS HELD IN VARIOUS PRIVATELY OWNED BANKS

Management Response

The CEO informed the Committee that, the Board is working with several banks that are offering innovative solutions that increase efficiency in loan disbursement and also collection of loans from ex-loanees. This was necessitated by the exponential increase in student population who bank with various banks and also create convenience to ex-loanees to pay their loans. To this end, the Board sought Expression of Interest for provision of banking services.

Subsequently, the Board sought for provision of a Smart Card Payment Solution from banks through a competitive tender process. Several banks responded positively and currently, there are six banks that have developed the solution and in various stages of deploying their solutions. Of these banks – Citi Bank, Barclays Bank, Standard Chartered Bank, Housing Finance, NIC Bank, Family Bank, Equity Bank, Jamii Bora Bank and Chase Bank are privately owned banks offering various services of student disbursement and loan collection accounts. Development and deployment of the Smart Card Payment Solution, online diaspora loan prepayment solutions and e-commerce solution involves investment of resources by banks.

Jamii Bora Bank has successfully deployed their smart Card payment solution at Maasai Mara University while Chase Bank had deployed their Solution at Catholic University of Eastern Africa prior to them being put under receivership. Co-operative Bank has developed a Smart Card solution for Co-operative University.

The Board sought and received the necessary approvals from the HELB Board of Directors and the National Treasury to open operations bank accounts and short term placement of funds either collected from loanees or being transmitted to students in privately owned banks.

The deposits held in privately owned banks as at 31 July, 2016 are shown below:

No.	Bank	Current Account	Short-term placement
1.	JAMII BORA BANK	84,480.63	200,000,000.00
2.	CHASE BANK	306,043,549.48	100,000,000.00
3.	FAMILY BANK	16,382,906.21	200,000,000.00
	TOTAL	322,510,936.32	500,000,000.00

HELB's intention is to create convenience to disburse the loans to the students and also for repayment of the loans. Creating such convenience will necessitate HELB to work with as many financial institutions as possible.

Committee Observations

The Committee observed that: -

(i) **The money HELB collects from loanees is fixed for 7 to 14 days as short term transit so as to take advantage of interest rates to be accrued instead of lying in current accounts. HELB was granted approval to invest funds in Kenya Commercial Bank, Citi Bank, National Bank of Kenya, Cooperative Bank of Kenya and Treasury Bonds and Treasury Bills as per a letter from the Treasury dated 18 July, 2002.**

(ii) Treasury further granted HELB approval to invest funds in short term call deposits with Equity Bank, Barclays Bank of Kenya ad Standard Chartered Bank as per a letter dated 5 October, 2010. The amounts to be invested were accumulated funds not required for disbursement for a period exceeding three months.

(iii) On 30 April 2013, Treasury granted HELB its approval to open and operate bank accounts with Chase Bank and Family Bank with a view to implementing a Smart Card Disbursement Solution. The two banks had qualified to offer the solution after HELB issued an open tender for the same. The approval came with a rider that the Board should undertake due diligence of the two Banks to ensure the security of the deposits are guaranteed. The approval for investment in Chase Bank and Family Bank was not specific on whether the funds to be invested were funds not required for disbursement for a period exceeding three months unlike the case with the approval dated 5 October 2010, for Equity, Barclays and Standard Chartered Banks. HELB subsequently lost the funds it held at Chase Bank after the Bank was put under receivership.

(iv) A further request to open and operate bank accounts with NIC Bank and Jamii Bora Bank was granted to HELB by Treasury vide a letter dated 10 July 2014. The Board's request to invest surplus funds in short term deposits with the two Banks was not granted. HELB was advised to place the surplus funds with the panel of Banks already approved by Treasury. Despite Treasury's advice, HELB went ahead to invest surplus funds on short term placement at Jamii Bora Bank. As at 31 July 2016, HELB had KES 200,000,000 on short term placement at Jamii Bora Bank.

(v) The Board invested surplus funds on short term in Jamii Bora Bank and NIC Bank without the approval of the National Treasury and contrary to Treasury Circular No. 10 of 1992, which directed that State Corporations invest surplus funds in Treasury bills and bonds and not in commercial banks.

Committee Recommendations

The Committee recommends that: -

(i) The Ethics & Anti-Corruption Commission investigates the conduct of the Board's Chief Executive Officer for contravening Treasury Circular No. 10 of 1992 which directed that State Corporations invest surplus funds in Treasury bills and bonds and recommend prosecution by the Director of Public Prosecutions for abuse of office contrary to and Public Officer Ethics Act, 2003;

(ii) The Board's CEO ensures that the Board complies with Treasury Circular No. 10 of 1992, which directed that State Corporations invest surplus funds in Treasury bills and bonds.

2.11 JARAMOGI OGINGA ODINGA UNIVERSITY OF SCIENCE AND TECHNOLOGY (FY 2009/2010 - 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF JARAMOGI OGINGA ODINGA UNIVERSITY OF SCIENCE AND TECHNOLOGY FOR THE FINANCIAL YEARS 2009/2010 TO 2014/2015

Prof. Stephen Gaya Agong', Vice-Chancellor Jaramogi Oginga Odinga University accompanied by Prof. Washington H. A Olina, Deputy Vice-Chancellor (Planning, Administration & Finance); Prof. Joseph Bosire, Deputy Vice-Chancellor (Academic Affairs); CPA Nancy Muchai, Finance Manager appeared before the Committee on 17 February 2017, to adduce evidence on the Report of the Auditor General on the accounts of the University for the financial years 2009/2010 to 2014/2015

UNQUALIFIED REPORT: FY 2009/2010 TO 2014/2015 ACCOUNTS

The Auditor-General informed the Committee that, the University received unqualified reports for the six financial years 2009/2010 TO 2014/2015 it has been in operation.

The Committee commended the management for sound financial management and prudent use of resources during the period under review.

2.12 KENYA ACCOUNTANTS & SECRETARIES NATIONAL EXAMINATIONS BOARD (FY 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE KENYA ACCOUNTANTS & SECRETARIES NATIONAL EXAMINATIONS BOARD FOR THE FINANCIAL YEAR 2014/2015

Mr. Pius Nduatih the Chief Executive Officer Kenya Accountants and Secretaries Examinations Board accompanied by the Finance Director Mr. James Gatheru appeared before the Committee on 26 January 2017, to adduce evidence on the Report of the Auditor General on the accounts of the Fund for the financial year 2014/2015.

UNQUALIFIED REPORT: FY 2014/2015 ACCOUNTS

The Committee heard that, KASNEB obtained unqualified audit opinion for the financial year 2014/2015 accounts from the Auditor-General.

The Committee commended the management for sound financial management and prudent use of resources during the period under review.

2.13 KENYA BUREAU OF STANDARDS (FY 2012/2013 - 2013/2014)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE KENYA BUREAU OF STANDARDS FOR THE FINANCIAL YEARS 2012/2013 TO 2013/2014

Mr. James Ongwae, the Managing Director of Kenya Bureau of Standards accompanied by Hon. Lucas Maitha, KEBS Chairman; Ms. Anne Wanjau, Head of Finance and Ms. Goretti Nyariki, Head of Legal Services appeared before the Committee on 26 May 2016 to adduce evidence on the accounts of the Bureau for the financial years 2012/2013 and 2013/2014

1. TRADE AND OTHER RECEIVABLES - FY 2012/2013 & 2013/2014 ACCOUNTS

The Committee heard that, included in the trade and other receivables balance of KES 177,937,482 as at 30 June 2014 includes long outstanding debts of KES 17,500,000 owed by a law firm (under receivership) in a respect of a payment made to the firm for purchase of land in Donholm, Nairobi. Although the transaction later turned out to be fraudulent, recovery of the money had not been made as at 30 June 2014. Further the trade and other receivables balance of KES 177,937,482 includes trade debtors totalling to KES 59,956,770 and which had been long overdue. Further the prepayments amounting KES 2,697,529 were made to three firms for goods and services that were not supplied or rendered.

In the circumstances, it has not been possible to confirm the adequacy of the provision for bad and doubtful debts of KES 24,900,436 made in the financial statements and the accuracy and recoverability of trade and other receivables balance of KES 177,937,482 as at 30 June 2014.

Management Response

The Managing Director informed the Committee that, the trade and other receivables are long outstanding receivables from the following:

i. **Makhecha & Company Advocates in respect of KES 17,500,000 paid as deposit for staff housing scheme that was never implemented:** The matter was however forwarded to the Inspectorate of State Corporations in July 2011 for further direction. The Inspectorate of State Corporations in their letter dated 15 March 2013 recommended that, the matter be referred to Ethics and Anti-Corruption Commission for further action. In the meantime, recognizing that the debt is unlikely to be recovered, the management is proposing to write off the amount. The principal owner of the law firm passed on several years ago and the law firm is inactive.

ii. **Global Inspection South Africa KES 19,423,268.55 relating to long outstanding dispute**: The matter was referred to the court and eventually arbitration. The

Company did not respond to arbitration and the business later closed down in South Africa and hence unable to be reached. Court process and arbitration has been stopped to mitigate against unnecessary legal costs. KEBS is going through the necessary approvals to write off the debts.

Prepayments of KES 2,697,529 were made to the following three firms for goods and services that were not delivered.

- Tetralink Kenya Ltd - KES 2,256,542 in respect to supply of goods in the year 2000/2001 which were never supplies and the supplier cannot be traced.
- Bestex Designers KES 153, 542 in respect to supply of goods in the year 2000/2001 which were never supplies and the supplier cannot be traced.
- Homelink Ltd KES 287,550 in respect to supply of goods in the year 1999/2000 which were never supplies and the supplier cannot be traced.

Committee Observations

The Committee observed that: -

(i) **The Bureau did not undertake due diligence to ascertain the authenticity of the land.**

(ii) **The Bureau was in breach of the Public Procurement and Disposal Act, 2005, by paying for goods and services without verifying the delivery of the goods and service.**

Committee Recommendations

The Committee recommends that: -

(i) **The Management should put in place measures and controls to ensure that payment of goods and services by the Bureau is only made with full proof documentation and proof of delivery of goods.**

(ii) **The Ethics and Anti-Corruption Commission investigates the matter of Makhecha & Company Advocates and recommend for prosecution any person found culpable in defrauding the organisation. Further, the Commission should report progress on this matter to the National Assembly within six (6) months of the adoption of this Report.**

(iii) **KEBS should proceed to seek approval for write-off of the two long outstanding owing to the doubtful recoverability of the funds.**

2. FINANCIAL PERFORMANCE - FY 2012/2013 ACCOUNTS

The Committee heard that, during 2012/2013 financial year, the Bureau made a loss of KES 42, 693, 720 compared with a surplus of KES 847,929,303 in 2011/2012 financial year. The loss is attributed to the decrease of income by KES 341,422,477 or about 12% from KES

2,776,650,144 as at 30 June 2012 to KES 2,435,227,667 as at 30 June 2013. The expenditure increased by KES 549,200,546 or about 28% in the same period from KES 1,928,720,841 to KES 2,477,921,387. This trend is a reflection of weak financial management and if not checked could lead to solvency issues.

Management Response

The Managing Director informed the Committee that, Bureau reported a loss of KES 42,693,720 that was not due to poor financial management but during the financial year 2012/2013, the Bureau entered into a medical scheme for its staff making the insurance expenses increase by KES 107,014,824. The Bureau also increased the staff salaries following approval by State Corporations Advisory Committee making the staff emoluments increase by KES 424, 764,644.

The Bureau reported a surplus of KES 363,925,103 for the year ended 30 June 2014 attributable to increase in revenue for the year hence cancelling out the deficit of KES 42,693,720.

Committee Observations

The Committee observed that, in the 2013/2014 financial year, the Bureau's its financial position improved and as a consequence, a surplus of KES 363,925,103 was recorded.

Committee Recommendation

The Committee recommends that the Bureau puts in place measures to improve its financial performance.

3. **PROPOSED REGIONAL OFFICES AND LABORATORIES PROJECT IN MOMBASA: FY 2012/2013 & 2013/2014 ACCOUNTS**

The Committee heard that, the Bureau invited tenders for construction of the proposed Regional Offices and Laboratories Project in Mombasa on 17 March 2013. Preliminary expenses totalling to KES 101,938, 209 were paid for the proposed project to various consultants.

Explanation and evidence obtained from the management indicated that the above consultants were picked from a list of pre-qualified consultants. However, neither the details on how the consultants were quoted nor the criteria used on evaluation and selection were produced for audit review. In addition, the amounts continue to be reflected as work in progress despite the fact that the contract was halted and the matter is under arbitration.

In the circumstances, the procurement of the consultants for the proposed Regional Offices and Laboratories Project in Mombasa was not done in line with the Public Procurement

and Disposal Act, 2005 and hence KES 1001,938,209 paid to the consultants was therefore irregular.

Management Response

The Managing Director informed the Committee that, preliminary expenses were paid as follows: -

Firm	Role	Amount in KES
AAKI Consultants Architects & Urban Designers	Project Architects	39,324,64o
Ngahu & Associates	Project Quantity Surveyors	14,606,868
Otieno Odongo & Partners	Project Structural & Civil Engineering Consultants	29,475,886
Professional Consultants	Project Electrical & Mechanical Engineers	13,933,893
Other Costs	NEMA, Mombasa Municipal Council	4,596,922
Total		**101,938,209**

The consultants were all pre-qualified for the period 2012/2013 and the Ministry of Works assisted in appraisal of the firms. The Bureau sought approval and recommendations from the parent Ministry and the Ministry of Public Works respectively.

Committee Observations.

The Committee observed that,

(i) **The Bureau is a statutory body which should procure goods and services in accordance with the Public Procurement and Disposal Act, 2005 independent of the parent Ministry;**

(ii) **The Bureau was in breach of the Public Procurement and Disposal Act, 2005 Section 78 (3) by failing to advertise for the tender for the consultancy services for the proposed project.**

(iii) **That PIC's Report on the Proposed Regional Offices and Laboratories Project in Mombasa is awaiting debate in the House.**

Committee Recommendations

The Committee reiterates its recommendations contained in its Report on the matter. The Committee recommended as follows: THAT

(i) **EACC should investigate circumstances surrounding the procurement of consultancy services and the contract for the construction of KEBS regional**

laboratories and offices in Mombasa and the circumstances leading to the cancellation of the contract for the project.

(ii) EACC investigates Ms. Evah Oduor, the former Acting Managing Director, for committing Kenya Bureau of Standards and signing the contract for the construction of KEBS Regional offices and laboratories without adequate budgetary allocations contrary to the provisions of Section26 (6) of the Public Procurement and Disposal Act, 2005 attendant procurement regulations.

(iii) The Tender Committee and Evaluation Committee members be held responsible for contravening section 27 of the Public Procurement and Disposal Act, 2005 for failure to ensure that the provisions of the Public Procurement and Disposal Act, 2005 and the Regulations and any directions of the Authority are complied with, in respect to each of its procurements.

(iv) The former acting Managing Director, Ms. Evah Oduor and the then. procurement officer, and the tender committee members should be held responsible for single sourcing the procurement of consultancy services in contravention of section 74 of the provision of the Public Procurement and Disposal Act, 2005.

(v) The Ministry should be cautioned against interfering in the procurement processes of state corporations under it. Instead the ministry should offer guidance.

(vi) The Council members of the National Standards Council be investigated and held responsible for terminating the contract for the construction of KEBS regional offices and laboratories without the approval of the tender committee in contravention of Regulation 32 (1) and (2) of the Public Procurement and Disposal Regulations 2006.

(vii) The Chairman and the Council Members of the National Standard Council be held individually responsible for any loss that KEBS might incur as a result of the termination of the contract for the construction of the proposed regional offices and laboratories.

(viii) In an event that M/s EPCO Builders Limited files a suit against KEBS in relation to the contract for the tender for the construction of KEBS regional offices and laboratories, the Attorney General should represent KEBS.

4. BOARD EXPENSES: FY 2013/2014 ACCOUNTS

The Committee heard that, during the 2012/2013 financial year, the Bureau incurred Board Expenses of KES 50,954,532 compared to KES 27,510,775 in 2011/2012. This resulted to an increase of KES 23,443,757 against the budgeted amount of KES 32, 154,00.

In addition, the calendar of the Board meetings outlining the number of planned meetings for the year under review was not availed for audit verification. Consequently, it has not been possible to confirm the propriety of unauthorized expenditure of KES 18,800,532 incurred towards Board expenses during the year.

Management Response

The Managing Director informed the Committee that, the Board expenditure incurred in the 2012/2013 financial year was above the annual budget because of the increased number of National Standards Council (NSC) meetings while sourcing the Chief Executive Officer. During the year there were two additional members to the NSC. These meetings were not anticipated during the budgeting process, however the NSC on 2 May 2013 approved additional allocation of KES 15 million to cater for the unforeseen circumstances.

Audit documents and approval have been forwarded to the Auditor General for verification.

Committee Observations

The Committee observed that, the Bureau incurred Board members' allowances over the annual budgeted amount without prior approval of the National Standards Council. The approval was however granted later.

Committee Recommendation

The Committee recommends that in future, the Managing Director should seek and obtain prior approval of the Council for any over-expenditure of the Board's expenses.

2.14 KENYA FERRY SERVICES (FY 2012/2013 to 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE KENYA FERRY SERVICES LIMITED FOR THE FINANCIAL YEARS 2000/2001 TO 2014/2015

Mr. Bakari Gowa, Managing Director, Kenya Ferry Services Limited accompanied by Mr. Jackson Baragu, Principal Engineer; Ms. Jennifer Cirindi, and Mr. Athmani Washenga, Procurement & Supplies Manager appeared before the Committee on 19 August 2015 to adduce evidence on the Report of the Auditor General on the financial statements of the Company for the 2012/2013 to 2014/2015 financial years.

1. KENYA PORTS AUTHORITY ADVANCE: FY 2012/2013 ACCOUNTS

The Committee heard that, as at 30 June 2014, an amount of KES 325,507,569 was included in the non-current liabilities, which is an advance, received from the Kenya Ports Authority. The advance is at variance with the figure in Kenya Ports Authority's records of KES 342,599,000. In the absence of reconciliation between the two figures it is not possible to

confirm the propriety of the balance of KES 17,091, 431.

Management Response

The Managing Director informed the Committee that, the Company owes Kenya Ports Authority as advances disbursed to the Company during its formative years as a subsidiary of KPA. The difference of KES 17,091,431 was reconciled between KPA and KFSL on 21st July 2014 and relevant adjustments were made in the books of the Company.

Committee Observation

The Committee observed that: -

(i) Kenya Ferry Services had not reconciled its figures with those in the accounts of Kenya Ports Authority relating to an advance from the latter, as evidenced by the variance of the advances from Kenya Ports Authority.

(ii) The matter has since been resolved, following reconciliation of the variance on the advances and the relevant documents availed to the Auditor-General for verification.

Committee Recommendation

The Committee recommends that, the management ensures that the Company undertakes regular reconciliation of its accounts and maintains proper records and accounts of all transactions to facilitate the tracing and verification of documents as and when required in accordance with the Public Audit Act, 2015.

2. **OTHER INCOME: FY 2013/2014 ACCOUNTS**

   a) **Hire of Ferries**

The Committee heard that, in other income figure of KES 57,133,000 is an amount of KES 17,362,000 from hiring out of ferries. KES 17,280,000 was in respect of hiring out MV Pawn to a contractor for 9 months at an hourly rate of KES 10,000. However, information available indicates that the minimum approved hourly rate is KES 25,000, which was enhanced to KES 60,000 per hour within 23 days of signing the agreement. No evidence was availed for audit to show the authority approved the ferry hire charges.

Management Response

The Managing Director informed the Committee that, the Company hires ferries to its customers on need basis. On many occasions, the customers hire them for business activities, social/public events and educational tours. Customers on need basis would approach KFS and where a vessel is available, then a hire would be granted.

KFSL Board as a matter of policy had already authorized management to hire out ferries. The Company has never hired MV Pwani or MV Mvita because these two ferries are smaller in size and customers do not find them attractive for social events. During the period in

question, the rates in force for the hire of the ferries was KES 25,000 per hour which was applicable to the operational ferries which happen to be of bigger capacity than MV Pwani which is hired out at the rate of KES 10,000 per hour applies due to its small size. The price of KES 60,000 per hour was merely a proposal that was not taken up by the market and the Company maintained the applicable rate of KES 25,000 in the financial year.

Committee Observation

The Committee observed that, the Management failed to avail the necessary documentation to the Auditor General in time for verification of the conditions and rates relating to the hire of the Company's ferries.

Committee Observation

The Committee recommends that: -

(i) The management avails all the necessary documents to the Auditor-General before the conclusion of the audit process; and

(ii) The Managing Director ensures that the Company develops a policy to guide on the hire of ferries as a prudence measure.

b) Infrastructure Rent Income

The Committee heard that, included in other income figure of KES 57,133,000 is an amount of KES 15,876,000 in respect of infrastructure rent and other charges for use of KFS facilities whose management was contracted out for three years to a private firm. Records availed for audit indicated that the contracted service provider owed KFS a total f KES 11,527,000 as at 30th June 2014 an increase of KES 5,544,000 from the balance outstanding of KES 5,983,000 as at 30th June 2013. The contract document required that the contracted service provider remit payment in advance not later than the 10th day of the first quarter of the month. An explanation of the action being taken to recover the outstanding amount has not been provided. In addition, although the contract with the facility manager expired on 30th September, 2013 the extension of the contract was not done in line with the provisions of the Public Procurement and Disposal Act, 2005 which required the service to have been tendered afresh. Consequently, the Management has contravened procurement law, further it has not been possible to ascertain whether KFS obtained value for money.

Management Response

The Managing Director informed the Committee that, KFSL engaged MS Lustman & Co Ltd to manage its property located on the Likoni Mainland for a period of 3 years. The Company has faced challenges in management of the contract in which the facility manager's account was in arrears due to non-payment monthly fees as per the contract.

KFSL engaged external advocates to pursue debt recovery through the courts. The case is

currently in court and is due for hearing on 22 September 2016.

Extension of the contract was for prudent because of the circumstances, whereby on 20th September 2013, management extended this contract through correspondence to facilitate renovation of the facility which was due for maintenance. Also due to unforeseen circumstances, the tender process for the competitive recruitment of a Facility Manager after the contract, was terminated. Under the circumstances, the facility could not remain without a service provider during the re-tendering and renovations.

Committee Observation

The Committee observed that, extension of the contract to manage the Company's properties by MS Lustman & Co Ltd in 2013 contravened the procurement law which required that the service should have been tendered afresh after the expiry of the period of the initial contract. The Company was, therefore, in breach of the Public Procurement and Disposal Act, 2005.

Committee Recommendation

The Committee recommends that, the management ensures, that the Company procures goods and services in accordance with the Public Procurement and Disposal Act, 2015.

c) Commercial Advertisements

The Committee heard that, included in the other income figure of KES 57,133,000 is an amount of KES 18,870,000 in respect of commercial advertisements, a service that was contracted out to a private entity as per five-year agreement signed on 12th November 2010 and which came into effect on 1st January 2011. As at 30th June 2014 the service provider owed KFSL a total of KES 39,894,360 an increase of KES 15,180,758 from KES 24,713,602 that was outstanding as at 30th June 2013. It is not clear and the management has not justified continued accumulation of debts while at the same time offering the contractor services and access to the site.

Management Response

The Managing Director informed the Committee that, KFSL entered into an advertisement contract with MS Nova Media Ltd in 2010 for a period of five years in which the firm was the sole advertising agent of all facilities as KFSL such as land sites, buildings, walkways, ferry vessels and LED screens in entire ferry operation areas i.e. Likoni & Mtongwe.

KFSL constituted a Management Committee on 13th July 2013 to resolve the stalemate with MS Nova Media Ltd which recommended that, that the contract should not be renewed and that the management was to pursue recovery of amounts owed by Nova Media. Nova Media Ltd disputed the demand issued by KFSL and requested that the dispute be handled at arbitration level.

After hearing the parties, the Arbitrator issued orders requiring KFSL to reinstate Nova Media and allow it to continue with advertising services in accordance with the contract. KFSL instituted court action to quash the orders of the arbitrator. The case is on-going.

Committee Observations

The Committee observed that, Nova Media Ltd contested the amount of KES 39,894,360, owed to KFSL in advertising fees, and was allowed to continue advertising on KFSL properties as the arbitration process is on-going.

Committee Recommendation

The Committee recommends that the management seeks speedy conclusion of the matter and in future, conduct due diligence on companies seeking to do business with the company, to determine their financial competence.

d) Disposal of Ferries

The Committee heard that, also included in other income of KES 57,133,000 is gain on disposal of five motor vehicles at KES 2,412,000. However, KFS disposed off MV Pwani at KES 5,500,000 at a loss of KES 900,000 based on the valuation of the ferry vessel by a contracted private valuer. The Company valued MV Pwani and MV Mvita at KES 6,400,000 and KES 3,599,500 respectively. It was noted that the Company had paid an insurance premium of KES 20,604,962 for among others the two ferry vessels. According to the insurance documents MV Pwani and MV Mvita were valued at KES 45,037,599 and KES 29,890,891 respectively. The huge disparity between the two valuations of the vessels has not been explained.

In addition, the tender for valuation of the ferries was awarded to the Company at a cost of KES 2,556,400 through request for quotation procurement method, contrary to the provisions of PPDA 2005 and Regulations 2006 which set a threshold of KES 1,000,000 beyond which this method of this procurement cannot be used by Class A procuring entities of which KFS belongs. The approval of this disposal by the Minister was conditional on KFS adhering to all Government regulations especially the PPDA 2005 and Regulations 2006. Further, valuation by relevant Government agencies for all assets identified for disposal was not made available. In the circumstances, the propriety in the valuation process and disposal of the ferries and motor vehicles has not been ascertained.

Management Response

The entire process of disposal of ferries was undertaken in accordance with Section 129 and 132 of the Public Procurement and Disposal ACT 2005 and Regulations.

The tender for disposal of the absolute ferries was advertised as an open tender on 14th March 2014 and tender for disposal awarded to the highest bidder at KES 5,500,000 and KES 4,500,000 for MV Pwani and MV Mvita respectively. The ferries' rate of deterioration

was high given the fact that they were not in service and it was in the best interest of the KFSL to dispose them expeditiously as possible. Had the Company terminated the process and sort fresh bids, the vessels would have deteriorated further and may not have fetched any higher rates.

Committee Observation

The Committee observed that, there was discrepancy in the insured amount and sale value of the two ferries. Further, the ferries were disposed at a value below their reserve price.

Committee Recommendation

The Managing Director ensures that, the Company adheres to the PPAD, 2015 and its Regulations in disposal of the Company's assets.

e) Repair and Upgrading of Mtongwe Gangways and Pontoons

The Committee heard that, capital works in progress amount of KES 484,284,000 as at 30th June 2014 included an amount of KES 179,822,383 spent during the year for repairs and upgrading of Mtongwe gangways and pontoons. The total certified payments as at 30th June 2014 amounted to 412,790,571. Physical verification established that the project was complete. However, the project was not in use due to lack of ferry vessel to operate in the area. The disuse of this facility has led to serious deterioration of the facility.

Consequently, the property and value for money for these repairs and upgrades totalling to KES 312,790,571 could not be ascertained.

Management Response

The Company did not have a ferry to operate at Mtongwe and the jetty has remained unused since then and requests for funds to acquire a ferry at Mtongwe have not been successful. In the meantime, the Management is exploring possibility of deploying one of its vessels to ply the channel in order to ease pressure off the Likoni Channel by early 2017 after comprehensive rehabilitation of the same. The Company is also in the process of acquiring new ferries expected in the Month of February 2017 and the Mtongwe ferry services will resume. The landing facility is however being maintained on regular basis. In the second quarter of 2015/2016 financial year, repair work was done on the Mtongwe Island pontoon. Under water cleaning of pontoons are scheduled to take place in 2016/2017 financial year.

Committee Observation

The Committee observed that, the continued disuse of the Mtongwe gangways has led to serious deterioration of the facility and rehabilitation of the facility will cost the Company a colossal amount of money.

Committee Recommendation

The Committee recommends that, the Managing Director ensures that rehabilitation of the Company's facilities is done on need basis and that the Company obtains value for money for any works done.

3. WITHHOLDING TAX OBLIGATIONS: FY 2013/2014 ACCOUNTS

The Committee was informed that during 2013/2014 financial year, KFS effected deductions totalling to KES 13,809,672 in respect to withholding tax against various contract sums paid. According to information available, total deductions should have been KES 21,496,359 in respect of withholding taxes. The management of KFS remitted a total of KES 13,742,731 on 10th June 2014. The total outstanding withholding tax obligation against KFS therefore amounted to KES 7,753,629as at 30th June 2014. Consequently, failure to deduct and remit withholding tax is against the tax laws and this makes KFS prone to penalties and interest.

Management Response

The Managing Director informed the Committee that, the outstanding taxes were recovered in the subsequent payments to contractors since there were a number of certificates still pending to be paid at the time. Consequently, the same were remitted to the Commissioner of Income Tax.

Committee Observation

The Committee observed that, Kenya Ferry Service failed to meet its tax obligations during the FY 2013/2014, by non-remittance of tax to the Commissioner of Income Tax and that, the Company was, therefore, in breach of tax laws which may lead to penalties and interests.

Committee Recommendations

The Committee recommends that the Managing Director ensures that the Company honours its tax obligations within the stipulated time.

4. FINANCIAL POSITION: FY 2014/2015 ACCOUNTS

The Committee heard that, comprehensive income for the year ended 30th June 2015 indicated that the Company recorded a net loss of KES 43,332,000 (2013/14 KES 90,637,000) resulting to an accumulated deficit of KES 770,086,000 as at 30th June, 2015. Under the circumstances, the financial performance of the Company is precarious.

Management Response

The Managing Director informed the Committee that, the loss making trend has drastically reduced over the past three years from KES 117 Million in 2012/2013. KES 91 million in 2013/14 to KES 43 million in 2015/16 in line with the Company's objective of

strengthening her financial base and posting surpluses in the near future. Further, the Company is pursuing strategies to ensure long-term financial sustainability of its financial operations. Key among them is a continuous revision of its vehicular charges and proposal to review toll charges which was submitted to the Ministry of Transport and Infrastructure and is awaiting gazettement by the Ministry.

Committee Observation

The Committee observed that, the financial position of the Company is weak and if strategies are not put in place to reverse the position, the Company may not be able to meet its financial obligations as and when they fall due.

Committee Recommendations

(i) The Committee recommends that the Kenya Ferry Services diversifies its revenue base to reduce over reliance on Government support.
(ii) The Committee further recommends that, KFSL should modernize its ferries for passenger services to reduce the unnecessary high expenditure on maintenance of the old deteriorating ferries.

5. GOVERNMENT GRANTS: FY 2014/2015 ACCOUNTS

The Committee heard that, the statement of comprehensive income for the year ended 30th June 2015 indicates that the Company received KES 338,000,000 as Government compensation. However, records maintained in the State Department of Transport in the year 2014/2015 reflected grants disbursed to the Company as KES 375,984,000 resulting to unexplained or reconciled variance of KES 37,984,000.

Consequently, the accuracy and completeness of Government compensation balance of KES 338,000,000 for the year ended in 30th June 2015, could not be confirmed.

Management Response

The Managing Director informed the Committee that, KFSL presented a proposal of KES 1.564 billion for recurrent budget out of which KES 916 million was expected government compensation for free passage of passengers. However, KFS was allocated KES 376 million. Further, the company received KES 338 million only as opposed to KES 376 million from the Ministry of Transport and Infrastructure. Due to the delay in disbursement, the financial statements were adjusted accordingly.

Committee Observation

The Committee observed that, the Company did not receive its recurrent disbursements from the parent Ministry in full, which led to the shortfall.

Committee Recommendation

The Committee recommends that, the management ensures that the Company

prepares its financial statements taking into account approved disbursement to the Company as appropriated by the National Assembly and not as per the proposal presented to the parent Ministry.

6. LONG OUTSTANDING DEBTS: FY 2014/2015 ACCOUNTS

The Committee heard that, included in trade and other receivables balance of KES 102,112,000 is trade receivables of KES 63,733,000 which includes three debtors; Lustman & Co. (1990) Ltd KES 4,362,496, Nova Media Ltd KES 22,123,322 and White Hall Holdings Ltd KES 2,667,221 which have been outstanding for long since 2008/2009 financial year. The Management, however, has not provided documentary evidence of the efforts being made to have the debts settled or why the Company credit policy has not been adhered to.

Management Response

The Managing Director informed the Committee that, external lawyers have been engaged by KFSL to pursue recovery of the debts owed by the three companies. Full recovery is expected to be completed by 2016/2017 financial year.

Committee Observation

The Committee observed that, the Company has taken a long time to recover the long outstanding debts of KES 63,733,000 from the three companies, namely; Lustman & Co. (1990) Ltd, Nova Media Ltd and White Hall Holdings Ltd. The Company hopes to recover the amount in FY 2016/2017.

Committee Recommendations

The Committee recommends that management expedites the recovery of the outstanding debts.

7. STAFF CAR LOANS: FY 2014/2015 ACCOUNTS

The Committee heard that, information availed for audit review indicated that staff and other receivables of KES 20,531,000 include KES 1,800,000 being car loan advanced to the Company Secretary. However, registration documents for the vehicle availed for audit reflected that the vehicle was jointly registered between the staff and the Company as required by law.

Under the circumstance, it has not been possible to confirm the authenticity and accuracy of trade and other receivables balance of KES 102,112,000 as at 30th June 2015.

Management Response

The Managing Director informed the Committee that, the vehicle was jointly registered between the staff and the Company as required by the Company policy. This was caused by delay in relaying the logbook of the vehicle for verification purposes though the transfer had been effected in the joint name of the company and the staff member. The importing

agency had initially misplaced the documents. However, the registration documents were eventually traced.

Committee Observation

The Committee observed that, matter was resolved after the registration documents were availed to the Company.

Committee Recommendation

The Committee recommends that the management ensures that the Company retains loan security instruments used as collateral, until the loanees fully settle their loans.

2.15 KENYA MARITIME AUTHORITY (FY 2012/2013 - 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE KENYA MARITIME AUTHORITY FOR THE FINANCIAL YEARS 2012/2013 TO 2014/2015

Mr. Cosmas Cherop, Acting Director General of the Kenya Maritime Authority accompanied by Mr. Alphonce Kioko, Finance Manager and Capt. Mbarak Zaunga appeared before the Committee on 19August 2016 to adduce evidence on the Report of the Auditor General on the financial statements of the Authority for the 2012/2013 to 2014/2015 financial years.

1. UNQUALIFIED AUDIT OPINION: FY 2012/2013 ACCOUNTS

The Committee heard that, the Authority received an unqualified report for the Financial Year 2012/2013 audited accounts; this is after the audit queries of the previous financial years were resolved.

The Committee commended the management for sound financial management and prudent use of resources in FY 2012/2013.

2. ACCOUNTING FOR REVENUE ON RENDERING SERVICES: FY 2013/2014 ACCOUNTS

The Committee heard that, the revenue from exchange transactions on rendering service of KES 14,679,601as reflected in the statement of financial performance includes an amount of KES 4,441,609 in respect of shipping agents' fees. However, the shipping agent's fees has been recognized on cash basis of accounting and not when the service has been rendered in line with the accrual accounting policies of the entity. Under the circumstances, the completeness and accuracy of the balance of revenue from rendering services amounting to KES 14,679,601 for the year ended 30 June 2014 could not be confirmed.

Management Response

The Director General informed the Committee that, Kenya Maritime Authority is mandated to issue licence to Shipping Agents in order to operate within Kenya. There is no mandatory

requirement that the agent must renew the licence every year. Therefore, the agents are only required to apply when they wish to conduct business in any particular year. It was on this basis that the Authority could not accrue the revenue on those agents that had not applied by the end of the financial year. But after the audit report the Authority has since been accruing on the basis of the list of the previous financial year.

Committee Observation

The Committee observed that, the issue was resolved and presently, the Authority is operating on laws consistent with international maritime laws.

Committee Recommendations

The Committee recommends that the Director General ensures that shipping agents should renew their operating licences and pay the shipping agent's fees in accordance with the maritime laws.

3. UNQUALIFIED AUDIT OPINION: FY 2014/2015 ACCOUNTS

The Committee heard that, the Authority received an unqualified report for the Financial Year 2014/2015 audited accounts.

The Committee commended the management for sound financial management and prudent use of resources in FY 2014/2015.

2.16 KENYA NATIONAL BUREAU OF STATISTICS (FY 2007/2008 - 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE KENYA NATIONAL BUREAU OF STATISTICS FOR THE FINANCIAL YEARS 2007/2008 TO 2014/2015

Mr. Zachary Mwangi the Director General KNBS accompanied by Mr. Fred Ayiera Finance Manager; Mr. Josiah Omosa, Legal Manager; Mr. Cleophas Kiio, ICT Manager; Mr. Elias Njoroge, Senior Finance Manager and Mr. Macdonald Obuoko, Director of Population appeared before the Committee on 21 February 2017, to adduce evidence on the Report of the Auditor General on the audited accounts of the Bureau for the financial year 2007/2008 to 2014/2015.

1. INACCURACIES IN FINANCIAL STATEMENTS: FY 2007/2008 ACCOUNTS

The Committee heard that, the financial statements as at 30 June 2008 reflect balances which deferred with the ledger. The Management had not explained or reconciled the variances. Under the circumstances, it was not possible to confirm the correctness and accuracy of the balances as at 30 June 2008.

Management Response

The Director General informed the Committee that, is true that the financial statements as presented had inaccuracies. The corrected financial statements are based on an updated

ledger and corrected trial balance as at 30 June 2008. All the items were reconciled and an updated trial balance was prepared.

The Financial Statements were reconstructed and resubmitted to the Auditor General. The matter was resolved.

Committee Observation

The Committee observed that, the Bureau did not undertake reconciliation of the financial statement and ledger balances and avail the records to the Auditor General for verification.

Committee Recommendation

The Committee recommends that the Finance Manager ensures that reconciliation of the Bureau's financial statements is regularly undertaken and availed to the Auditor-General during the time of audit for review as required by the Public Audit Act.

2. **BANK AND CASH: FY 2007/2008 ACCOUNTS**

The Committee heard that, included in bank and cash equivalents balance of KES 148,466,762 as at 30 June 2008 are the following figures which differ from the reconciled balances as shown below.

Item	Financial Statements (KES)	Reconciliation (KES)	Variance (KES)
World Bank/IDA Account	67,143.077.25	69,998,819.40	2,855,742.15
DFID Account	17,491,820.15	4,803,370.40	12,688,449.75

The Management has not explained or reconciled the above variances. Under the circumstances, it was not possible to confirm the correctness of the bank and cash balance of KES 148,466,762.45

Management Response

The Director General informed the Committee that, is that there were differences between the reconciled bank and cash balance as and the Financial Statements, as previously presented.

The reconciled Cashbook balances have now been incorporated in the revised financial statements.

The new balances for the two accounts are as follows:

IDA Account *KES 69,998,819.40*

DFID Account *KES 7,170,700.40*

The reconciled figures have no variance with the revised Financial Statements.

The matter has been resolved.

Committee Observations

The Committee observed that, the Bureau did not reconcile bank and cash equivalent balances during the 2007/2008 financial year. The matter has since been resolved.

Committee Recommendation

The Committee recommends that the Finance Manager ensure that reconciliation of the Bureau's financial statements is regularly undertaken.

3. DEFERRED INCOME: FY 2007/2008 ACCOUNTS

The Committee heard that, as disclosed in the financial statements the balance sheet reflects deferred income balance of KES 139,210,216.05 which relates to unutilized balance of grants received. This balance in turn includes an amount of KES 85,062,549.15 whose nature or composition has not been produced for audit verification. In the circumstances, it was not possible to confirm the propriety of the deferred income balance of KES 139,210,216.05 as at 30 June 2008.

Management Response

The Director General informed the Committee that, the figures for unutilized grants as previously presented were not reconciled with the schedules provided.

The correct figures for the unutilized grant is KES 54,814,082.85 whose composition is outlined in Note 9 to the Accounts, and is as follows.

	2007/2008 (KES)
UNICEF	19,470,488
UNFPA	2,861,864
International Comparison Prog (ICP)	7,460,800
STATCAP	25,020,930
TOTAL	**54,814,082**

The matter was resolved.

Committee Observation

The Committee observed that, the Bureau did not undertake reconciliation of deferred income during the 2007/2008 financial year.

Committee Recommendation

The Committee recommends that the Senior Finance Manager ensures that reconciliation of the Bureau's financial statements is regularly undertaken.

4. NON-CURRENT ASSETS: FY 2007/2008 ACCOUNTS

The Committee heard that, as disclosed in note of financial statements, non-current assets balance of KES 84,584,989.40 excludes undetermined value of non-current assets inherited from the parent ministry which have not been valued for inclusion in the financial statements. Under the circumstances, it was not possible to confirm that the non-current assets balance of KES 84, 584,989.40 as at 30 June 2008 is fairly stated.

Management Response

The Director General informed the Committee that, non-current assets included in the Financial Statements were acquired during the year under review as per Note 5 to the Accounts and are stated at cost.

These items are:

Non-current assets	**2007/2008 KES**
Plant & equipment	2,839,423
Furniture & fittings	5,223,555
Computers	25,518,023
Motor vehicles	35,484,000
Total	**69,065,001**

However, the letter of transfer of other assets from the parent ministry by Permanent Secretary was received on September 2008. This was well after the end of the financial year, 2007/2008. The assets were valued in 2009/2010 and their details incorporated in the financial statements.

The matter has been resolved.

Committee Observation

The Committee observed that, the assets which were held by the former Central Bureau of Statistics were officially transferred from the parent Ministry to the Bureau and subsequently incorporated in the financial statements of the Bureau. The matter has since been resolved.

5. NON-COMPLIANCE WITH IFRS: FY 2007/2008 ACCOUNTS

The Committee heard that, as disclosed in the cash flow statement, the Bureau reported that all its cash flow from operating activities. This is contrary to the IAS No. 8, which requires that cash flow for purchase of non-current assets and cash flows from deferred grants be reported under investing and financing activities respectively. Further the

financial statements are not printed on the Bureau's official letter headed paper, and also lack essential information such as the Bureau's general information e.g. registered office, bankers, auditors, Board members, senior management etc. further, the accounts have not been rounded off to the nearest shilling and have not also been serially paged. In the circumstances the cash flow statement does not comply with IAS No. 8 and the financial statements as a whole do not comply with IAS No. 1 on the presentation of financial statements.

Management Response

The Director General informed the Committee that, is that the Financial Statements as prepared did not comply with IFRS.

The corrected Financial Statements for the year ended 30 June 2008 have been prepared in accordance with the IFRS and comply with IAS.

The cash flows to the Bureau have been treated in line with IAS 8. The outflows for acquisition of non-current assets have been classified as investing activities and unrealized grants have been classified as financing activities.

The paging of the final document has been done and the figures have been rounded to the nearest whole shilling.

Other essential information relating to the Bureau's general information has been included in the final set.

The matter was resolved.

Committee Observation

The Committee observed that, the Bureau did not prepare its cash flow statements per the requirements of the International Financial Reporting Standards. The matter has since been resolved.

Committee Recommendation

The Committee recommends that the Senior Finance Manager ensures that the financial statements of the Bureau are prepared in full compliance to IFRS and IAS.

6. CONTRACT OVERPAYMENT: FY 2008/2009 ACCOUNTS

The Committee heard that, during the year under review, the Bureau awarded a tender for provision of network appliances to a local firm at contract sum of KES12,080,360.00. Records available however show that the firm was paid an amount of KES14,682,982, resulting in an over-payment of KES2,602,622. Although management has indicated that they will pursue recovery of the overpayment, it has not however been possible to establish how or when such action will effected. Under the circumstances, therefore, the recoverability of the over-payment of KES2,602,622 could not be confirmed.

Management Response

The Bureau agrees that there was an overpayment as follows: Contract sum $194,117.20 plus VAT $1,706.4 = $195,823.64

Total amount due to supplier: $194,117.20@61.69 = KES 11,975,090.00

1 payment amount	*= KES 10,121,487.00*
Balance Due	*= KES 1,853,603.00*
2 payment amount	*= KES 2,942,056.90*
Overpayment to supplier	***= KES 1,088,599.60***

VAT due to KRA $1,706.44@61.69	*= KES 105,270.30*
Actual VAT paid against 1 payment	*= KES 1,619,437.00*
Overpayment to KRA	***= KES 1,514,166.70***

Total overpayment (Sh.1,088,599.60 + 1,514,166.70) = KES 2,602,766.30

During the 1 payment VAT was erroneously charged on all the items supplied, instead of selected VAT applicable ones only, leading to the overpayment to KRA. Further a higher exchange rate was erroneously used in computing the final payment, instead of the rate at the contract signing time.

The Bureau confirmed that refund of Sh.1,088,599.60 from the supplier, M/S Gestalt Gild was demanded and was duly paid and acknowledged vide MR No. 6257959 of May 2010.

A demand letter was done to KRA seeking a refund of KES1,514,166.70 under the VAT Act, vide our letter Ref KNBS AC / 015 of 11.01.2010.

A reminder has been forwarded to KRA demanding the said amount.

Committee Observation

The Committee observed that: -

(i) **The Bureau erroneously over-paid KES 2,602,622 to a local firm Gestalt Gild Ltd for provision of network appliances tender involving supply, delivery and installation of data back-up system. The overpayment was due to erroneously applying an exchange rate of 67.297 to the dollar instead of 61.69 to the dollar which was the Central Bank rate at the date of tender closing. The firm has since refunded the overpayment.**

(ii) **Further VAT was erroneously charged on all the items supplied, instead of selected VAT applicable ones only, leading to the overpayment of KES1,514,166.70 to KRA.**

Committee Recommendation

The Committee recommends that the Director-General pursues the pending refund from KRA, being VAT computed in error and reports progress to the National Assembly within six (6) months of the adoption of this Report.

7. PROPERTY, PLANT AND EQUIPMENT: FY 2009/2010 - 2014/2015 ACCOUNTS

The Committee heard that, property, plant and equipment balance of KES 100,268,172 as at 30 June 2015 (KES 246,903,870 as at 30 June 2010) includes a parcel of land measuring 0.16ha with a building on it valued at KES 8,494,071 (KES8,400,000 as at 30 June 2010), situated in Embu town. However, the Bureau does not appear to hold any ownership documents for the property. In the circumstances, it has not been possible to confirm the accuracy of the property, plant and Equipment balance of KES246,903,870.

Management Response

The Director General informed that, Committee that the Bureau was allocated plot No. 42 in Embu town alongside other Government Departments in the Province. The same was valued and included in the Bureau's asset register during the valuation exercise done by M/S Metrocosmo in 2010.

The processing of the title documents was commenced at the County Lands Office, with the budget for the processing of the Part Development Plan being settled together with any other requisite charges totalling to KES 89,070.

The Bureau was subsequently to follow up with the Ministry of Lands to ensure that the title deed was obtained. The processing of the title at the County Lands Office has however taken long reportedly because it had to be done alongside those of other Ministries and Departments which benefitted from the same allocation. Further delays were occasioned by a directive from the Transition Authority halting all land deals and transactions that involving government agencies, until further notice.

The Bureau has confirmed that the land area is a quarter-acre plot, and that the title is to be processed in the name of The National Treasury, as a custodian.

Committee Observations

The Committee observed that, general boundaries survey of the plot was done, and is awaiting placement of beacons. All the documents have been filed at the Lands Office awaiting the requisite approvals.

Committee Recommendation

The Committee recommends that the Director General expedites the acquisition of ownership documents for its land and other properties.

8. RECEIVABLES: FY 2009/2010 - 2014/2015 ACCOUNTS

The Committee heard that, receivables balance of KES 86,297,807 as at 30 June 2015 includes imprest totalling KES 4,438,906 as at 30 June 2015 relating to the population census exercise, which has remained outstanding for a considerably long period of time. No reason has been provided for failure to recover the imprests.

Management Response

The Director General informed the Committee that, the imprests represents amount sent to the 158 census Districts to facilitate various activities related to the 2009 Housing and Population census. The delay in surrendering was either due to delays in receipt of the documents from the Districts or submission of incomplete documents, hence rendering their acceptance difficult. These imprests were also the subject of both internal and external audits and the queries had to be cleared before the surrenders could be accepted.

Action was taken on the follow-up on these imprests, and the balances movement was as follows:

Financial Year: 2009/2010 – KES 2,267,439,456

Financial Year: 2010/2011 – KES 62,598,757

Financial Year: 2011/2012 - KES 6,354,284

Financial Year: 2012/2013 – KES 5,552,959

Financial Year: 2013/2014 – KES 5,282,212

Financial Year: 2014/2015 – KES 4,438,906

The Bureau has been following up on the imprest recoveries with the Ministry of Interior and Coordination of National Government, (MICND), ever since the 2009 Population and Housing Census was completed.

Current status:

The Bureau has been following up, and has written several times to the State Department of Interior, requesting for an amount of KES 743,604.80 recovered between April and Decembers 2014 from the defaulters, but which is yet to be remitted to the Bureau. A further KES 263, 808.70 which had been recovered, is yet to be remitted to the Bureau, having been recalled from the Districts after being wrongly remitted to the District accounts.

Committee Observations

The Committee observed that: -

(i) The Bureau had not recovered imprest totalling KES 4,438,906 as at 30 June 2015 relating to the 2009 population census exercise, which has remained outstanding for a considerably long period of time.

(ii) **The State Department of Interior is yet to remit KES 1,007,413.50 to KNBS recovered from defaulters and wrong remittance to district accounts.**

(iii) **The Bureau was in breach of financial regulations on the issuance, surrender and recovery of imprest and allowances.**

Committee Recommendations

The Committee recommends that: -

(i) **The then Director General and the concerned District Census Coordinators in charge of the 1999 Census at the respective Districts be held responsible for the delay in collection of the imprest contrary to financial regulations governing surrender of imprest.**

(ii) **The Director ensures the recovery of all the debts including staff imprest within three (3) months of adoption of this Report and report status to the National Assembly.**

(i) **The Bureau adheres to section 92 of the Public Finance Management Act Regulations of 2015 which allows surcharging of officers for any imprest held beyond the stipulated seven (7) days after return to the work station.**

9. STAFF AND ALLOWANCES: FY 2009/2010 ACCOUNTS

The Committee heard that, population census expenditure balance of KES4,738,159,666 as shown under note 5 to the financial statements includes an amount KES3,452,417,955 paid out as allowances to various staff of the Bureau in 158 Districts. However, the propriety of the payments could not be ascertained due to lack of the relevant supporting records and documentation.

The Bureau did not prepare a detailed list of persons recruited as enumerators, supervisors and elders in the 158 districts covered by the census exercise.

Management Response

The Director General informed the Committee that, recruitment of all census enumeration personnel was done in each of the 158 districts by the District Census Committees (DCC) with the District Census Coordinators deployed from the Headquarters overseeing the exercise.

Reports on the recruitment were submitted and filed with the Bureau. To facilitate payment, each district would send their payment requests in both soft and endorsed hard copies.

These would be verified by the DCC against the recruitment schedules, training schedules and the endorsed questionnaire forms before payments. Further all payment requests would be verified for accuracy of bank details, completeness and consistency before settlement. A few cases that failed the tests had to be corrected.

The detailed lists of the officials recruited are all available, as these were collected at the recruitment stage. Subsequently, the lists were countersigned by the District Commissioners, who were the chairpersons of the DCC, and the District Statistical Officers, before being forwarded to the Bureau

Committee Observation

The Committee observed that, the Bureau did not avail detailed payment schedule of persons recruited as enumerators, supervisors and elders in the 158 districts covered by the census exercise to the Auditor-General for verification at the time of audit.

Committee Recommendation

The Committee recommends that the Director General avails all the necessary all accounting of all transactions as required to the Auditor-General for verification at the time of audit in accordance with the Public Audit Act.

10. TRAINING AND OTHER EXPENSES: FY 2009/2010 ACCOUNTS

The Committee heard that, census expenditure of KES4,738,159,666 includes training expenses totalling KES166,723,224 relating to hiring of various training venues and accommodation facilities. However, the venues and facilities for the training appear to have been identified on a single sourcing basis. Consequently, the Bureau was denied the benefits of competitive bidding.

Management Response

The Director General informed the Committee that, training venues and other expenses were incurred at both the Headquarters and District Census Committee (DCC) level. The DCC had been mandated to source for such venues in line with existing Public Procurement Regulations which allow for direct procurement of public institutions including schools and other facilities.

In some instances, it was not possible for competitive bidding due to lack of hotels with sufficient capacity and availability during the training period.

Committee Observation

The Committee observed that, the Bureau breached the Public Procurement and Disposal Act, 2005 and Public Procurement Regulations in sourcing for training venues and facilities in some districts for training officers to conduct the 2009 Population and Housing Census.

Committee Recommendations

The Committee recommends that: -

(i) **The Director General ensures that the Bureau complies with the provisions of the Public Procurement and Asset Disposal Act 2015 in procurement of goods of services.**

(ii) **That going forward, the Bureau puts in place an adequate planning mechanism to address the procurement of training venues during a similar exercise in areas with inadequate facilities.**

11. MAPPING: FY 2009/2010 ACCOUNTS

The Committee heard that, an expenditure of KES9,744,000 during the year under review was incurred on printing and supply of 200,000 copies of Enumeration Area Maps. However, and as in the previous instance, competitive procurement procedures do not appear to have been followed in the identification of the supplier. Consequently, it has not been possible to ascertain that full value for money was obtained in the process.

Management Response

The Director General informed the Committee that, it was initially envisaged that the available machines in the Bureau would cope with printing of all E.A Maps. However, due to machine breakdown and fatigue occasioned by massive printing, the Bureau had to outsource part of the E.A Maps printing works. It was projected that printing of only 100,000 maps would be outsourced. This necessitated invitation of quotation No. KNBS/018/2009-10 which M/s Blue Chip Technologies Ltd won.

Later on, it emerged that additional 100,000 maps had to be urgently printed. At this point there was no time to advertise tenders for printing of maps to be used during the enumeration phase. The Bureau, therefore, expanded the scope of quotation No. KNBS/018/2009-10 to cover printing of additional 100,000 maps.

KNBS confirmed that all the 200,000 maps were dully delivered and received in the Bureau and used during the 2009 Census.

Committee Observations

The Committee observed that: -

(i) **The Bureau tendered for a contract of 100,000 Enumeration Area Maps but the scope of the contract was later expanded to include additional 100,000 Enumeration Area Maps with an increase in contract cost.**

(ii) **The Bureau breached the Provisions of sections 79 and 85 of the Public Procurement and Disposal Act, 2005 and Public Procurement Regulations in**

procurement of printing services for printing additional 100,000 Enumeration Area maps from M/s Blue Chip Technologies Ltd.

Committee Recommendations

The Committee recommends that: -

(i) The then Director General Mr. Anthony Kilele and members of the Tendering Committee be held liable for contravening the provisions of the Public Procurement and Disposal Act, 2005 in procurement of printing services for printing additional 100,000 Enumeration Area maps from M/s Blue Chip Technologies Ltd.

(ii) The Committee recommends that the Bureau adheres to the provisions of PPAD Act, 2015 in procurement of goods and services and further puts in place proper planning mechanism put in place to address the worst case scenario, and undertake risk assessments, during a similar exercise in future.

(iii) The Director General ensures that the Bureau should develop a risk matrix for the 2019 and future Kenya Population and Housing Census to establish the risk profiles and their mitigation.

12. WAREHOUSING – LEASE OF GO-DOWN: FY 2009/2010 ACCOUNTS

The Committee heard that, on 25 September 2009, the Bureau's Tender Committee approved a lease of go-down and warehouse services form a local company, to store census materials at a cost of KES5,520,000 per year. Further records show that the company was later paid a sum of KES6,878,800 for the services. However, and shortly thereafter, a dispute appears to have arisen with a third party over ownership of the leased property, with the latter arguing that the property did not belong to the company that had leased it to the Bureau. Although, according to additional information available the matter is before a Court, it is nevertheless apparent that the Bureau did not conduct a due diligence test on the company before it leased the go-down and the warehousing services.

Management Response

The Director General informed the Committee that, procurement of go-down and warehousing services was done through direct procurement method since the service was urgently being required to facilitate storage of census materials which were being returned from the field after the enumeration phase of the census exercise. Initially it was envisaged that the materials would be stored at the census data centre at Nyayo House. However, it was realized much later that the volume of the materials could not fit the available space at Nyayo House. This necessitated the urgency of acquiring the go down and other warehousing services.

The payment was based on the fact that:

(i) The services were still required and were being rendered pending guidance from the Attorney General and determination of the pending court case.

(ii) The Tender Committee approved extension of the contract for provision of the services at the initial rate during a meeting held on 8 September 2010 as the new tender was being processed.

(iii) There was a need to minimize disruptions to the data processing and post enumeration survey activities in order to meet the deadlines for releasing the results.

Service Provider

The firm that the Bureau awarded the contract was M/s B. M. and Logistics (E. A) Co. Ltd. This is the firm that submitted a proposal for the services and not M/S B. M. Logistics Ltd who filed the civil suit at Milimani Commercial courts. The Bureau's Local Service Order No 0173468 was issued to M/S B. M. and Logistics (E.A) Ltd. This is the firm which KNBS has paid for the services. M/S B. M. Logistics Ltd had earlier provided transport services to the Bureau during enumeration phase of census exercise. However, the two firms were represented by the same person (Mr. Samuel Baker Ogot).

The Bureau sourced for another service provider, M/S Mitchell Cotts and relocated the materials with effect from 1 April 2011.

Current Status:

There arose two cases from the issue:

a) *Nairobi Chief Magistrates Court Anti-Corruption Case No. 11 of 2012, R Vs. Anthony Kilele & Fred Ayiera whereby judgment on the criminal case has been delivered and accused persons acquitted.*

b) *Milimani HCCC No 79 of 2010 B. M. Logistics Limited Vs Kenya National Bureau of Statistics. This case concerns leasing and occupation of the warehouse where census questionnaires were initially stored. The plaintiff claims that the Bureau occupied the go down irregularly.*

Arising from the judgment delivered in the anti-corruption case, it can be safely concluded that the Bureau has a good defence to this claim. The matter is set for hearing on July 2017.

The Bureau has strengthened its Procurement Division and built capacity within it. New positions for Senior Manager, Assistant Manager and Senior Procurement Officer were created.

Committee Observations

The Committee observed that: -

(i) Procurement of goods and services to conduct the 2009 Population and Housing Census was poorly planned and undertaken with disregard of PPDA, 2005 as a result of poor planning and failure by the Bureau to adhere to set procurement procedures.

(ii) KNBS engaged several companies to transport census materials from different regions in the country, only to realise that they did not have storage space for the materials and paid monies to non-existent firms.

(iii) The Bureau failed to conduct a due diligence exercise on the M/s B. M. and Logistics (E. A) Co. Ltd Company and establish ownership of the disputed godown before leasing the warehousing services for storage of census materials which were being returned from the field.

Committee Recommendations

The Committee recommends that: - -

(i) The former Director General, Procurement Officer and the Tender Committee be held liable for breach of the Public Procurement and Disposal Act 2005 in sourcing for goods and services to conduct the 2009 census;

(ii) The Ethics and Anti-Corruption Commission should investigate the conduct of Mr. Anthony Kilele, the former Director General; Mr Fred Oyiera, Procurement Officer and members of the Tender Committee for contravening tendering rules and payment for services not rendered. The Commission should also investigate businessman Mr. Samuel Ogot Baker who purported to register a warehousing company and presented KNBS with fake documents;

(iii) The Director General should ensure that the Bureau undertakes due diligence to determine the ownership and capacity to provide services to avoid non-performance and litigation lawsuits. Further, the Bureau should ensure that the contracts are terminated within the provisions of the signed contract to prevent the contractor from suing the Bureau; and

(iv) The Director General ensures that the Bureau initiates procurement of goods and services in time, adherence to procurement laws, establishes the risk profiles and their mitigation and develop a risk matrix for the 2019 and future Kenya Population and Housing Census.

13. ASSETS: FY 2009/2010 ACCOUNTS

The Committee heard that, various assets valued at KES 37,115,295 acquired by the Bureau during the census exercise appear to have been expensed instead of being capitalized, in

accordance with generally accepted accounting practice. Consequently, the census expenditure may have been overstated by an equivalent amount.

Management Response

The Director General informed the Committee that, the census assets were procured by the STATCAP Project on behalf of the Bureau for census activities and comprised of servers, software, air conditioners, and scanners.

They were expensed in line with the cash basis of accounting under the project. They were later valued among other assets and included in the Bureau's other assets.

Committee Observation

The Committee observed that, the Bureau recorded assets valued at KES 37,115,295 acquired by the Bureau during the 2009 census as expenses instead of being capitalized.

Committee Recommendation

The Committee recommends that the Bureau should adhere to the generally accepted accounting practice in preparing its financial statements to avoid similar mis-representations.

14. PAY AS YOU EARN (P.A.Y.E.): FY 2010/2011 ACCOUNTS

The Committee heard that, during the year under review the Bureau paid on behalf on the STATCAP Project KES 30,253,872 to the Kenya Revenue Authority being tax arrears payable for members of project's staff up to 30 May 2010 from counterpart funds. Salaries for seven members of staff were also enhanced from KES 1,119,000 per month to KES 1,538,036 to cater for the P.A.Y.E. as from 30 May 2010.

The payment of the tax arrears from Government counterpart funds and increase of the salaries were not approved by either the Management Board or the World Bank and were not also factored in the year's budgetary allocation.

In the circumstances, it has not been possible to confirm whether the expenditure on tax arrears was a proper charge to public funds and why necessary approvals were not sought before adjustment of salary.

Management Response

The Director General informed the Committee that, the Bureau paid KES 30,253,872 to Kenya Revenue Authority from Government counterpart funds.

The salaries were restated to reflect the local taxable pay without reducing the agreed payments between World Bank and the Project Management Unit staff. At the time the payment was being made the Board was not fully constituted.

STATCAP refunded the funds to the Bureau, under their supplementary budget in October 2010.

The Board ratified the issue and the matter was cleared by the Kenya National Audit Office vide a letter dated 28 June 2012.

Committee Observations

The Committee observed that: -

(i) In 2010/2011 financial year the Bureau paid on behalf on the STATCAP Project KES 30,253,872 to the Kenya Revenue Authority being tax arrears payable for members of project's staff from counterpart funds.

(ii) Salaries for seven members of staff were enhanced from KES 1,119,000 per month to KES 1,538,036 to cater for the P.A.Y.E. as from 30 May 2010.

(iii) The payment of the tax arrears from Government counterpart funds and increase of the salaries were not approved by either the Management Board or the World Bank and were not also factored in the year's budgetary allocation.

(iv) The matter has since been resolved.

Committee Recommendation

The Committee recommends that the Bureau obtains the Board's or Donor's approval before enhancing the salaries of its staff or staff working under donor funded projects.

15. PAYABLES: FY 2010/2011 ACCOUNTS

The Committee heard that, payables balance of KES114,779,814 as at 30 June 2011 under sundry creditors includes staff medical insurance services of KES7,055,699, an amount which is disputed by the Bureau as the insurance provider billed the Bureau for extra staff who were not in the initial contract. Although the management asserts that the figure is being reconciled, it is not clear how long the exercise will take.

Management Response

The Director General informed the Committee that, APA Insurance Co. Ltd, who were the underwriters of the Bureau's staff medical scheme, submitted an additional demand note of Sh.7,055,699.00 on account of staff medical insurance services rendered to the Bureau. The sum was as a result of members of staff and their dependants who joined the scheme after the initial contract had been signed.

However, the Bureau disputed the amount and a reconciliation was instituted so that the Bureau could be billed correctly.

The insurance company was yet to come clear of the matter as at the end of the financial year, and hence it was found prudent to provide for the expenses, within the period, in case it materialized.

Reconciliation and confirmation of the amount due and payable was done and KES1,700,692 was paid to APA Insurance Co. Ltd on 16 August 2012.

Committee Observation

The Committee observed that, the Bureau did not undertake reconciliation of payables relating to staff medical insurance services of KES 7,055,699 billed by APA Insurance Co. Ltd, who were the underwriters of the Bureau's staff medical scheme.

Committee Recommendation

The Committee recommends that the Senior Finance Manager should regularly undertake analysis and reconciliation of its accounts.

16. FIXED ASSETS REGISTER: FY 2013/2014 ACCOUNTS

The Committee heard that, KNBS assets were valued by Metrocosmo Limited in November 2010 though a fixed assets register has not been developed to date. The Bureau prepared a list of fixed assets which is updated with assets bought in the subsequent years. In the absence of a fixed assets register, it was not possible to confirm the ownership existence, security and eventual use of the assets. No explanation has been provided for failure to develop the fixed assets register.

Management Response

The Director General informed the Committee that, KNBS assets were valued by M/S Metrocosmo Limited in November 2010 though a fixed assets register has not been developed to date. The Bureau prepared a list of fixed assets which is updated with assets bought in the subsequent years.

An asset register module was provided by the valuers, M/S Metrocosmo, based on Sage Evolution accounting software. The Bureau's accounting software then was based on Sage Partner, a lower version which could not take on the Fixed Asset Module of the Sage Evolution.

The Bureau has since upgraded the financial management system to Sage Evolution, since the beginning of financial year 2015/2016 and the Fixed Assets Module is incorporated.

The fixed asset register is now in place following an uploading of all Bureau's assets in all the offices in the counties and the headquarters.

Committee Observation

The Committee observed that, the Bureau developed an assets register in 2015/2016 financial year.

17. CASH AND BANK BALANCE: FY 2013/2014 ACCOUNTS

The Committee heard that, the statement for financial position reflects cash and cash equivalents balance amounting to KES1,480,571,288 as at 30 June 2014. However, the balance does not include cash and bank balances held in 46 accounts in Kenya Commercial Bank (KCB) in each of the 47 counties except Nairobi.

Further, the bank reconciliation statements for the month of June 2014, board of survey report and cash book extracts as at 30 June 2014 for the 46 counties bank accounts were not provided for audit review.

In the circumstances, it has not been possible to confirm the accuracy of the cash and cash equivalents balance of KES1,480,571,288 as at 30 June 2014.

Management Response

The Director General informed the Committee that, since the time the Bureau was incepted, it operated an imprest system for the operations of the County Offices. This meant that at the beginning of each quarter, the Director- Population and Social Statistics, provided a budget for all County offices, and an imprest was issued for purposes of meeting certain predetermined expenses.

At the end of each quarter, all the County Statistical Officers (CSOs) were required to account for the imprest, by providing all payment schedules/vouchers, and surrenders of any cash not utilized.

Current County Operations:

With effect from July 2014, this system was changed to an AIE system, and all the County Statistical Officers were appointed as AIE holders in line with the Public Finance Management (PFM) Act, 2012 and the PFM Regulations, 2015. Each County office is allocated an amount at the beginning of the financial year, based on the work plans and operating it on a reimbursement basis.

Towards the end of each financial year, all the CSOs are required to surrender all payment vouchers and any unspent cash, so as to clear the float. A fresh float is issued at the beginning of the ensuing Financial Year.

The CSOs maintain the following books and or records, which also form the basis for reimbursements:

(i) *A cash book that is updated and balanced daily with all receipts and payments*
(ii) *Payment vouchers that are duly supported and numbered chronologically, which are consolidated with the rest of the Bureau accounts once cleared for reimbursement.*

Before the closure of the Financial Year, the CSO:

(i) *Balances out all vouchers with the cash available, and fully accounts for the amount of the float*

(ii) *Deposits any unutilized cash back to the KNBS County Account*

(iii) *Forwards the final set of cash book to head office*

(iv) *Avails the end year bank reconciliation.*

At the headquarters, all County accounts' certificates of balances are requested from the KCB Main account in Nairobi, and the figures incorporated in the Final Accounts as cash-in-bank.

Copies of the cash books, bank statements, bank reconciliations and certificates of balances for two sampled Counties – Siaya and Machakos for the period to 30 June 2016 were attached as evidence. The matter has been resolved.

Committee Observation

The Committee observed that, the Bureau did not undertake reconciliation of cash and cash equivalents for the 46 counties bank accounts as at 30 June 2014. The matter has however since been resolved.

Committee Recommendation

The Committee recommends that the Senior Finance Manager ensures that reconciliation of cash and cash equivalents and reconciliation of its accounts is regularly undertaken and all audit records submitted to the Auditor-General in time for verification in accordance to the Public Audit Act.

2.17 KENYA NATIONAL EXAMINATION COUNCIL (FY 2012/2013 - 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE KENYA NATIONAL EXAMINATION COUNCIL (KNEC) FOR THE FINANCIAL YEARS 2012/2013.

Mrs. Mercy Kerogo, Acting CEO KNEC accompanied by Mr. Sylvester Butafi, Chief Accountant and Mr. Abraham Oloo, Financial Controller appeared before the Committee on 19 July 2016 to adduce evidence on the audited accounts of the Council for the financial years 2012/2013 to 2014/2015.

1. FINANCIAL PERFORMANCE: FY 2012/2013 ACCOUNTS

The Council's financial performance continued to deteriorate during the year under review and it incurred a deficit of KES 489,668,315 compared to a deficit of KES 386,266,129 in the previous year. The management has attributed the deficit to limited funding by the government while operating costs escalated from KES 3,798,097,649 in the previous year to KES 4,225,642,044 in the year under review due to increased number of exam candidates. However, the management has indicated that the Council has put in place strategies for the year 2013/14 to improve its financial performance.

Management Response

The Acting CEO informed the Committee that, the deficits arose as a result of pricing of the national examinations below cost amidst an increase in candidature.

Current Status

The Council revised upwards the KCPE and KCSE examinations fees by KES 300 and KES 500 respectively effective January 2013 in an effort to charge the national examinations at cost.

The Council realized a surplus of KES 118,901,124 and KES 58,685,914 in financial years 2013/2014 and 2014/2015 respectively and expects a fair surplus in 2015/2016. This issue has not recurred in subsequent audits.

Committee Observations

The Committee observed that, the audit query arose during the financial year 2012/13 and that the government has since undertaken to pay examination fees for all KCPE and KCSE candidates. As a result, the Council realised a surplus in financial years 2013/2014 and 2014/2015.

2. **NEW MITIHANI HOUSE: FY 2012/2013 TO 2014/2015 ACCOUNTS**

The Committee heard that, as reported in the previous year, the Council staff continued being housed at five different sites because the new building (Mitihani House) was not complete as anticipated. The project is only 54% complete despite the fact that the work has been on-going for the last 27 years and as per the latest Engineer's valuation, it requires approximately KES 2.6 Billion to complete the project.

According to Management, the cause of the delay and escalation of costs of the project is attributable to challenges relating to project management by the then Ministry of Public Works (currently Ministry of Lands, Housing and Urban Development) and non-remittance of Development grants by the parent Ministry. Further, although KES 900 million was allocated to the project in 2012/2013 financial year, only KES 358,190,191 was remitted to the Council.

In addition, estimates for the financial year 2013/14 indicate that the project was allocated KES 108 million under the Ministry of Lands, Housing and Urban Development and KES 162 million under the Ministry of Education, Science and Technology both totalling to KES 270 million. This amount is however not adequate to complete the project as estimated by the Engineer's valuation of KES 2.6 billion to completion.

Management Response

The construction has faced numerous challenges resulting from:

Project management: The New Mitihani House construction project management is under the Ministry of Land, Housing & Urban development) and not the Council.

Under funding: The Council has been receiving amounts far below the budgetary allocation for the project as shown below:

Financial Year	Budget	Amount received
	KES (Million)	KES (Million)
2012/2013	900	358
2013/2014	762	144
2014/2015	720	480
2015/2016	420	Budget revised to KES 320

Current Status

The project was downscaled to address only the critical areas necessary for partial occupation.

The Council Staff previously housed at the Ex-Telecoms and National Bank buildings relocated to a section of New Mitihani House (Tower C) in August 2015. However, the Council Headquarters at NHC Building has not yet moved due to constraints in funding from National Treasury.

The current Project Manager's (Ministry of Land, Housing & Urban Development) valuation is that the project requires KES1.048 billion to complete the building to the downscaled levels.

Committee Observations

The Committee observed that: -

(i) **Construction of the Council's Mitihani House has progressed very slowly since its conception in June 1999. There have been four contractors working on the New Mitihani House at different times during the 27 years that construction has been on-going at the site in South C, Nairobi;**

(ii) **The Council has revived the completion of the Project although the parent Ministry and National Treasury ought to allocate additional funds to complete the project. The Project was allocated a paltry KES 60 million in FY 2016/17 and another KES 60 in FY 2017/2018 despite a budgetary requirement of KES 1.048 B to complete it;**

(iii) **The Council currently pays approximately KES 40 million in rent as the project awaits completion. On completion of the Project, the Council will make an annual saving of KES 40 million in rent.**

Committee Recommendations

The Committee recommends that the parent Ministry and National Treasury should either significantly enhance budgetary allocation towards completion of the Project or guarantee the Council to take a loan to complete it. Once completed, sections of the building can be leased to third-parties to generate the much needed revenue to repay the loan and eventually to fund other operations of the Council.

3. **RECEIVABLES FROM EXCHANGE TRANSACTIONS: FY 2013/2014 ACCOUNTS**

a) **Lack of supporting analysis for various accounts amounting to KES 7,307,760.**

As disclosed in note 15 to the financial statements, the receivables from exchange transactions balance of KES 184,346,639 includes salary advances; KES 905,888 retuned salaries; KES 51,349 income tax payee and refunds; KES 222,447 all totalling KES 7,307,760 whose supporting analysis were not availed for audited review.

Management Response

Supporting analysis for the items mentioned was not availed as of the date of the audit because reconciliations were still on-going to establish the correct status.

However, in the subsequent audit of the financial statements for 2014/2015, the analysis was provided to the auditors and the issue did not recur.

Current Status

Reconciliations were completed and availed to the auditors for the balances as at 30 June 2015 as follows:

Salary advance:	*KES 280,371*
Returned salaries:	*Nil*
Refunds:	*Nil*
PAYE- Contracted professionals:	*KES 1,173,855*

Recoveries for salary advance are still in progress through the payroll.

The PAYE amount of KES 1,173,855 relating to the month of June 2015 was remitted to Kenya Revenue Authority in July 2015, as per the law.

b) **Long outstanding imprest amounting to KES 1,194,350.33**

Included in the receivables from exchange transactions balance of KES 184,346,639 are un-surrendered imprests totalling KES 4,715,177 which included long outstanding imprests

totalling KES 1,194,350.33 dating back to the year 2012/13 contrary to the rules and regulations guiding the issuance and surrender of imprests.

Management Response

The Council concurs that the balance of long-outstanding imprest as at 30 June 2014 was KES 1,194,350.

This imprest was advanced to various Ministry of Education staff for the administration of national examinations.

The failure to obtain/ receive the surrenders in time was occasioned by a change in accounting for imprest implemented for the first time during the year 2011.

The Council has pursued the defaulters through writing demand letters and otherwise which has resulted in KES 934,750 being surrendered.

Current Status

The Council has made concerted efforts to recover the amount which has since reduced to KES 339,200 as at 30.06.2015 and further down to KES 259,700 currently.

In the event that recoverability of the amounts becomes increasingly questionable, the council will seek to write-off the amounts in accordance with section 69 of the PFM Act and the Council's policies and procedures.

Committee Observation

The Committee observed that: -

(i) **The Council did not avail supporting analysis for salary advances, returned salaries, income tax payee and refunds to the Auditor in time for audit review.**

(ii) **The Council breached the rules and regulations guiding the issuance and surrender of imprests by allowing officers to hold imprest beyond the stipulated time.**

Committee Recommendations:

The Committee recommends that: -

(i) **The CEO ensures the recovery of the outstanding debts including staff imprest within three (3) months of the adoption of this Report.**

(ii) **The CEO should ensure that imprest advanced to officers is recovered within the stipulated period in accordance with section 92 of the Public Finance Management Act Regulations of 2015 which allows surcharging of officers for any imprest held beyond the stipulated seven (7) days after return to the work station.**

2.18 KENYA NATIONAL HIGHWAYS AUTHORITY (FY 2012/2013 – 2013/2014)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE KENYA NATIONAL HIGHWAYS AUTHORITY FOR THE FINANCIAL YEARS 2012/2013 TO 2013/2014

Eng. Peter Mundinia the Director-General KENHA accompanied by Mr. Chanje Kera (Finance Manager), Eng. Njuguna Gatitu (Manager Maintenance), Eng. David Muhihu (Ag. General Manager Special Projects), Ms. Yvonne Masinde (Senior Legal Officer) and Eng. P. C. Kilimo (Alternate Director Ministry of Transport and Infrastructure) appeared before the Committee on 28 February 2016 and 21 April 2016 to adduce evidence on the audited accounts of the Authority for the financial years 2012/2013 and 2013/2014.

1. FINANCIAL POSITION: FY 2012/2013 & 2013/2014 ACCOUNTS

The Committee heard that, the statement of financial position as at 30 June 2014 reflects current liabilities of KES 30,143,953,538, which exceed current assets of KES 17,702,422,491 resulting to a negative working capital of KES 12,441,531,047 (2013 negative KES 3,863, 128,331).

In the circumstances, the Authority is technically insolvent and may face difficulties in settling financial obligations as and when they fall due.

Management Response

The Director-General informed the Committee that, the situation was occasioned by inadequate budgetary provision for the development works. Exchequer streams could not match contractors' and consultants' claims hence the reported pending bills. The Government has developed a policy on annuity financing programs and public-private partnership, which would reduce the strain on the exchequer funds for road works.

The Director General further submitted that: -

(i) The Authority petitioned the National Treasury to avail KES 2 billion for completion of the Southern By-pass. The by-pass is expected to be completed in June 2016.

(ii) On Voi- Mwatate - Wundanyi road, the earlier contractor went under receivership. A new contractor has however been contracted and the works are currently ongoing along Voi- Mwatate section.

(iii) Maintenance of Karen- Kikuyu Road is ongoing.

(iv) On the annuity program, the Government is in the process securing a low interest loan to finance construction before a roll out of the program in various parts of the country is done.

Committee Observations

The Committee observed that: -

(i) **The Authority's failure to meet its financial obligations was as a result of midstream budget reduction by the parent Ministry and delayed release of exchequer by the National Treasury.**

(ii) **Delayed payments to contractors in respect of the works done continues to attract high interests which are avoidable if the payments are made in good time.**

(iii) **The Authority breached the Public Finance Management Act by overspending above its allocation.**

(iv) **Sections of some roads have been under constant unending repair and maintenance while others in various parts of the country are state of disrepair have been neglected. Further some parts of the country have been neglected in the annuity infrastructure development program**

Committee Recommendations

The Committee recommends that: -

(i) **The National Treasury and parent Ministries should endeavour to disburse funds to respective government agencies/organs as appropriated by Parliament with undue delays so as to minimize cases of penalties arising out of delayed works.**

(ii) **The Authority should desist from commissioning new projects until all delayed/pending bills which are attracting huge interests are cleared.**

(iii) **The Authority should adhere the Public Finance Management Act and spend within its budget as appropriated and approved by Parliament.**

(iv) **The annuity infrastructural development program should cover all parts of the country equally and equitably.**

2. TRADE AND OTHER RECEIVABLES: FY 2012/2013 & 2013/2014 ACCOUNTS

The Committee heard that, trade and other receivables balance of KES 6, 149,011, 426 as at 30 June 2013 includes receivables balance of KES 1,570,766,994 due from the Kenya Roads Board out of which an amount of KES 91, 052, 469 relates to the financial year 2011/2012. Evidence available at the Ministry of Roads indicate that although the Ministry received the total amount of KES 91, 052, 469 from Kenya Roads Board in 2011/2012, the Ministry had not remitted the funds to the Authority as at 30 June 2013.

Further receivables from exchange transactions balance of KES 663,717,877 as at 30 June 2014 reflected in the statement of financial position includes travel imprest of KES 389,408 issued to staff of the former Ministry of Roads between June 2012 and August 2013 that has remained outstanding.

In the circumstances, it has not been possible to confirm the recoverability of receivables amounting to KES 91, 052, 469 and KES 389,408.

Management Response

The Director-General informed the Committee that, upon consultation with the parent Ministry it was observed that, the amount was not receivable. The Board in a meeting held on 29 September 2014 approved the write off of the amount in full which was effected in the 2013/2014 financial year.

The outstanding imprests was issued to staff members of the parent Ministry and the Attorney General's office who were performing official functions on behalf of the Authority. An amount of imprest of KES 278, 208 granted to an officer from the Attorney General's office has since been refunded in full by the officer. Balance of KES 111,250 is being pursued from the officers in the parent Ministry through their employer.

Committee Observation

The Committee observed that, the Authority breached the Government Financial Regulations which allows surcharging of officers for any imprest held beyond the stipulated 48 hours after return to the work station.

Committee Recommendations

The Committee recommends that the Director General should ensure that imprest advanced to officers is recovered within the stipulated period in accordance with section 92 of the Public Finance Management Act Regulations of 2015 which allows surcharging of officers for any imprest held beyond the stipulated seven (7) days after return to the work station.

3. **INTEREST ON LATE PAYMENTS/NUGATORY EXPENDITURE: FY 2013/2014 & 2014/2015 ACCOUNTS**

The Committee heard that, the 2012/2013 financial year financial statements include development projects administrative costs figure of KES 248,714,505 and other GOK development expenses expenditure of KES 146, 104,989. The GOK development expenses further include an interest on late payments of KES 20,620,425 relating to Isiolo - Merille Road project and a financial claim of KES 9,880,000 arising from the Rongo - Homa Bay Road project both totalling KES 30,500,425.

Further in 2013/2014 financial year the Authority incurred the following nugatory expenditure:

- Interest charges of KES 2, 594, 567 .00 and KES 4,780,516.41 in respect of delayed payments relating to Kaloleni- Kilifi Road project and Magumu - Njabini Road respectively.

- Interest charges of KES 23,273,277.76 paid to the contractor for delayed payment relating to Nairobi – Addis Ababa Road (Marsabit – Turbi Road)
- Interest charges of KES 33,144,940.23 paid in respect of delayed payment relating to rehabilitation of Kericho – Mau Road section.
- Interest charges of KES 59,032,806.67 yet to be paid in respect of delayed payment relating to rehabilitation of Nyamasaria- Kisumu – Kisian Road.
- Interest charges of KES 9,529,382.69 paid in respect of delayed payment relating to rehabilitation of Webuye – Malaba Road section.
- The expenditure would have been avoided had the payments been made in good time.

Management Response

The Director-General informed the Committee that, the amounts were incurred as interest on delayed payments against the mentioned development projects. This was occasioned by inadequate and delayed exchequer releases for development works.

Inadequate budgetary provisions coupled with delayed exchequer releases have always led to interest on delayed payments for all development projects. Interest on delayed payments is actually provided in the contract development.

Committee Observation

The Committee observed that, if the Authority had paid the contractors' dues within the stipulated time frames, the nugatory payments totalling to KES 132,355,490.76 would have been avoided and no charge on public funds.

Committee Recommendation

The Committee recommends that the Authority should pay its development bills in time to avoid interests accruing from delayed payments and financial claims.

4. NORTHERN CORRIDOR TRANSPORT IMPROVEMENT PROJECT IDA: FY 2012/2013 ACCOUNTS

The Committee heard that, the Authority awarded the following contracts related to improvement of the Northern Transport Corridor:

(i) Contract for rehabilitation of Kericho-Mau Summit Road was awarded to an international firm at an evaluated contract sum of KES 6,835,477,486 on 26 October 2009. The contract commenced on 16 September 2010 for a contract period of 24months with expected completion date of 15 September 2012, which was later revised to 31 March 2014. However, included in the certified amount of KES 3,086,177,021 or 45.17% of the contract sum as at 25 September 2013 is an expenditure of KES 33,144,940.23 in respect of interest on delayed payments which could have been avoided if payments were made within the stipulated timelines.

(ii) Contract for emergency repair of the existing road over rail bridge and approaches on Mau Summit – Timboroa Road along Njoro turn-off was signed on 20 December 2010 at a contract sum of KES 582, 774,315 for a contract period of 12 months ending 8 February 2012 which was later revised to 5 September 2013. Review of the implementation of the contract on 31 August revealed that the project was far behind schedule.

In the circumstances, the Management has not explained measures being taken to ensure timely completion of the project and avoid over expenditure in respect of interest on delayed payments.

Management Response

The Director-General informed the Committee that: -

The delay in completion of the rehabilitation of Kericho-Mau Summit Road project was occasioned by various circumstances beyond the control of the parties such as adverse climatic conditions, delay by other authorities to relocate utilities, inadequate exchequer and land acquisition challenges.

The percentage of physical works completed is computed from certified payments for the works. A comparison of time elapsed against physical works completed may not always provide a just measure of progress because the works done early in the project are relatively cheaper but take longer to complete. The works done in the later stages are faster to implement costlier. In effect therefore faster progress will be registered towards completion potentially closing the gap with time elapsed. The project has now been substantially completed within the revised completion time.

Delayed implementation of emergency repair of the existing road over rail bridge and approaches on Mau Summit – Timboroa Road along Njoro turn-off was as a result of the following factors: change in foundation, inclement weather and removal of deleterious material.

The Contractor is now fully mobilized and payments have been made for work done.

There are disputes under review by an Adjudicator regarding change in scope of foundation works and extension of time.

Committee Observations

The Committee observed that: -

(i) The expenditure was occasioned by inadequate exchequer budgetary provisions and delayed releases of exchequer by the National Treasury. This could have been avoided if the payments were made within the stipulated timelines.

(ii) The contractor repairing the Mau Summit – Timboroa Road along Njoro turn-off based the road design on the information provided by the employer (KENHA) who may not have provided the correct and sufficient information on the scope of works to the contractor.

Committee Recommendation

The Committee recommends that the Authority should ensure that there is adequate budgetary provision before implementation of projects and that projects are completed within the stipulated time schedule.

5. **MOMBASA – NAIROBI – ADDIS ABABA ROAD CORRIDOR PROJECT NO. P-ZI-DBO -027 PHASE II (MARSABIT – TURBI ROAD) – FY 2012/2013 ACCOUNTS**

The Committee heard that, examination of the contract documents revealed that as at 30 June 2013, 815 days of the contract period or 73.7% of the contract time had elapsed, while the overall progress of works was estimated at 32.5% against the planned figure of 58%. Although the management has explained that the delay was caused by factors such as lack of adequate water for construction, insecurity, frequent breakdown of equipment and poor management on site, the project implementation is way behind the planned schedule and there is a high risk the project may not be completed with the contract timeframes.

Management Response

The Director-General informed the Committee that, the project encountered some delays during its initial stages. This was caused by insecurity and lack of water. The project was substantially completed by the revised date of 20 April 2015 and handed over to the employer in July 2015.

Committee Observation

The Committee observed that, after 815 days of the contract period, 73.7% of the contract time had elapsed, while the overall progress of works was estimated at 32.5% against the planned figure of 58%.

Committee Recommendations

The Committee recommends that the Director General should ensure that contractors procured by the Authority meet their contractual obligations in a timely manner as per the contract requirements.

6. NORTHERN CORRIDOR REHABILITATION PROGRAMME (ELDORET–TURBO–WEBUYE–MALABA ROAD PROJECT): FY 2012/2013 ACCOUNTS

I. Rehabilitation of Eldoret–Turbo–Webuye (A104) Road: Contract No. KeNHA/ICB/51/2010

The Committee heard that, the above contract was awarded to Maltauro – HYoung on 19 November 2010 at a contract sum of KES 3,383,387,115.63 while the contract agreement was signed on 26 November 2010. The contractor was ordered to commence work on 26 January 2011. The project was scheduled for completion on 31 August 2012 when the eighteen (18) months contract period expired. However, the contract was not completed within the stipulated time and the contractor was awarded two extensions under claims 1 and 2 of 1.5 months and 3.8 months respectively. Although the contract was supposed to have been completed by 9 February 2013.

Further, although the original project length was 59 km at a contract sum of KES 3,383,387,115.63 the length was reduced by 18 km to 41km but the contract sum remained the same instead of being revised downwards proportionately. It is therefore doubtful if the Authority value for its money.

Management Response

The Director-General informed the Committee that, the delay in progress of works is attributed to inadequate budgetary provisions coupled with delayed Exchequer releases

The Project designs were carried out in 2007.

Given the long procurement process, the works construction commenced on 26 January 2011, at contract sum of KES 3,383,387,115.00. The same was being financed through a grant from European Union in addition to a small portion contribution from the Government of Kenya.

However, in the course of the project design review, it was noted among other issues, road pavement had deteriorated. This necessitated issuance of Administrative Order which relates to modifications of works in accordance with article 37 of the conditions of works. A contract Addendum no. 1 was issued to change the scope of works (A No-Objection for the same was obtained from the co-financiers). This reduced the length of the road by 18kms (from 59 kms to 41 Kms) as a result of the revised scope of works owing to funding limits of the credit agreement.

This project is now substantially complete.

II. Rehabilitation of Webuye–Malaba (A104) Road: Contract No. KeNHA/ICB/52/2010

The above contract was awarded to Maltauro - H.Young on 19 November 2010 at a contract sum of KES 3,848,928,516.25. The contract agreement was signed on 26 November 2010 while the contractor was ordered to commence works on 26 January 2011. The Project was scheduled for completion on 31.8.2012 when the eighteen (18) months contract period expired.

However, the contract was not completed in time and the contractor was awarded one extension of claim 1 of 9 months. Further, as at 30 June 2013, over 103.7% of contract period had elapsed and works completed stood at 78.65% against payments certified of KES 3,051,917,104.78 representing 79.29% of the original contract sum. The contract which was supposed to have been completed by 7 May 2013 had not been completed as at the date of the audit.

The Project was therefore way behind the planned schedule and it is not clear when the project will be completed and if it will be completed within the initial contract sum.

Management Response

The Director-General informed the Committee that, delay in progress of works is attributed to inadequate budgetary provisions coupled with delayed Exchequer releases invariably leads to slow progress of works and interest on late payment which is an employer's contractual responsibility.

The Project designs were carried out in 2007.

Given the long procurement process, the works construction commenced on 26 January 2011, at contract sum of KES 3,848,928,516.25. The same was to be financed through a grant from European Union in addition to small portion contribution from the Government of Kenya.

However, in the course of the project design review, it was noted among other issues, road pavement had deteriorated. This necessitated issuance of Administrative Order 1 which relates to modifications of works in accordance with article 37 of the conditions of works. A contract addendum was issued to change the scope works (A No objection for the same was obtained from the co-financiers). The same reduced the length of the road by 8kms (from 61 kms to 58 kms) resulting from revised scope of works owing to funding limits of the credit agreement.

The project is now substantially complete.

7. INTEREST ON DELAYED PAYMENTS: FY 2012/2013 ACCOUNTS

The Authority paid the contractor KES 9,529,382.69 vide interim certificate No. 19 in respect of interest on delayed payments on completed works. If payments were made

within the stipulated period, the Authority Would have made a possible saving on public resources of KES 9,529,382.69.

Management Response

The Director-General informed the Committee that, the delay situation was occasioned by the inadequate budgetary provision for development works in the financial year 2012/2013. This meant the Exchequer streams could not match contractors' and consultants' claims.

Committee Observations

The Committee observed that: -

(i) The Authority should have undertaken implementation of the Project in accordance with the provisions of the Public Procurement and Disposal Act, 2005 as opposed to using the donor-imposed conditions. Consequently, the Management breached Section 7 of the Public Procurement and Disposal Act, 2005 which provided that donor conditions shall only prevail with respect to a procurement that uses donor funds and no others; and

(ii) The Authority scaled down the scope by reducing the length of the roads from 61 kms to 53kms and 49kms to 41kms without corresponding reduction in costs.

Committee Recommendations

The Committee recommends the Authority EACC investigates the circumstances under which KeNHA implemented the project using donor-imposed conditions and not Public Procurement and Disposal Act, 2005 as the case should have been.

8. BUSH CLEARING IN PREPARATION FOR OFFICIAL OPENING OF THE MULTINATIONAL ARUSHA-NAMANGA–ATHI RIVER: FY 2012/2013 ACCOUNTS

The Committee heard that, examination of records, documents and payment vouchers related to the above project revealed that the tender committee on its 91 Meeting held on 6 November 2012 considered and approved direct procurement of M/s Sinai Construction Co. Ltd of P. O. Box 71273 – 00622 Nairobi to execute Bush Clearing in preparation of official opening of the Multinational Arusha – Namanga-Athi River (A104) Road. This was contrary to the Secretariat's recommendation that a more competitive method of procurement be used. The Road was officially opened by H.E the President of the Republic of Kenya on 28 November 2012.

Management Response

The Director-General informed the Committee that, the contractor was procured directly as opposed to a competitive procurement process. This was necessitated by the following:

i. The Authority received notice of the upcoming official opening of the road by His Excellency the President of the Republic of Kenya flanked by his four counterparts from the larger East African Community slated for 28 November 2012 towards the end of October 2012;

ii. The Presidents were also scheduled to drive along the highway hence the need to urgently clear the overgrown bushes along the entire road section to enhance security;

iii. Considering that this exercise should have been cleared at least 7 days prior to the function due to the sensitive nature of the function, the Authority had approximately 20 days to complete the task.

iv. The above period was not adequate to go for any procurement method other than direct procurement since the other methods required a minimum of 45 days.

v. The contractor procured had ongoing work with KeRRA, within the vicinity hence the ease and speed of mobilization to meet the strict deadlines.

Committee Observations

The Committee observed that: -

(i) The Authority breached Section 29 of the Public Procurement and Disposal Act, 2005 by single sourcing M/s Sinai Construction Co. Ltd Nairobi to execute bush clearing of the of Athi- River – Namanga Road; and

(ii) There was already another Contractor on the road who was contracted to carry out road works and contracting a different contractor amounted to double works.

(iii) Ideally, the dates for such functions involving Heads of State are diarized several months ahead of schedule for ease of coordination and planning. The urgency of the matter as canvassed by the Authority is therefore inexcusable.

Committee Recommendations

The Committee recommends that: -

(i) The then Director General and members of the Tender Committee be held individually accountable for breaching Section 29 of the Public Procurement and Disposal Act, 2005 in single sourcing M/S Sinai Construction Co. Ltd to carry out works on Athi River-Namanga Road;

(ii) The Board ensures that procurement of goods and services is done in line with the Public Procurement and Asset Disposal Act, 2015 and other relevant guidelines.

9. PERIODIC MAINTENANCE OF MOMBASA-MIRITINI ROAD (A109): FY 2012/2013 ACCOUNTS

The Committee heard that, contract for the above maintenance works was awarded to M/s Talewa Road Construction Ltd at a contract sum of 341,180,245 with commencement and completion dates of 26 January 2012 and 26 September 2012 (8 months) respectively. Evidence available indicates that the contract was terminated after poor performance by the contractor and total payment to the contractor stood at KES 144,146,778.76 (42.25 % of the contract sum)

In addition, after termination, the remaining works were repackaged and awarded to M/s S.S. Mehta through direct procurement contrary to Section 50 of the Public Procurement and Disposal Act, 2005.

Management Response

The Director-General informed the Committee that, at the time of termination of the initial contract, the traffic jams along the section of the road had reached unacceptable limits, causing more than ten (10) hours to cover the less than 5 kilometres' section. There is also no alternative route that would have facilitated diversion of traffic resulting to an outcry not only from transporters but also the entire business community in hinterland of Kenya and the Great Lakes Region which rely on the Port of Mombasa. It was further reported that it was taking an average of 14 days for heavy commercial vehicles to move from the Port of Mombasa to Kampala in Uganda.

During the same period, the three East African countries; Kenya, Uganda & Tanzania were having high level consultations on how to unlock the grid lock of traffic jams at Kwa Jomvu and Miritini sections, and Kenya had given an undertaking that it will reduce travel time from Mombasa to Malaba to less than 9 days. A Presidential directive was issued to key players directing them to ensure that movement of cargo from Mombasa Port was immediately streamlined and made efficient

Following the undertaking by Kenya to reduce the travel time and the subsequent presidential directive, there was urgent need to procure the contractor to complete the outstanding works. The contractor could therefore not be procured through open tender process due to the length of time involved (60 days' minimum to procure). Further, a new contractor would not have been procured while the former contractor was on site since he would have frustrated the interested contractors performing pretender site visits.

Due to the urgency of the works at hand, the Authority directly procured a contractor who was nearer to the site and had the required capacity. This new contract included new scopes of work which was aimed at reducing the traffic gridlock from Changamwe roundabout to Moi International Airport, hence rerouting of heavy commercial vehicles.

Due procurement procedure was therefore followed. This contract was completed four (4) days before the expected completion time.

Committee Observation

The Committee observed that, the despite the dire situation as canvassed by the Director General and the Presidential directive, the award of the contract to M/s S.S. Mehta through direct procurement was made contrary to Section 50 of the Public Procurement and Disposal Act, 2005 on open tendering and Article 227 of the Constitution.

Committee Recommendations

The Committee recommends that: -

(i) **The then Director General and members of the Tender Committee be held individually accountable for breaching Section 50 of the Public Procurement and Disposal Act, 2005 on open tendering and Article 227 of the Constitution.**

(ii) **The Authority ensures that it strictly adheres to the Public Procurement and Asset Disposal Act, 2015 and other relevant guidelines in procurement of goods and services.**

2.19 KENYA PIPELINE COMPANY (FY 2012/2013 - 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE KENYA PIPELINE COMPANY FOR THE FINANCIAL YEARS 2012/2013 TO 2014/2015

Mr. Joe Sang, the Ag. Chief Executive Officer accompanied by Ms. Gloria Khafafa, (Company Secretary), Mr. Nicholas Gitobu (Procurement Manager), Mr. Jason Nyantino (Corporate Communications Manager), Mr. Phillip Kimelu (Operations Manager) and Ms. Beatrice Orgut (Safety, Health & Environment Manager) appeared before the Committee on 5 April 2016 and 28 June 2016 to adduce evidence on the audited accounts of the Corporation for the financial years 2012/2013 to 2014/15.

1. **TRADE AND OTHER RECEIVABLES (KENOL/KOBIL): FY 2012/13 TO 2014/2015 ACCOUNTS**

The Committee heard that, included in the FY 2014/15 accounts was an amount of KES4.1 billion, KES3.8 billion in FY 2013/14, KES3.4 billion in 2012/13, KES3.4 billion in FY 2011/12, KES3.4 billion in FY 2010/11, KES3.1 billion in 2009/10, KES1.63 billion in 2008/9, KES 530 million in 2007/08, KES 1.5 million in 2006/07 and KES1.4 million in 2005/06, due from Kenol/Kobil that were the subject of court dispute.

It has not been possible to confirm whether or when the company will be able to recover the amounts due from the oil company. No impairment loss that would have been necessary in relation to this uncertainty has been incorporated in these financial statements. The case was determined in favour of the oil marketing company and an award of KES1, 864,494,783 and USD.37, 909,879 granted in December 2009.

However, the management on its part appealed against the judgement in the High Court. The High Court in January 2012 ruled in favour of the company and set aside the award and further ordered that the matter be referred back to the arbitrator's tribunal for reconsideration. However, each party decided to file an appeal in the Court of Appeal, both of which are pending hearing and determination. Until the matter is fully concluded, the recoverability of the amount of KES3.4 billion remains doubtful.

Management Response

A dispute arose between KPC and Kenol/Kobil Limited (K/K) following a government-authorised increase in KOSF tariff from USD 2 to USD 3 in 2005. In December 2005, Kenol/Kobil sought and obtained an injunction against KPC when the company threatened to suspend further services due to KK's persistent non-payment of charges for services rendered. KK refused to pay the revised tariff and withheld monies on a regular basis on alleged claims for demurrage.

The parties referred the dispute for arbitration and subsequently escalated the dispute to the High Court. The current status of the cases between KPC and Kenol/Kobil is a follows:

a) **In the matter of an arbitration between KPC and Kenya Oil Company & Kobil Petroleum Ltd (K|K); Assessment of damages by the Arbitrator**

Following the Court of Appeal's Ruling upholding the High Court's decision to set aside the Arbitral award, the parties appeared before the arbitrator for assessment of damages. The claims by the parties are the same as the initial arbitration, i.e. K|K is claiming loss and damages while KPC is claiming money (USD 5,380,206.20 and KES 133,505,216.60) due for services rendered to KK. Both KK and KPC completed their submissions on 4 August 2014, and the arbitrator will advise the parties when the award is ready. He has indicated that the award may be ready in 2016.

b) **High Court Commercial & Tax Division -Nairobi Case No. 695 of 2010; KPC –vs-Kenol |Kobil Ltd**

KPC 's claim is for approximately USD 15,842,295.75 and KES 652,723,509.58 being the amount accrued to KPC by Kenol|Kobil arising out of services that KPC rendered in terms of transportation and storage of oil products for which K|K did not pay. This is for the period ranging between June 2009 (after conclusion of the arbitration hearing) and December 2010 (when the arbitral award was delivered.)

Kenol/Kobil has made a counter claim of USD 21,320,068.36 and KES 84, 889,186.16 being alleged loss of business and damages for the period in question. The matter is pending before court.

Kenol/Kobil remains a going concern since it still trades with KPC. As at 4 April 2016, KPC had in custody a total of 9,683M^3 of petroleum products and was actively involved in trading.

The Management of KPC holds the view that there is a good chance of obtaining a favourable ruling in the matter in 2016 hence the reluctance to make any loss provision in respect of the amounts in dispute.

The Committee was also informed that, the Company has four (4) in-house lawyers and that it consulted widely, including Office of the Auditor General before taking the matter to Arbitration.

Committee Observations

The Committee observed that: -

(i) **The arbitration case between the Corporation and Kenol/Kobil has taken inordinately long to conclude. KPC raised 23 grounds of which 20 were upheld by the court. When the High Court set apart its arbitration amount, KPC contested the Arbitral award in December 2010. After this, KPC filed suit for recovery of the money.**

(ii) **The Company has incurred further costs in form of contingent liability by engaging of new lawyers an as a result of the long running arbitration process.**

Committee Recommendation

The Committee recommends speedy conclusion of the Arbitration process.

2. LIABILITY TO FINANCIERS (TRITON SAGA): FY 2012/13 ACCOUNTS

The Committee heard that, following irregular release of products to one of the oil marketing companies, six financiers represented by four international creditors and two local banks have since lodged claims for stock totalling to 122,217.57 metric tons, with an estimated value of KES 7,600,000,000. According to information available, two cases were arbitrated and finalized in the year 2010 and awards of KES1,875,271,636 and KES195,033,364 both totalling KES2,070,305,000 made. Other records indicate that out of the above amount of KES 2,070,305,000 only a sum of KES2, 011,423,642 was settled between July and November 2010.

Arising from the unresolved cases, and as reported in 2011/2012, the Company has disclosed under Note 30, a contingent liability totalling KES1, 545,442,000 pending law suits.

In the circumstances, it was not possible for confirm correctness of the total liabilities of the Company as at 30 June 2013.

Management Response

The Company introduced the Collateral Financing Arrangement (CFA) in July 2004. The facility operates through contracts executed between Kenya Pipeline Company Limited (KPC) and willing Oil Marketing Companies (OMCs) who are signatories to KPC's Transport and Storage Agreement (TSA).

In early December 2008 it emerged that some staff in Operations Department had irregularly released products which were under CFA to Triton Petroleum Company.

i. Initial Internal Investigations into the Matter

KPC Management instituted internal investigations immediately after it was revealed that some KPC employees were involved in the irregular release of petroleum products to Triton Petroleum Company (Under Receivership). All members of staff involved in the management of the CFA facility were interrogated by the Staff Disciplinary Committee and three members of staff were suspended immediately pending detailed investigations.

ii. KPC Internal Audit Investigation

On 19 December 2008, KPC Management mandated the Internal Audit Department to determine the extent of the alleged product released, possible causes and make recommendations to avoid recurrence.

The Internal Audit and Operations Departments undertook an intensive examination of the documents relating to the CFA facility with emphasis on the period between November 2007 and December 2008 when the irregular product releases are suspected to have taken place.

An interim report on the issue was presented to KPC Management and the Ministry of Energy.

iii. Forensic Audit by PriceWaterhouseCoopers (PwC)

In January 2009, the Ministry of Energy and KPC jointly enlisted forensic auditors Messrs PriceWaterhouseCoopers (PWC) to carry out an audit of all CFA transactions since commencement of the facility. The audit was completed and a report submitted to both the Ministry of Energy and KPC on 7 April 2008.

iv. Investigations by Kenya Anti-Corruption Commission (KACC) and the Criminal Investigations Department (CID)

The Ministry of Energy invited both KACC and the CID to investigate the matter. KACC has completed its investigations and employees from Triton Petroleum Company, Kenya

Commercial Bank and KPC have been charged in court to answer charges related to the irregular product releases.

Action by Management

In January 2009, the KPC Board directed the Company's Management to restructure the Operations and Finance Departments in order to streamline product accounting controls and avoid a recurrence of lapses that were noted in the Triton transactions.

The measures so far taken are as follows:

(i) The Managing Director approves all releases of product under CFA.

(ii) All correspondences from external parties (i.e. Oil Marketing Companies, Kenya Revenue Authority and Financiers) to KPC on CFA matters are required to be in original copy on the respective company's letterhead, or a scanned copy of the original sent via e-mail from a recognized email address.

(iii) KPC restructured the CFA management process to facilitate segregation of duties across departments to enhance internal controls.

(iv) The revised CFA process has been documented as per the ISO 9001:2008 certification requirements for compliance and continuous monitoring and improvement. This process is regularly audited by M/s SGS external surveillance team and always found to be in conformity with ISO 9001:2008. The last ISO audit was conducted in November 2015.

(v) The CFA processes have been incorporated in the Company's information systems software -Systems Applications Programme (SAP) Financial and Operations modules, for added supervisory and system controls. This has enhanced transparency and accountability in the management of CFAs.

(vi) OMC product entitlements are being monitored closely through SAP and those without allocations are not allowed to withdraw product in any of the KPC depots.

(vii) A review of CFA contracts is being undertaken by KPC Management in consultation with external lawyers, and will incorporate PWC recommendations in order to protect the interests of all stakeholders. KPC has also been pursuing the possibility of in-sourcing or outsourcing the CFA management through a collateral manager.

(viii) A customer care and communication centre headed by a senior officer has been set-up within KPC to address customer complaints and is providing a one-stop-registry for product movement and stock control documents.

(ix) A staff reshuffle in the Operations and Finance Departments was implemented in 2009 as resolved by the Board.

The following employees who were implicated in the PWC forensic audit report appeared before the Board and were relieved of their duties;

Mr. Peter Mecha - Operations Manager

Mr. Caleb Manyaga - Finance Manager
Mr. William Ooko - Internal Audit Manager and
Mr. Thaddeus Akama - Chief Accountant (Products)
Mr. Benedict Mutua - Chief Technician (Operations)
Mr. Phanuel Okwengu - Principal Technician (Operations)

v. Contingent Liabilities Arising from the Triton Issue

According to the PWC report, the products released from KPC custody through global transfer orders (Adjustment Stock Entitlements-ASEs) issued by Triton Company Limited to various shippers without financiers' release authorization for the period November 2007 to December 2008 amounts to 95,965.23 Metric Tonnes (MT).

As a strategy, KPC is encouraging the financiers to go to arbitration which is provided for in the TSA in view of the fact the CFA is an offshoot of TSA.

Committee Observations

The Committee observed that, Kenya Pipeline Company's contingent exposure arising from the release of the products is approximately KES 5,550,144,392.52, being claims lodged by various parties. A further KES 122,648,696.50 is expected to be incurred on legal expenses related to the matter.

Committee Recommendations

The Committee recommends that the Kenya Pipeline Company Management should restructure the Operations and Finance Departments in order to streamline product accounting controls and avoid a recurrence of lapses that were noted in the Triton transactions.

3. NON-CURRENT ASSETS (FIXED ASSETS): FY 2012/2013 & 2013/2014 ACCOUNTS

The Committee heard that, included in the non-current assets balance of KES 45,622,950,000 as at 30 June 2013 is an amount of KES 1,746,473,000 in respect of capital work in progress balance of KES 1,746,473,000 includes an amount of KES 1,585,351,341 or 90% which relates to projects which have since stalled. No explanation was given for starting projects which are subsequently abandoned before they are completed.

Further, assets valued at KES 1,852,856,200 as per the valuers report were not uploaded into the assets register and are omitted from financial statements.

In the circumstances, it has not been possible to confirm correctness and accuracy of the non-current assets balance of KES45, 622,950,000 as at 30 June 2013.

Management Response

The works in progress value of KES 1,746,473,000 included some stalled projects. However, the value of stalled projects is not KES 1,585,351,341 but KES 104, 861,149 as at 30 June 2013.

Out of the remaining value of KES 1,480,490,191.66, projects with a value of KES 255,106,652.83 are expected to be revived or are ongoing. The implementation of these projects had been deferred due to changed priorities of the company and deferred implementation of some of the government initiatives e.g. Blending of Diesel with Power Alcohol.

The rest of the projects with a value of KES 1,225,383,538.83 have been completed. The amount of KES 1,852,856,200 in respect of revalued assets which had not been uploaded in the Fixed Asset Register as at 30 June 2014 has since been uploaded and asset reconciliation concluded. During the FY 2014/15, this status was confirmed and the matter was dropped.

The Office of the Auditor General confirmed that the matter has since been resolved.

Committee Observations

The Committee observed that: -

(i) **Deferring of projects because of 'change of priorities' was not in keeping with the principles of public finance management and would have unjustified cost implications. This notwithstanding the fact that most of the stalled projects were being undertaken by KPC engineers and other staff.**

(ii) **There are heavy financial costs involved for terminating projects then revive them later.**

Committee Recommendations

The Committee recommends that the Company should prioritize projects it intends to implement and ensure that projects started are completed before new ones are implemented.

2.20 KENYA PORTS AUTHORITY (FY 2013/2014)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE KENYA PORTS AUTHORITY FOR THE FINANCIAL YEARS 2013/2014

Ms. Catherine Wairi-Mturi, the Managing Director Kenya Ports Authority accompanied by Mr. Patrick Nyoike General Manager Finance, Eng. A.M Samatar, General Manager Engineering, and Mr. Geoffrey Kavate, Accountant appeared before the Committee 19 August 2016 to adduce evidence on the Report of the Auditor

General on the financial statements of Kenya Ports Authority for the 2013/2014 financial year, Status of the Authority's deposits held in banks as at 31 July 2016 and Inspection of Imported Motor Vehicles for Radiation Contamination.

1. **PROPERTY, PLANT AND EQUIPMENT: FY 2013/2014 ACCOUNTS**

a) **Stalled Projects**

The Committee heard that, the property, plant and equipment figure of KES 102,949,735,000 as at June 2014 include KES 110,535,738 in respect of work-in-progress for six progress projects which had stalled for more than six years. Included in the stalled projects is a canteen valued at KES 5,884,681.00 which was discontinued on the grounds that the land in question had already been allocated to Export Processing Authority (EPZA). The value of these stalled projects have since been impaired occasioning financial loss to the Authority and the dispute on the piece of land remains unresolved.

Management Response

The Managing Director informed the Committee that, the matter was deliberated upon and cleared during the 105 Parliamentary Investment Committee (PIC), meeting in July 2014. Specific recommendations were given with regard to the canteen project at Gate 18.

b) **Unutilized Parcels of Land**

The Committee heard that, property, plant and equipment figure of KES 102,949,735,000 as at June 2014 are 14 parcels of land measuring about 266.716 hectares and valued KES 675,632,445.00 which are not utilized at all. This amounts to idle investments which is also outside the core business of the Authority. Most of the said parcels of land have been invaded by squatters and private developers who now occupy large portions on the parcels of land.

Consequently, in light of the above paragraphs, it has not been possible to confirm the ownership status of the parcels of land under dispute and that property, plant and equipment balance of KES 102,949,735,000 is fairly stated as at 30 June 2014.

Management Response

The Managing Director informed the Committee that, the current status of the fourteen (14) unutilized plots are as explained here below:

No	Description	Cost KES	Status
i.	Plot No. MSA/XLVII/81, 82 & 83; 1.466 Acres Housing the White House Buildings, Mombasa	84,380,000	These plots are secure

No	Description	Cost KES	Status
ii.	Plot No. MN/III/528/E; 173.6 Ha, located at Takaungu, Kilifi	233,783,200.00	Partly Occupied by squatters
iii	Plot No. LR/9093; 7 Ha, Located in Malindi	66,585,000.00	Partly Occupied by squatters
iv	Plot No. MS/46/I; 5.073 Ha, Located at Likoni; Mombasa	25,000,000.00	Utilized for social activities by the locals
v	Plot No. MS/1682/I; 2.708 Ha, located at Likoni, Mombasa	26,765,000.00	Occupied by squatters
vi	Plot No. MS/137/II; 2.46 Acres, Located at Mtongwe, Mombasa	21,600,000.00	Occupied by squatters
vii	Plot No. LR/16121; 2.5 Ha; Located at Shimoni, Kwale	9,325,550.00	The plot is secure
viii	Plot No. MN/V/1614; 2.5 Ha, Located at Kibarani, Mombasa	18,820,000.00	Occupied by squatters
ix	Plot No. MN/V/1683; 1.018 Ha Located at Miritini, Mombasa	6,288,695.00	The plot is secure
x	Plot No. MN/V/196; 63 acres, Located at Jomvu Kuu, Mombasa	63,000,000.00	The plot is secure
xi	Plot No. LR 24588; 9.182 Ha, Located in Malaba	19,650,000.00	The plot is secure
xii	Plot No. MN/17944/45; 2.4 Ha, Located in Kisumu	3,600,000.00	Occupied by squatters
xiii	Plot No. MN/VII/3794; 12.24 Ha, located at Chaani, Mombasa	90,735,000.00	Occupied by squatters
xiv	Plot No. MN 5325; 17.10 Hectares, Located at Taita-Taveta	2,500,000.00	The plot is secure
	TOTAL	**675,632,445.00**	

Committee Observations

(i) The Committee observed that, the matter was discussed in the 19 Annual Report and made the following observations:

- Kenya Ports Authority did not seek the necessary approvals from the relevant authorities before carrying out any construction of the canteen at Gate 18.
- The Authority commenced construction of the canteen without confirming the ownership of the plot.
- Works at the canteen is not commensurate with the amount of money spent on the project.

(ii) The Committee made recommendations to the Ethics and Anti-Corruption Commission regarding the stalled Canteen whose action is yet to be known.

(iii) The Authority has made some progress in acquiring title deeds for some parcels of land it owns. However, seven (7) parcels are still in possession of either squatters or private developers.

Action taken after Committee Recommendations

Subsequent to the recommendations by the Committee, a series of meetings was held with the Export Processing Zone Authority, the owner of the land where the canteen was built. It had been agreed that the land along Changamwe - Kipevu gate road be exchanged with other identified KPA parcels. The Board of EPZA has already approved the exchange. KPA Board also scheduled a meeting on 23 August 2016 to take a decision on the matter. After the completion of the land exchange, the project will be revived.

KPA is yet to receive a progress report from the Ethics and Anti-Corruption Commission (EACC) on the investigations into the circumstances surrounding the construction of the canteen.

Committee Recommendations

The Committee reiterates its recommendations in its 19th Report and stalled canteen and unutilized parcels of land in which it recommended that:-

(i) The Authority seeks the necessary approvals from the relevant government agencies before construction or commencement of any project.

(ii) The Authority confirms ownership of plots before commencement of projects.

(iii) The Ethics and Anti-Corruption Commission investigates the circumstances surrounding the canteen, the conduct of the Authority's Managing Director, Mr. Gichiri Ndua and surveyor for failure to advice the Authority on the ownership of the plot and recommends prosecution by the Director of Public Prosecutions.

(iv) **The Managing Director be held responsible for any loss incurred by the Authority in the canteen project and recovery of any money lost be instituted against the Mr. Gichiri Ndua and surveyor in line with Section 11(1)(d), (i) of the Ethics and Anti-Corruption Commission Act and in contravention of Article 226(5) of the Constitution.**

(v) **The Auditor General undertakes a value for money audit on the canteen project and report to the Committee within one (1) month of the adoption of this Report.**

(vi) **The Committee further recommends that the Managing Director, the Parent Ministry of Transport and Infrastructure and the National Lands Commission should follow up the matter of the land invaded by squatters and grabbed by private developers to ensure that the land is reverted back to the Authority and title deeds issued.**

2. **RECEIVABLES AND PREPAYMENTS FINANCIAL YEAR 2013/2014**

The Committee heard that, receivables and prepayments balance of KES 4,408,826,000 as at 30 June 2014 includes amounts of KES 287,231,402 and KES 336,010,000 owed by the Ministry of Transport and Kenya Ferry Services Ltd respectively, which have been outstanding for more than 16 years. Although the PIC in its 9th Ninth Report recommended that, the Chief Executive Officer communicates with both the parent Ministry and the National Treasury with a view to ensuring that the receivables are paid to the Authority, no meaningful progress has been made in this regard.

Further, a review of a sample of the trade cargo debtors, marine debtors and rental debtors revealed that the Authority is still trading with debtors with outstanding balances of over 2 years and for whose debts the Authority had fully (100%) impaired leading to a total impairment of KES 49,015,927. Authority should give status report of all debts, no such report was availed for audit verification. Further a review of debtors who responded during debtors' circularization, revealed that some balance included of the debtors, as per their confirmations, varied with the balances included in the financial statements by KES 2, 479, 351.46. A reconciliation of these variances has not been availed for audit review.

Consequently, the accuracy and completeness of the receivables and prepayments of KES 4,408,876,000 as at June 30, 2014 could not be confirmed.

Management Response

The Managing Director informed the Committee that, during the 105 Parliamentary Investment Committee (PIC), meeting in July 2014 it was recommended that, Management should continue to liaise with the National Treasury, the Ministry of Transport and Infrastructure development and Kenya Ferry Services with a view to recovering the debts.

The Authority made a follow-up with Ministry of Transport but there has been no progress. Management has recommended that, in view of limited resources these debts are written-off from the books of KPA and KFS. It is noted that the debts are not in the books of National Treasury and the Ministry of Transport.

a) Kenya National Shipping line (KES 28,120,663.61)

The firm is in agreement about the existence of the debt but is unable to pay. The Ministry through the State Department for Shipping and Maritime Affairs is currently restructuring the firm. KPA has already requested the Ministry of Transport & Infrastructure of its intention to divest from KNSL and write off the debts from its books.

The eleven (11) firms have paid the amounts that were outstanding. The rest have continued to settle the debts or disputes settled.

b) Variances from Circularization of Debtors

M/s Keziah Njoki has continued to settle the debt while the Kenya Maritime Authority has settled all the bills.

Committee Observations

The Committee observed that: -

(i) **Although the Committee in its 19th Report recommended that, the Managing Director communicates with both the Parent Ministry and National Treasury with a view to ensuring that the receivables are paid to the Authority, no meaningful progress has been made in this regard.**

(ii) **Progress is being made in recovery of ex-staff advances and debts owed by firms trading with the Authority.**

Committee Recommendations

The Committee recommends that: -

(i) **The Authority should liaise with the National Treasury, the Ministry of Transport and Infrastructure development and Kenya Ferry Services with a view to settling the matter in regard to KES 287,231,402 and KES 336,010,000 owed by the Ministry of Transport and Kenya Ferry Services Ltd.**

(ii) **The Managing Director ensures that all advances to ex-staff and debts owed by firms trading with the Authority are recovered.**

3. OTHER INCOME: FY 2013/2014 ACCOUNTS

a) Sale of Passes

The Committee heard that, included in other balance of KES 504,291,000 is sale of passes figure of KES 126,807,000. According to the Authority's Tariff guide, VAT was to be charged in addition to this sale figure. However, a review of the sale of the passes during the year under review indicated that the Authority failed to charge VAT on the sale of passes and instead deducted VAT of KES 17,490,620 from the figure of KES 126,807,000 hence understating other revenue income of KES 17,490,620.

b) Investment Property

Included in other incomes of KES 504,291,000 is KES 167, 105, 000 relating to rent and rates receivables. However, the audit revealed that lease agreements in support of 7 rental properties were not signed for renewal. This has exposed the Authority to defaults in rent payments balance of KES 131,881,000 as at 30 June 2014 as reflected in the financial statements.

In the circumstances it has not been possible to confirm that the figure of other incomes totalling KES 504,291,000 is fairly stated.

c) Irregular Charging of Property

Documents availed for audit review indicated that the Board of Directors approved a charge of Kenya Ports Authority land of title number Mombasa/Block 1/254 (leasehold) of 3.07 acres. The charge is against a loan of USD 15 million taken by a tenant who has leased the piece of land for a period of 33 years from KPA.

The approval to charge the plot is against the KPA Act Section 19 which prohibits charging of the Authority's property by way of security for borrowed money. In addition, KPA may lose the charged property or repay the loan in case the borrower fails to repay the loan. In the circumstances the Authority is in breach of the law and runs a risk of losing property in the event the borrower defaults in the repayment of the loan.

Management Response

The Managing Director informed the Committee as follows: -

a) Sale of Passes

Prior to 1 December 2012, the rates for the sale of passes/entry charges to the port were not covered in the tariff, but were raised based on notices to port users, issued by management. At the time of their introduction in the revised tariff that became effective on 1 December 2012, the rates were erroneously printed without adjusting for VAT. Although item VIII of the General Provisions in the tariff states that all charges exclude VAT, the Authority could not charge it on the sale of passes, since it would have amounted to overcharging the customers. This printing error was corrected vide notice to port users

dated 24 January 2014; however, it has no effect on the statement of comprehensive income as the accounting in the books is correctly recognized. Therefore, there was no under collection of revenue.

b) Investment Property

The query relates to failure to avail lease agreements in relation to the eight (8) rental properties. At the time of the audit, some information was not availed to the auditor. All the required information has been availed for scrutiny.

c) Charging of Property

The property in question was leased to Solvochem East Africa Limited. The lessee used the leasehold interest in the land to obtain a commercial loan upon approval by KPA. These arrangements are well provided in the KPA Act and are common practice in land conveyancing fully supported by existing legislation and hence there is no risk on the KPA property/ Lease.

Committee Observations

The Committee observed that: -

(i) **At the time of introduction of the rates for the sale of passes/entry charges to the port on 1 December 2012, the rates were erroneously printed without adjusting for VAT. This error was corrected vide Notice to port users. However, the error had no effect on the statement of comprehensive income in the accounting books.**

(ii) **At the time of the audit, some information relating to investment property was not availed to the auditors for verification.**

(iii) **KPA leased the parcel of land Mombasa/Block 1/254 to Solvochem East Africa Limited which later used the leasehold as security to obtain a commercial loan from Eco-Bank Limited. KPA may lose the charged property or repay the loan in case the borrower fails to meet his obligations.**

Committee Recommendations

The Committee recommends that: -

(i) **The Managing Director ensures that the statement of comprehensive income as presented in the books of account is accurately presented so as to reflect the correct amount of revenue collected by the Authority.**

(ii) **The Management should avail all the relevant information to the auditors for verification in the course of audit.**

(iii) **The Authority should conduct proper due diligence before leasing its properties to any firm or individuals to protect public interest should the lessee default on their loan obligations.**

STATUS OF DEPOSITS HELD IN BANKS

The Managing Director informed the Committee that, the Authority had the following deposits balances in various banks as at 31 July 2016: -

Bank Details	Type of Deposit	Amount KES ('000)	Effective interest rate %	Percentage of Cash holding %
KCB Mortgage	Mortgage	283,738.03	0.7	2.16%
Ecobank Kenya Ltd	Mortgage	19,340.82	0.2	0.15%
Housing Finance	Mortgage	374,573.92	1.25	2.85%
Housing Finance	Deposit	24,534.66	8.5	0.19%
Total Mortgage		702,187.43		5.34%
Equity Bank	Fixed Deposit	700,000.00	8.6	5.32%
Equity Bank	Call Deposit	304,290.00	5.5	2.31%
Housing Finance	Fixed Deposit	1,700,000.00	13.5	12.92%
*Chase Bank	Fixed Deposit	2,956,547.18	0%	22.48%
Co-operative Bank	Fixed Deposit	500,000.00	9.00	3.80%
Time Deposits		6,160,837.18		46.84%
CBK	Treasury Bills	5,718,624.00	10.5	43.48%
Total Treasury Bills		5,718,624.00		43.48%
National Bank	Current	33,384.32	0%	0.25%
KCB Bank Limited	Current	344.31	0%	0.00%
Citibank N,A	Current	406,176.28	0%	3.09%
Equity	Current	120,305.05	0%	0.91%

Bank Details	Type of Deposit	Amount KES ('000)	Effective interest rate %	Percentage of Cash holding %
Stanbic Bank	Current	11,641.04	0%	0.09%
Current Accounts		571,851.00		4.35%
TOTAL		13,153,499.61		

Board and National Treasury Approvals

The Authority exercises strict adherence to the guidelines issued from time to time, by the National Treasury, with regard to financial decisions.

Treasury Circulars No. 10 of July 1992 and No. 2 of February 1988 give the procedures for Board approvals for financial decisions. They stipulate that the Board shall be responsible and accountable for the moneys and financial business of the Authority. Circular No. 10 of July 1992 further stipulates that the Chief Executive shall obtain an approval from the Board and the National treasury for investments.

In compliance with the guidelines, the panel of banks in which the Authority places deposits is carefully and competitively selected. The selection includes an in-depth study of the financial viability and risk of each bank. This is done through analysis of Central Bank of Kenya approved disclosures and published information, with the objective of ensuring that the financial institutions in which the Authority places deposits are stable, and security of the deposits is guaranteed. The panel of banks selected is then presented to the Board of Directors for approval, before seeking the final approval from the National Treasury.

Placement of deposits in any of the approved banks is done in compliance with the Authority's Cash Management Policy, which guides on investment of surplus funds and other cash transactions, to realize value for money. The policy consolidates the Public Finance Management Act, the National Treasury guidelines and circulars, and Board approvals and directives.

The policy was recently revised to provide for limitation of exposure to any one bank and for increased placement of funds with Government Treasury Bills. This was as a result of placement under receivership of three banks (Bank of Dubai, Imperial Bank and Chase Bank) and the subsequent emergence of significant adverse information on several other banks in the market.

Committee Observations

The Committee observed that: -

(i) KPA had Sh13.2 billion of fixed deposits in 13 commercial banks. Out of the amount, Sh5.7 billion is held in Treasury bills and Sh702 million in mortgages.

(ii) KPA had a total of Sh2,956,547,000 in a fixed deposit interest-earning account at the time Chase Bank collapsed, which it cannot access the full amount after the Bank was placed under receivership in April 2016. The deposit has been earning zero interest after the insolvency of the Bank. Furthermore, some deposits were banked in December 2015, four months to the collapse of the Bank meaning that no due diligence was conducted by the Authority before identifying and opening the bank accounts.

(iii) KPA flouted Treasury Circulars No. 10 of July 1992 and No. 2 of February 1988 instructing all State Corporations to invest surplus funds in Treasury bills and bonds and opened 10 deposit accounts at various banks.

Committee Observations

The Committee recommends that: -

(i) The Ethics & Anti-Corruption Commission investigates the conduct of the former Managing Director of the Kenya Ports Authority, for contravening Treasury Circular No. 10 of 1992 which directed that State Corporations invest surplus funds in Treasury bills and bonds and recommend prosecution by the Director of Public Prosecutions for abuse of office contrary to and Public Officer Ethics Act, 2003;

(ii) The Board's MD ensures that the Board complies with Treasury Circular No. 10 of 1992, which directed that State Corporations invest surplus funds in Treasury bills and bonds.

2.21 KENYA RAILWAYS CORPORATION (FY 2009/2010 - 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE KENYA RAILWAYS CORPORATION FOR THE FINANCIAL YEARS 2009/2010 TO 2014/2015

Mr. Atanas K. Maina, Managing Director of Kenya Railways Corporation accompanied by Mr. Alfred Matheka, General Manager - Finance and Mr. David Njogu - Legal Officer appeared before the Committee on 9 February 2017, to adduce evidence on the Report of the Auditor General on the accounts of the Corporation for the financial years 2009/2010 to 2014/2015.

1. GOING CONCERN: FY 2009/2010 AND 2010/2011 ACCOUNTS

The Committee heard that, in 2001/2011, the Corporation recorded a loss of KES 1,982,575,873 (during the year 2009/2010) thus increasing the accumulated losses to KES 24,078,182,873 as at 30 June 2011. Similarly, the Corporation's negative equity stood at

KES 9, 550,744,249 as at 30 June 2011 from the previous year's figure of KES 12,775,739,849, while the current liabilities stood at KES 59,447,694,055 compared to the current assets of KES 9,333,342,750 reflecting a negative working capital of KES 50,114,351,305 as at 30 June 2011. The corporation is therefore technically insolvent. According to information available, the management has attributed the negative working capital of KES 50,114,351,305 to loan and interest charges and arrears amounting to KES 41,134,678,835 as at 30 June 2011.

In the circumstances, the financial statements have been prepared on a going concern basis on the assumption of continued financial support from the Government and Creditors.

Management's Response

The Managing Director informed the Committee that, having undertaken the following measures, the financial position of the Corporation has now been strengthened and profits are being realized.

(i) *The balance sheet clean-up exercise was undertaken to establish the correct financial position of the Corporation;*
(ii) *A request to the Government to waive penalties and interest on KRC's tax liabilities was done;*
(iii) *Debt restructuring where the long term debts were converted to equity;*
(iv) *Disposal of non-strategic assets with the proceeds going towards settling legacy debts.*

During the financial year ending 30 June 2012, the Government settled the outstanding tax of KES 4,788,004,722, and later waived the outstanding penalties and interest on tax liabilities of KES 12,962,423,837.

Committee Observations

The Committee observed that: -

(i) The financial performance of the Corporation has significantly improved after the Government waived penalties and interest on KRC's tax liabilities and disposal of non-strategic assets to settle long outstanding debts.
(ii) The clean-up and restructuring of the Corporation's balance sheet exercise was meant to return the Corporation to profitability to attract investors for concessioning of railway operations after years of financial struggle. The exercise was, however, used to dispose of key assets of the Corporation.

Committee Recommendation

The Committee recommends that the Managing Director and KRC management continues to put in place measures to ensure that the Corporation is commercially viable to enable it meet its obligations and reduce reliance on government funding.

1. PROPERTY, PLANTS AND EQUIPMENT: FY 2009/2010 - 2014/2015 ACCOUNTS

a) Land Ownership

The Committee heard that, property, plant and equipment balance of KES 22,564,400,180 excludes 23 parcels of un-surveyed land situated at Nairobi and Mombasa, with an undetermined value. In consequence, it has not been possible to ascertain that the property, plant and Equipment balance as at 30 June 2010 is fairly started.

a) Illegal allocations

Various parcels of land have been allocated to private developers by either the Commissioner of Lands or Local Authorities without the consent of the Corporation. For example, land measuring approximately 3 acres within Limuru Railway station, constituting industrial plot no. 7882/2-10 was allocated to private developers.

Similarly, private buildings put up on another piece of land measuring approximately 2 acres within Kikuyu Railway Station. While in Mombasa, parcels of land measuring approximately 1 and 0.75 acres adjacent to Mombasa Railway Station have been allocated, again without the Corporation's consent.

Management Response

The Managing Director informed the Committee that, the problem of land ownership was occasioned by the fact that the Corporation's value of land has been reported as a single block figure without a proper analysis and segregation as expected in the fixed assets register. This made it complicated for the corporation to determine the book value of land which was transferred to the pension scheme despite the fact that the market value of the transferred land was known.

The survey, valuation and segregation of land was therefore undertaken as part of the balance sheet clean up and properties belonging to Kenya Railways Benefits Scheme were left out. Thus only assets belonging to Corporation have been incorporated in the balance sheet.

On the illegal allocations the Committee heard that, the Corporation, has requested the Ministry of Lands to revoke titles of all the lands that was irregularly allocated by Commissioner of Lands. Attached is a copy of the letter sent to National Land Commission.

Further, the Corporation has embarked on a program to survey, register and secure titles for all its properties to prevent future grabbing.

Committee Observation

The Committee observed that, various parcels of land belonging to the Corporation have been allocated to private developers by either the Commissioner of Lands or defunct Local Authorities without the consent of the Corporation.

Committee Recommendations

The Committee recommends that: -

(i) **The Managing Director expedites acquisition of acquires land ownership documents for all its land irregularly allocated to third parties and further ensures that the land reverts to the Corporation.**

(ii) **As a safeguard measure, the Managing Director should place a caveat on disputed parcels of land.**

(iii) **The National Land Commission expedites the processing of title deeds of all parcels of land owned by the Corporation so as to secure and protect the Corporation's land from illegal acquisition by third parties.**

2. TRADE AND OTHER RECEIVABLES: FY 2009/2010 ACCOUNTS

a) Numerical Machining Complex Debts

The Committee heard that, net receivables balance of KES 2,855,320,518 as at 30 June 2010 include a debt of KES 14,998,772 due from Numerical Machining Complex Ltd (NMC) which NMC has not recognized as a liability in its books. According to information available, this particular balance has been a subject of dispute between the two entities in which the Corporation was later required to pay NMC a net amount of KES 6,986,901

In the circumstances, it has not been possible to confirm the receivable balance of KES 2,855,320,518 as at 30 June 2010 is fairly stated.

b) Rift Valley Railways Debt

The net receivables balance of KES 2,855,320,518 includes an amount of KES 1,165,092,028 due from the Rift Valley Railways. The amount which represents unpaid concession fees, rent and supply of spare parts has remained outstanding for a considerable long period of time. Consequently, the full recoverability of receivables balance of KES 2,855,320,518 is in doubt.

Management Response

During the balance sheet clean-up, it was established that KRC owes NMC KES 6,986,092. The Corporation has fully settled this debt.

On the Rift Valley Railways debt, the Corporation has successfully pursued the debt which has been fully settled. As at 30/09/2013, RVR had cleared the principal amount for Concession fees and had a balance of USD 1,574,689.36 approx. (KES 134M) in relation to rent and interest on default.

As at 30/09/2013, RVR had cleared the principal amount for Concession fees and had a balance of USD 1,574,689.36 approximately KES 134M in relation to rent and interest on default.

Committee Observation

The Committee observed that, KRC owed Numerical Machining Complex a debt of KES 6,986,901 but it has since settled the debt in full.

RVR owes the Corporation KES 134M in relation to unpaid rent and interest on default.

Committee Recommendation

The Committee recommends that the Managing Director should pursue recovery of the debt due from RVR and that RVR management pays the debt in a mutually agreed time frame.

2. INVESTMENT IN NUMERICAL MACHINING COMPLEX: FY 2009/2010 ACCOUNTS

The Committee heard that, the Memorandum and Articles of Association of NMC indicates that the Corporation subscribed and was issued with 38,250,000 shares of KES 10 each all worth KES 38,250,000 as at 30 June 2010. As reported in 2008/2009, this investment has however not been incorporated in the financial statements of Corporation, contrary to the generally accepted accounting principles.

Management Response

Although Kenya Railways Corporation owned 51% of the shares of Numerical Machining Complex and the other 49% owned by the University of Nairobi, such ownership was not as a result of direct purchase of the Numerical Machining Complex shares. Instead, the shares were held in trust by the Corporation, on behalf of the Government, through the Treasury.

Committee Observations

The Committee observed that, the 51% shares of NMC owned by KRC are only held in trust on behalf of the Government through the Treasury.

Committee Recommendation

The Committee recommends that the Principal Secretary, National Treasury addresses the matter of shareholding structure of NMC and recommends incorporation of the shares in the financial statements of the relevant Corporation/Ministry.

3. PAYMENT OF BOARD ALLOWANCES TO NON-GAZETTED MEMBERS: FY 2010/2011 TO 2013/2014 ACCOUNTS

The Committee heard that, Section 4 of the Kenya Railways Corporation Act lists the Board members of the Corporation who are supposed to be gazetted by the Minister for Transport as per State Corporation Act. Cap 446. During the year under review, the

management of the Corporation paid sitting allowances totalling to KES 1,520,000 to public officers in attendance during the Board/Committee meetings contrary to section 10(1) of the State Corporation Act, which requires that such allowances be paid to chairmen and Board members only. The Corporation therefore contravened the law.

Management Response

The Managing Director informed the Committee since 2006, when the concession of the railway operations to a private concessionaire, KRC was under-going very challenging times. Frequent and consistent advice and guidance from both the Inspectorate of State corporations and the Attorney General was required. It was therefore for this reason that the two officers were in-attendance in various board and board committee meetings to give their advisory opinions.

Further, in line with a directive from office of the Prime Minister, it was a requirement that all state Corporation must invite the Inspector General for State Corporations to attend meetings of the Board.

The Corporation sought guidance from the parent ministry as well as the office of the Attorney General. This culminated in reasoned opinion by the office of the Attorney General vide his letter Ref: AG/CONF/14/153/1(23) Vol III dated 26 March 2013. The AG has brought the matter to rest in his opinion by advising the Corporation that the AG and the Inspector General State Corporations or their representatives can attend any board meeting as provided under section 5(1) of the office of the Attorney General Act, 2012 and section 18(2) of the State Corporation's Act respectively and they should continue being paid all the sitting allowances and any other remuneration as provided by law. The Corporation has since stopped paying the said allowances after receiving the said letter AG/CONF/6/D/73 Vol. 1 of August 22, 2013. The amount reported here was based on an earlier letter Ref. AG/CONF/14/153/1 (33) which advised the payment of the Board members.

Committee Observation

The Committee observed that, the Corporation relied on advice from the Attorney General vide letter Ref: AG/CONF/14/153/1(23) Vol. III dated 26 March 2013 to pay representatives/non-gazetted board members. The Attorney General made reference to amendments to section 10 (1) of the State Corporations Act as amended under the Statute Law (Miscellaneous Amendments) Act, 2002 include public officers in payment of sitting allowances and other remuneration payable to Directors.

The Corporation has however since stopped paying the said allowances after receiving guidance from the Solicitor General Ref. AG/CONF/6/D/73 Vol. 1 dated August 22, 2013.

Committee Recommendation

The Committee recommends that the Managing Director ensures that Section 10(1) of the State Corporations Act, Cap 466 laws of Kenya, as amended under the Statute Law (Miscellaneous Amendment) Act of June 2002, is fully complied with. The Solicitor General in his letter Ref. AG/CONF/6/D/73 Vol. 1 dated August 22, 2013 further reiterated this position.

4. INACCURACIES IN THE STATEMENT OF CASH FLOW: FY 2010/2011 TO 2013/2014 ACCOUNTS

The Committee heard that, the provision for bad debts of KES 34,910,559 charged in the year under review has been adjusted to arrive at cash generated from operations, while the same is included in the amount deducted from gross debtors account.

The cash flow invested in work in progress at KES 333,417,557 has been accounted for as cash inflow.

The loss on sales of fixed assets of KES 85,323,000 adjusted to arrive at income generated from operations is not supported. The net book value of assets disposed is KES 71,280,000 against the gross disposal proceed of KES 42,637,000 gives a loss on disposal of KES 28,643,000

The cash and cash equivalent of KES 3,736,475,974 disclosed in note 27 differ with the derived balance of KES 1,947,873,966 net increase in the year and cash and cash equivalent brought forward of KES 667,698,174 totalling KES 2,715,572,140.

The statement of cash flows, consequently have not been prepared as per the requirements of IAS7 and the accuracy of cash and cash equivalent balance of KES 3,736,475,974 disclosed in note 27 as at 30 June 2011 could not be confirmed.

Management Response

The Managing Director informed the Committee that, the Corporation did effect the proposed amendments on the statement of cash flows from the year ended 30 June 2012 as below;

(i) The provision for bad debts no longer appearing in the statement of cash flows. The same has been taken of under movement of receivables

(ii) The cash invested in work on progress of KES 333,417,557 has been treated as outflow.

(iii) The cash and cash equivalent brought forward is KES 1,788,602,007 and not 667,698,174. This amount as disclosed in note 27 comprise:

(iv) Cash and bank balances of KES 667,698,174.

(v) And short term deposits/investments of KES 1,120,903,834.

(vi) The loss on disposal of fixed assets of KES 85,323,000 is arrived at by deducting the proceeds of KES 42,637,000 from the disposal of land costing 71,280,000 and investment property of KES 56,680,000.

Committee Observations

The Committee observed that, the Corporation did not prepare its cash flow statements as per the requirements of International Accounting Standards 7 to reflect the cash flow and cash accuracy balances.

Committee Recommendations

The Committee recommends that the Managing Director and General Manager Finance ensure that the financial statements of the Corporation are prepared in full compliance to IFRS and IAS.

5. CURRENT ASSETS: FY 2012/2013 TO 2014/2015 ACCOUNTS

The Committee heard that, the statement of financial position reflects current assets balance of KES 72,533,149,580 as at 30 June 2015 which include stores inventories amounting to KES 3,379,104,469. However, no stocktaking was carried out as at 30 June 2015. In the circumstances, it has not been possible to confirm the correctness of the total current assets balance of KES 72,533,149,580 as at 30 June 2015.

Management Response

The Managing Director informed the Committee that, with the Corporation inability to carry out stock-takes was as a result of cash flow constraints and staff inadequacies vis-à-vis the complexity and the expansiveness of the Corporation's store system.
The Corporation thus adjusts the stock values at the end of each financial year to take into account the movements within the year.

Committee Observation

The Committee observed that, the Corporation did not carry out a stock-taking of its inventories to establish their correct value.

Committee Recommendations

The Committee recommends that the Corporation should regularly conduct stock-taking of its assets held in the inventory to verify their quantities, condition and correct value.

The Committee further recommends that the Corporation recruits qualified accounting and auditing personnel and enhance their capacity to be able to adequately meet the demands of their duties.

6. SETTLEMENT OF POLITICAL RISK EVENT: FY 2014/2015 ACCOUNTS

The Committee heard that, the Statement of Comprehensive income for the year ended 30 June 2014 reflected expenses amounting to KES 416,886,673 described as extra ordinary expense for settlement of political risk event and paid to Rift Valley Railways. This further has been explained as a grant initially recognize as capital grant under the standard gauge railway project transferred to recurrent grant to settle political risk event claim during the year.

Although evidence available indicates that the National Treasury approved full settlement from the fund earlier earmarked for standard gauge railway feasibility studies, however the basis of claim and how the payment of KES 416,886,693 was calculated and arrived at still remained unclear by 30 June 2015.

Management Response

The Managing Director informed the Committee that, concessional agreement stipulated among other terms, are rights and obligations of the parties. The Kenya Concession Agreement (KCA) defines a Political Risk Event (PRE) and the Direct Agreement (DA) provide for allocation of risks and responsibility in the event of PRE. This responsibility is assigned specially by to GOK.

In January 2005, April 2009 and September 2009 RVR formally reported to GOK through KRC the occurrence of PRE demanding compensation.

A joint team from KR and RVR was constituted to evaluate the claim and advice on compensation.

The Board on its 299th Special Meeting held on 23 May 2012 at KRC Headquarters deliberated the validated loss and compensation amount.

Committee Observations

The Committee observed that, the Corporation incurred expenses in respect of settlement of political risk claims by the Rift Valley Railways following uprooting of sections of the Nairobi – Nakuru railway line in April 2009 and political disturbances in 2007 for restoration of works undertaken pursuant to the Contract on the conceded assets.

Committee Recommendations

The Committee recommends that the Managing Director should in future conduct and exercise due diligence and detailed analysis of the impact of political risk event or natural disaster event to RVR business before approving and honouring any claims of compensation from the concessionaire.

7. STATUS OF DEPOSITS HELD IN PRIVATELY OWNED BANKS DEPOSIT HELD BY THE KENYA RAILWAYS CORPORATION

The Committee was appraised on the status of deposits held in privately owned banks as follows:

Short-term Investment

Investments placement	Investment type	Rate of return	Amount	Effective date	Maturity period	Maturity date
KCB Mortgage Lien	LIEN	8.00%	200,000,000.00	11.11.16	3 months	11.02.17
KCB Mortgage Lien	LIEN	8.00%	400,000,000.00	11.11.16	3 months	11.02.17
KCB	Fixed Deposit (FDR)	10.50%	200,000,000.00	17.08.16	3 months	17.11.16
CFC Stanbic	Fixed Deposit (FDR)	8.00%	500,000,000.00	08.09.16	3 months	08.12.16
			1,300,000,000.00			

Funds under moratorium

Investments placement	Investment type	Rate of return	Amount	Effective date	Maturity period	Comments
Chase Bank - IR	Fixed Deposit	13.00%	500,000,000.00	19.13.16	3 months	Receivership 07.04.16
Chase Bank - IR	Fixed Deposit	18.00%	300,000,000.00	12.11.15	6 months	Receivership 07.04.16
			800,000,000.00			

Committee Observations

The Committee observed the following:

(i) The Corporation obtained approval from the National Treasury dated 17 November 2010 to invest surplus funds in Chase Bank, United Bank of Africa

and Consolidated Bank of Kenya subject the conditional that the Corporation carries out due diligence to ascertain the financial viability of the three proposed banks and ensure the security of the short term deposits takes precedence over the interest rate offered. The authority to invest in Bank of Africa was obtained on 24 January 2016.

(ii) The Corporation is unable to access KES 800 Million held at Chase Bank following CBK's decision to put the Bank under receivership in 7 April 2016.

Committee Recommendation

The Managing Director ensures that, the Corporation complies with section 28 (1) of the Public Finance Management Act and Treasury Circular No. 10/1992 on investments of surplus funds.

2.22 KENYA REVENUE AUTHORITY (FY 2013/2014)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE KENYA REVENUE AUTHORITY FOR THE FINANCIAL YEARS 2013/2014

Mr. John Njiraini, Commissioner-General, Kenya Revenue Authority accompanied by Mr. Ezekiel K. Saina, Commissioner ICT; Mr. Caxton Masudi, Commissioner, Domestic Taxes; Ms. Grace Muricho, Deputy Commissioner (Procurement and Supplies Services); Ms. Grace Wandera, Deputy Commissioner (Marketing and Communication) and Mr. Josphat Omondi Deputy Commissioner (Finance) appeared before the Committee on 5 July 2016 to adduce evidence on the Report of the Auditor General of KRA for the Financial Year 2013/2014.

1. LAND WITHOUT TITLE DEEDS: FY 2013/2014 ACCOUNTS

The Committee heard that, the financial statements of the Authority reflect land and building with a net book value of KES 9,533,366 as at 30 June 2014 which include 17 parcels of land without title deeds in various parts of the country valued at 378,000,000 with buildings valued at KES 829,050,000 which were transferred to the Authority by the Government at inception in 1995. The net book value of KES 9,533,366 however excludes one unvalued parcel of land in Machakos County without title deed and which was similarly transferred to the Authority by the Government in 1995. The balance further excludes an unvalued parcel of land in Taita Taveta County without title deed, and another in Shimoni Kwale, which is registered in the name of East African Common Services Authority. In the circumstances, it has not been possible to confirm the ownership status of the 20 parcels of land, and the property, plant equipment balance of KES 12, 315,101,000 is fairly stated as at 30 June 2014.

Management Response

The Authority received a total of 64 parcels of land from the Government at inception in 1995 following the enactment of the KRA Act all of them without title deeds. The Authority also bought one parcel of land on 28 June 2008 in Taveta for construction of one stop border posts (OSBP's). The value of the parcel of the land is included in the accounts under land and buildings at a value of KES 1,250,000.00

The Machakos property is in the DC's compound. Part Development Plan (PDP) has been finalized and advertised in Kenya Gazette and local newspapers seeking no objection from the public for processing of title deed. The development of the Machakos property is valued at KES 5 million and is included in the land and buildings.

The progress made to date is as follows: -

- The Authority has acquired title deeds for 48 parcels of land three of which were acquired in the financial years 2013/14 and 2014/15 for Kiunga, Embu and Bamburi parcels.
- 6 parcels of land have allotment letters and the necessary fees have been paid to the Commissioner of Lands for processing of the title deeds;
- 7 parcels of land are in various stages of registration process;
- 4 parcels of land have court cases and therefore no progress has been made until the court cases have been finalized.

Committee Observation

The Committee observed that, the Authority has not satisfactorily followed up acquisition of title deeds for its various parcels of land with the Commissioner of Lands. The application for letters of allotment was lodged to the National Lands Commission in 2009 and then in June 2016, an indication of a long lapse of time.

Committee Recommendation

The Committee recommends that the Commissioner General expedites acquisition of the title deeds so as to protect the public assets. Further, the Commissioner General should report progress to the National Assembly within six (6) months of the adoption of this Report.

2.23 KENYA ORDINANCE FACTORIES CORPORATION (FY 2005/2006 – 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE KENYA ORDINANCE FACTORIES CORPORATION FOR THE FINANCIAL YEARS 2005/2006 TO 2014/2015

Maj. Gen. Michael Munyoki, the Managing Director of Kenya Ordnance Factories Corporation, accompanied by Maj. Gen. (Rtd.) Maurice Oyugi; Board Director, Mr. Daniel Towett; Finance Manager, Mr. Leo Kerich; Quality Assessment Manager and Mr. Michael Rottok, Chief Finance Officer; appeared before the Committee to adduce evidence on the Report of the Auditor General on the accounts of the Corporation for the financial years 2005/2006 to 2014/2015.

1. IDLE MACHINERY: FY 2005/2006 ACCOUNTS

The Committee heard that, the balance sheet fixed assets figure of KES 3,041,409,345 excludes an undetermined value of idle machinery which was to be used in the production of Primer and tracer bullets, under phase II of the factory but it was not installed due to lack of funds. The machinery continues to deteriorate due to disuse. Available information indicates that the Corporation is seeking Government funding to install the production plant.

Management Response

The Managing Director informed the Committee that, during the establishment of the factory which was to be done in two phases, phase 2 was the establishment of Propellant powder, primers and tracer bullets manufacture. A factory was established in building 17 with partial machines for the same. The installation of these machines was not completed due to financial constraints since the contract was between the Government of Kenya and the Government of Belgium considered as a turnkey project. These machines and the factory building have never been put to use to date.

The 44 Board of Directors meeting held on 25 February 2013 was informed that, firms that have capacity to undertake the kind of works required for the completion of the phase were contacted but there was no response. Further, M/S Fabrique National Herstal of Belgium, the firm which did the original machine supply, installation and commissioning referred as a British firm, M/S Unionlet Limited was contacted. A representative of the firm, Mr. Mark Ranger visited KOFC in the month of June 2013 and held a fruitful preliminary discussion with the management on the kind of technical support the Corporation might require. Subsequently, the firm Fabrique National Herstal of Belgium through Unionlet of United Kingdom sent two engineers to assess the equipment and recommend the best course of action that would lead to the eventual operation of the idle equipment.

The report from the engineers was received in May 2014. In the report, FNH engineers observed that, it is not viable to start primer and tracer bullet line using the already partially installed machines because they are already obsolete. They therefore recommended that, an elaborate infrastructure be established with the latest machines due to the explosive nature of the plant.

The 48 Board of Directors meeting held on 5 November 2014 (Minute 365/48/14/4) the then Managing Director – Maj. Gen. (Rtd) L.K Tumbo informed the Board Members that arising from a visit by engineers from FN Herstal of Belgium to assess the state of completion of Primer and Tracer Production Line, the team had also conducted a technical assessment on the existing production line and recommended an in-depth analysis to be carried out by a team of experts from mechanical, electronics and programmers. The purpose is to identify the extent of repairs or upgrade required to restore the machines to full capacity to be in tandem with the current technology which is more profitable in the long run.

The in-depth analysis report was deliberated upon during the 52 Board of Directors meeting held on 9 December 2016 and it was resolved that considering the ongoing operations in Somalia which is matter of priority (Operation Linda Nchi – AMISOM), the recommendations by FNH Belgium engineers and the proposed machine upgrade be deferred in the time being. Therefore, the matter is currently closed as the Corporation seeks an alternative approach to address the issues regarding idle assets.

Committee Observation

The Committee observed that, the Corporation has idle machinery whose installation has not been completed due to lack of funds and that the machinery continues to deteriorate due to disuse.

Committee Recommendation

The Committee recommends that the Managing Director seeks Government funding to undertake of repairs required or upgrade of the machines to restore the them to full capacity to be in tandem with the current technology which is more profitable in the long run as proposed by the team of experts.

2. INVESTMENT SURPLUS: FY 2005/2006 ACCOUNTS

The Committee heard that, the Corporation invested KES 283,720,984 of its surplus funds in commercial banks contrary to Treasury Circular No. 10 of 15 July 1992 which requires that surplus funds be invested in Treasury Bills and Bonds. The investments of surplus funds was therefore made in breach of the existing financial regulations. Further, interest income earned of KES 10,834,468 could not be confirmed as credit advice slips and fixed deposit register were not produced for audit verification.

Management Response

The Managing Director informed the Committee that, funds amounting to KES 283,720,984 invested in commercial banks during FY 2005/06 were funds under lien and not surplus funds. The Corporation had contracted suppliers to supply assorted raw material (Order No. KOFC/003/06-07 & KOFC/004/06-07) and the payment terms was by confirmed, irrevocable and divisible letters of credit which can only be issued by commercial banks and not the Central Bank of Kenya.

In order to establish the letters of credit, the banks required the Corporation to provide security by placing the funds under fixed deposit to be used while honouring the letter of credit.

Consequently, KES 283,720,984 could not be invested in Treasury Bills and Bonds since the funds were under lien and earned interest during the letter of credit validity period. The Corporation concurs that at the time of audit, there was no fixed deposit register which is currently in place and regularly updated for audit verification. The Corporation operates an account with the Central Bank of Kenya which is used to invest surplus funds in line with Treasury Circular No. 10 of 1992.

The matter has been resolved.

Committee Observation

The Committee observed that, the Corporation placed the funds in a fixed deposit account in commercial bank in order to obtain security/guarantee/letter of credit from the bank to pay its suppliers as per the contract terms of agreement with suppliers for raw materials.

Committee Recommendation

The Committee recommends that the Managing Director ensures that the Corporation complies with Treasury Circular No. 10 of 15 July 1992 and existing financial regulations in case the Corporation invests its surplus funds.

3. LAND OWNERSHIP AND VALUATION: FY 2006/2007 - 2014/2015 ACCOUNTS

The Committee heard that, as reported in previous years, the Corporation has title documents for land measuring 727.7 hectares on which the factory stands. However, the Corporation requested the Government to allocate an additional 908 hectares to enable it attain the required safety distance for factory, subsequent to which an allotment letter for the additional land was issued. The process of surveying the additional 908 Hectares allocated to the Corporation to give buffer zone necessary to ensure safety of the people in the neighbourhood and security of the factory in accordance with International Standards started in February 2011, but stalled due to settlers who could not allow surveyor's access to the land in the buffer zone.

In addition, all parcels of land including land registration numbers Kakamega/Sango/1970 L.R No. 27206/2 measuring 0.48 hectares, 2545 hectares and 727.1 hectares respectively have not been valued and included in these financial statements.

Management Response

The Committee heard that, the process of valuing all the Corporation land is at advanced stage. Cadastral Survey exercise on all Military land was completed in November 2014. Survey works to pave way for issuance of title deeds and subsequent valuation which had initially stalled due to interference by the squatters was concluded by Surveyors from the Ministry of Lands and the beacons to cover the buffer zone confirmed by the Corporation on 4 June 2014. The title deed for LR 27206 (908 Hectares) was to be issued in the month of December 2014 which is currently being followed up by the Ministry of Defence. The Corporation's management has engaged the Ministry of Defence Work's Department in liaison with the Chief Valuer, Ministry of Lands, Housing and Settlement to value land measuring 727.7 hectares and the addition al 908 hectares once the title for the land is released by the Ministry of Lands and the National Lands Commission.

The parcel of land Kakamega/Sango/1970. LR No. 27206/1 and LR No. 27206/2 measuring 0.48 hectares, 2545 hectares and 727.10 hectares all with titles was due for valuation during this FY 2015/16 but due to lack of budget allocation, the exercise has been postponed and scheduled for the FY 2016/17 as per a letter Ref: DHQ/M826/WKS dated 7 April 2016. The land dispute culminated to the Parliamentary Select Committee on Defence and Foreign Relations visit to the Corporation on 8 November 2016 where they were briefed on the same.

To address the prolonged land dispute, the Committee recommended fencing of the land belonging to KOFC. Subsequently, the Board of Directors during the 52 Board meeting held on 9 December 2016 approved the tunnelling/embankment of KOFC land at KES 10 Million and Recruit Training School at KES 22 Million which is currently ongoing.

Committee Observation

The Committee observed that: -

(i) **Although the process of valuing the Corporation's land is in progress, there has been frosty relations between KOFC, local neighbouring population and County Administration since March 2016 on the 908 and 727.7 hectares, as a result of land dispute with the locals agitating to be squatters.**

(ii) **The parcel of land Kakamega/Sango/1970. LR No. 27206/1 and LR No. 27206/2 measuring 0.48 hectares, 2545 hectares and 727.10 hectares all with titles was due for valuation during the FY 2015/16 but due to lack of budget allocation the exercise was not undertaken.**

(iii) **The Corporation through its parent Ministry, Minstry of Defence engages the Ministry of Land and the National Land Commission for the release of the title deed for its parcel of land LR 27206 (908 Hectares)**

Committee Recommendation

The Committee recommends that the Managing Director, Board of Directors and parent Ministry ensures that the ownership issues and valuation of all KOFC land be expeditiously concluded and the value incorporated in the financial statements.

4. FIXED ASSETS REGISTER: FYs 2007/2008 - 2014/2015 ACCOUNTS

The Committee heard that, the Corporation did not during the years under review update the fixed assets register and ledger. Further, the Corporation failed to provide for audit review the detailed schedules in support of buildings, civil works, water line, plant equipment and machinery, furniture and fittings and motor vehicles have not been transferred to the Corporation from the Ministry of State for Defence. Consequently, the accuracy of fixed assets lance of KES 3,108, 219, 275 as at 30 June 2015 could not be confirmed.

Management Response

The Managing Director informed the Committee that, the Corporation concurs that its fixed assets register was not updated. This position is also attributed to the non-transfer of the assets from the Ministry of Defence to the Corporation. The existing assets register reflects all the various assets held in block figures obtained from the records of the contractor (FNH Herstal of Belgium). These figures are the ones currently depreciating to date as shown in the assets schedule. However, to enable the updating of the register and to capture all the assets' individual value, the Board of Directors during the 51 Board meeting directed Ministry of Defence Works Department in liaison with the Chief Valuer, Ministry of Lands, Housing and Settlement to value all the Corporation assets including land and thereafter update the register and depreciate them accordingly. Once the valuation exercise is concluded, detailed schedules of building and civil works, waterline, plant, equipment and machinery, furniture and fittings shall be availed to the auditors for verification. The valuation cannot be undertaken this financial year since there was no budget allocation for the exercise and the same will be provided for in the Ministry of Defence FY 2016/17.

Committee Observation

The Committee observed that: -

(i) **Transfer of fixed assets including building and civil works, water line, plant equipment and machinery, furniture and fittings and motor vehicles to the Corporation from the Ministry of State for Defence has not been done, although the Corporation incorporated the same in its books of accounts.**

(ii) **The Corporation has engaged the Ministry of Lands which is yet to visit the Corporation to undertake valuation of the Corporation assets including land to enable update of the register and depreciate some assets accordingly.**

Committee Recommendation

The Committee recommends that: -

(i) **The Managing Director, Board of Directors and parent Ministry pursues expeditious valuation and transfer of the Corporation assets from the Ministry of State for Defence to the Corporation.**

(ii) **In the meantime, the Corporation continues depreciating the assets in block as per the class of items and update the register with the newly acquired assets as the Corporation waits for valuation and transfer.**

5. MOTOR VEHICLES: FY 2008/2009 ACCOUNTS

The Committee heard that, accumulated depreciation of motor vehicles figure of KES 37,507,947 as at 30 June 2009 shown under note 8 exceeded the total cost of the motor vehicles of KES 27,015,909 resulting in excess depreciation of KES 10,492,038. The management did not therefore comply with the Corporation's policy on depreciation which requires that vehicles depreciation be provided on the initial cost or valuation cost to the residual values, over their estimated useful lives at the rate of 25% per annum. The excess depreciation charge of KES 10,492,038 has in effect resulted in overstatement of the accumulated loss of KES 630,191,511 by an equivalent amount.

In the circumstances, it has not been possible to confirm the correctness of the accumulated loss balance of KES 630,191,511 as at 30 June 2009 or to ascertain that the carrying value of fixed assets of KES 3,080,7154,823 is fairly stated as at 30 June 2009.

Management Response

The Managing Director informed the Committee that, during the year under review, the motor vehicles had been fully depreciated. This resulted to revaluation of the same figure captured in the FY 2009/10 fixed assets schedule. The value of the motor vehicles after revaluation was KES 18,261,000. Subsequently, depreciation was provided on valuation cost to the residual values, over their estimated useful lives at the rate of 25% per annum.

The matter has been resolved

Committee Observation

The Committee observed that, management did not therefore comply with the Corporation's policy on depreciation which requires that vehicles depreciation be provided on the initial cost or valuation cost to the residual values, over their estimated useful lives at the rate of 25% per annum.

Committee Recommendation

The Committee recommends that the Managing Director and the Finance Manager ensure that the Corporation complies with its policy on depreciation of its assets

6. VAT RECOVERABLE: FY 2009/2010 TO FY 2014/2015 ACCOUNTS

The Committee heard that, the Corporation during the years under review cleared its imported raw materials at a cost of KES 81 Million. This was done through the engagement of Port Ordnance, the institution that is responsible for the clearance of all imported goods/materials for the Ministry of Defence. Although the claim was made to the Kenya Revenue Authority (KRA) to refund the amount of KES 81 Million, a team from the Auditor General's Office was tasked to verify the claim on behalf of KRA to facilitate the processing and subsequent payment. During the verification process, it was noted that part of the amount claimed of KES 81 Million included railways levies and custom duties amounting to KES 16,287,779.00 which was not claimable therefore reducing the amount to KES 67,771,221.00.

Management Response

The Managing Director informed the Committee that, following the auditors observation that the records available indicates that the input tax on imported raw materials was paid through Department of Defence (Port Ordnance) on behalf of the Corporation using DOD KRA PIN No. P051098785V while the claim has been made using PIN No. P051121081J is correct. Considering that the two are not jointly registered for VAT refund, the Corporation with authority from KRA vide their letter reference P051121081J dated 8 December 2016 engaged Department of Defence to claim the amount of KES 64,771,221.00 on its behalf since the documents supporting the claim contain the DHQ PIN numbers. Therefore, the FY 2017/18 financial statements will require adjustments on the Corporation's books on trade and other receivables to read DHQ to be a debtor instead of VAT claimable under the Kenya Revenue Authority. The progress of refund is to be presented during the next Board meeting scheduled for the month of March 2017.

In the case of VAT claimable of KES 36,475,371.00 which has been outstanding for the past nine years, the Corporation made a claim to KRA for refund. However, documents to confirm the amount deducted as VAT totaling to this amount and remitted were not available with KRA to facilitate the processing. KRA requested KOFC to obtain relevant documentations from the Kenya Police, Administration Police and the Kenya Forests to support the claim which have been availed for confirmation of their admissibility.

The FY 2016/17 financial statements with the approval of the Board of Directors, a provision to cover the uncertainty of the collectability of KES 12,859,976 from KRA which has been outstanding for the last 14 years.

Committee Observation

The Committee observed that, KRA owes the Corporation a long outstanding claim for the refund of VAT amounting to KES 67,771,221.00

Committee Recommendation

The Committee recommends that the Managing Director and the Finance Manager launch a fresh claim of the refund from KRA using the available documentation.

7. **INVENTORIES: FY 2010/2011 & FY 2011/2012 ACOUNTS**

The Committee heard that, included in the inventories figure of KES 1,080,073,701 as at 30 June 2012 are 71,725 9 x 19mm parabellum ammunitions rounds valued at KES 2,962,243 that were returned by Kenya Police on 30 March 2007. The explanation provided by the management was that the ammunition was of poor quality. Further, the inventories balance comprises scrap metals valued at KES 56,643,000 and goods-in-transit worth KES 88,774,758. However, these figures were not supported by stock sheets as at 30 June 2012.

The management did not provide satisfactory explanation of KES 60,439,748 between the supporting documents and financial statements as analysed below:

S/NO	ITEM	FINANCIAL STATEMENTS (KES)	SUPPORTING DOCUMENTS (KES)	DIFFERENCE (KES)
1.	Raw Materials	415,667,069	360,667,069	55,000,000
2.	Finished Goods	184,850,329	190,290,074	5,439,745
				60,439,745

In the circumstances, it was not possible to ascertain that the inventories balance of KES 1,080,073,701 as at 30 June 2012 is fairly stated.

Management Response

The Managing Director informed the Committee that, the management concurs with the observation that at the time of audit, the schedules and stock sheets supporting inventories in respect to ammunition finished goods, raw materials and scrap was not availed. This was attributed to the fact that at that particular period, data relating to ammunition production were classified (secret) unlike the current situation which the Corporation allows auditors to physically verify the ledgers and stock sheets without making copies of the same. This kind of information has key impact on the national security and therefore Management will liaise with the auditors to verify the same on the ground when required to do so prior to necessary arrangements being put in place.

Committee Observation

The Committee observed that, the schedules and stock sheets supporting inventories in respect to ammunition finished goods, raw materials and scrap was not availed at the time of audit due to the fact that at that particular period, data relating to ammunition production were classified (secret) unlike the current situation which the Corporation allows auditors to physically verify the ledgers and stock sheets without making copies of the same.

Committee Recommendation

The Committee recommends that the Managing Director provides all declassified information to the Office of the Auditor-General necessary for verification of audit queries.

8. INACCURACIES IN STATEMENT OF CASH FLOWS: FY 2010/2011 ACCOUNTS

The Committee heard that, the Government grants of KES 254,780,585 which has been recognized as income before arriving at the profit for the year has been deducted in the statements to arrive at income from operations. Increase in stock value of KES 213,176,607 which is a cash flow has been treated as a cash inflow. Consequently, the statement has not been prepared as per the requirements of International Accounting Standard No. 7 and the accuracy of cash and cash equivalent of KES 152,550,761 as at 30 June 2011 could not be confirmed.

Management Response

The Managing Director informed the Committee that, deduction of KES 254,780,585 being Government grants for the FY 2010/11 in the cash flow statement to arrive at income from operations and the increase of stock value of KES 213,176,607 which was a cash flow treated as cash inflow was erroneous. However, the error affected the year under review but did not affect the subsequent years' financial statements. The matter has been resolved.

Committee Observation

The Committee observed that, the financial statements Corporation were not been prepared as per the requirements of International Accounting Standard No. 7 during the 2010/2012 financial year.

Committee Recommendation

The Committee recommends that the Managing Director and the Finance Manager prepare the financial statements Corporation in accordance with the requirements of International Accounting Standard and International Financial Reporting Standards.

9. UNSUPPORTED INVENTORY BALANCE: FY 2013/2014 ACCOUNTS

The Committee heard that, financial statements show inventory of KES 1,070,068,335 as at 30 June 2014 indicated as having been valued at lower of cost and net realizable values. However, the records availed for audit review reflected an amount of KES 992,762,545 resulting in an unexplained and unreconciled variance of KES 77,305,790. Consequently, the accuracy of the inventory figure of KES 1,070,068,335 as at 30 June 2014 could not be confirmed.

Management Response

The unreconciled balance of KES 77,305,790 is in respect to assorted rejected catridges from the inception of the factory and raw materials procured from China between 2006 and 2012. The use of these raw materials resulted to production of poor quality ammunition resulting to suspension of the lots and stock of raw materials that were remaining. Currently, the raw materials are being held in the Corporation's warehouse awaiting disposal. During the 50th Board of Directors meeting held on 06 November 2015 (Minute No. 380/50/15), the members approved the disposal of the unserviceable raw materials and ammunition through burning. Summary of the quantities and raw materials is as tabulated below:

S/NO	ITEM	U/A	QUANTITY	AMOUNT (KES)
1.	Assorted Propellant Powder	KG	7,031	14,665,789.88
2.	Primers for 9 x 19mm Ball	PCS	544,000	2,040,000.00
3.	Assorted rejected Catridges & Primers	KGS	1,200,000	60,600,000.00
	Total			**77,305,789.88**

Committee Observation

The Committee observed that, the financial statements of the Corporation reflected unreconciled balance of KES 77,305,790 in respect to assorted rejected catridges from the inception of the factory and raw materials procured between 2006 and 2012.

Committee Recommendation

The Committee recommends that the Managing Director ensures the Corporation undertakes accurate valuation of its inventories.

10. CASH AND BANK BALANCE: FY 2013/2014 & FY 2014/2015 ACCOUNTS

The Committee herd that as reported in the previous year, the cash and bank balance of KES 9,096,996 as at 30 June 2014 included bank balance of KES 6,484,965 which was arrived at after adjustment of KES 39,823,799. However, the details of the adjustment of KES 39,823,799 were not provided for audit review. Although the management has explained that the adjustment of KES 39,823,799 was in respect of unpresented cheques, details of the cheques have not been availed for audit verification. Consequently, the accuracy of the adjustment and other accounts that were subsequently affected could not be confirmed.

Management Response

The Managing Director informed the Committee that, cash and bank balance as at 30 June 2014 was KES 6,484,964.94 as per the attached reconciliation and the details of the unpresented cheques amounting to KES 39,823,799 are attached for verification. The error was due to the capturing of the unpresented cheques under trade and payables which has now been corrected. The corresponding entry for the adjustment on unpresented cheques is the trade and payables and the journal entries are hereby attached for verification. The details of the bank balances of KES 6,484,964.94 captured in the audited financial statements is summarized below

a.	Cooperative Bank of Kenya – Eldoret Branch	-	KES 919,266.57
b.	Kenya Commercial Bank – Eldoret West	-	KES 4,662,552.19
c.	Equity Bank – Eldoret Branch	-	KES 437,217.68
d.	Co-operative Bank of Kenya – Eldoret Branch	-	KES 465,928.50
	Total		**KES 6,484,964.94**

<u>Committee Observation</u>

The Committee observed that, the Corporation did not undertake reconciliation of cash and cash equivalents for the 46 counties bank accounts as at 30 June 2014. The matter has however since been resolved.

<u>Committee Recommendation</u>

The Committee recommends that the Finance Manager ensures that reconciliation of cash and cash equivalents and reconciliation of its accounts is regularly undertaken and all audit records submitted to the Auditor-General in time for verification in accordance to the Public Audit Act.

11. PREPAYMENT: FY 2014/2015 ACCOUNTS

The Committee heard that, debtors and other receivables balance of KES 425,074,097 as at 30 June 2015 also includes a prepayment of KES 2,416,450 included in other exchange

debtors balance of KES 119,080,509 made to an overseas supplies firm that have remained outstanding since 2010/2011 and no reason has been provided for non-recovery of the amount. Consequently, the accuracy and recoverability of the prepayment balance of KES 2,416,450 could not be confirmed as at 30 June 2015.

Management Response

The Managing Director informed the Committee that, the Corporation made an order to M and E Tools (PTY) Limited of South Africa to supply quantity (3) Complete Clutch – Harrison M350 for single lathe machine at CIF cost of Euro 18,268.80. This amount equivalent to KES 2,416,450.00 was paid in advance to the supplier as per the attached quotation of which they were to deliver within 12-16 weeks from receipt of the order. However, on 17 February 2012 the supplier indicated that the price the Corporation paid was for plates and not the complete clutch. This could not serve the purpose and was not commensurate with the amount paid in advance. It is in this regard that the Corporation wrote a letter to the Kenya Defence Forces Director of Military Intelligence (DMI) to task DA South Africa to assist in the recovery of the money from the firm. This is still being pursued by DA South Africa. However, considering the firm has been in communication with the Corporation, it is anticipated that they may be able to refund the amount or alternatively supply any other equipment for and awarded and is equivalent to the same amount in order to settle the debt.

Committee Observation

The Committee observed that, made the Corporation made a prepayment of KES 2,416,450 to an overseas supplies firm that has remained outstanding since 2010/2011 and no reason has been provided for non-recovery of the amount.

Committee Recommendation

The Committee recommends that the Managing Director and the Finance Manager pursues refund the prepaid amount or alternatively ask the supplier M and E Tools (PTY) Limited of South Africa to supply equipment equivalent to the same amount in order to settle the debt.

12. TRADE AND OTHER PAYABLES: FY 2014/2015 ACCOUNTS

The Committee heard that, trade and other payables balance of KES 529,140,745 as at 30 June 2015 included an amount of KES 14,000,000 in respect of cash and advance from the Ministry of Defence. The amount has remained outstanding since 2011/12 and the management has not indicated when the liability shall be cleared. The trade and other payables balance further includes a prepayment of KES 227,354,627 by the Ministry of Defence in respect of deposits for products which have also remained unsettled or unserviced since 2011/2012 and no reason has been provided for failure to service the

order for such a long period of time. Consequently, the accuracy and validity of the creditors and other payables balance of KES 417,354,627 as at 30 June 2015 could not be confirmed.

Management Response

The Managing Director informed the Committee that, during the FY 2011/2012, the Corporation was granted financial assistance as an advance of KES 140,000,000.00 by the Ministry of Defence which was to be refunded in form of ammunition or cash when the Corporation's financial situation improves. However, this obligation still remains as agreed and will be fulfilled when the Corporation concludes servicing of the outstanding orders for all security agencies. Once the Corporation completes servicing of the orders, the funds generated will be utilized to procure additional raw material for the production of required ammunition equivalent to KES 140 Million in order to offset the liability.

Prepayment amount of KES 529,140,745 as at 30 June 2015 includes KES 277,354,627.00 paid in advance by the Ministry of Defence for supply of products. Contrary to the auditor's observation that this has remained unserviced since FY 2011/2012, the Corporation has been servicing quantity One (1) million assorted ammunition as agreed upon during the Kenya Ministry of Defence and Kenya Ordnance Factories Corporation harmonization meeting held on 14 November 2014 at Kenya Army Headquarters. During the meeting, the outstanding amount worth of ammunition was KES 304,911,827.00 equivalent to quantity 7,229,452.00 assorted rounds has reduced to KES 277,354,627.00 as at 30 June 2015. The reduction of KES 27,557,200.00 in the prepayments is a clear indication that the Corporation has and will continue servicing the order as agreed during the meeting. The agreement made during the meeting was that since the priorities of ammunition requirement rapidly change, the unsupplied quantities and worth be converted to monetary values and KOFC replaces them with a credit note. Once the credit is issued, the Ministry of Defence will have the freedom to raise fresh orders of equivalent credit note value to offset the debt. The Ministry of Defence orders a total of quantity one (1) million assorted natures each financial year.

Committee Observation

The Committee observed that, the Corporation was advanced an amount of KES 14,000,000 the Ministry of Defence. The amount has remained outstanding since 2011/12 and the Management has not indicated when the liability shall be cleared.

Committee Recommendation

The Committee recommends that the Managing Director ensures that the Corporation services the advance as per the agreement with the Ministry of Defence.

13. GOVERNMENT INVESTMENT: FY 2014/2015 ACCOUNTS

The Committee heard that, the statement of financial position as at 30 June 2015 reflects government investment of KES 5,122,530,513. However, an explanatory note has not been provided to the financial statement to show what the amount relates to as required by IPSAS 1 on presentation of financial statements. Consequently, the accuracy and validity of the government investment balance of KES 5,122,530,513 could not be confirmed as at 30 June 2015.

Management Response

The Government investment of KES 5,122,530,513 reflected in the statement of financial position as at 30 June 2015 is the initial investment in form of grants made by the Government of Kenya as per the figure provided by the National Treasury while establishing the factory in respect to buildings, plant and equipment, civil works, motor vehicles, waterline, power lines installation and any other capital investment. To correct the observation and to comply with IPSAS 1 on presentation of financial statements, the Corporation has introduced a note in the FY 2016/17 financial statements on government investment to show what KES 5,122,530,513 relates to.

Committee Observation

The Committee observed that, the financial statements Corporation were not been prepared as per the requirements of International Accounting Standard No. 7 during the 2014/2015 financial year with regards to grants made by the Government to the Corporation.

Committee Recommendation

The Committee recommends that the Managing Director and the Finance Manager prepare the financial statements Corporation in accordance with the requirements of International Accounting Standard and International Financial Reporting Standards.

2.24 KENYA SCHOOL OF GOVERNMENT (FY 2000/2001 - 2013/2014)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE KENYA SCHOOL OF GOVERNMENT FOR THE FINANCIAL YEARS 2000/2001 TO 2013/2014

Dr. Ludeki Chweya, the Director General of the Kenya School of Government accompanied by Mr. Nura Mohamed, Acting Director Finance and Administration; Mr. Nicholas Iko, Director Human Resource Management, Ms. Prisca Oluoch, Director of Matuga Campus and Ms. Eveline Wahome, Finance Manager appeared before the Committee on 24 January 2017 and 14 February 2017, to adduce evidence on the Report of the Auditor General on the accounts of the Fund for the financial years 2000/2001 to 2013/2014.

1. SUNDRY DEBTORS: FY 2000/2001 ACCOUNTS

The Committee heard that, the balance sheet sundry debtors figure of KES 65,162,288 as at 30 June includes amounts of KES 33,132,122 and 1,876,000 owed by various government ministries and departments and returned cheques (RC) respectively. The outstanding amount of KES 33,132,122 in turn includes a sum of KES 10,541,503 owing since 1999 and prior years. However, the latest information received from the Institute indicates that out of the total outstanding sum of KES 33, 132,122 owed by various government ministries and departments, an amount of KES 9,645,021 had been recovered by June 2003 leaving a balance of KES 23,487,101 still outstanding. Similarly, out of the sum of KES 1,171,000 had been recovered leaving a balance of KES 705,000 still outstanding.

Management Response

The Director General informed the Committee that, further recoveries were made of KES 5, 668,388 from this outstanding debt. Recovery of the balance of KES 17,818,713 continued in subsequent years.

The School has since introduced a zero credit policy as contained in the KSG financial Management Policy and Procedures Manual. Further the School has established a credit control desk in the finance department and appointed a dedicated accountant with job description that includes debt recovery.

Committee Observation

The Committee observed that, the School is owed by various government ministries and departments long outstanding debts of KES 17,818,713.

Committee Recommendations

The Committee recommends that: -

(i) **The Director ensures that the School vigorously pursues the recovery of all debts due by its debtors within one year of the adoption of this Report.**

(ii) **The Director ensures that the School strictly enforces the zero credit policy as contained in the KSG financial Management Policy and Procedures Manual to improve its cash flow.**

2. UNQUALIFIED REPORTS: FY 2001/2002 – 2003/2004 ACCOUNTS

The Committee heard that, the then Kenya Institute of Administration obtained unqualified audit opinion in the financial years 2001/2002 to 2003/2004 except for the matter of sundry debtors.

3. PRESENTATION AND DISCLOSURES IN FINANCIAL STATEMENTS: FY 2004/2005 ACCOUNTS

The Committee heard that, contrary to the requirements of International Accounting Standards 1 on presentation of financial statements, pages 7 to 15 of the financial statements had not been identified clearly as the name of the reporting entity and year-end have not been prominently displayed. In addition, plant, property and equipment depreciation rate used of 25% is unrealistic and computers have not been classified and depreciated separately. Non-current liabilities largely constitute of amounts received in advance arising from the normal operations of the Institute and as such should not have been classified under long term creditors. Consequently, the financial statements do not provide relevant, reliable and understandable information.

Management Response

The Director General informed the Committee that, presentation of financial statements, pages 7 to 15 of the financial statements were clearly identified in the published accounts. Further plant, property and equipment depreciation rate was subsequently revised from 25% to 12.5%.

Computers have been properly classified and depreciated separately.

Amounts received in advance have been subsequently been classified accordingly under current liabilities. Relevant, reliable and understandable information has subsequently been provided in the financial statements. The matter was resolved.

Committee Observations

The Committee observed that: -

(i) **The School did not clearly identify the entity's name and prominently display the year-end of the year under review in its financial statements as required by international accounting standards. The School was therefore in breach of**

requirements of International Accounting Standards on presentation of financial statements.

(ii) The School did not use the correct rate of depreciation of plant, property and equipment. Instead, it used a depreciation rate of 25% which is unrealistic and computers had not been classified and depreciated separately.

Committee Recommendations

The Committee recommends that the Director of Finance and Administration ensures that the Institute complies with International Financial Reporting Standards and International Accounting Standards in preparation of its financial statements.

4. INVENTORIES: FY 2004/2005 ACCOUNTS

The Committee heard that, inventories are carried at a cost. This treatment does not comply with the with the requirements of the International Accounting Standards (IAS) No. 2 which requires inventories to be carried at the lower cost and net realizable value.

Management Response

The Director General informed the Committee that, the inventories were later valued as per the IAS and notes to the financial statements amended accordingly.

Committee Observation

The Committee observed that, the 2004/2005 financial statements of the School did not give the correct and fair cost of the inventories. The School was therefore in breach of International Accounting Standards (IAS) No. 2 which requires inventories to be carried at the lower cost and net realizable value.

Committee Recommendation

The Committee recommends that the Director of Finance and Administration ensures that the Institute complies with International Financial Reporting Standards and International Accounting Standards.

5. PLANT, PROPERTY AND EQUIPMENT: FY 2004/2005 ACCOUNTS

The Committee heard that, the Institute did not maintain a fixed assets register during the year under review. Records available indicate that the depreciation charge on the property, plant and equipment is overstated by KES 853,622 at a higher depreciation charge of 25%.

In addition, work in progress amount of KES 1,679,450 has been excluded in these financial statements contrary to the requirements of International Accounting Standards No. 11 and 16. Consequently it is not possible to confirm that the carrying values as stated in the financial statements reflect the fair value of the property, plant and equipment as at the balance sheet date.

Management Response

The Director General informed the Committee that, the Institute developed and maintains a fixed assets register.

Depreciation charge for plant and equipment was subsequently amended to.

Works in progress amount of KES 1,679,450 for water borehole was classified as other current assets in the financial year 2004/2005 and reclassified appropriately in 2005/2006 financial report under plant and equipment as per the requirements of International Accounting Standards No. 11 and 16.

Committee Observations

The Committee observed that: -

(i) The School did not maintain a fixed assets register during the 2004/2005 financial year but has since developed one and maintains it.

(ii) The financial statements of the year under review were not prepared in accordance with the requirements of International Accounting Standards No. 11 and 16.

Committee Recommendations

The Committee recommends that the Director of Finance and Administration strictly adheres to the International Accounting Standards in preparation of the financial statements.

The Committee further recommends that the School updates its fixed assets register regularly.

6. PROCUREMENT OF DIGITAL PHOTOCOPIER AND CONSUMABLES: FY 2004/2005 ACCOUNTS

The Committee heard that, during the year, the Management Tender Committee awarded a tender to purchase a digital photocopier and its consumables at KES 1,686,998 and 3,437,095 respectively. The award was unprocedural as the management tender committee were not authorized to award such contracts in excess of KES 1,000,000. Procurement procedures requires tender of over KES 1,000,000 to be adjudicated by the Council Tender Committee. As a result, it is not possible to confirm the validity of the procurement of the equipment and the resultant expenditure.

Management Response

The Director General informed the Committee that, the photocopier was never paid as the management rejected the delivery of the photocopier.

Committee Observation

The Committee observed that, the procurement process for the digital photocopier and its consumables was in breach of the Public Procurement and Disposal Act, 2005.

Committee Recommendation

The Committee recommends that the EACC investigates the conduct of the then Tender Committee Members for contravening the Public Procurement and Disposal Act, 2005 in the procurement of the digital photocopier and its consumables.

7. CASH AND CASH EQUIVALENTS: FY 2005/2006 ACCOUNTS

The Committee heard that, as disclosed in note 8 to the financial statements cash in hand as at 30 June 2006 amounted to KES 6,602,252. However, this balance could not be confirmed as the cash book had several adjustments that were not explained. In addition, although the financial statements indicate bank balance of KES 7,022,069 the grant and revenue cash books reflect bank balances of KES 756,268 and KES 15,388,083 respectively as at 30 June 2006. In addition, bank reconciliation statement for the two accounts were not made available for audit verification. Further, a prior period adjustment for cash of KES 8,635,964 reflected under reserves could not be verified as no supporting documents were made available for audit verification. Under the circumstances, the correctness of the total expenditure of KES 182, 103, 350 for the year ended 30 June 2006.

Management Response

The Director General informed the Committee that, during regular inspection of the School's accounts in August 2006, irregular transactions and alterations in the cashbooks were discovered. The then KIA Director immediately directed an interim audit of the matter by the auditors from the Ministry of Public Service, the Ministry of Finance and the Office of the Auditor-and Controller General.

The audit team under the auspices of the Internal Audit Department of the Ministry of Finance submitted its report entitled Special Audit Report on Alleged Misappropriation of Funds at the Kenya Institute of Administration dated 16 October 2006. The report stated that there is danger that over KES 18 million could have been misappropriated at KIA during the period under review. This was due to exploitation of the loopholes in the accounting system by accounts staff.

Further the report recommended inter alia, that the matter be referred to the Criminal Investigation Officer, Gigiri Police Station vide a letter dated 29 September2006 and also sent follow-up reminders vide letters dated 8 October 2008 on 5 December 2008.

The DCIO Gigiri replied to the matters from the Director KIA vide a letter Ref CID/CRI/6/4/G/VOL.11/83/2008 dated 9 December 2008. In the letter the DCIO informed the Institute that investigation file had been submitted to the office of the Attorney General and that an update would follow.

The DCIO Gigiri eventually informed the Director KIA of the results of the investigations vide letter Ref. CID/C/CRI/4/6/G/VOL.IV/145/2009 dated February 11 2009. The letter stated that the Director of Public Prosecutions directed that the two audit reports carried out came up with inconclusive results of what actually transpired or who was actually responsible for the loss of the books or money. In the circumstances the DPP directed that it will be pointless to refer the matter to KACC for investigations.

The Director KIA dispatched a reply to the DCIO vide letter Ref. CONF./z40/42 dated March 6, 2009 indicating that the Institute wished to pursue the matter with the DPP because she believed that the was enough evidence to prosecute the case and would wish to follow up the matter with the DPP.

However, the DCIO failed to oblige the Director's request and the matter appears to have rested at that point.

Meanwhile the Institute took disciplinary action against the both the accountant and the cashier who were suspected to have been responsible for the unaccounted amount of KES 18,889,825.85. Both officers challenged termination of their employment in the Industrial Court but the cases were dismissed on March 11, 2015.

In view of the foregoing and in accordance with the provisions of Section 69 of the Public Finance Management Act 2012 and Regulation 148 of the PFM Regulations, 2015, the Institute forwarded the matter to the National Treasury as required.

Bank reconciliations statements for the two accounts were prepared and made available for audit verification for the financial year 2006/2007.

A prior period adjustment for cash of KES 8,635,964 reflected under reserves relate to a portion of KES 18, 889,825.85 that was not accounted for.

Committee Observations

The Committee observed that: -

(i) The Institute lost more than KES 18 million due to misappropriation by former staff in the accounts department by exploiting loopholes in the accounting system.

(ii) The termination from employment of the staff responsible for loss of funds was not adequate and that the embezzled funds should still be recovered.

(iii) The School did not undertake reconciliation of its accounts in a timely manner which made it impossible to detect fraud in good time.

Committee Recommendation

The Committee recommends that: -

(i) **The EACC investigates the circumstances under which money was lost and recommends prosecution by the Director of Public Prosecution of the then Director and the officers responsible for the loss of revenue for contravention of Article 226(5) of the Constitution and abuse of office contrary to Section 101 of the Penal Code, Section 12 of the Public Officer Ethics Act and Section 11(1)(d), (j) of the Ethics and Anti-Corruption Commission Act.**

(ii) **The then CEO and the officers responsible for the loss of revenue should be surcharged and money recovered from them.**

(iii) **The management should put in place stringent measures to ensure that there is no further loss of public funds through revenue leakage.**

(iv) **The Director General should ensure that in future the School undertakes reconciliation of its accounts regularly and accounting documents are availed to the Auditor-General for verification as requires by the Audit Act.**

8. TRADE RECEIVABLES: FY 2005/2006 ACCOUNTS

The Committee heard that, trade and receivable balance of KES 103,831,089 as at June 30 June 2006 includes an amount of KES 60,523,380 in respect of 2005 and earlier years whose recovery appears doubtful, but for which no provision for bad and doubtful debts has been made in the financial statements. Further, refer to Drawer cheques balance amounting to KES, 404,500 includes cheques totalling KES 399,987 brought forward from previous years with some dating as far back as 1999 which have not been replaced. In addition, the Directorate of Personnel Management deposits totalling KES 1,050,418 were not analysed. In view of the foregoing, it was not possible to confirm the propriety of the trade receivable balance of KES 103,831,089 as reflected in the financial statements.

Management Response

The Director General informed the Committee that, returned cheques (RC) by banks are retained and used to follow up on its collection. The RC KES 399,987 were follow up in 2006/2007 including other debtors to a tune of KES 19, 041,995. The cash book and bank statements will be provided by 3 February 2017.

The provision for doubtful debts was subsequently made in the financial year 2006/2007 as per note 6(i).

Committee Observation

The Committee observed that, the School did not undertake analysis of debtors' amount totalling KES 1,050,418.

Committee Recommendation

The Committee recommends that the Director General should ensure that the School regularly undertakes analysis and reconciliation of its accounts and avail all relevant

accounting documents to the Auditor-General for verification as required by the Public Audit Act.

9. TRADE AND OTHER PAYABLES: FY 2005/2006 ACCOUNTS

The Committee heard that, trade and other payables balance of KES 27,307,736 includes an amount of KES 439,350 due to International Labour Organization and stale cheques of KES 81,273 relating to the period between 1999 to 2001. No explanation has been given as to why these long outstanding balances have not been cleared from the accounting records of the Institute.

Management Response

The Director General informed the Committee that, the stale cheques were subsequently cleared in the records in the subsequent years.

Committee Observation

The Committee observed that, the School had not cleared long outstanding balances due to the International Labour Organization and stale cheques from the accounting records of the School.

Committee Recommendation

The Committee recommends that the Director General ensures that payments made by the School are cleared immediately from the accounting records of the School.

10. INCOME: FY 2005/2006 ACCOUNTS

The Committee heard that, the Institute total income of KES 215,926,582 for the year ended 30 June 2006 includes an amount of KES 7,468,853 being interest from investment that had not been correctly stated because it includes an amount of KES 311,358 relating to an investment in Treasury bills by the Bookshop. Under the circumstances, it is not possible to confirm the propriety of total income of KES 215,926,582 for the year ended 30 June 2006.

Management Response

The Director General informed the Committee that, the bookshop was wound up by the Council in October 2016 and all assets and its liabilities transferred to the Kenya Institute of Administration as per KIA Act 1996 thus interests received from investments were incorporated in the books of KIA.

Committee Observation

The Committee observed that, the School did not correctly state its income in its financial statements as the interest from investment in Treasury Bills was omitted.

Committee Recommendation

The Committee recommends that the Director General should ensure that the School has qualified and competent staff in its Accounts department to maintain accounting records and prepare professional financial statements.

2.25 KENYATTA UNIVERSITY (FY 2014/2015)

~~EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL~~ STATEMENTS OF KENYATTA UNIVERSITY FOR THE FINANCIAL YEAR 2007/2008 2014/2015

Prof. Olive Mugenda, the then Vice Chancellor, Kenyatta University, accompanied by Prof. Geoffrey Mse (Deputy VC, Finance and Development), Prof. Paul K. Wainaina (Deputy VC Administration), Dr. Nelson M. Karagu (Registrar, Finance, Planning & Development) Mr. Joseph I. Gitahi (Chief Finance Officer) and Mr. Jones K. Wambua (Deputy Finance Officer) appeared before the Committee on 24 November 2015 to adduce evidence on the University's financial statements for FYs 2007/2008 to 2013/2014.

On 19 July 2016, Prof. Paul Wainaina, Acting Vice Chancellor, Kenyatta University accompanied by Prof. John Okumu, Deputy Vice-Chancellor (Academics), Prof. Godfrey Mse, Deputy Vice-Chancellor (Finance), Mr. Joseph Gitari (Chief Finance Officer), Dr. Nelson Karagu (Registrar) and Mr. Jones Wambua (Deputy Finance Officer) appeared before the Committee to adduce evidence on the audited accounts of the University for the financial year 2014/2015.

1. PROPERTY, PLANT AND EQUIPMENT: FY 2007/2008 - 2011/2012 ACCOUNTS

The Committee heard that, as disclosed in note 11 to the financial statements, the University holds the title for land totalling 1,120.45 acres valued at KES117, 205, 883. Included in this figure is land parcel L.R.No.11026/2 measuring 1,104.83 acres and valued at KES 35, 200, 000. However, records available indicate that over the years Kahawa Barracks have occupied 139 acres of this land while 40.82 acres has been encroached upon by squatters. The occupation of the total of 179.82 acres of the University land has not been formalized with the Commissioner of Lands with a view to obtaining compensation for the land so occupied. This is indicative of significant impairment of properties. No provision for impairment loss has been recognized in the financial statements.

Management Response

The Vice Chancellor informed the Committee as that:

a) 139 acres occupied by Department of Defense (D.o.D) - Kahawa Barracks:

This matter was considered by the Public Investments Committee in November 2004 and presentations made by Department of Defence, Kenyatta University and Ministry of Lands. It was concluded that there was no land lost by the government as both are government

bodies. However, the University is still holding the full title of the land due to the case of squatters in court. As soon as the case is determined the title deed will be surrendered to the Commissioner of Lands for excision and transfer of the said portion to the Department of Defence.

Committee Observations

The Committee observed that, the matter on the 139 acres of land occupied by Department of Defense (D.o.D) – Kahawa Barracks was extensively covered in the Committee's 17th Annual Report where the Committee observed that: -

(i) The Department of Defence was the original owner of Kenyatta University land which was surrendered to the University in the 1960's. In the process of erecting beacons for its portion, the University discovered that Kahawa Barracks had put up 35 houses on the portion of its land.

(ii) The University Council resolved that, the University surrenders the portion to the Commissioner of Lands for transfer to the Department of Defence following a Presidential Accord issued on 21 June 1990 and the approval of excision by the Department of Survey.

(iii) The University on 14 February 2008, submitted the title for excision of the 138 acres for Kahawa Barracks and made a request for compensation especially at the Coast Province where the University was planning to construct a training facility for the School of Tourism and Hospitality Management, which request was declined by the Minister for Lands who recommended through the parent Ministry and the Treasury that, the Commissioner of Lands could make a compulsory acquisition for a beach plot if funds were availed.

Committee Recommendation

The Committee recommends that the Vice- Chancellor pursues compensation from the Commissioner of Lands through the parent Ministry for the 138 acres ceded to Kahawa Barracks.

2. CAPITAL WORK IN PROGRESS - KES 16,136,655: FYs 2007/2008 AND 2008/2009 ACCOUNTS

The Committee heard that, included in the capital work in progress figure of KES466, 569,737 is an amount of KES16,136,655 being costs incurred on staff housing and administration block that stalled due to the government suspension of development grants to the University in the late 1990s. It is therefore not possible to express an opinion on the carrying value of the capital work in progress in these financial statements. However, the management of the university indicates that plans are still underway to complete the building projects using its internally generated funds.

Management Response

The Vice Chancellor informed the Committee that, the costs were incurred on staff housing KES 13,812,424 and administration block KES 2,324,231. These were among several projects that stalled after the government suspended development grants in the late 1990s. The University has already completed the two projects using internally generated funds. The administration block which was an extension of the old administration building was completed in 2009 and the staff houses in 2013.

Committee Observation

The Committee observed the matter was resolved after the University completed the two projects using internally generated funds in 2009 and 2013 respectively.

3. **PROPERTY, PLANT & EQUIPMENT - COMCRAFT HOUSE, LR.NO. 209/4869: FY 2010/2011 ACCOUNTS**

The Committee heard that, the property, plant and equipment balance of KES7,140,550,671 includes Comcraft House parcel L.R. No.209/4869 valued at KES226,138,133 whose title deed was not availed for audit review.

In the circumstances, it has not been possible to confirm the ownership status of the two parcels of land and that the property, plant and equipment balance of KES7,140,550,671 is fairly stated.

Management Response

The V.C informed the Committee that, **Comcraft House L.R. No. 209/4869** which houses the KU City Campus in the City Centre, was bought in 2011. By the time of audit, the University lawyer was processing the transfer of title deed with the Ministry of Lands. The ownership of the property was transferred to the University and the Title Deed issued on 28th December 2012.

Committee Observation

The Committee observed that, the matter has since been resolved following the transfer of the land to the University and issuance of title deed on 28 December 2012.

4. **TRADE AND OTHER RECEIVABLES - KES 225,033,293: FYs 2011/2012 - 2013/2014 ACCOUNTS**

The Committee heard that, the trade and other receivable figure of KES 225,033,293 includes:

a) **Sundry Debtors: KES 55, 490, 186**

Sundry debtors amounting to KES 55,490,186 out of which an amount of KES 9,492,406.85 has been outstanding for more than two years. No evidence was availed to confirm efforts being taken to recover these debts.

b) Imprest Control KES 29, 176, 320

Imprest control of KES 29,176,320 as analysed at note 14 of the financial statements includes KES 10,899,630 held by ex-employees. No satisfactory reasons were given as to why the imprests were not recovered before employees left the university.

c) Staff debtors KES 7,293,020

An amount of KES 7,293,020 is staff debtors out of which KES 1,421,445.70 relates to car loans owed by four (4) ex-employees which has been outstanding for a long period of time. The car loans were issued by National Bank of Kenya and guaranteed by the university but the ex-employees later stopped paying their car loans after they left the university. The Bank, however, recovered the amount owed together with the accrued interest from the fixed deposit account of the university.

In addition, the University has not provided for audit verification, the policy on car loans to the staff, details on how the log books were released to the ex-staff and how the ex-employees were cleared by the university before the university fully recovered the outstanding loans.
In the circumstances, it has not been possible to confirm the recoverability of the trade and other receivable balance of KES 225,033, 293.

Management Response

The Vice Chancellor informed the Committee as follows: -

a) Sundry debtors KES 55,490,186

The University has taken the following measures to ensure that the debts are recovered;

(i) The University has written reminder letters to the debtors.
(ii) The debts have been handed over to the University lawyer to pursue them through legal channels.
(iii) Concerning debts owed by government Ministries and Institutions, the University had requested Treasury to intervene in the recovery of the debts and Treasury has written to the respective Ministries and institutions, as a result of which some debtors have paid.

b) Imprest control KES 29,176,320

The ex-employees who left with debts have not been cleared by University. Debts for staff that are still in employment are being recovered from their salaries in full. The debts for

staff that have left the University are being followed by the University lawyer through legal channels. In the month of April 2015, the University wrote to the Credit Reference Bureau seeking their intervention to impress upon former members of staff to settle debts owed.

c) Staff debtors KES 7,293,020

The car loan scheme was a carry-over from the University of Nairobi when the Faculty of Education was transferred to the then Kenyatta University College. The pension benefits used to be utilized to offset any outstanding balance on car loan or other debt owed by a staff member. However, this situation changed with the enactment of the Pension Act in 2001.The Act made it impossible to recover any staff debt from the pension fund. During that period staff used to collect the log books from the custody of the University for purposes of renewing their road licenses with the Registrar of Motor Vehicles and often times some staff would return the log books on time. The scheme was discontinued due to flexibility of banks to give loans. These debtors, like the above cases, have been referred to the University lawyer to follow up using legal channels.

In the month of April 2015, the University wrote to the Credit Reference Bureau seeking their intervention to impress upon former members of staff to settle debts owed.

Committee Observations

The Committee observed that: -

(i) **The University is yet to recover imprests, debts and loans with accrued interests from a number of its ex-staff who have since left the University service and whose current addresses are unknown. Non-recovery of the monies has led to loss of public funds by the University.**

(ii) **The University Management flouted the government financial guidelines and regulations on issuance of imprest, by failing to recover the imprest within the stipulated time.**

Committee Recommendations

The Committee recommends that: -

(i) **The then Vice Chancellor and Finance Officer be held accountable for flouting the government financial guidelines and regulations on management of imprests, and be surcharged for the loss of public funds.**

(ii) **The Vice-Chancellor must immediately take all the necessary action to ensure that all outstanding imprests and loans owed to the University by the ex-staff are recovered within six months of the adoption of this Report.**

(iii) **The Vice-Chancellor formally writes to the debtors to repay the amounts owed to the University and further submits the names of the ex-staff with outstanding loans and imprest to the Credit Reference Bureau and to the Department of Criminal Investigations for tracing of the defaulters.**

(iv) **The Vice Chancellor should ensure that imprest advanced to officers is recovered within the stipulated period in accordance with section 92 of the Public Finance Management Act Regulations of 2015 which allows surcharging of officers for any imprest held beyond the stipulated seven (7) days after return to the work station.**

5. PROPERTY, PLANT AND EQUIPMENT: FY 2014/2015 ACCOUNTS

The Committee heard that, the Property, Plant and Equipment balance of KES 12, 164,763,086 as at 30 June, 2015 includes the main campus University Land Registration No.11026/2 measuring 445.17 hectares.

Included in the 445.17 hectares is a portion of land measuring 12.472 hectares valued at KES981, 479 that has been illegally encroached upon by squatters. Although the university has filed a case in a court of law against the illegal encroached, the matter has not been determined and the squatters continue to make developments on the land.

Further, the property, plant and equipment balance includes land valued at KES880, 000 acquired from Lagdera Constituency Development Fund in Garissa County for which no ownership documents were availed for audit verification.

In addition, the property, plant and equipment balance includes a piece of land LR.No NKU-Block 9/108 in Nakuru Township measuring approximately 0.0231 hectares or 0.0570 acres and valued at KES2,018,237 for which a certificate of lease dated 2 November 2009 for a lease period of 99 years was issued. However, information available indicate that the piece of land was originally excised from a public road reserve measuring 10m x 32.93m previously separating plot number 86 and 87 leaving a narrow lane of 3 meters. The matter was reported to the Nakuru County Government which in turn has requested the National Land Commission to conduct investigations to establish the circumstances under which the road was excised and allocated to an individual who subsequently sold the same to the university.

In the circumstances, it has not been possible to confirm the ownership status of the three parcels of land l valued at KES3, 879,716 as at 30 June 2015.

Management Response

a) Encroachment of University Land

The illegally encroached portion of the University land by purported Kamae squatters has been a long standing issue for the University.

The squatters have so far occupied more than the original 40.82 acres which includes 10acres in the riparian reserve.

The University has taken several measures to recover the land including:

i. The University went to court to seek immediate eviction of the illegal occupants. Caveats were issued but the squatters continued to build uncontrollably. The case has been pending hearing at the Court of Law for a very long time. As a result of this the University engaged different lawyers at different times to pursue the matter. Finally, as a result of vigorous follow up by the University and the current lawyers, the full hearing of the case commenced on 2 October 2015 but was adjourned and resumed on 13November 2015, then 3-4 February 2 March and 4 April 2016, when the University closed testifying. The University is now waiting the court's communication on the defense hearing date.

ii. Prior to the above and pursuant to the Public Investments Committee (PIC) recommendations that the University to secure its boundary, the following actions were taken:

- A trench measuring 1500 x 1500m to mark University boundary was dug since the earlier chain link fence had been vandalized. The squatters defiantly backfilled the trench.
- In 2008, the University Management visited and petitioned the Minister for Lands on the matter, who advised that the University lawyers be urged to expedite the hearing of the case. In addition, the Provincial Administration was urged to provide security to the University assets as a public property.
- In the year 2010, the University consulted the Permanent Secretary, Internal Security about the recovery of the grabbed land. Again the University was advised to put up standard temporary GCI units (uni-huts) to avoid encroachment. The uni-huts were erected by 2012 to cater for the administration Police officers who would camp at the site to prevent any further construction.
- In mid 2014 the University held a meeting with the Minster for Lands, Hon. Charity Ngilu who visited the affected land and promised to take the necessary action.
- Subsequently, the University wrote to the National Land Commission to try to resolve the issue given the University comprehensive master plan for the area. A team lead by the Chairman of the National Land Commission visited the site on 14 January 2015, and requested the illegal occupants of the University Land at Kamae to forward to the Commission any document that could prove their ownership of the land within seven days.

None of the above efforts has yielded any tangible results.

b) Dadaab Campus

The land measuring 32 hectares is where Kenyatta University campus Daadab will be located. It was donated to the University by the then County Council of Garissa in May 2013 to build the Campus after many discussions and negotiations. The amount of KES 880,000

indicated as value of the land is in respect of costs incurred by the University as registration charges and other related costs.

In February 2015 the land was put in the Kenya Gazette Notice No. 982 dated 13February 2015 in compliance with the physical planning Act (Cap 286), to facilitate formalization of ownership documents and issuance of the title deed soon.

c) Disputed land in Nakuru (L.R block 9/108)

This is an empty piece of land the University bought in 2009 as a parking area alongside the building (Plot L.R Block 9/86) which houses the Nakuru Campus.

Before buying the plot, the University engaged the services of a lawyer and two valuers including the Ministry of lands who carried out extensive due diligence and obtained:

- Certificate of Lease
- Certificate of official search
- Land rent clearance certificate
- Land rates clearance certificate

In view of the above, the management had no doubt that the property had a genuine certificate of lease upon which information the University relied on to purchase the piece of land.

In February 2014, the Secretary, County Government of Nakuru wrote to the University claiming the land was Public land and was seeking for help from Land Commission to establish how Kenyatta University was allocated the public land.

The University responded to them with copy to the Chairman, Land Commission.

The University also wrote to the company that sold the land and alerted them on the matter and its expectations should the land revert to the Government.

Appearance before PIC:

When the University appeared before the Public Investment Committee in November in 2015, the Committee agreed with the University that it had done due diligence as required before buying the land. The Committee also noted that the University was cleared by all the relevant Government agencies, including the Ministry of Land and the then County Council of Nakuru before obtaining the ownership documents.

In view of the above, the Public Investments Committee cleared the University of any wrong doing and recommended that, the matter be put to rest.

It should also be noted that since the last correspondences from the County Government of Nakuru in February 2014 enquiring about the acquisition of the Land, the County Government has not made any other step upon the realization that the University had followed all due Government procedures in obtaining the land.

Committee Observations

The Committee observed that: -

(i) The Committee dealt with the matter of excision and ceding Kenyatta University land in its 10th, 13th and 17th Reports wherein it noted that:

- The University's decision to hive off 30.8 acres to settle Kamae squatters and a further ceding of 10 more acres to compensate for the allocation on riparian reserves was irregular noting that it is not the Council's responsibility to cede public land to individuals.
- The squatters continued constructing permanent and modern homes and multi-storeyed buildings on the University land and that these structures continued spreading rapidly past the trench/boundary into the University's land;
- The fence erected to secure the land was brought down and requests by the University to the Provincial Administration to enforce the court orders and evict the squatters have not been granted.
- The matter poses a security threat due to increasing number of squatters on the University's land and that the squatters may lay claim to the land through principle of adverse possession for occupation beyond twelve-years.

(ii) Despite the Committee's Recommendations in its previous Reports, the matter remains unresolved and the University continues to lose its land to squatters who are encroaching on the land unabated.

(iii) The University is yet to acquire ownership documents for parcels of lands it owns in Dadaab and Lagdera.

Committee Recommendations

The Committee recommends that: -

(i) In view of the seriousness of the matter of encroachment of the University's land by squatters, the University through the parent Ministry requests the Ministry of Interior & Coordination of National Government to enforce court orders and evict the squatters to secure the University's land and provide security to the University land which is a public asset;

(ii) The Vice-Chancellor through the University's lawyers should expedite the conclusion of the case seeking eviction of the illegal occupants of the University land;

(iii) **The Vice-Chancellor pursues the title deeds for parcels of lands it owns in Dadaab and Lagdera.**

6. RECEIVABLES FROM NON-EXCHANGE TRANSACTIONS: FY 2014/2015 ACCOUNTS

The Committee heard that, Receivables from non-exchange transactions balance of KES 405,984,228 as at 30 June 2015 includes Imprest control of KES13,435,764 as analysed under note 21 to the financial statements out of which KES9,169,853 has been outstanding for over one year.

Further, a balance of KES 405,984,228 also includes an amount of KES 6,531,111 in respect of staff debts out of which KES 1,421,445 relate to car loans due from four (4) officers who have since left the university and have been outstanding for a long period of time. As indicated in the previous year, the car loans were issued by National Bank of Kenya and guaranteed by the University. The bank however recovered the amount owed together with accrued interest from the fixed deposit account of the university. It is, however, not clear how the vehicle log books were released to the ex-staff and how the ex-employees were cleared by the university before the university fully recovered the outstanding loans.

In the circumstances, it has not been possible to confirm full recoverability of the receivables from non-exchange transactions totalling to KES10, 591,298 as at 30 June 2015.

Management Response

The Vice-Chancellor informed the Committee that:-

a) Imprest control (KES 13,435,764)

There are ex-employees who left with debts. These ex-employees have not been cleared by University. The debts owed are being followed by the University lawyer through legal channels.

The University wrote to the Credit Reference Bureau in the month of April 2015, to black list them from accessing credit facilities.

b) Staff debtors (KES 6,531,111)

The car loan scheme was a carried over from the University of Nairobi when the faculty of education was transferred to the then Kenyatta University college.

The pension benefits used to be utilized to offset any outstanding balance on car loan or other debt owed by a staff member. However, this situation changed with the enactment of the pension Act around 2001.The Act made it impossible to recover any staff debt from the pension fund. During that time staff used to collect the log books for the purpose of renewing their road licenses with the registrar of motor vehicles and often times some staff would not return the log books on time.

The scheme was discontinued due to flexibility of banks to give loans. These debtors, like the above cases, have been referred to the University lawyer to follow up using legal channels.

The University wrote to the Credit Reference Bureau in the month of April 2015, to black list them from accessing credit facilities.

When the University appeared before the Public Investment Committee, the Committee recommended that, an updated record be prepared and channelled to the committee so that the Committee can make informed recommendations on the next course of action. The University is in the process of establishing the current addresses and last known contacts for the debtors for follow up.

Committee Observation

The Committee observed that, former employees owe the University KES 13,435,764 relating to un-surrendered imprest and KES 1,421,445 relating to car loans due from four (4) officers who have since left the university. The debts have been outstanding for a long period of time.

Committee Recommendations

The Committee recommends that: -

(i) **The University hastens the process of establishing contacts of the ex-employees so as recover the outstanding debts from them.**

(ii) **The Vice Chancellor should ensure that imprest advanced to officers is recovered within the stipulated period in the Public Finance Management Act.**

(iii) **The University adheres to section 92 of the Public Finance Management Act Regulations of 2015 which allows surcharging of officers for any imprest held beyond the stipulated seven (7) days after return to the work station.**

(iv) **The Vice-Chancellor puts in place a stringent loan policy to ensure that staff clear the loans advanced to them before the loan security documents are returned to them.**

7. REPORT ON INVESTMENTS IN THE EAST AFRICAN REGION

The Committee heard that, Kenyatta University opened campuses in Arusha, Tanzania and Kigali, Rwanda after conducting a feasibility study. The University expected to admit the first batch of students in September 2016.

The University obtained approval from the Commission for Higher Education and Tanzanian authorities to begin operating the two campuses.

The investments were initiated after concurrence was sought from the University Council where the parent Ministry and the National Treasury are represented. The University later found out that direct approval from Treasury was needed for the project.

The University has so far spent a total of KES 370,409,026 in setting up the Rwanda Campus while the Tanzania Campus cost KES 53,487,488 to set up.

The campuses are managed by Kenyatta University where two Directors attached to each of the campuses answer to the Vice-Chancellor.

In the case of Rwanda, the University was required to register a company in Kigali that would operate the University. Kenyatta University opened a company whose Directorship is composed of staff from the Vice-Chancellors office.

Committee Recommendations

The Committee recommends that: -

(i) The University should ensure that it complies with the Universities Act 2012 and its attendant Regulations in operating any campuses outside Kenya.

(ii) The University should also ensure its obtains all relevant approvals prior to making any financial commitments on opening of new Campuses.

(iii) The shareholding of the Company should be registered in the designations of the office holders and not in the names of individuals and further in compliance with the Companies Act, 2015.

(iv) The Auditor-General verifies the ownership status of the Company and reports status in the next audited accounts of the Company.

2.26 KERIO VALLEY DEVELOPMENT AUTHORITY (FY 2006/2007 - 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF KERIO VALLEY FOR THE FINANCIAL YEARS 2006/2007 TO 2014/2015

Mr. David Kimosop, the Managing Director, Kerio Valley Development Authority accompanied by Mr. Moses Kipchumba, Mr. Joshua Mosoti and Mr. Peter Kurui appeared before the Committee on 24 February 2017, to adduce evidence on the Report of the Auditor General on the accounts of the Authority for the financial years 2006/2007 to 2014/2015

1. **NON-REMITTANCE OF STATUTORY DEDUCTIONS: FY 2006/2007 - 2008/2009 ACCOUNTS**

The Committee heard that, trade creditor's balance of KES 52,961,360 includes an amount of KES 24,966,224 in respect of staff deductions which were not remitted to the relevant

authorities. The Authority is therefore likely to incur heavy penalties and interest charges for noncompliance with relevant legislations.

Management Response

The Managing Director informed the Committee that, un-remitted staff pension deductions of KES 24,966,224 accrued over the years due to inadequate recurrent funds.

However, the Authority is currently pursuing concurrence from Treasury to dispose its six housing units to the staff scheme as a means of clearing the debt.

Committee Observation

The Committee observed that, the Authority failed to remit staff deductions amounting to KES 24,966,224 accrued over the years to the relevant Authorities.

Committee Recommendation

The Committee recommends that: -

(i) The Managing Director pursues all possible strategies to ensure that the Authority settles the outstanding remittances within six (6) months of the adoption of this Report.

(ii) The Managing Director should ensure that going forward, the Authority remits all statutory deductions such as, NSSF, PAYE, NHIF within the stipulated period to avoid unnecessary penalties and interest.

2. DEBTORS AND PREPAYMENT: FY 2006/2007 & 2007/2008 ACCOUNTS

The Committee heard that, as reported in the previous year, the debtors and prepayments balance of KES 60,156,780 as at 30 June 2007 includes imprests owed by staff amounting to KES 32,679,289. Analysis of the imprests revealed that out of this amount, KES 22,232,171 is owed by a former Managing Director of the Authority and KES 1,822,935 by other employees who have since left the Authority. In addition the Authority is owed KES 17,576,787 by its tenants out of which KES 7,618,182 is owed by tenants who have since vacated the premises of the Authority. Any provision that would have been necessary in relation to these uncertainties has not been incorporated in the financial statements under review. Under the circumstances, it is not possible to confirm that the debtors and prepayment balance of KES 60,156,780 as at 30June 2007 is fairly stated and recoverable.

Management Response

The Managing Director informed the Committee that, the outstanding debt of KES 32,679,289 is largely due to Authority's employees who were issued with office imprests or requested for advances but were not able to surrender the same before exiting service. In addition, there were various tenants who were unable to pay their tenancy fees and eventually they were forced to vacate the offices to avoid further accumulations. The same

will be forwarded to the Board for further direction. Currently the Authority has forwarded the names of former Managing Director, former Directors and former staff to the Inspectorate of State Corporations for surcharge.

Committee Observations

The Committee observed that: -

(i) The former Managing Director and former employees owe the Authority KES 22,232,171 and KES 1,822,935 respectively, in form of un-surrendered imprests and advances. Further, former tenants who have since vacated the premises of the Authority owe the Authority KES 7,618,182 relating to rent arrears.

(ii) The former Managing Director and Finance Officer were in breach of Government Financial Regulations and Procedures on imprests as supplemented by Treasury Circulars which spell out guidelines for management and recovery of imprest leading to widespread financial malpractices.

(iii) The Inspectorate of State Corporation confirmed receipt of the names of former Managing Director, former Directors and former staff who owe the Authority money and is instituting measures to recover the money.

Committee Recommendations

The Committee recommends that: -

(i) The EACC investigates the conduct of the then Managing Director and Finance Officer in relation to issuance and non-recovery of imprest and allowances and for failure to adhere to the then Government Financial Regulations and Procedures on imprests and Treasury Circulars and for abuse of office contrary to Section 101 of the Penal Code and Section 10 of Public Officer Ethics Act, 2003.

(ii) The Managing Director and the Finance Officer ensure that the outstanding imprests owed by the said former employees are fully recovered from their terminal dues.

(iii) Going forward, the Management should enforce section 92 of the Public Finance Management Act Regulations of 2015 which allows surcharging of officers for any imprest held beyond the stipulated seven (7) days after return to the work station.

(iv) On outstanding rent areas, the Managing Director should ensure that the Authority pursues the recovery of all rent arrears including attaching the properties of the defaulters and taking legal action before resorting to write-off.

(v) The Managing Director should also ensure that the Authority establishes and enforces a tenancy agreement of its premises with its tenants, clearly

stipulating the terms and conditions of occupancy with strict timelines of rent payment and consequences of default.

3. CASH AND BANK BALANCE: FY 2006/2007 ACCOUNTS

The Committee heard that, cash and bank balance of KES13,834,793 includes IOU's of KES 813,557, partly paid unsupported vouchers of KES 339,653, outstanding procurement requisitions of KES 974,825, cash sale receipts of KES 3,825,350, imprests of KES 4,521,708 refer to drawer cheques of KES 81,630, travelling orders of KES 2,068,109 and cash shortages of KES 27,024 resulting in inaccurate reporting of the cash balance. Consequently, it was not possible to confirm that the cash and bank balance of KES13,834,793 is fairly stated as at 30 June 2007.

Management Response

The Managing Director informed the Committee that, during the year under review, the Authority's cash and bank balance stood at KES 13, 834,793 comprising of IOUs, partly paid vouchers, cash sale receipts and imprests. Cash sale receipts and imprest have since been surrendered and passed in the cash book.

Committee Observation

The Committee observed that, there were inaccurate entries and reporting in the Authority's cashbook thus there was no reasonable assurance regarding the reliability of financial reporting.

The Committee further observed that, the Authority has since recovered the outstanding imprests and cash sale receipts. The management is working to clear the IOUs and partly paid vouchers.

Committee Recommendation

The Committee recommends that Managing Director and the Finance Manager ensures that the Authority puts forth significant efforts to improve internal accounting controls to prevent errors and ensure accurate financial management and reporting.

4. WORK IN PROGRESS: FY 2006/2007 - 2010/2011 ACCOUNTS

The Committee heard that, work in progress balance of KES 214,912,211 represents expenditure incurred by Authority on phase I of Kimau Dam which was completed in 2001 and was to be operationalized upon construction of phase II of the project. However, as at 30 June 2011 phase two of the project estimated to cost KES 229,393,633 has not been commenced due to non-availability of funding from Government. The phase I which is complete continues to deteriorate due to weathering conditions in addition to wear and tear and the entire project may go to waste if not completed or cost much more to complete due to escalation of raw materials cost and inflation .The intended purpose for this project

may therefore not be achieved in spite of KES 214,912,211 having been expended towards its construction. Consequently, I am unable to confirm that the carrying values of the work in progress reflect the fair values as at balance sheet date.

Management Response

The Managing Director informed the Committee that, the work in progress in respect of Kimao Dam Phase I envisaged the damming of River Kimao. The same was completed at a total cost of **KES 214,912,211** and a completion certificate issued. To make the project operational, the Authority constructed a water treatment Tank and a 3.6 km pipeline to supply water to Kimalel and Koriema in Baringo county. This was launched by the Cabinet Secretaries Ministry of Devolution & Planning and that of Ministry of Water on August 2016.

Committee Observation

The Committee observed that, the Kimao Dam Project was launched in August 2016 and is now fully operational.

Committee Recommendation

The Committee recommends that the Managing Director ensures that the Authority conducts a feasibility study to before commencing capital projects to ensure that the projects are viable and will be completed as envisaged.

5. **AUDIT FEES: FY 2006/2007 ACCOUNTS**

The Authority has failed to honour audit fee notes for last 6 years totalling to KES 4,262,000 for the years 2001/02 to 2005/06. Although the financial statements reflect KES 3,562,000 as outstanding audit fees, the figure excludes KES 700,000 whose payment vouchers was prepared by Authority but payment was not effected. Non-payment of audit fees contravenes Section 19 of the Public Audit Act which requires every State Corporation audited by the Controller and Auditor General to pay for the cost of the audit.

Management Response

The Managing Director informed the Committee that, the Authority had not paid the fees due to inadequate funding. However, currently the entire amount that was owed has been cleared.

Committee Observations

The Committee observed that, the Authority contravened section 19 of the Public Audit Act 2003 by failing to pay audit fees amounting to KES 4,262,000 to the Office of the Auditor-General between fiscal years 2001/2002 to 2005/2006.

The outstanding payment has since been cleared and the Authority currently makes timely payments to the Auditor General.

Committee Recommendation

The Committee recommends the Managing Director ensures that the Authority makes timely payments to the Auditor General in compliance with the Public Audit Act 2015.

6. FIXED ASSETS: FY 2007/2008 to 2008/2009 ACCOUNTS

The Committee heard that, fixed assets balance of KES 814,567,148 as at 30 June 2008 includes properties without title documents valued at KES 16,879,000. In addition, the Turkwel Gorge assets including the dam, three (3) guest houses, seven (7) staff houses and the office block which were allocated to the Authority during the power sector reorganization in 1998 have, to date they have not been captured in the Authorities' financial statements. In the circumstances, it is not possible to confirm that the Authority's fixed assets balance of KES 814,567,148 as at 30 June 2008 is fairly stated.

Management Response

The Managing Director informed the Committee that, properties valued at KES 16,879,000 are located on land that is communally owned where demarcations have not been carried out and no titles have been issued.

During the power sector re-organization, Turkwel Gorge assets including the dam, three (3) guest houses, seven (7) staff houses and the office block were allocated to the Authority and the same were not reflected during the year under review.

The Authority has since reflected the Turkwel Gorge assets in its financial statements of 2013/2014.

Committee Observation

The Committee observed that, the matter of capitalization of the Turkwell Gorge assets has since been resolved as evidenced by the Authority's reflection of the assets in its financial statements of 2013/2014.

Committee Recommendation

The Committee recommends that the Managing Director pursues the demarcation of the land and follows up acquisition of the title deed for the said parcel of land, with the National Land Commission.

7. FINANCIAL PERFORMANCE: FY 2008/2009 ACCOUNTS

The Committee heard that, during the year under review, the Authority recorded an excess of expenditure over income of KES 61,469,826 (2008 – KES 15,871,590) which brought its accumulated deficit to KES 100,973,422 as at 30 June 2009. Although the Management has explained that the poor performance was due to low funding by the Government, a fact that has been brought to the attention of the parent Ministry, it is nevertheless evident from the

financial statements that increased expenditure matched with reduced revenue during the year similarly contributed to the inadequate performance.

Management Response

The Managing Director informed the Committee that, the Authority programmes are largely funded by Government and its budget is based on printed estimates. Whenever there is a budget cut, the expenditure already incurred will be more than funds received hence the disparity between revenues and expenditures.

Committee Observation

The Committee observed that, the Authority incurred budget over runs without prior approval from the National Treasury and the Parent Ministry contrary to the provisions of Section 12 of the State Corporation Act, Cap 446.

Committee Recommendation

The Committee recommends that the Managing Director seeks post facto approval from the parent Ministry and the National Treasury for the over-expenditure, and henceforth, ensure that the Authority operates within its approved budgetary limits or seeks relevant approvals before incurring any expenditure above the approved budget.

8. PROPERTIES IN THE AUTHORITY'S FIELD STATIONS: FY 2008/2009, 2010/2011, 2012/2013 & 2013/2014 ACCOUNTS

The Committee heard that, included in the property, plant and equipment balance of KES 799,841,657 as at 30 June 2009 are various properties with total net book value of KES 1,402,767 as shown below, but whose ownership documents were not availed for audit verification.

Property	Location	Amount (KES)
Guest House	Tot	152,162
Workshop	Kabarnet	723,798
Residential House	Chemeron	177,155
Guest House	Sigor	293,930
Staff Houses	Sigor	55,722
	TOTAL	**1,402,767**

In absence of the documents, it has not been possible to ascertain ownership and accuracy of the property, plant and equipment balance of KES 799,841,657.

Management Response

The Managing Director informed the Committee that, the Authority wishes to report that these properties lie on land communally owned. Demarcations have not been carried out and no titles have been issued. This makes it difficult for the Authority to get the respective title deeds. However, there is progress made on the Kabarnet plot where the Authority has obtained an allotment letter.

Committee Observation

The Committee observed that, the Authority's properties worth KES 1,402,767 lie on communally-owned land whose demarcation has not been carried out and no title deeds have been issued.

Committee Recommendation

The Committee recommends that the Managing Director pursues the demarcation of the land and follows up acquisition of title deeds for the said parcels of land with the National Land Commission.

9. ACCURACY OF THE FINANCIAL STATEMENTS: FY 2009/2010 ACCOUNTS

The Committee heard that: -

The statement of changes in Reserves for the year ended 30 June 2010 reflects a total of KES 1,265,574,984 while the statement of financial position as at 30 June 2010 shows a balance of KES 1,266,274,984 against the item, resulting in an un-reconciled and unexplained variance of KES 700,000. Further, the statement includes unexplained adjustments of KES 806,378 and KES 800,028, described as understatement of assets and adjustment respectively.

The statement of Cash Flows reflects a Cash and Cash Equivalents balance of KES 502,091,899, while the Statement of Financial Position as at 30 June 2010 shows a figure of KES 503,005,577. The resultant difference of KES 913,678 has not been reconciled or explained.

The audited financial statements for 2008/2009 reflect a net deficit of KES 61,469,826, while the comparative figure brought forward in the statements under review stands at a deficit of KES 62,169,826. The resultant difference of KES 700,000 has not been reconciled or explained.

Management Response

The Managing Director informed the Committee that, statement of changes in Reserves for the year ended 30 June 2010 reflects a total of KES 1,266,274,984 and not KES 1,265,574,984 as queried and therefore the variance of KES 700,000 does not exist.

Adjustments of KES 806,378 and KES 800,028 have since been corrected through journal entries.

Committee Observations

The Committee observed that, the resultant difference of KES 700,000 was due to an omission of audit fees provision for 2008/2009 financial year. The same was corrected and included in the subsequent financial year.

Committee Recommendation

The Committee recommends that the Managing Director and the Finance Manager correct journal entries in the financial statements to reflect accurate and true position.

10. CASH AND BANK BALANCE – FY 2010/2011 ACCOUNTS

The Committee heard that, development account cash book balance of KES 44,249,190 disclosed in note 5 did not agree with the cash count amount of KES 41,679,827 leading to a difference of KES 2,569,363, explained to be a correction of payments wrongly credited to the cash book. However, no documents in support of the correction were availed for audit verification.

Further, the bank reconciliation statement presented for audit reflected that the total of unpresented cheques was KES 4,063,989 while the actual total was 3,748,988 leaving a balances. However, no documentary evidence in support of the correction was availed for audit verification.

In the circumstance, the accuracy of the cash and bank balance of KES 357,440,556 as at 30 June 2011 could not be ascertained.

Management Response

The Managing Director informed the Committee that, the difference between the cash book balance of KES 44,249,190 and cash count of KES 41, 679,827 were as a result of errors in the cashbook which have been corrected in journal entries.

Committee Observation

The Committee observed that, the matter has since been resolved following reconciliation of the cash and bank balances.

Committee Recommendation

The Committee recommends that Managing Director and the Finance Manager ensures that accurate journal entries are made in the books of the Authority and regular analysis and reconciliation of the Authority's accounts is undertaken.

11. INACCURACIES IN THE FINANCIAL STATEMENT: FY 2010/2011 ACCOUNTS

The Committee heard that, the statement of cash flows has not been prepared as per the requirement of IAS 7 as follows:

i. The cash flows under investing activities of KES 27,208,108 and KES 32,956,462 used to purchase property, plant and equipment and work in progress respectively differ with the total amount of KES 60, 193,820 disclosed in note 2(a) the resultant difference of KES 29,250 has not been fully explained by management.

ii. The comparative figure of KES 16,352,293 of net cash used in investing activities does not agree with the figures derived from purchase of plant, property and equipment and increase of biological assets of KES 16,352,293 and KES 5,197,501 respectively totalling to KES 21,549,794. In consequence, the statement of cash flows has not balanced and the accuracy of cash and cash equivalents of KES 357,440,556 as at 30 June 2011 could not be confirmed. The statement of changes in reserves recognizes an income of KES 3,986,780 described as prior year adjustments. However, the source of adjustments has not been disclosed in the financial statements.

iii. The accumulated depreciation brought forward from the previous year of KES 267,410,056 as disclosed in note 2(a) without disclosing the nature and purpose of the restatement. The resultant increase of KES3,024,748 has not been explained.

Management Response

The Committee heard that, the Authority has since handled the mis-statements and the errors reduced significantly as evidenced in subsequent financial years. Journal entries were passed to correct these errors in the financial years 2012/2013 and 2013/2014.

In the subsequent years, the Authority followed the IAS 7 in preparing its financial statements and currently the Authority has adopted the IPSAS in its financial reporting.

Committee Observation

The Committee observed that, Authority has since adopted the International Public Sector Accounting Standards in preparing its financial statements.

Committee Recommendations

The Committee recommends that the Management ensures that the Company prepares its financial statements in compliance with international accounting standards.

The Committee further recommends that the Managing Director and the Finance Manager ensure that the Authority puts in place adequate controls in its Accounts Department to safeguard its assets, ensure accuracy of financial reporting and avert possible fraud.

12. ECONOMIC STIMULUS PROGRAM: FY 2010/2011 ACCOUNTS

The Committee heard that, the Authority received Government grants under economic stimulus programme of KES25, 000,000 during the 2010/2011 financial year (and KES 500,000,000 in 2009/2010). The Management has indicated that the amount was for the expanded irrigation project at Loyapat in Turkana County and they are in the process of seeking the services of consultants before implementation of the project. However, at Note 10(g), the Authority has disclosed expenditure of KES109, 007,920 under the programme. The documents in support of the programme were not availed for audit verification.

Consequently, the propriety of KES 109,007,920 spent under the programme in the year under review and whether the grants were used for the intended purposes could not be confirmed.

Management Response

The Managing Director informed the Committee that, the KES 109,007,920 was not spent on Loyapat project. The Economic Stimulus programme had several projects to be implemented alongside Loyapat. The Loyapat project implementation had not commenced by the time audit was carried out.

The KES 109,007,920 was utilized under Economic Stimulus Programmes listed in the table below: -

	PROJECT	AMOUNT SPENT (KES)
1.	Rehabilitation of irrigation projects in Ptokou/Sangat, Tot, and Arror (Loyapat is yet to start being implemented)	17,822,575
2.	Construction of water pans	66,119,021
3.	Rehabilitation of Earth Moving Equipment	7,338,557
4.	Tree seedlings production	234,770
5.	Premises maintenance and lifts repairs	6,738,009
6.	Honey Value Chain Programme	9,654,430
7.	Programme administration	1,100,558
	Total	**109,007,920**

Committee Observation

The Committee observed that, the Authority failed to avail for verification, expenditure documents in support of KES 109, 007,920 expenditures as at 30 June 2011. The schedules of payments relating to the above projects were later availed to the Auditor General for verification and the matter resolved.

Committee Recommendation

The Committee recommends that the Managing Director ensures that the Authority

provides all necessary documents, information and explanation with respect to examination and audit of accounts of the Authority in accordance with the Public Audit Act, 2015.

13. NON-CURRENT ASSETS: FY 2011/2012 ACCOUNTS

a) Property in Authority's Field Station

The Committee heard that, property, plant and equipment balance of KES 1,019,672,159 as at 30 June 2012 includes various properties with a total net book value of KES 1,402,767. However, their ownership documents were not availed for audit verification.

The Authority does not have the ownership documents of motor vehicles registration numbers KAA 706P and KYF 534 valued at KES 580,000 and 450,000 respectively. The vehicles are indicated to have been donated by the Italian Government and the World Bank.

Management Response

The Managing Director informed the Committee that, the properties lie on land communally owned. Demarcations have not been carried out and no titles have been issued. This makes it difficult for the Authority to get the respective title deeds.

The motor vehicle registration number KAA 706P was mistyped. The correct details for this Vehicle is KAA 706A. The Authority obtained the log book for this vehicle.

For vehicles KYF 534, the Authority sold this vehicle in the year 2009 as per the sale documents.

Committee Observations

The Committee observed that: --

(i) The Authority's properties in various field stations lie on land which is communally- owned and demarcations of the land have not been carried out, hence no titles have been issued.

(ii) The ownership of motor vehicle was resolved following acquisition of logbook for KAA 706A and sale of KYF 534 in 2009.

Committee Recommendation

The Committee recommends that the Managing Director pursues the demarcation of the land and follows up acquisition of title deeds for the said parcels of land with the National Land Commission.

b) Kabarnet Workshop

The Committee heard that, included under the work in progress balance of KES 400,462,166 is KES 15,699,781 incurred in respect of **Kabarnet Workshop** for which a

contract was signed for duration of 120 days between the Authority and a construction firm on 26 May 2010 for KES 15,699,781.

However, contract variation of KES 1,098,615 was granted on the contract without being authorized by the Tender Committee against the requirements of Public Procurement and Disposal Regulations.

Management Response

The Managing Director informed the Committee that, the contract for Kabarnet workshop had a variation of **KES 1,098,615** due to works which were omitted in the bill of quantities which was highlighted at the time of final inspection. The works were a staircase and ramp which had to be constructed because of the nature of site. The contractor continued based on the development on the site.
Although the variation was not authorized by the tender committee, the Ministry of Public Works recommended that, the works were necessary for the building to function.

Committee Observation

The Committee observed that, the Authority varied the cost of the contract without the approval in writing of the Tender Committee in accordance to the provision of Section 47 (a) of the Public Procurement and Disposal Act, 2005.

Committee Recommendations

The Committee recommends that: -

(i) The then Managing Director, Mr. Mutua Ruchu, should be investigated and held accountable for varying the contract during its implementation without the approval of the Tender Committee contrary to Section 47 (a) of the Public Procurement and Disposal Act, 2005.

(ii) The Managing Director should ensure that due diligence is conducted at all stages of project implementation to reduce variations during contract implementation.

c) Tot Irrigation Scheme: FY 2011/2012 to 2013/2014 ACCOUNTS

The Committee heard that, included under the restricted funds expense of KES 367, 304,968 as at 30 June 2015 is KES 2,271,960 incurred in respect of Tot Irrigation Scheme Project. This was in addition to KES 86,170,150 that was spent in the previous years. In total an amount of KES 88,442,110 has been incurred on the project and supervision and consultancy was also awarded to another firm for a contract sum of KES 8,494,680. The contract was awarded to a local firm for a contract sum of KES 64,231,138. The contract period was from 24 November 2010 to 23 May 2011, a period of six months. However, the

same was extended to 15 June 2011 and finally to 31 December 2011. The project had not been completed as at 30 June 2015 six years after the commencement of the project.

Consequently, delay in completion of the project may result in cost escalation and may negatively impact on service delivery.

Management Response

The Managing Director informed the Committee that, Tot Irrigation Project was awarded at a contract sum of KES 64,231,138. The contractor delayed in carrying out the works as expected leading to a breach of contract. As a result, the contract was terminated by the Authority.

KES 2,271,960 incurred as at 30 June 2015 was for bush clearing which was separate from the contract works. The consultant was paid KES 3,558,887.60 over and above the contract sum of KES 8,494,680 as a result of the delayed works caused by the contractor. The consultancy fees in excess of the contract was financed from the contractor's account. The total incurred for the project was KES 78,556,665.60 and not KES 88,442,110 as reported. The amounts paid were for certified works done and the Authority obtained value for money. The Contractor was paid based on certified works while the consultant's pay was time-based.

The project has since been completed.

Committee Observation

The Committee observed that, the Authority terminated the Contract owing to the Contractor's breach of contract agreement by delaying completion of works within the scheduled time as per the contract requirements.

The project was later completed at a total cost of KES 78,556,665.60.

Committee Recommendation

The Committee recommends that the Managing Director ensures that all contracts are executed as per the contract requirement, scope, time and budget.

The Committee further recommends that the Managing Director reports errant contractors to the National Construction Authority for investigation and further action as per the NCA Act, 2011.

14. ARROR PROJECT: FY 2011/2012 TO 2014/2015 ACCOUNTS

The Committee heard that, included under the restricted funds expense of KES367, 304,968 as at 30 June 2015 is KES 3,040,399 which was incurred in respect of Arror Irrigation Project. This was in addition to 61,406,677 that was spent in the previous years. In total an amount of KES 64,447,076 has been incurred on the project. The contract was

awarded to a contractor at a contract sum of KES 62,298,021 while the consultancy firm was awarded supervision contract for the project at a sum of KES 9,074,680.

The contract was to be completed on 15 June 2011, but the contract period was extended to 31 December 2011. The Authority had paid a total of KES 42,993,382 to the contractor and an additional KES 12,477,684 was paid to a consultancy firm before the contract was terminated for non-performance in December 2012. The consultancy firm was therefore overpaid by KES 3,403,004.

It could not be determined whether the Authority got value for the KES 64,447,076 already incurred on the project.

Management Response

The Managing Director informed the Committee that, Arror irrigation project was awarded at contract sum of KES 62,298,021. The contractor delayed in carrying out the works as expected leading to a breach of contract. As a result, the contract was terminated by the Authority.

At time of termination, payments had been made as follows;

1. Contractor - KES 33,648,679.40 and not KES 42,993,382
2. Consultant - KES 11,721,461.54 not KES 12,477,684

The project has since been completed. The Contractor was paid based on certified works while the consultant's pay was time-based.

Committee Observation

The Committee observed that, the contractor breached the contract agreement by delaying in performing and completion works within the scheduled time as per the contract requirements despite extension of time resulting to termination of the contract by the Authority.

Committee Recommendation

The Committee recommends that the Managing Director ensures that all contracts are executed as per the contract requirement, scope, time and budget. Contractors who fail to complete contracts should be black listed by the Authority.

15. PTOKOU AND SANGAT IRRIGATION PROJECT: FY 2011/2012 TO 2014/2015 ACCOUNTS

The Committee heard that, included under the restricted funds expense of KES 367, 304,968 as at 30 June 2015 is KES 132,380 which was incurred in respect of Ptokou and Sangat Irrigation Projects. This was in addition to an amount of KES 105,538,639 that was spent in the previous years. In total, an amount of KES 105,671,019 has been incurred on the project. The contract was awarded to a contractor at a contract sum of KES

100,914,472 but was later revised to KES 98,000,000. The technical evaluation committee recommended the award of the tender to a firm at a cost of KES 98,926,181. However, the tender committee rejected the recommendation and proceeded to award the tender to another firm at a contract sum of KES100,914,472 against the requirement of the regulation number 11 of the Public Procurement and Disposal Regulations (revised 2010) which prohibits modification by the tender committee of any submission by technical evaluation committee with respect to recommendation for contract award or in any other respect.

Further the project was supposed to have been completed by 16 May 2012, but extension was sought and granted to 30 April 2014. However as at 30 June 2015 the project had not been commissioned. Consequently, it is not clear when and if the project will ever be completed.

Management Response

The lowest bidder who had quoted KES 98,480,602.50 was unable to provide the required documentations that were necessary for clarification before award. On this basis, the contract was awarded to the second bidder at a negotiated contract sum of KES 100,914,472.80.

The contract works could not be completed within the scheduled time for the following reasons:

i) Negotiation with the community who wanted the water intake to be sited upstream of the section previously identified according to design. The change of site required a new design which took more time.
ii) Heavy rains during construction that caused extension of contract time. The rains also caused destruction of parts of the structures which let to reconstruction.

Works for construction of this irrigation project are complete and completion certificate issued.
The Auditor is yet to go to the project site to confirm completion of works. In addition, the Authority undertook to submit documentation on the tender process to the Auditors for verification.

Committee Observations

The Committee observed that: --

(i) The contract was awarded to the second lowest bidder at a negotiated contract sum of KES 100,914,472.80 following non-submission of relevant documents by the lowest bidder.

(ii) **The Contractor failed to complete the contract within the scheduled contract period owing to change of site and heavy rains experienced during project implementation.**

Committee Recommendations

The Committee recommends that: -

(i) **The Tender Evaluation Committee should conduct a thorough due diligence on the bidders before award of tenders; and**
(ii) **The Authority should conduct public participation to ensure the views of the local community are incorporated prior to project commencement to forestall delays in project implementation.**

16. ASSET VALUATION: FY 2011/2012 ACCOUNTS

The Committee heard that, International Accounting Standards No. 16 requires that property, plant and equipment be valued regularly.

However, the Authority has not revalued its assets for fifteen (15) years. Management indicates that they do not have funds to undertake the exercise. In the foregoing circumstance, it is not possible to ascertain that the property, plant and equipment balance of KES 1,019,672,159 as at 30 June 2012 is fairly stated.

Management Response

The Managing Director informed the Committee that, the Authority has been and is willing to comply with International Standards no. 16, however, with limited resources, the Authority is not able to undertake the valuation exercise. Until the Authority gets funds for this exercise, historical values apply.

Committee Observations

The Committee observed with concern that that the Authority has been unable to undertake asset valuation owing to unavailability of funds to fund the exercise. The Authority is thus it was in breach of International Accounting Standards No. 16 which requires that an entity should undertake regular recognition of its assets, the determination of their carrying amounts, depreciation charges and impairment losses.

Committee Recommendation

The Committee recommends that the Managing Director seeks additional funds to fund among others, valuation of its assets, in order to recognize the current value of its assets in its financial statements in compliance with IAS No. 16.

17. PREPAYMENT: FY 2011/2012 ACCOUNTS

The Committee heard that, the Authority's prepayments balance of KES 17,029,276 includes an amount of KES 1,524,084 paid to an individual several years ago to provide legal services, which however, were never offered. The Authority has not been able to recover the money since the individual is long deceased.

The prepaid KES 1,524,084 is not likely to be recovered and any provision to mitigate against the uncertainty has not been made in these financial statements.

Management Response

The Managing Director informed the Committee that, the amount of KES 1,524,084 paid to an individual several years ago to provide legal services could not be collected since the debtor was declared bankrupt and later died. The debt was forwarded to the Board and the same was written off. The matter was resolved.

Committee Observation

The Committee observed that, the Authority paid KES 1,524,084 to an individual for legal services which were never offered and the said individual is long deceased. The matter has since been resolved following writing off of the debt by the Board.

Committee Recommendation

The Committee recommends that the Managing Director and the Finance Officer conducts thorough due diligence on all bidders prior to tender award. This will safeguard the Authority's interest against incompetent suppliers.

18. CASH AND BANK BALANCE: FY 2011/2012 ACCOUNTS

The Committee heard that, the cash in hand **of KVDA Service Centre fund account** of KES 74,472 as at 30 June 2012 consisted of actual cash of only KES 15,337. Others amounting to KES 59,135 were held in form of temporary imprests, paid vouchers and advances. A cashier withdrew KES 300,000 on 24 April 2010 and KES 400,000 on 8 May 2010 vide cheque numbers 0003635 and 00071 respectively but the resultant amount of KES 700,000 was entered in cash book only on 26 November 2011. The cashier further had a cash shortage of KES 265,478 as at 30 June 2010. However, no other disciplinary action seems to have been taken against the officer for the attempted theft.

In the foregoing circumstances, the accuracy of cash and bank balance of KES 240,639,720 as at 30 June 2012 could not be determined.

Management Response

The Managing Director informed the Committee that, the officer involved in the cash shortage was suspended to pave way for further investigations. Currently, temporary

imprests, paid vouchers and advances relating to KVDA Service Centre Fund account and Sigor Account were surrendered.

Committee Observations

The Committee observed that, the employee in question was dismissed from service and KES 300,000 recovered from his final dues. Further, he was charged in Nakuru Law Courts and the court case is ongoing.

Committee Recommendations

The Committee recommends that the Managing Director and Finance Officer ensures that:

(i) The Authority conducts a comprehensive review of the financial risks faced, existing internal controls and their adequacy in preventing fraud from its officers;

(ii) There is adequate segregation of duties involving custody, authorization and control of source documents and records. In addition, all approvals for payments should be subjected to various levels of management approval.

19. INACCURACIES IN THE FINANCIAL STATEMENTS: FY 2010/2011 - 2011/2012 ACCOUNTS

The Committee heard that, the statement of cash flows for the year ending 30 June 2011 was not prepared as per the requirements of IAS 7. Management has not made any adjustments in the year under review and in consequence the accuracy of cash and cash equivalents opening balance of KES 357,440,556 could not be determined.

As similarly reported in 2010/2011, the statement of changes in reserves for the year ended 30 June 2011 recognized an income of KES 3,986,780 described as prior year adjustment (tractors and dozers). In the year under review, management still has not disclosed the source of the adjustment and accuracy of revenue reserves of KES 379,705,914 as at 30 June 2012 could not be confirmed.

As reported in 2010/2011, the accumulated depreciation brought forward from 2009/2010 of KES 264,385,308 was restated to KES 267,410,056 in the year ended 30 June 2011. Management still has not explained the reason and the source of the resultant increase of KES 3,024,748.

In the year under review, the following inaccuracies have been noted in the financial statements.

(i) The statement of financial positions as at 30 June 2012 shows that the movement of trade and other payables was KES 11,842,771 while the statement of cash flows shows a figure of KES 5,480,771.

(ii) The interest earned of KES 4,671,659 disclosed in note 8(b) has been accounted for with other income. On the other hand, the same has been added in the statement of cash flows under cash from investing activities without first deducting the same from cash generated from operations.

(iii) The refund of G.O.K fund of KES 5,392,654 charged in statement of comprehensive income has been added back to arrive at income from operations in the statement of cash flows. However, the actual cash outflow has not been accounted for under any other class in the statement of cash flows.

(iv) The statement of changes in reserves for the year ended 30 June 2012 has an adjustment of KES 23,742,766 described as understatement in the year 2010/2011. The nature and purpose of the adjustment has not been disclosed and management has not explained why the 2010/2011 financial statements were not restated to capture the effect of the omission/error in line with International Accounting Standards.

(v) The cash and cash equivalent in the statement of cash flows as at 30 June 2012 was KES 240,785,685. However, the cash and cash equivalents derived in the statement of financial position as at 30 June 2012 was KES 240 599,019 leading to an unexplained difference of KES 186,666.

The Authority did not carry out acceptable and satisfactory reconciliations on some major accounts such as bank, plant, property and equipment in addition to numerous errors and misstatements which have undetermined effects on the accuracy of the accounts.

Management Response

The Managing Director informed the Committee that, the observation on cash flows was noted and the Authority complied with IAS 7 in subsequent financial statements.
In year ended 30 June 2011, the Authority recognized an income of KES 3,986,780 described as prior year adjustment. The item was passed in the subsequent statements through journal entries.

In 2010/2011, the accumulated depreciation brought forward from 2009/2010 of KES 264,385,308 restated to KES 267,410,056 in the year ended 30 June 2011 was corrected through journal entries.

The inaccuracies in financial statements as noted in note (i)-(v) was due to inadequate technical capacity that resulted in the misstatements cited. However, the Authority has since corrected and passed the entries through the journal.

Committee Observation

The Committee observed that, the financial statements of the Authority contained several errors and inconsistencies.

Committee Recommendations

The Committee recommends that the Managing Director should: -

(i) Ensure that the Authority has qualified and competent staff in its Accounts department to maintain accounting records and prepare professional financial statements;

(ii) Ensure that regular reconciliation of the Authority's accounts is undertaken.

20. GOVERNMENT GRANTS: FY 2011/2012 ACCOUNTS

The Committee heard that, according to records held by Ministry of Regional Development, the Authority during the year under review was granted KES 106,776,895 and KES 266,400,698 in form of recurrent and development grants respectively. However, the Authority's records reflect only KES 281,824,811 as having been received, instead of KES 373,177,593 leading to an unexplained difference of KES 91,352,782.

In the circumstances, it is not possible to confirm the accuracy of disbursements from the Ministry.

Management Response

The Committee heard that, according to the Authority's records and actual receipts from the Ministry, the Authority received grants totalling to KES 281,824,811 as reported in the financial statements.

Committee Observation

The Committee observed there is a discrepancy on the amount of grant received by the Authority in the 2011/2012 financial year according to records held by Ministry of Regional Development and the Authority's records.

Committee Recommendation

The Committee recommends that the Managing Director and Office of the Auditor General ascertain and reconcile the amount of grant received by the Authority from the parent Ministry during the 2011/2012 financial year within 3 months of adoption of this report.

21. PRIOR YEAR ADJUSTMENT – RESTRICTED FUNDS: FY 2013/2014 ACCOUNTS

The Committee heard that, the statement of changes in net assets reflects a prior year adjustment pertaining to restricted funds totalling KES 295,882,283. However, the

accounting entries did not comply with provisions of IPSAS 3(47) (Accounting Policies, Changes in Accounting Estimates and Errors). The standard requires that correction of such omission constitute a fundamental error and should be reported by adjusting the opening balance of accumulated surplus or deficits. The comparative figure should also be restated.

In the circumstances, the accuracy and validity of the capital resources balance of KES 7,696,073 for the year ended 30 June 2014 could not be confirmed.

Management Response

The Managing Director informed the Committee that, the omission on adjustments of restricted funds occurred since there was transition of accounting standards from IFRS to IPSAS. As a result, the Authority's staff had challenges in adopting to the new system since implementation and training on the standard was on going at the same time. However, presentation of restricted funds has been correctly presented in subsequent financial statements.

Committee Observations

The Committee observed that, the matter has since been resolved following successful training of accounting staff on IPSAS.

Committee Recommendations

The Committee recommends that the Authority complies with the requirements of IPSAS in the preparation of its financial statements

22. CASH AND BANK BALANCE: FY 2013/2014 - 2014/2015 ACCOUNTS

The Committee heard that, the financial statements reflect cash and cash equivalents balance of KES 348,813,745 as at 30 June 2014. However, the bank reconciliation statements availed for audit review as at 30 June 2014 included cheques worth KES 4,063,595 which had become stale but has not been written back to the cash book. The statement also had receipts of KES 259,545 in the bank statements which had not been included in the cashbook while receipts amounting to KES 4,402,844 in the cash book had not been banked.

In the circumstances, the validity and accuracy of the cash and bank balance of KES 348,813,745 as at 30 June 2014 could not be confirmed.

The Committee further heard that, the financial statements reflect cash and cash equivalents balance of KES 481,145,958 as at 30 June 2015. However, the bank reconciliation statements availed for audit review as at 30 June 2014 included cheques worth KES 2,023,550.45 which had become stale but has not been written back to the cash book. Further included in the balance of KES 481,145,958 are payments totalling to KES 1,263,599.68 being payment in the bank statements not recorded in the cash book. Also

excluded in the cash and cash balance is an amount of KES 990,745 being receipt in the bank statement not recorded in the cash book. Included in the cash and bank balance is also KES 2,393,152.80 being receipt not banked intact. The management has not explained the various anomalies in the cash and cash equivalent of KES 481,145,958 as at 30 June 2015.

In the circumstances, the validity and accuracy of the cash and bank balance of KES 481,145,958 as at 30 June 2015 could not be confirmed.

Management Response

The Managing Director informed the Committee that, adjustments relating to cash and bank balances have been made and stale cheques have now been reversed in the cash book. A schedule confirming the same was submitted to Auditor General Office. Adjustments had been made and the matter resolved.

Committee Observation

The Committee observed that, the Authority did not undertake reconciliation of its cash and bank balances as at 30 June 2014.

Committee Recommendation

The Committee recommends that the Managing Director and Finance Officer ensure regular reconciliation of the Authority's cash and bank balances.

23. UNSUPPORTED DECREASE IN BIOLOGICAL ASSETS: FY 2014/2015 ACCOUNTS

The Committee heard that, the statement of financial position as at 30 June 2015 reflect biological assets figures for 2014/15 as KES 34,538,540 compared to KES 38,948,756 during 2013/14 period thereby reflecting a decrease of KES 4,410,216. However, no movement schedule was provided to indicate details of the decrease or impairment in value. Consequently, the accuracy of the biological assets figure of KES 34,538,540 could not be confirmed as at 30 June 2015.

Management Response

The Managing Director informed the Committee that, biological asset movement schedule as at the time of audit was as shown below;

Opening Stocks as at 1.7.2014	*KES*	*38,948,756*
Additions	*KES*	*8,250,377*
Disposals	*KES*	*12,660,593*
Closing Stocks as at 30.6.2015	*KES*	*34,538,540*

Committee Observation

The Committee observed that, Management did not avail a schedule indicating details of the decrease or impairment in value of the biological assets of the Authority for audit review during the 2014/2015 financial year.

Committee Recommendation

The Committee recommends that Managing Director ensures proper management of the Authority's records and books of accounts and prompt furnishing of relevant documents to the Office of the Auditor General for audit review, in compliance with the Public Audit Act, 2015.

24. KVDA PLAZA EXTERNAL BORROWING: FY 2014/2015 ACCOUNTS

a) Non-Disclosure of External Loan

The Committee heard that, the Authority's noncurrent liabilities in the financial statements is reflected as KES 93,803,213 being the capitalized expenditure paid by Kenya Commercial Bank as part of the long term loan of KES 400 million offered to the Authority as at 30 June 2015. However, the loan agreement entered into with the bank for KES 400 million was not disclosed in this financial statement contrary to the requirements of the accounting standards.

Management Response

The Managing Director informed the Committee that, the loan disclosure for KES 400 million has been disclosed in the 2015/16 financial year. However, KES 93,803,213 was disclosed as part receipt of the long term loan. The matter has been resolved.

Committee Observation

The Committee observed that, the Authority had not made full disclosure of the KES 400 million in its 2014/2015 financial statements borrowed from Kenya Commercial Bank to develop KVDA Plaza Southern Wing, contrary to the requirements of the international accounting standards.

Committee Recommendation

The Committee recommends that the Managing Director ensures that the Authority complies with the requirements of international accounting standards in the preparation of its financial statements.

b) Procurement of the External Loan

The Committee heard that, the Board of Directors at its meeting of 26 September 2014 Minute No. 4.07 approved the signing of contract for the construction of KVDA Southern Wing and also approved the financing of the project through Kenya Commercial Bank. Although the financing deal had been approved and concluded with the Kenya Commercial

Bank, an invitation to tender No. KVDA/RFP/40/2014-2015 was later advertised in the standard and daily nation newspapers of 7 and 8 January 2015, respectively requesting for proposal for a loan facility of KES 400 million. The advertisement attracted six (6) financial institutions and their bid prices and negotiation/facilitation fees were as follows after the opening on 21 January 2015:

	Co-operative	HFCK	KCB	Equity	Chase	CBA
Interest per annum in %	14	15	13	16	12.5	16
Facilitation fees in %	1	1	0.5	1	0.75	0.5

However, the bid prices and any modification were not recorded in the tender opening register availed as is required by the Public Procurement and Disposal Act. In unclear circumstances, Kenya Commercial Bank on Wednesday 21 January 2015 (same day tenders were opened) wrote a letter to adjust their bid price to 12.41% per annum from the initial quote of 13% and therefore became the lowest bidder. The bank stated in its adjustment letter that its interest quote of 13% (KBRR plus 3.87) per annum dated 15 January 2015 was based on the prevailing Central Bank KBRR at the time of 9.13%. This was however a misrepresentation of facts as the Central Bank KBRR on 25 January 2015 was 8.54% and not 9.13%. Consequently, the financing by KCB was predetermined and the procurement process failed the threshold of equity, fairness, transparency and competitiveness.

Management Response

The Managing Director informed the Committee that, the Board's approval for construction of KVDA Southern Wing on 26 September 2014 was based on an initial process where the Authority had invited banks to quote for loan to finance construction. This process was later cancelled and the Authority advertised for financing on open tender. The Authority invited tenders for a loan facility to construct KVDA Plaza Southern Wing on 7 & 8 January 2015. The interested institutions were to submit their proposals on or before Wednesday 21 January 2015 at noon where six bidders responded.

The tender opening was witnessed by the bidder's representatives who did affix their signatures on the attendance register. It is incorrect to state that financing by KCB was predetermined and the procurement process failed the threshold of equity, fairness, transparency and competitiveness.

All the bid documents submitted by the bidders were opened at the KVDA Boardroom in the presence of all bidders' representatives. This process was done in an open and transparent manner and the Authority has not heard or received any complaint pertaining the process and the outcome.

The interest and facilitation fees bided were as shown in the table below:

	Co-operative	HFCK	KCB	Equity	Chase	CBA
Interest per annum in %	14	15	12.41	16	12.5	16
Facilitation fees in %	1	1	0.5	1	0.75	0.5

Although KCB had quoted annual interest of 13%, it amended this to 12.41% before the close of tender.

Committee Observations

The Committee observed that: -

(i) Six (6) banks namely; Cooperative Bank, HFCK, Kenya Commercial Bank, Equity Bank, Chase Bank and Commercial Bank of Africa, responded to KVDA's Request for Proposal for a loan facility of KES 400 million.

(ii) KCB adjusted its quoted initial bid price (interest rate) for the loan on the day of tender opening (before tender closing) from 13% per annum to 12.41% per annum thereby becoming the lowest bidder. According to KCB, the initial bid price of 13% was pegged on the then prevailing Kenya Bankers Reference Rate (KBRR) which was the then base lending rate on which facilities were granted as published by the Central Bank of Kenya (CBK) plus a margin of 3.87%. As at the time the Bank bid was presented, the prevailing KBRR used was 9.13%. CBK revised the KBRR from 9.13% to 8.54% with effect from 14 January 2015 which led to adjustment of their initial bid price from 13% to 12.41%

(iii) Subsequently, following a competitive tendering process, KCB was ranked as the most competitive and was therefore awarded the tender.

(iv) The terms of the loan agreement were as follows:

- ***Principal amount:*** ***KES 400 million***
- ***Interest rate:*** ***12.41% (being KBRR plus a margin of 3.87%)***
- ***Charges:*** ***Facilitation fee of 0.5%***
- ***Period:*** ***120 months exclusive of a 24-month moratorium***

Committee Recommendation

The Committee recommends that the Managing Director ensures that all procurements for goods and services by the Authority are done above board and undertaken in full compliance of the PPAD, 2015.

25. BOARD EXPENSES: FY 2014/2015 ACCOUNTS

The Committee heard that, included in the statement of financial performance Board expenses figure of KES 16,062,413 is an amount of KES 660,000 being excess payment on sitting allowance to finance and establishment committee. Further included in the figure of KES 16,062,413 is KES 528,594 paid to board members as millage allowance. However, the supporting documents in form of logbooks and invitation letters were not availed for audit review. Consequently, the propriety of the board expenses totalling to KES 1,188,594 could not be confirmed for the year ended 30 June 2015.

Management Response

The Managing Director informed the Committee that, the Board expenses paid by the Authority were properly incurred. In the 110th Board of Directors' meeting, the Board members were invited for committee meeting on February 2015 and a full board on 13February 2015. The members were to peruse and familiarize themselves with the board papers on the evening of February 2015. The meeting which was to be for Finance and Establishment was merged with the Development meeting since there were cross-cutting issues to be discussed by the two committees.

Regarding the number of sittings and accommodation, this extended by one sitting and one night since the Board did not conclude agenda items on Friday and therefore decided to meet on the Saturday of 14 February 2015 to conduct a Board self-evaluation exercise (Agenda No. 6)

The logbooks for Directors' vehicles used to pay millage allowance were provided.

Therefore, the expenditure amounting to KES 660,000 and KES 528,594 totalling to KES 1,188,594 was justified.

Committee Observation

The Committee observed that, the Authority incurred an expenditure of KES 660,000 being excess payment on sitting allowances of the Board's Finance and Establishment Committee, for an extra day which was not planned.

A further KES 528,594 was paid to Board members as mileage allowance but the Authority failed to submit the supporting documents (logbooks and invitation letters) for review at the time of audit.

Committee Recommendation

The Committee recommends that the Managing Director:-

(i) ensures that the Board's activities are properly planned to avoid incurring extra expenditure beyond the approved budget;

(ii) ensures that all supporting documents are availed to the Office of the Auditor General for verification during audit.

26. UNLAWFUL USE OF TOYOTA PRADO MOTOR VEHICLE, REGISTRATION NO. KBJ 295U: FY 2014/2015 ACCOUNTS

The Committee heard that, examination of the Authority records indicated that the Board Non-Executive Chair was allocated the use of a Toyota Prado motor vehicle registration number KBJ 296U and signs the work ticket. A review of the vehicles work ticket for the period 1 July 2014 to January 2015 indicated that the Chairman utilized the vehicle throughout the period. It could not be established how the journeys indicated in the work ticket were beneficial to the Authority. The Authority flouted Office of the President Circular Ref No. OP/CAB.9/21/2A/L11 dated 24 March 2015 paragraph 3 (b) on official transport for Chairmen on full time basis that requires that for non-executive chairmen, the provisions of official transport on full time basis is not justifiable. A Chief Executive Officer should make arrangements to provide such a chairman with transport as and when there is need for the chairman to travel on official business of the state corporation. If the chairman uses personal transport, then he/she would have been paid mileage allowance at current Automobile Association rates. In addition, the documentary evidence to support the fuel cost pertaining to kilometres covered were not provided for audit review.

Consequently, the propriety of the expenditure pertaining to KBJ 295U usage by the chairman could not be confirmed for the year ended 30 June 2015.

Management Response

The Managing Director informed the Committee that, vehicle registration number KBJ 296U is assigned to KVDA Liaison Office – Nairobi and not to the Chairman. However, this vehicle is also available for use by the Board Chairman whenever he is undertaking official duties. The Chairman has since been advised not to sign on the work tickets since he is not an Executive Chairman. The Authority attached fuel schedule showing the quantity consumed.

Committee Observation

The Committee observed that, the Authority's Board Chairperson is not an Executive Chairperson and, therefore, flouted Office of the President Circular Ref No. OP/CAB.9/21/2A/L11 dated 24 March 2015 paragraph 3 (b) by using the vehicle, motor vehicle registration number KBJ 296U on full time basis between 1 July 2014 to January 2015.

The Managing Director has since advised the Chairperson on the procedures for using the Authority's official vehicles.

Committee Recommendation

The Committee recommends that the Managing Director ensures that the Authority adheres to the Office of the President Circular Ref No. OP/CAB.9/21/2A/L11 dated 24 March 2015 paragraph 3 (b) on official transport for Chairmen of State Corporations, which requires that a non-executive Chairman shall only be provided with official transport while on official business.

2.27 KISII UNIVERSITY (FY 2010/2011 - 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF KISII UNIVERSITY FOR THE FINANCIAL YEARS 2010/2011 TO 2014/2015

Prof. John S. Akama Vice-Chancellor Kisii University accompanied by Mr. Charles Mwangi Finance Officer and Mr. Muton Njuki Council Member (Representative of Ministry of Education) appeared before the Committee on 17 February 2017, to adduce evidence on the Report of the Auditor General on the accounts of the Kisii University for the financial years 2010/2011 to 2014/2015.

1. FINANCIAL POSITION: FY 2010/2011 TO 2013/2014 ACCOUNTS

The Committee heard that, during 2013/2014 the University's current liabilities totalling to KES 505,182,000 as at 30 June 2014 exceeded the current assets of KES 298,350,000 resulting to a negative working capital of KES 206,832,000 (2013: KES 263,985,000). The University is therefore technically insolvent and its continued operation as a going concern is dependent on the financial support from the Government and creditors.

Management Response

The Vice-Chancellor informed the Committee that, the debt was incurred due to the fact that there is always a time lag between the time the contractors' certificates are raised and the time when the University receives money from the government to settle the bills. Furthermore, inadequate funding from the parent Ministry makes it hard to settle liabilities on time.

Committee Observation

The Committee observed that, the University heavily relies on funding from the Exchequer. The financial position of the University has however since improved after the University was issued with a Charter.

Committee Recommendation

The Committee recommends that the Vice Chancellor ensures that the operations of the University are commercially viable to enable it meet its financial obligations and reduce reliance on Exchequer funding.

2. NON-CURRENT ASSETS - LAND: FY 2010/2011 AND 2014/2015 ACCOUNTS

The Committee heard that, the statement of financial position as shown in note 15 to the accounts property, plant and equipment balance of KES 2,164,714,000 which includes land valued at KES 140,901,000. The land figure includes only four (4) pieces of land owned by the University. The University has five (5) other parcels of land that had been donated by various now defunct Local Authorities whose titles and ownership have not been transferred to the University and thus excluded from this financial statement pending confirmation and conclusion of the transfer process. Consequently, in light of the above paragraph, it is not possible to confirm whether the carrying values as stated in the financial statement reflect the fair values of the properties as at 30 June 2015.

Management Response

The Vice-Chancellor informed the Committee that, during 2010/2011 and 2011/2012 financial years the process of acquiring ownership was ongoing and the title deeds have since been processed and issued to the university as detailed below.

No	LOCATION	Title No	Approx. Area
1.	Nyosia farm	Nyaribari Chache/Keumbu/1028	61.0 hectares
2.	North Mugirango	North Mugirango/Botsanga/4942	6.0 hectares
3.	Main Campus	Kisii Municipality/Block 11/254	25.46 hectares
4.	South Mugirango	South Mugirango/Nyataaro/2359	24.0 hectares

Regarding the five pieces of land, as previously noted and communicated to the Office of the Auditor-General, do not belong to the University and have not been included in the value of property, plant and equipment. The five pieces of land were being donated by various defunct county councils which included Nyamira, Gucha and TransMara. Since the onset of County Governments, it has not been easy to follow up on these donations but the University is still making a follow up with the respective County Governments.

NO	PARTICULARS OF LAND	Approx. Area
1	N/C Nyanturago/1604 Nyabisabo Marshland	200 acres free hold
2	Central Kitutu/Monyereo/482 Itibo Harambee Secondary School	54 acres Freehold
3	Rangenyo Nyamira Town Council	36 acres free hold
4	Land Parcel No. 2146 Town Council of Gucha	8.5 acres free hold
5	Parcel of Land at Kawai Village, Lolgorian Division Transmara	40 acres free hold

Committee Observation

The Committee observed that, the University has since acquired titles for four (4) pieces of land owned by the University. However, it is yet to acquire ownership of the five (5) pieces of land donated by the defunct local authorities.

Committee Recommendation

The Committee recommends that the Vice Chancellor expedites engagement with the respective County Governments in order to conclude transfer of title to the University as per an earlier agreement with the defunct Gucha, Nyamira and Transmara County Councils to donate land to the University.

3. **CASH AND BANK BALANCE: FY 2011/2012 ACCOUNTS**

The Committee heard that, excluded in the cash and bank balances figure of KES 23,534,000 as at 30 June 2012 is KES 203,000, KES 2,314,097 and KES386,300 for uncredited entries direct deposits and wrong debits and wrong debit entries respectively. Further, original bank confirmation certificates of four (4) bank accounts were no availed for audit review.

In the circumstances the validity and accuracy of the cash and bank balances figure of KES 23,534,000 as at 30 June 2012 could not be confirmed.

Management Response

The Vice Chancellor informed the Committee that, all the issues regarding the cash and bank balances were addressed with the auditors during the final response before the issuance of the audit report for the year ending 30 June 2012.

The issues were addressed as follows.

(i) Uncredited entries KES 203,000.

These were uncredited entries in the bank statement. The University has written to the bank over the same issue. The issue was later resolved by reversing the entries in the cashbook and students accounts after we realized that the students had presented fake bank slips. The matter was reported to the police who promised to investigate the matter.

(ii) Direct deposits KES 2,314,097.

These were deposits made to the bank by the students. While the University recognized these deposits in bank reconciliations statements, it could not include them in the cash and bank balances since the University had neither received banking slips from the students nor had it received the credit advice notes from the bank. Adjustment in student debtors ledger was made in the subsequent year.

Committee Observation

The Committee observed that, financial statements of the University during the year under review were erroneous as uncredited entries and wrong debits were captured. Further four (4) bank accounts were not availed to the Auditor-General for review and verification.

Committee Recommendation

The Committee recommends that the Vice-Chancellor ensures that the University's financial statements are prepared in compliance with IAS.

The Committee further recommends that the Vice-Chancellor and the Finance Manager ensures that the all relevant financial documents are availed to the Auditor-General in good time for review.

4. GOVERNMENT GRANTS: FY 2011/2012 ACCOUNTS

The Committee heard that, financial statements for the year ended 30 June 2012 reflect government grants amounting to KES 638,693,000 (Recurrent - KES 288,000,000 and Development KES 350,693,000) while records at the Ministry of Higher Education, science and Technology reflect KES 608,499,999 (Recurrent KES 288,00,00 and Development KES 320,499,999) resulting to a variance of KES 30,193,001 which has not been explained

Management Response

The variance of KES 30,193,000 between the figure of KES 638,693,000 reflected in the University records as grants received from the Government and the figure of KES 608,499,499 from the records of the Ministry of Education was due to the fact that the amount of KES 30,192,959.70 pertained to the previous financial year but was received in the month of July 2011. Since the University had not recognized it in the debtor's figure of the previous financial year, it had to recognize the receipt in the year it was received.

Committee Observation

The Committee observed that, there was a variance in the records of the University and Ministry of Education on the amount of government grants received by the University in the 2011/2012 financial year due to late disbursement of funds by the parent ministry.

Committee Recommendation

The Committee recommends that the Principal Secretary, Ministry of Education, Science and Technology ensures that disbursement of funds to government agencies under it, is done in a timely manner to avoid a similar mix-up in reporting.

5. COUNCIL EXPENSES: FY 2011/2012 ACCOUNTS

The Committee heard that, included in the Council expenses figure of KES 10,057,000 is KES 2,788,000 paid out to the Council members for sitting allowance in the year ended 30 June 2012. However, the attendance register in support of the meetings was not availed for audit review. In the circumstances, the propriety of the Council expenses of KES 2,788,000 for the year ended 30 June 2012 could not be confirmed

Management Response

The Vice-Chancellor informed the Committee that, apart from the minutes of the Council meetings which were showing the names of the members of the Council who attended the meetings, an attendance register where each member signed for the attendance was not maintained. However, the register was introduced as per the auditor's recommendation.

Committee Observation

The Committee observed that, the University paid KES 2,788,000 to the Council members as sitting allowances in the year ended 30 June 2012 without supporting attendance registers to support the payments. The University has however since introduced attendance registers for each meeting to support payment of sitting allowances to Council Members.

Committee Recommendation

The Committee recommends that the Vice-Chancellor and the Finance Manager ensures that an attendance register is maintained for all Council meetings in order to support payment of sitting allowances.

6. CASH AND BANK BALANCE: FY 2014/2015 ACCOUNTS

The Committee heard that, cash and cash equivalent balance of KES 64,657,000 and as disclosed in note 12 to the accounts includes cash at bank (KCB Ogembo Campus) of KES 318,686.40 and cash at bank Ogembo Campus (KCB Gift) shop of the same amount KES 318,688.40 including the bank reconciliation statement, thus a duplication. In the circumstance, accuracy of all the bank transactions and bank balances during the year audit could not be ascertained.

The bank reconciliation statement for 17 bank accounts reflects direct cash deposits in bank totalling KES 23,199,712 that have been excluded as revenue from exchange transactions. This has the effect understating the reported surplus for the year and overstating receivables by a similar amount.

Under the circumstances, the reported surplus of KES 26,489,000 and receivables balance of KES 624,036,000 has not been confirmed as correct.

Management Response

The Vice-Chancellor informed the Committee that, cash and cash equivalent balance at the end of the year was KES 64,657,000. Ogembo campus bank balance of KES 318,686.40 (KCB a/c no 1162177942) and Gift shop bank balance of KES 318,058 (KCB a/c no 1162178191) are among the balances making up this figure. The two accounts are not duplicated as reported by the auditor.

The direct deposits in the bank accounts as at the end of financial year totalled to KES23,199,712 as detailed below.

No	Bank Details	Direct deposits
1	Cash at Bank (NBK Current A/C)	1,380,847
2	Cash at Bank (NBK Savings A/C)	442,000
3	Cash at Bank (KCB Development)	517,900
4	Cash at Bank (Co-Op Bank)	887,200
5	Cash at Bank (KCB Eldoret)	4,804,159
6	Cash at Bank (KCB Isebania)	869,850
7	Cash at Bank (KCB Kabarnet)	890,200
8	Cash at Bank (KCB Keroka)	251,000
9	Cash at Bank (KCB Kisumu)	1,674,847
10	Cash at Bank (KCB Kitale)	1,423,400
11	Cash at Bank (KCB Nairobi)	993,300
12	Cash at Bank (KCB Nyamira)	379,400
13	Cash at Bank (KCB Ogembo)	507,300
14	Cash at Bank (KCB Kapenguria)	543,500
15	Cash at Bank (KCB Kericho)	1,764,000
16	Cash at Bank (KCB Gift Shop)	0
17	Cash at Bank (KCB Research Grant	5,870,809
	Total	**23,199,712**

These are funds which were paid by students in the bank accounts and the students had not presented the slips for receipting. The said direct deposits were to be cleared in the subsequent financial year after the students presented the bank slips. This amount was recognized in our books as reflected in the bank reconciliation statements and therefore the surplus figure of KES 26,489,000 and receivables amount of KES 624,036,000 remain to be fairly stated in the financial statements.

Committee observation

The Committee observed that, the University had not undertaken reconciliation of cash and bank balances as at 30 June 2015.

Committee Recommendation

The Committee recommends that the University's Finance Manager ensures that reconciliations of financial statements the University are undertaken regularly.

2.28 LAKE BASIN DEVELOPMENT AUTHORITY (FY 2006/2007)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE LAKE BASIN DEVELOPMENT AUTHORITY FOR THE FINANCIAL YEARS 2006/2007 TO 2014/2015

Dr. Evans Atera, Managing Director accompanied by the Mr. Fredrick Chere, Chief Finance Manager; Ms. Katherine Muoki, Alternate Director Ministry of State Department of Planning & Statistics and Ms. Grace Abuto, Manager, Internal Audit appeared before the Committee on 17 February 2017, 23 February 2017 and on 2nd March 2017, to adduce evidence on the Report of the Auditor-General on the audited accounts of the Authority for 2006/2007 financial years.

1. PROPERTY PLANT AND EQUIPMENTS- STALLED PROJECTS: FY 2006/2007 ACCOUNTS

The Committee heard that, as disclosed in note 2 to the financial statements, property, plant and equipment figure of KES 551,741,511.55 as at 30th June 2007 includes work in progress amount of KES 312,389,212.40 which comprises work in progress at Yala Swamp Weir valued at KES 122,204,80.90 and stalled headquarters buildings at KES 190,184,531.50. According to note 20 to the financial statements, Yala Swamp Weir work in progress was taken over by M/s Dominion Group of companies. It has not been possible **to establish the terms of the takeover** including whether the Group paid anything for the work in progress worth KES 122,204,680.

Further, the proposed headquarters building stalled at the foundation level in the 1990 and the expenditure is not capitalized because the building is incomplete. Under the circumstances, it is not possible to confirm the status of the projects, the property of the amounts so far expended or the effect the stalled projects have on the Property, Plant and Equipment balance of KES 551,741,511.55 reflected in the balance sheet.

Management Response

a) Yala Swamp Weir, Assets and Ownership Document

The Managing Director informed the Committee that, property, plant and equipment includes work in progress at Yala Swamp weir valued at KES 122,206,680. The Authority incurred this initial cost hence its inclusion as non-current assets in the financial statement.

M/s Dominion Group of Companies, a private company completed the weir at their own cost. The Authority has followed up debt owed by Dominion in regard to technical expertise and has sent letters to Dominion Farms Ltd demanding for payment.

In regard to title documents for Yala swamp, Council Meeting of 26th February 2003, Siaya District informed LBDA and Dominion representatives that it is only the County Council of

Siaya that can allocate the Swamp to any investor as is the case applicable to all Trust Land under its jurisdiction.

In May 2004, LBDA wrote to the then Permanent Secretary, Ministry of Regional Development Authorities, enumerating the value of assets and development activities amounting to **KES 1,087,298,550** that had been undertaken in Yala Swamp and Kadenge Plot 899 to enable government initiate compensation from DGC.

Committee Observations

The Committee observed that: -

(i) **The Yala Swamp Project was started in 2003 as a partnership between LBDA and Dominion Farms, through a limited liability company to be registered under the Companies Act. The Directors of the Company were to comprise two appointed from LBDA and 5 from the Dominion Group.**

(ii) **A Draft Memorandum of Understanding (MOU) between LBDA and Dominion Group of Companies (DGC) for development of Yala Swamp envisioned a partnership between LBDA and DGC and not transfer of assets. The draft prepared by LBDA was sent to the parent Ministry of Office of the Vice President and Ministry of National Reconstruction and it is not clear whether the National Treasury gave an approval on the project.**

(iii) **The Attorney General's office redrafted the MOU and submitted it to the parent Ministry and advised parties to proceed and execute. LBDA and DGC signed the MOU on 19th May, 2003 on development of the Yala Swamp. The Attorney General, however, noted that the MOU signed reduced LBDA's role to a mere squatter in the project and was different from the one redrafted by his office.**

(iv) **The former Managing Director Mr. George Ochieng and the former Senior Legal Officer Mr. Eliakim Owalla assisted by the Ministry officials at the time participation in the alteration of the MOU.**

(v) **DGC failed to adhere to the terms of the MOU during implementation of the project.**

(vi) **Government procedures and laws relating to the project were not complied with.**

Committee Recommendations

The Committee recommends that: -

(i) **The Ethics and Anti-Corruption Commission investigates the circumstances under which LBDA assets were purportedly taken over by Dominion Farms Ltd without adequate consultations and authorization by the line Ministries, and recommend individuals found culpable for prosecution;**

(ii) **The Ethics and Anti-Corruption Commission investigates the culpability of Mr. George Ochieng, former LBDA Managing Director; Mr. Eliakim Owalla, the former LBDA Senior Legal Officer, and other officers in the then Office of the Vice President and Ministry of National Reconstruction, in alteration of the MOU signed by the Attorney General;**

(iii) **An Inter-Ministerial Committee be formed to resolve the current impasse between the LBDA and DGC on the Yala Swamp Irrigation Project; and**

(iv) **The Managing Director follows up the full settlement of debt owed by the Dominion Group of Companies, in regard to technical expertise provided by the Authority to the Company.**

b) Stalled Headquarters Building

The Managing Director informed the Committee that, construction of the LBDA HQs was started in 1990. This was a contract between Ministry of Regional Development and N. K. Brothers.

Due to lack of funds, the building stalled in 1992. LBDA wrote several letters to the Ministry requesting for completion of the project.

In 2008, the Ministry of Public Works wrote to the Ministry of Regional Development informing Ministry of Regional Development that the project could not be completed as it was not listed under Government stalled projects. They advised that alternative sources of finance be sought to complete the project. N. K. Brothers sued the Ministry of Regional Development Authority for the unpaid claims. The case was arbitrated by the Kenya Institute of Chartered Arbitrators and an award of KES 33,671,529.50 made which the Ministry settled. This was in addition to KES 26,939,544 previously paid.

In July 2013, the building was demolished to pave way for the construction of the proposed ultra-modern shopping/office complex. The Mall has since been completed and is ready for occupation.

In regard to treatment in the books of accounts, the value of KES 190,184,531.50 was in relation to stalled headquarters buildings and staff houses. The de-recognition of work in progress of KES 164,908,861 was effected in the financial statement in relation to the stalled LBDA Headquarters which was demolished. Work in progress value for stalled staff houses was not de-recognised.

This was in line with the IAS 16 which requires that property plant and equipment PPE should be de-recognised (removed from PPE either on disposal or when no future economic benefit) are expected from the assets then it should be effectively scrapped. The same was disclosed in the financial statement for 2012/13 and effected in 2013/14.

Committee Observations

The Committee observed that: -

(i) The Contract for construction of the Ultra-Modern shopping/office complex was awarded to Edermann Property Ltd at a contract sum of KES 2,451,035,644 in 2013 which was later varied to KES 3,860,000,000, a variation of 57% as a result of variation of the scope of the project;
(ii) LBDA secured a loan of KES 2.5 billion from the Co-operative Bank in favour of Edermann Property Ltd on legal charge of the Authority's plot LR. No. 15239 where the LBDA Headquarters and the Mall are situated;
(iii) The loan was supposed to be paid in instalments and the first instalment of KES 1 billion was due on 15th November 2016. To date, no payment has been made and the loan continues to accrue interest at the prevailing rate;
(iv) The use of the title deed of the property belonging to LBDA by the contractor to acquire funds to finance the project, fundamentally exposed LBDA to risks;
(v) The mall has since been completed and is ready for occupation; and
(vi) The Authority did not de-recognise work in progress value for the stalled staff houses in the 2006/2007 financial statements in line with the IAS 16.

Committee Recommendations

The Committee recommends that: -

(i) The National Treasury should ensure that the Cooperative Bank loan is repaid in full as soon as possible, to avoid possible litigation or auction of the Mall and LBDA on default of the loan. Further, LBDA, the National Treasury and Ministry of Planning & Devolution should negotiate with the Bank with the view of reducing the current interest rate of 14% charged on the loan, towards the construction of the Mall;
(ii) The National Treasury should release budgetary allocations to LBDA to enable it meet its financial obligations including pending bills to the contractor. Time is of essence in the repayment of the loan as interest continues to accrue at the rate of at least KES 30 million per month;
(iii) LBDA Board should ensure that the Mall is put to immediate use to arrest the continuing loss of revenue. Further, the management should put into mechanisms in place to ensure that the Mall is well marketed to ensure maximum revenue is generated from the property;
(iv) The Board and management should ensure that all sub-contractors' pending bills are paid before releasing all monies to the co-developer;
(v) The Board should create a management committee that will advise on the efficient management of the Mall as well as ensuring timely decisions affecting its operations;

(vi) **The Ethics and Anti-Corruption Commission should investigate the former Board Chairman and Managing Director for their role in the matter; and**

(vii) **The Managing Director ensures that Authority adheres to IAS and IFRS in preparation of its financial statements.**

2. LAND OWNERSHIP DOCUMENTS: FY 2006/2007 ACCOUNTS

The Committee was informed that included in the property plant and equipment balance is the Authority's land valued at KES 62,674,333. According to a list of land parcels seen, the value is attributed to twelve (12) parcels of land valued at KES 50,013,727.85 and a further six (6) parcels of land valued at KES 12,660,605.15 and which were not supported by valuation reports. A further eight (8) parcels of land were not assigned any values.

Further no title deeds were made available for audit verification for all the land.

However, available information shows that the Authority has six (6) title deeds out of which four (4) are held by National Bank as collateral for a bank overdraft which has since been cleared. Further information indicates that included in the list, is one (1) parcel of land and building valued at KES 1.8 million and 4 million respectively which were transferred and registered in the name of a former employee and the Authority is pursuing restitution through the court process.

The rice mill property which has been valued by the Ministry of Public works at KES 250,099,949 is excluded from the balance sheet figure of the buildings. Arising from the foregoing, the correctness of the balance sheet property, plant and equipment balance of KES 551,741,511.55 could not be ascertained.

Management Response

a) Land Ownership Documents

The Managing Director informed the Committee that, the Authority has fast tracked the process of acquiring all land ownership documents so as to avert any possible encroachment on LBDA parcels of land. There have been numerous efforts by the management on the parcels of land with a view to secure titles to Authority's property.

b) Titles held by National Bank

In regard to four (4) titles held by National Bank as collateral for bank overdraft, the Government cleared the debt and titles held as collateral were released to the Authority.

c) Milimani Plot No 11/210

The parcel of land and building (Plot No. 11/210) valued at KES 1,800,000 and KES 4,000,000 was illegally acquired by a former employee of the Authority Mr. Tom Dola. The Authority requested EACC to undertake investigation on the property. The Authority

further decided to take the matter before the National Land Commission, Kisumu and judgment has been made to evict the former employee Mr. Tom Dola.

Committee Observations

The Committee observed that: -

(i) The Authority does not have title deeds for its various parcels of land which exposes the land to risks of grabbing by third parties.

(ii) Four titles deeds are still held by the National Bank as collateral for bank overdraft, despite the debt having been cleared by the Government on behalf of the Authority.

(iii) A former employee of the Authority, Mr. Tom Dola, illegally acquired the Authority's parcel of land and building (Plot No. 11/210) valued at KES 1,800,000 and KES 4,000,000 (as at 30th June 2007). The LBDA has issued an eviction notice to Mr. Tom Dola, following a court ruling in its favour.

Committee Recommendations

The Committee recommends that: -

(i) The Managing Director fast-tracks the process of acquiring all land ownership documents so as to avert any possible encroachment on LBDA parcels of land;

(ii) The Managing Director ensures that the Authority pursues the release of the title deeds held by the Bank;

(iii) The Managing Director ensures that the court order and eviction notice issued to Mr. Tom Dola, is immediately enforced and the Authority takes full control of Plot No. 11/210.

3. TRADE AND OTHER RECEIVABLES (DEBTORS) – FY 2006/2007 ACCOUNTS

The Committee heard that, debtors balance of KES 136,992,257.25 as at 30th June 2007 includes a debt of KES 122,269,659.10 owed by China Jiangtsu being overpayment for the construction of a rice mill. The debt has been outstanding in the Authority's books of account for many years. The balance also includes a debt of KES 14,209,927.50 being farm inputs loaned to rice farmers in 1991. The particulars of the farmers who received the loans were not produced for audit verification. In the circumstances, the correctness of the debtors' balance of KES 136,992,257.25 could not be ascertained.

Management Response

The Managing Director informed the Committee that, China Jiangsu International was awarded the tender for construction of Rice Mill in 1990. In 1992, the financier -The African Development Bank (ADB) suspended the funding of the project. When the funding resumed in 1994, the contractor claimed for cost overruns to compensate for price

increases and other works variations. In 1996, the Government appointed a firm of auditors KPMG to evaluate the contractors claim which showed an overpayment of KES 122,269,659.

The Authority had handed over the case to Ms. Wekesa & Company Advocates in Nairobi to pursue this debtor for recovery of which a report was submitted on the same advising that the chances of collecting this amount was remote.

The management has since written to the Chinese Embassy to assist in tracing the above Company for purposes of recovery.

Regarding the long outstanding categories of debts in the Authority's books, the management has provided KES 85,872,129 as provision for bad and doubtful debts for 2014/2015. The Authority has scheduled to make a further increase in the next financial year to cater for the uncertainties. The F&E Committee approved the accounts with all the inclusion therein including the adjustment made on the provision for bad and doubtful debts as recommended.

Committee Observation

The Committee observed that: -

(i) **the Authority overpaid China Jiangtsu Ltd, KES 122,269,659.10 for the construction of a rice mill in 1994.**

(ii) **The amount is still outstanding to date, owing to failure by the Authority to trace the Directors of the Company;**

(iii) **The Authority is actively pursuing the matter through the Chinese Embassy in Nairobi.**

Committee Recommendation

The Committee recommends that the Managing Director should liaise with Kenya's Ministry of Foreign Affairs to trace the Directors of China Jiangtsu, through its Embassy in China.

4. CASH IN HAND - KES 9,594,262.80: FY 2006/2007 ACCOUNTS

The Committee heard that, cash in hand of KES 9,594,262.80 as at 30th June 2007 includes outstanding temporary imprests of KES 6,057,633.20 (66%) granted to various officers during the year under review. In addition to treating imprest as cash, the imprests were issued contrary to the existing financial policy on issue and surrender of temporary imprests. The policy requires that an officer surrenders a temporary imprest before he/she is issued with additional imprest. It was observed that, several officers had multiple imprests un-surrendered as at 30th June 2007. The treatment of imprest as cash and failure to observe financial policy on issue and surrender of temporary imprest has not been explained.

Management Response

The Managing Director informed the Committee management has enforced the Government and Authority's regulation on management of imprest. Outstanding temporary imprest of KES 6,057,633.20 has since been cleared.

Committee Observations

The Committee observed that, the Authority's management failed to enforce the Government Financial Regulations on surrender of imprests.

Committee Recommendations

The Committee recommends that the Director General should ensure that imprest advanced to officers is recovered within the stipulated period in accordance with section 92 of the Public Finance Management Act Regulations of 2015 which allows surcharging of officers for any imprest held beyond the stipulated seven (7) days after return to the work station.

2.29 LAKE VICTORIA NORTH WATER SERVICES BOARD (FY 2005/2006 - 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF LAKE VICTORIA NORTH WATER SERVICES BOARD FOR THE FINANCIAL YEARS 2005/2006 TO 2014/2015

CPA Anthony Kisako, Acting Chief Executive Officer, Lake Victoria North Water Services Board (LVNWSB) accompanied by Eng. Peter Ouma (CMST), CPA Humphrey Namboza and Eng. John M. Muiruri, Alternate Director appeared before the Committee on 17 February 2017, to adduce evidence on the Report of the Auditor General on the audited accounts of the Board for the financial years 2005/2006 to 2014/2015.

1. PROPERTY, PLANT AND EQUIPMENT: FY 2005/2006 - FY 2010/2011 ACCOUNTS

The Committee heard that, the Board's balance sheet excludes an undetermined value of assets and liabilities that are within the Boards jurisdiction and which were transferred from the Ministry of water and National Water Conservation and Pipeline Company through the legal Notice No. 101 of 12 August 2005. According to the Legal Notice, the transfer of title to the assets and liability was to be completed by 30 June 2006 through an agreement which was to contain technical audit and valuation reports for assets and liabilities transfer under section 113 of the water Act 2002. As disclosed No. 1(e) to the financial statements the value of land, buildings and water supplies has not been valued for inclusion in these financial statements.

Management Response

The CEO informed the Committee that, the Board is seeking for funds to enable it value the assets. The Board's assets were valued in year 2011 by Sygga & Associates.

Committee Observations

The Committee observed that, transfer of ownership of assets under the Ministry of Water to the Board have not been officially finalized and therefore titles of the same have not passed over to the Board. Consequently, the value of land, buildings and water supplies were not included in the financial statements as at 30 June 2006.

The Committee further observed that, the Board does not have adequate funds to undertake valuation exercise of its assets.

Committee Recommendation

The Committee recommends that the CEO liaises with the Ministry of Water and Irrigation to ensure that the assets and liabilities that are within the Boards jurisdiction are transferred from the Ministry of water and National Water Conservation and Pipeline Company in accordance with the legal Notice No. 101 of 12 August 2005.

The Committee further recommends that the National Treasury allocates additional funds to the Board to enable it undertake valuation of its assets.

2. **CAPITAL WORKS, BORROWING AND GRANTS: FY 2006/2007 & 2007/2008 ACCOUNTS**

Water Sector Development Programme – Nzoia Cluster

The Committee heard that, as disclosed in Note No. 23 to the financial statements, works amounting to KES 516,755,675 which had been certified for payment by the project engineer and actual payment made by the Treasury, has not been included in the Boards financial statements because information pertaining to the payment was not readily available to support the figures.

The note further indicates that the associated costs would be captured on completion and handover of the project to the Board. However, according to the credit agreement funding the programme, the board is required to maintain records and accounts reflecting the expenditures as per Article IV of the agreement signed on 28 March 2007. In the absence of the records and accounts for the Water Sector Development Programme – Nzoia cluster, it has not been possible to confirm compliance with the funding credit agreement or establish the propriety of the amount paid by the treasury on behalf of the Board.

Management Response

The CEO informed the Committee that, the actual payment was made by the Treasury and the Ministry of Water. Since the information pertaining to the payment was not readily available to support the figures, they were not captured in the accounts. The same were captured on completion and hand over of the projects. The matter has been resolved.

Committee Observation

The Committee observed that, the Board did not avail information pertaining to the payment of Nzoia Cluster Water Sector Development Programme works amounting to KES 516,755,675 which had been certified for payment and actual payment made by the Treasury on behalf of the Board.

The handover has since been done and the matter resolved.

3. DEBTORS - KES 22,682,142: FY 2007/2008 ACCOUNTS

The Committee heard that, included in the balance sheet debtors figure of KES 22,682,142 are imprests amounting to KES 2,499,572 out of which an amount of KES 440,609 have been outstanding for more than a year contrary to the Financial Regulations. In the circumstances, it has not been possible to confirm the recoverability of the outstanding imprests balance of KES 440,609 as at 30 June 2008.

Management Response

The amount in question of KES 440,609 was surrendered in the 2008/2009 financial year.

Committee Observation

The Committee observed that: -

(i) **As at the end of the 2007/2008 financial year, the Board had not recovered imprests issued to its officers amounting to KES 2,499,572 out of which an amount of KES 440,609 have been outstanding for more than a year contrary to the Financial Regulations.**

(ii) **The Board was in breach of financial regulations on the issuance, surrender and recovery of imprest and allowances.**

(iii) **The outstanding imprest of KES 440,609 has however since been recovered.**

Committee Recommendation

The Committee recommends that: -

(i) **The CEO ensures the recovery of the outstanding debts including staff imprest within three months of adoption of this Report.**

(ii) **The CEO should ensure that imprest advanced to officers is recovered within the stipulated period in accordance with section 92 of the Public Finance Management Act Regulations of 2015 which allows surcharging of officers for**

any imprest held beyond the stipulated seven (7) days after return to the work station.

4. CAPITAL WORKS IN PROGRESS: FY 2010/2011

The Committee heard that, capital works in progress balance of KES 7,420,935,938 as at 30 June 2011 includes an amount of KES 2,937,655.722 under the Water Sector Development Program - Nzoia Cluster phase 1 completed in March 2010 and currently delivering services to the target areas. No depreciation has been charged to these assets ever since they started being used. No explanation has been provided for this anomaly. Under the circumstances, the accuracy of capital works in progress balance of KES 7,420,935,938 as at 30 June 2011 could not be confirmed.

Management Response

The CEO informed the Committee that, Nzoia Phase I was commissioned but was still under defects liability period at the end of the financial year, defects liability period ended in August 2011. There was one component of Maraba sewerage ponds that was still not complete and that is the reason it was accounted under works in progress. The same was accounted for correctly in 2011/2012.

Committee Observation

The Committee observed that, the Board did not make adjustments for depreciating assets under the Water Sector Development Program - Nzoia Cluster phase 1 works since they started being used.

Committee Recommendation

The Committee recommends that the Board's management should make adjustments to the financial statements for depreciating assets at the end of accounting period.

5. DEBTORS: FY 2010/2011 & 2011/2012 ACCOUNTS

The Committee heard that, debtors balance of KES 506,547,848 as at 30 June 2011 includes amounts due from Water Services Providers (WSP) totalling to KES 47,872,804. However, the balances owing as per the records of the board deferred with the amounts reflected in the books of the specific water services providers as follows;

	Balance per Board's records (KES)	Balance per WSP records (KES)	Difference (KES)	
Eldoret Water and Sewage co. ltd	3,985,992	3,208,231	777,761	

	Balance per Board's records (KES)	Balance per WSP records (KES)	Difference (KES)	
Nzoia water services co	22,694,865	22,931,237	(236,372)	
Amatsi water services co.	6,273,734	5,783,357	490,377	

The differences have not been reconciled or explained. Further, debtor's balances of KES 506,547,848 includes WSP debtors- WaSSIP support amounting to KES 14,590,000 that has been outstanding for a long period. However, no provision for bad and doubtful debts has been made in respect of this particular balance.

Under the circumstances, the accuracy and full recoverability of the debtor's balance of KES 506,547,848 as at 30 June 2011 could not be confirmed.

Management Response

The Board liaised with WSPS and noted that the figures are not comparable because the Board's balances reflect total unpaid levies while the amounts reflected by WSPs balances are billings for the year under review only. However, reconciliation shall be undertaken to synchronize the figures.

Committee Observation

The Committee observed that, the Board had not undertaken reconciliation of debts due from three Water Services Providers totalling to KES 47,872,804.

The Committee further observed that, Auditor's figures on outstanding debts are at variance with the Board's.

Committee Recommendation

The Committee recommends that the Board's management should regularly undertake analysis and reconciliation of the accounts of the Board.

The Committee further recommends speedy reconciliation of the outstanding balances.

6. NON-COMPLIANCE WITH WATER SERVICES REGULATORY BOARD GUIDELINES: FY 2010/2011 & 2011/2012 ACCOUNTS

The Committee heard that, the Board of Director's expenses for the financial year 2011/2012 was KES 12,157,137 was approximately 6% of the total recurrent expenditure of the total recurrent expenditure (for 2010/2011 financial year it was approximately 6.7% amounting of the total expenditure of KES10, 913,370) there by exceeding the 4%

threshold for board of director's expenditure as set by the Water Services Regulatory Board. Consequently, the company was in breach of the Water Services Regulatory Board guidelines and admissibility of the board of director's expenses amounting to KES 10,913,370 could not be ascertained.

Management Response

The CEO informed the Committee that, Board's new directors were appointed in April 2010, at the start of 2010/11 they were fairly new, and they needed sensitization on Board's operations, projects being implemented and being taken through corporate governance guidelines and other trainings.

Committee Observation

The Committee observed that: -

(i) **The Board is mandated to hold a maximum of six sittings per year (four sittings per quarter and two special sittings) as per statutory regulations. The Board expenses during the 2010/2011 and 2011/2012 sittings surpassed the 4% of total recurrent expenditure cap set in law.**

(ii) **The Board was in breach of the Water Services Regulatory Board guidelines by exceeding the 4% threshold for Board of Director's expenditure during the two financial years.**

Committee Recommendation

The Committee recommends that: -

(i) **The then Board's CEO be held accountable and liable for breach of the Water Services Regulatory Board guidelines and the resultant over-expenditure.**

(ii) **The Board should institute recovery measures of the amounts spent by the Board on the Directors expenses above the cap set by Water Services Regulatory Board.**

(iii) **The CEO should ensure that the Board adheres to the Water Services Regulatory Board guidelines**

7. NON-COMPLIANCE WITH INTERNATIONAL FINANCIAL REPORTING STANDARDS: FY 2010/2011 ACCOUNTS

The Committee heard that, International Accounting Standards (IAS) No.20 requires Government grants related to assets, including non-monetary grants at fair value should be presented in the statement of financial position either by setting up the grant as deferred income or by deducting the grant in arriving at the carrying amount of the asset. However, during the year, the Board received development grants from the Government and other development partners amounting to KES34, 945,363 which have been accounted for as recurrent income.

Consequently, the financial statements do not comply with the International Financial Reporting Standards.

Management Response

The CEO informed the Committee that, the nature of assets (boreholes) developed by the funds cannot be capitalized since the Board does not receive economic benefits.

Committee Observation

The Committee observed that, the Board was in breach of International Financial Reporting Standards Standard No. 20 in preparation of its financial statements.

Committee Recommendations

The Committee recommends that the CEO and the Finance Manager should ensure that the financial statements of the Board are reported in accordance with International Financial Reporting Standards.

8. RECORD KEEPING AND ACCOUNTING: FY 2010/2011 - 2012/2013 ACCOUNTS

The Committee heard that, during the year under review, the Lake Victoria North Water Services Board took over the operations of both Amatsi Water Services Company Limited and Western Water Services Company Limited for varying periods. However, the trading transactions for the two companies in relation to the periods operated by the Board have not been included in these financial statements neither were the records available for audit verification. No reason has been provided for this anomaly.
Consequently, the accuracy of the financial statements as at 30 June 2011 could not be confirmed.

Management Response

The CEO informed the Committee that, the Board undertook the day-to-day running of the two water companies due to mismanagement. The companies had failed to;

(i) Pay statutory deductions
(ii) Implement WASREB guidelines on corporate governance
(iii) Submit water quality tests as required by SPA
(iv) Properly manage finances
(v) Prepare and submit audited accounts as required by SPA
(vi) Supply good quality of water

The Board returned full operation to the Companies within the year after addressing most of the issues mentioned above.

Committee Observation

The Committee observed that: -

(i) **The Board took over the management of Amatsi Water Services Company Ltd and Western Water Services Company Ltd temporarily to address issues of mismanagement and inadequate revenue collection from water bills by the Companies;**

(ii) **During the period of take-over of the operations of the Board, the financial statements of the two water companies were reported separately.**

Committee Recommendation

The Committee recommends that the water service providers put elaborate measures to ensure sustainability of their operations and serve residents efficiently.

9. PROPERTY, PLANT AND EQUIPMENT (NON-CURRENT ASSETS): FY 2010/2011 TO 2014/2015 ACCOUNTS

The Committee heard that, the Board inherited non-current assets of undetermined value previously owned by the Ministry of Water and Irrigation and the National Water Conservation & Pipeline Corporation in respect of water distribution infrastructure which have not been incorporated in these financial statements. In addition, the Board is in possession of 13 motor vehicles and 16 motor-cycles registered in the name of a Contractor who was engaged to undertake projects that were competed and commissioned in 2010.

In the circumstances, the accuracy and ownership of the property, plant and equipment balance of KES6, 755,218,171 as at 30 June 2012 could not be confirmed.

Management Response

The CEO informed the Committee that, the Board contracted a consultant to value the Board's assets. The Consultant submitted an asset valuation report giving a total value of KES 10,418,876,633 as the open market value of the fixed assets. However, the assets were not included the assets in the financial reports as given because of the following.

(i) Transfer of ownership of assets under the District Water Officers have not been officially finalized and therefore titles of the same have not passed over.

(ii) The value includes KES 6,698,321,400 for assets under ELDOWAS as a company owned by Municipal Council of Eldoret. The Board has not signed a transfer deed with the Company thus transferring the assets to the Board and hence may not be proper to include the same in the financial statements of the Board.

(iii) The value attributable to Kakamega – Busia and Nzoia Water & Sanitation Company are valued at KES 2,031,407,849 and this value includes the recent major water development works out in the two areas. The figure was found not to be objective given that the assets are relatively new and the actual costs incurred to put them in place amounted to KES 6,921,281,683.

Committee Observation

The Committee observed that: -

(i) Transfer of assets previously owned by the Ministry of Water and Irrigation and the National Water Conservation & Pipeline Corporation in respect of water distribution infrastructure to the Lake Victoria Water Services Board (LVNWSB) had not been concluded at the time of audit.

(ii) The motor vehicles and motor-cycles were bought for a specific project under the Contractor's name as was the practice before enactment of the Constitution of Kenya (2010). The Board is looking for funds to pay duty so that the assets can be transferred to the Board.

(iii) The Board undertook valuation of assets. However, some of the assets were not included in the financial statements as the transfer process is still pending.

Committee Recommendation

The Committee recommends that: -

(i) The Principal Secretary, Ministry of Water and Irrigation ensures that the transfer of assets from under the District Water Officers, the National Water Conservation and Pipeline Corporation to LVNWSB and other water service boards across the country is finalized within six)6) months of adoption of this Report;

(ii) The CEO pursues transfer of assets under ELDOWAS Company to LVNWSB and ensure that the Board maintains an asset register as a financial prudence measure.

10. DEBTORS: FY 2012/2013 ACCOUNTS

The Committee heard that, included in the debtor's balance of KES 261, 458,225 as at 30 June 2013 are long outstanding debts brought forward due from WSP-WaSSIP Support current balance of KES 12,231,000 and KES874, 608 from Amatsi Water Company.

Any provision that would have been incorporated in relation to these uncertainties has not been incorporated in the financial statements.

Management Response

Bad and doubtful debts provision is made when there is significant evidence that the debts recoverability is doubtful.

Committee Observation

The Committee observed that, Board did not make provision for bad and doubtful debts because it is still actively pursuing their recovery.

Committee Recommendation

The Board should expedite recoverability of the outstanding debts, failure to which it should make a provision for it in its financial statements.

11. CAPITAL WORKS IN PROGRESS: FY 2014/15 ACCOUNTS

a) Rehabilitation of Dams

The Committee heard that, included in the cost of capital works in progress of KES 4,850,323,472 is KES 154,626,560 in respect of rehabilitation of dams through LVNWSB. However, audit inspection revealed that the projects were completed using materials that did not meet the specifications in the bills of quantities. Further, the projects were poorly managed by the users.

As a result, the propriety of the expenditure of KES 154,656,560 on rehabilitation of dams could not be confirmed as at 30 June 2015.

Management Response

The CEO informed the Committee that, the Board conducted high level of quality checks and had supervisors on site daily and the technical team also visited the sites periodically to monitor progress. For dams under defects liability period, the Board will not release retention until it is satisfied that all works are perfect.

Committee Observation

The Committee observed that, the Board is yet to release retention for dams under defections liability period. For the completed dams, the Board reported that it conducts frequent checks for quality control purposes.

Committee Recommendations

The Committee recommends that: -

(i) The dams' management committees and local communities be continuously trained to impart necessary knowledge on management of dams.

(ii) The Board should ensure that it conducts due diligence before it releases the contractors until it undertakes repairs of the dams during the liability period.

b) Consultancy for Design of Water Dams

The Committee heard that, during the year under view, LVNWSB advertised for "Request for Expression of Interest" for the proposed design of plateau; Ngenjilel III, Kaimosi, Bitobo and Rapoki water dams. Nine (9) bidders responded while one consultant who was eventually awarded the consultancy contract at a cost of KES 3, 488,500. Further, the consultant was paid KES 3,662,925 resulting into an overpayment of KES 174,425. In addition, no tender committee minutes were made available for audit review in support of the negotiated contract amount. No evidence of competition has been provided to confirm that the procurement of consultancy services was from the most economical source.

In the circumstances, it has not been possible to confirm the propriety of the expenditure of KES 3,665,926 as at 30 June 2015.

Management Response

The CEO informed the Committee that, the consultant was recruited competitively via individual consultancy selection method. The ICS method only allows for negotiation with the top ranked consultant and not with the other qualified consultants

The top ranked was Eng. Kiprotich. Negotiations were done and the contract sum was agreed at KES3,488,500 plus 5% withholding tax and inclusive of all reimbursable.

Committee Observation

The Committee observed that, KES 174,425 that was allegedly overpaid was explained by Management as being withholding tax.

Committee Recommendation

The Committee recommended that, the CEO ensures that the procurement of goods and services by the Board is above board and conducted in accordance with the provisions of the Public Procurement and Disposal Act, 2015.

12. RECEIVABLES FROM NON-EXCHANGE TRANSACTIONS: FY 2014/2015

The Committee heard that, the statement of financial position reflects receivables from exchange transactions of KES 323,279,128 as at 30 June 2015. However, the supporting schedule shows receivables of KES 898,898,763 out of which KES 374,037,518 are long outstanding in respect of water service providers. As a result, the accuracy, completeness and recoverability of the receivables from exchange transactions of KES 323,279,128 could not be ascertained as at 30 June 2015.

Also the statement of financial position shows receivables from non-exchange transactions of KES 50,131,885 as at 30 June 2015. However, KES 29,762,966 have been outstanding for a long period of time. Consequently, the recoverability of the balance of KES 29,762,966 remains doubtful

Management Response

The CEO informed the Committee that, the Board has made various correspondences with water Services Providers for recoverability of outstanding levies.

Committee Observation

The Committee observed that, Water Service Providers owe the Board long outstanding balances of KES 374,037,51 in respect of unpaid water bills. Non recovery of the debts is negatively impacting on the capacity of the Board to provide water and sewerage services within its area of jurisdiction.

Committee Recommendation

The Committee recommends that: -

(i) The CEO ensures that the Board recovers the debts owed by the water service providers within six months of adoption of this Report.
(ii) The Board puts in place an actionable policy on prudent debt management and debt recovery strategy and further prevents accumulation of more debts.

2.30 MASINDE MULIRO UNIVERSITY OF SCIENCE & TECHNOLOGY (FY 2007/2008 – 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF MASINDE MULIRO UNIVERSITY OF SCIENCE AND TECHNOLOGY FOR THE FINANCIAL YEARS 2007/2008 TO 2014/2015

Prof. Joseph Rotich, Acting Vice-Chancellor (Deputy Vice-Chancellor; Finance and Administration) accompanied by Mr. Gared Rading, Finance Officer; Ms. Irene Lumatete, Deputy Finance Officer; Mr. Stephen Rotich, Senior Accountant and Mr. David Watenene, Alternate Director, Ministry of Education appeared before the Committee on 24 February 2017, to adduce evidence on the Report of the Auditor General on the accounts of the University for the financial years 2007/2008 to 2014/2015

1. CASH AND BANK BALANCES: FY 2008/2009 TO FY 2012/2013 ACCOUNTS

The Committee heard that, the balance sheet as at 30 June 2009 reflects a cash and bank balance of KES 173,721,000 in respect to thirteen (13) bank accounts operated by the University while the cashbooks show a total balance of KES 140,219,111. The difference of KES 33,501,489 between the two sets of records has not been reconciled or explained.

Management Response

The Ag. Vice Chancellor informed the Committee that, the Management is currently reconciling the cashbooks with a view of ensuring completeness of the figures in the financial statements going forward.

Committee Observations

The Committee observed that: -

(i) The University did not undertake reconciliation of cash and bank balances for its sixteen (16) bank accounts as at 30 June 2014.
(ii) A review of the entire system of reconciliation reports showed differences arising from inconsistencies in data capture and incomplete end year procedures, hence, derailing bank reconciliations.
(iii) There were noticeable mis-posting of entries to wrong ledger accounts, irregular posting of data from source documents to system, thus resulting in understatements or over statement of the affected ledgers

Committee Recommendation

(i) **The Committee recommends that the Vice Chancellor and the Finance Officer ensures that reconciliation of cash and bank balances cash equivalents and reconciliation of its accounts is regularly undertaken and all audit records submitted to the Auditor-General in time for verification in accordance to the Public Audit Act.**

(ii) **The Committee further recommends that the Vice Chancellor should ensure that the School has qualified and competent staff in its accounts department to maintain accounting records and prepare professional financial statements.**

2. TRADE AND OTHER PAYABLES: FY 2008/2009 TO FY 2012/2013 ACCOUNTS

The Committee heard that, trade and other payables balance of KES 184,137,000 as at 30 June 2009 includes tax arrears and penalties totalling KES 46,926,508 Although the university has since paid to KRA the principal tax of KES27,760,913, the penalty and interest of KES19,165,595 as at 30 June 2009 has not been settled and therefore continues to attract additional charges.

Management Response

From 2014/15, the university entered into a formal agreement with the Kenya revenue authority on modality of payment of tax arrears. The University pays monthly instalments of KES 8,800,000. The current tax arrears balance is KES 93,839,087.40. The communication with KRA on tax arrears together with the Tax Compliance Certificate is attached for review.

Committee Observations

The Committee observed that: -

(i) **The Corporation had failed to pay taxes leading to penalties and accrued interest.**

(ii) **The University entered into an agreement with KRA on modalities of payment of the arrears is currently remitting instalments in time.**

Committee Recommendation

The Committee recommends that the Corporation ensures prompt payment of taxes and other due obligations to avoid penalties and interest and unwarranted litigation.

3. CUSTOMS DUTY AND INTEREST ARREARS: FY 2008/2009 ACCOUNTS

The Committee heard that, trade and other payables balance of KES184,137,000 as at 30 June 2009 excludes customs duty and interest arrears of KES2,452,354 payable to KRA and which the University had under unclear circumstances guaranteed to an importer for

clearance of imported goods. The importer defaulted on the payment of customs duty subsequent to which, KRA wrote on 20 August 2008 to the University demanding payment of the duty and accrued interest amounting to KES 1,933,664 and KES 518,690 respectively. According to records available, KRA later in October 2009 recovered the amount of KES 2,452,354 through agency notice from the University bankers.

Although the University has indicated that it is pursuing the matter with the importer to have the amount of KES 2,452,354 refunded, it has not however been indicated when the amount would be paid back. Further, the basis on which the University guaranteed an importer for duty payable to KRA has also not been explained.

Management Response

The Ag. Vice- Chancellor informed the Committee that, the Management has proposed to Council to close the issue as the Equipment that was imported is in the custody of the University. That the amount of KES 2,452,354 shall be treated as the University contribution.

Committee Observation

The Committee observed that: -

(i) An importer for clearance of imported goods acting on behalf of the University in 2008 defaulted on the payment of custom duty of KES 1,933,664 payable to KRA by the University for importation of an equipment. The amount has since accrued interest of KES 518,690 making a total amount of KES 2,452,354

(ii) The equipment was a donation is a property of the University.

Committee Recommendation

The Committee recommends that the University requests KRA for waiver of tax and interest accruing from the same since the equipment was a donation

4. GOING CONCERN: FYs 2011/2012 - 2014/2015 ACCOUNTS

The Committee heard that, during the 2014/2015 financial year the University incurred a deficit of KES 146,846,927 (2010/11-KES 8,046,840) further the current liability of KES 504,437,979 exceeded the current asset of KES 212,520,100 resulting in a negative working capital KES 291M917,879. The University is therefore technically insolvent and its going concern will depend on the continued financial support from the government creditors and donors.

Management Response

The Ag. Vice Chancellor informed the Committee that, included in the current liabilities are prepaid fees, caution money, retention money on construction, donor funds and pending

certificates amounting to KES 263,145,381 that were not payable within the 2011/12 financial year.

The prepaid fee is recognized on a semesterly basis upon invoicing of students and thus reducing the liability.

All retention money for construction work is paid upon defect liability period lapsing and final completion certificates issued.

Caution money is paid only for students who have graduated and cleared with the University.

Research grants are applied and recognized as expenses are incurred by the researchers over time. The explanations above show clearly that the liabilities were not affecting the operations in terms of liquidity. Proper provisions are currently being made to ensure adequate accountability and settlement of caution money when it falls due.

The Current liabilities as at 21 February 2017, stood at KES 210,630,539.84

Committee Observation

The Committee observed that, the University is technically insolvent and its going concern will depend on the continued financial support from the government creditors and donors.

Committee Recommendation

The Committee recommends that the Vice Chancellor ensures that the operations of the University are commercially viable to enable it meet its financial obligations and reduce reliance on government funding.

5. TRADE AND OTHER RECEIVABLES: FY 2011/2012 & FY 2012/2013 ACCOUNTS

The Committee heard that, excluded from other trade and other receivable figure of KES 146,368,287 is KES 3,726,000 described as provision for unbanked cash whose details have not been availed for audit review. In the circumstances e the trade and other receivables balance of 146,368,287 as at 30 June 2012 could not be confirmed.

Management Response

The Ag. Vice Chancellor informed the Committee that, provision for unbanked cash of KES 3,726,000 involved a former cashier at the University. The Management has been trying all means including litigation to resolve the issue.

A report was made by the University to the DCIO in 2011 and investigations were launched. The University is working closely with the authorities to bring this issue to a closure. Management will not pay any benefits to the affected staff until this issue is resolved.

Committee Observation

The Committee observed that, the University lost KES 3,726,000 through unbanked cheques by a former officer of the University.

Committee Recommendation

The Committee recommends that: -

(i) **The Vice-Chancellor ensures that the University recovers the full amount of money lost through unbanked cheques from the former officer.**

(ii) **The University puts forth significant efforts and reporting internal controls and processes cash book provide reasonable assurance to prevent puts in place adequate control policies and procedures and segregation and rotation of duties amongst the accounts department to safeguard its assets, insure accuracy of financial records and prevent possible fraud.**

6. CONTINGENT LIABILITIES: FY 2011/2012 ACCOUNTS

The Committee heard that, Information available indicate that the University has two pending legal suits in which the Commissioner of cooperative Development and Midland Emporium Ltd are claiming KES 83,675, 975 and KES 7,000,000 for unremitted SACCO dedications and for the supply of building materials for library constructions respectively totalling to KES 90,765,975. However, no disclosure note has been given the university as required by IAS 37 which requires that an entity discloses each class of contingent liability at the balance sheet date with a brief description of the nature of the contingent liability.

Management Response

The Ag. Vice Chancellor informed the Committee that, the facts about the claims were noted and shall be included in future the accounts as per the advice and also relevant IPSAS.

The issue of Midland Emporium Ltd is still in court and once resolved will be restated.

The issue of Commissioner of Cooperative Development was concluded by the Court in favour of the University.

Committee Observation

The Committee observed that: -

(i) **The Financial statements of the University did not include contingent liabilities for unremitted SACCO dedications and for the supply of building materials for library constructions respectively totalling to KES 90,765,975 contrary to IAS.**

(ii) **The University did prepare its financial statements as per the requirements of the International Accounting Standards and International Reporting Standards.**

Committee Recommendation

The Committee recommends that the Vice Chancellor and the Finance Manager ensure that the University prepares its financial statements as per the requirements of the International Accounting Standards and International Reporting Standards.

7. INACCURACY OF FINANCIAL STATEMENTS: FY 2012/2013 & FY 2013/2014 ACCCOUNTS

The Committee heard that, the University has since inception been operating without operating proper books of accounts as required by section 15 of the Public Audit Act 2003.It was therefore not possible to establish and verify the sums of money received expenditure incurred and the assets and liabilities for the year ending 30 June 2013.Consequently the accuracy of the opening balances and the accounts for the year ended 30 June 2013 could not be confirmed.

Management Response

The Ag. Vice Chancellor informed the Committee that, University since 2015 implemented an ERP solution called ABNO to address the issues of book keeping and accuracy of accounting. Currently the implementation is underway and a lot of inaccuracies are being addressed. The University commits that by end of June 2017 the financial statements will be accurate and reliable as far as the law requires. Additionally, staff have been hired to cure the skills gaps that existed in the finance function at the University.

Committee Observation

The Committee observed that: -

(i) **The University has since inception been operating without keeping and maintaining proper books of accounts as required by section 15 of the Public Audit Act, 2003.**

(ii) **The University did not prepare its financial statements as per the requirements of the International Accounting Standards and International Reporting Standards thus their accuracy could not be relied upon.**

Committee Recommendation

The Committee recommends that: -

(i) **The Vice Chancellor and the Finance Manager ensure that the University keeps and maintains proper books of accounts have been kept and the accounts are in agreement therewith;**

(ii) **The Vice Chancellor and the Finance Manager the accounts of the University present a true and fair view of the financial position of the state University.**

(iii) **The Vice Chancellor and the Finance Manager ensure that the University prepares its financial statements as per the requirements of the International Accounting Standards and International Reporting Standards.**

8. UNSUPPORTED/IRREGULAR PAYMENT: FY 2012/2013 & FY 2013/2014 ACCOUNTS

The Committee heard that, the Auditors were unable to verify validity of expenditure totalling KES 461,604,221.45 in the absence of supporting documentary evidence.

The University made salary payments amounting to KES 14,109,709 to staff members who apparently drew salaries from Kibabii College; a constituent college of the university during the year under review. In additions some staff members whose services have been terminated were not expunged from the payroll and continued to draw salaries totalling to 4,266,101.

The University paid an insurance broker KES 10,331,217 for insurance cover. However, the policy documents details for the underwriter and procurement documents were not available for audit verification.

Further the university paid a security firm KES 15,317,754 against the contract amount of KES 13,434,530 resulting in over expenditure KES 3,083,324. An additional KES 1,200,000 was paid to guards who did not provide security services.

The University further gave KES 899,970 to a staff member to procure 30 computers for Kibabii University College. No documentary evidence was produced to support the receipt of this equipment.

In addition, procurement documents to support the repairs of motor vehicles expenditure totalling KES 12,344,018 were not availed for audit.

Management Response

The Ag. Vice Chancellor informed the Committee that:-

i. The University has so managed to retrieve and avail payment vouchers amounting to KES 328,338,512.60. The work is going on and upon completion these vouchers shall be availed for audit review.
ii. Filling system has been put in place to ensure all payment vouchers are filed for easy retrieval and going forward all figures in the financial statements shall be well supported by payment vouchers and approval documents.
iii. The Management confirms that it ran the payroll for Kibabii University College up to November 2012 since the College had not installed their own payroll system. There was no double payment of salaries.
iv. Management has provided copy of renewed contracts for the staff who was supposed to be expunged from the payroll. The other staff who resigned but was paid for one month has also been communicated to refund the University.

v. The Management has provided all the tender committee minutes and copies of contract to the Insurance Broker by authorized officers. Efforts are being made to get a copy of the policy document for review by the auditor

vi. The Management has provided the Tender Committee minutes together with other procurement documents to confirm that all procurement processes were complied with.

vii. The Management has extracted the relevant support documents including Goods received Notes, Imprest accounting form, Inspection and acceptance certificate. All these documents confirmed that the computers were procured and received by Kibabii University College. All these have been provided to the auditor for review

viii. The management had prequalified suppliers to provide motor vehicle repair services for the year. However, upon raising service requests, the transport in charge sent the vehicle to the relevant service providers. The prequalified list was provided for review. The Management has improved controls to ensure that pre-inspection certificates are generated for intended services and LSO/contracts prepared before the vehicle is sent for repair. Thereafter, the service provider offers services and the vehicle is collected by a delivery note/ service note/ job card to confirm the same before payment is effected.

Committee Observation

The University Management did not avail all the relevant documents and other explanatory information in accordance with Article 226 of the Constitution and Section 14 of the Public Audit Act, 2003 necessary for the purposes of audit to the Auditor General at the time of audit. The documents were, however, availed later and the matter resolved.

Committee Recommendations

The Committee recommends that: -

(i) The Vice Chancellor and the Finance Manager ensure that the University maintains proper records and accounts of all transactions to facilitate the tracing and verification of documents as and when required in accordance with Section 37(b) of the Public Audit Act, 2003.

(ii) The Vice Chancellor and the Finance Manager ensure that the University puts in place proper controls to ensure that all payroll procedures are effected to avoid future irregular payments to staff.

9. CAPITAL DEVELOPMENT PROJECTS: FY 2012/2013 ACCOUNTS

The Committee heard that, included in the statement of financial position equity figure of KES 1,714,651,533 are addition of capital development grants of KES 206,850,053 during

the year which differ from the ministry of education appropriation amount of KES 215,044,083 disbursed to the university for the year resulting to unexplained difference of KES 8,194,030. The accuracy of the capital development grants could not therefore be ascertained.

Management Response

The Ag. Vice Chancellor informed the Committee that, disparity in the capital grants received of KES 8.194,030 was as result of late disbursement of KES 9,149,000 which was received in the University on 8 July 2013.

Committee Observation

The Committee observed that, there was that disparity in the capital development grants amount received by the University during the year. University records indicate that that of the University received KES 206,850,053 which differ from the Ministry of Education appropriation amount of KES 215,044,083.

Committee Recommendation

The Committee recommends that the Vice Chancellor and the Finance Manager ensure that the Management makes the necessary adjustments in the Financial Statements to reflect this status.

10. DONOR FUNDS: FY 2012/2013 ACCOUNTS

The Committee heard that, during the year the University received donor funds of KES 46,760,005.90 and incurred expenditure amounting to 36,876,342.90. However, these transactions have been excluded in these financial statements.

Management Response

The Ag. Vice Chancellor informed the Committee that, the Management has undertaken to recognise both income and expenditures associated with donor fund to provide full accountability in the Financial Statements. This will start in the FY 2016/2017 at the earliest.

Committee Observation

The Committee observed that, transactions undertaken by the University related donor funds during the 2012/2013 financial year were excluded in the financial statements of the University.

Committee Recommendation

The Committee recommends that Vice Chancellor and the Finance Manager ensure that the University records and maintain all financial transaction done by the University including transactions involving donor funds.

11. NON-CURRENT ASSETS: FY 2012/2013 ACCOUNTS

The Committee heard that, non-current assets balance of KES 1,799,277,462 shown in the statement of financial position differs with the ledger and supporting schedule balances of KES 1,732,927,763 by an unexplained difference of KES 830,031. Consequently, the accuracy of the noncurrent assets balances as at 30 June 2013 could not be confirmed.

Management Response

The Ag. Vice Chancellor informed the Committee that, reconciliation between general ledger and supporting schedules will be maintained in future to avoid such discrepancies. Proper support documentation in terms of invoices, payment vouchers, contracts/LPOs shall be used to authenticate financial statement figures in the future.

Fixed Asset register developed and shall be updated as acquisitions are made.

Committee Observation

The Committee observed that: -

(i) The University's 2012/2013 financial year statement of financial position shows variances in ledger and supporting schedule balances.

(ii) The University did not undertake reconciliation of the ledger and supporting schedule balances in its financial statements.

Committee Recommendation

The Committee recommends that the Vice Chancellor and the Finance Manager ensure that the University undertakes regular reconciliation of its accounts.

12. NON-CURRENT ASSETS: FY 2013/2014 ACCOUNTS

The Committee heard that, the financial statement Note No. 19 reflects plant, property and equipment of KES 2,001,180,904.00 as at 30 June 2014 whereas the various classes of non-current assets from the general ledger amounts to KES 1,853,325,512.16 resulting to unexplained overstatement of KES 147,855,391.84

The University did not maintain an updated Fixed Assets Register for its plant, property and equipment of KES 2,001,180,904.00. Consequently the location and security of the plant, property and equipment could not be confirmed.

Management Response

The Ag. Vice Chancellor informed the Committee that, the Management is currently in the process of properly classifying and accounting for plant, property and equipment as per the IPSAS in order to increase reliability of the financial statements of the University.

The Fixed Asset Register has been developed and being updated as new assets is acquired. A copy of the same has been availed for review.

This has since been rectified and a comprehensive fixed asset register compiled.

Committee Observation

The Committee observed that, the University did not maintain an updated Fixed Assets Register for its plant, property and equipment as at 30 June 2014.

Committee Recommendation

The Committee recommends that the Vice Chancellor and the Finance Manager ensure proper book keeping to give assurance that assets can be traced and classified in the right classes and accurate figures recorded.

13. REVENUE FROM EXCHANGE TRANSACTIONS: FY 2013/2014 ACCOUNTS

The Committee heard that, sundry income of KES 15,130,050.00 was not supported by schedule/workings.

Management Response

The Ag. Vice Chancellor informed the Committee that, University installed an ERP system which now allows the Management to generate a breakdown of this item of income to the last sub item.

Committee Observation

The Committee observed that, sundry income of KES 15,130,050.00 was not supported by schedule/workings.

Committee Recommendation

The Committee recommends that the Vice Chancellor and the Finance Manager ensure proper book keeping and record of all transactions by the University and that the Management continues to improve internal control system.

14. WEAK BUDGET CONTROL: FY 2013/2014 & FY 2014/2015 ACCOUNTS

The Committee heard that, the University had a revenue shortfall of KES 518,035,691, under expenditure of KES 122,345,353.00 and over expenditure of KES 421,624,094.00 without approval of Council.

Management Response

The Ag. Vice Chancellor informed the Committee that, the Management has put in place controls to ensure that the Public Finance Management Act of 2012 is fully complied with in terms of budgetary controls and expenditure management. All expenditure shall be executed within the provisions of the approved budget and procurement plan.

Committee Observation

The Committee observed that, did not comply with provisions of the Public Finance Management Act of 2012 on budgetary controls and expenditure management.

Committee Recommendation

The Committee recommends that the Vice Chancellor and the Finance Manager ensure that the University complies with the Public Finance Management Act of 2012 in terms of budgetary controls and expenditure management and further ensure that the University obtains approval before any over expenditure.

15. UN-VOUCHED EXPENDITURES: FY 2013/2014 ACCOUNTS

The Committee heard that, the University expenditure of KES 100, 258,545.31 on repair and maintenance and general expenditure was not supported by payment vouchers and related documents. KES 4,051,981,74 on water, electricity and conservancy lacked support documents.

Management Response

The Ag. Vice Chancellor informed the Committee that, payment vouchers amounting to KES 93,168,520 have been retrieved and availed for review. The rest are being retrieved and will be availed for review upon completion.

Filing system streamlined to ensure easy retrieval of payment vouchers

Committee Observations

The University Management did not avail all the relevant documents and other explanatory information relating to repair and maintenance and general expenditure in accordance with Article 226 of the Constitution and Section 14 of the Public Audit Act, 2003 necessary for the purposes of audit to the Auditor General at the time of audit. The documents were, however, availed later and the matter resolved.

Committee Recommendations

The Committee recommends that the Vice Chancellor and the Finance Manager ensure that the University maintains proper records and accounts of all transactions to facilitate the tracing and verification of documents as and when required in accordance with Section 37(b) of the Public Audit Act, 2003.

16. UNSUPPORTED CONTRACT VARIATION: FY 2013/2014 ACCOUNTS

The Committee heard that, supply of library security system at KES 5,699,997.79 with unexplained contract variation of KES 683,902.09. No tender committee minutes for variation availed to auditors.

Management Response

The Ag. Vice Chancellor informed the Committee that, the Management provided all the procurement documents to show that the variation was approved by the Tender Committee as per the regulations. Management assures that all requested documents shall be provided to the auditor in future to resolve all issues.

Committee Observation

The University Management did not avail all the relevant documents and other explanatory information relating to contract variation on supply of library security system in accordance with Article 226 of the Constitution and Section 14 of the Public Audit Act, 2003 necessary for the purposes of audit to the Auditor General at the time of audit. The documents were, however, availed later and the matter resolved.

Committee Recommendation

The Committee recommends that the Vice Chancellor and the Finance Manager ensure that the University maintains proper records and accounts of all transactions to facilitate the tracing and verification of documents as and when required in accordance with Section 37(b) of the Public Audit Act, 2003.

17. NON-CURRENT ASSETS: FY 2014/2015 ACCOUNTS

The Committee heard that, non-current assets balance stood at KES2,134,496,125 as at 30 June 2015. However, the Property, plant and equipment(PPE) balance of KES2,625,625,741 before depreciation was not supported with an updated fixed asset register(FAR). Further, an undetermined value of intangible assets (software) has been omitted from the financial statements.

Management Response

The Ag. Vice Chancellor informed the Committee that, University is in the process of preparing a Fixed Asset Register (FAR). The intangible assets (software) will therefore be included in the register copy of the FAR is availed here for noting of the action being taken.

Committee Observation

The Committee observed that, property, plant and equipment balance of KES2,625,625,741 was not supported with an updated fixed asset register and further, an undetermined value of intangible assets (software) has been omitted from the financial statements.

Committee Recommendation

The Committee recommends that the Vice Chancellor ensures that the University develops a fixed assets register and include details the University's assets.

18. IRREGULAR OTHER PERSONAL ALLOWANCES: FY 2014/2015 ACCOUNTS

The Committee heard that, an analysis of payroll data for the period January to June 2015 revealed an earning referred to as other personnel allowances payments of KES2, 687, 398. However, the allowances do not conform to any of the allowances contained in the collective bargaining agreement for UASU, KUDHEHIA and KUSU. Further, no guidelines or details on the payments of them allowances were provided for audit review.

Management Response

The Committee heard the Ag. Vice Chancellor informed the Committee that, the payroll is now completely segregated to itemize all allowances payable to staff. The allowances paid are normally either negotiated by the unions as observed by the audit or conferred by the Council upon advice by relevant authority such as SRC and Public Service.

Committee Observation

The Committee observed that, allowances to the University's employees do not conform to any of the allowances contained in the collective bargaining agreement for UASU, KUDHEHIA and KUSU. Further, no guidelines or details on the payments of them allowances were provided for audit review.

Committee Recommendation

The Committee recommends that: -

(i) The Vice Chancellor ensures and the Finance Manager strive to make the payroll more audits friendly in order to appreciate the magnitude of the payments made and for what purpose and payments are in agreement with the Collective Bargaining Agreement.

(ii) The University should completely segregate the payroll to itemize all allowances payable to staff.

19. NUGATORY PAYMENTS FOR LIBRARY SYSTEM: FY 2014/2015 ACCOUNTS

The Committee heard the University procured and installed a library security system at a cost of KES 8,283,380.65. The system has however, remained non-functional with no evidence of after sale service and maintenance. The University has not obtained value for money from the expenditure of the library system.

In the circumstances, the expenditure of KES 8,283,381 is nugatory payment.

Management Response

The Ag. Vice Chancellor informed the Committee the Management seized of the matter and all efforts are being made to ensure that the system is functional so that there is no

perceived loss. Our technicians are currently finding out what can be done to improve the images being captured by the system

Committee Observation

The Committee observed that, the University procured and installed a library security system at a cost of KES 8,283,380.65. The system has however, remained non-functional with no evidence of after sale service and maintenance and thus the University has not obtained value for money from the expenditure of the library system.

Committee Recommendation

The Committee recommends that the Vice Chancellor ensures that the contractor completes installation installed a library security system and ensure that the system is operational.

20. INFORMATION TECHNOLOGY GOVERNANCE: FY 2014/2015 ACCOUNTS

The Committee heard that, the University's IT governance in general and application controls were inadequate. Further, staff handling the system have not been fully trained while all the Enterprise Resource Programme (ERP) twelve modules have not been implemented. The non-use of speciality modules like for part-time lecturing has led use of manual procedures in paying part-time lectures. This increases risk of errors in payments.

Management Response

The Ag. Vice Chancellor informed the Committee the ERP System was implemented from January 2015 half way into the financial year. Training of staff was not completed by the time of audit. Most modules were still under implementation. However, all relevant staff were trained for the modules in the 2015/2016 financial year.

Committee Observation

The Committee observed that, University's IT governance and application controls were inadequate. Further, staff handling the system have not been fully trained while all the Enterprise Resource Programme (ERP) twelve modules have not been implemented.

Committee Recommendation

The Committee recommends that the Vice-Chancellor ensures the University continuously train its IT staff and implements additional controls to ensure that all payments made are thoroughly scrutinized and chances of errors/risks prevented to avoid losses being inflicted on the University.

2.31 MOI TEACHING AND REFERRAL HOSPITAL (FY 2012/2013 - 2014/2015

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF MOI TEACHING AND REFERRAL HOSPITAL FOR THE FINANCIAL YEARS 2012/2013 TO 2014/2015

Dr. Peter Aruasa, the Chief Executive Officer, Moi Teaching and Referral Hospital, accompanied by Mr. Thomas Ngetich, Finance Manager; Mr. Daniel Rotich, Deputy Finance Manager; Mr. Titus Bartilol, Chief Accountant and Ms. Sylvia Nyariki, Head of Legal appeared on 24 February 2017 before the Committee to adduce evidence on the Report of the Auditor General on the accounts of the Hospital for the financial years 2012/2013 to 2014/2015.

1. PROJECT COST: FY 2012/2013 ACCOUNTS

The Committee heard that, the statement of financial position for the year ended 30 June 2013 reflect a non-current assets figure of KES 1,191,332,889.00 which includes project costs of KES 78,315,207 in respect of actual payments for ongoing construction projects which are at various levels of completion. Information available shows that the value of completed and certified works as at 30 June 2013 stood at KES 99,508,384. The project cost of KES 78,315,207 was understated in the financial statement by over KES 7,800,000 in respect of 10% retention monies. Further, although the 10% retention money was deducted from the amounts due to contractors, the Hospital did not maintain a deposit cashbook and separate bank account to account for the money.

Consequently, the Hospital may not be able to refund the retention money when due for payment.

Management Response

The CEO informed the Committee that, while concurring with the provisions of paragraph 30 and 31 of IFRS 16, it is to be noted that project cost represents work in progress for which interim certificates have been issued based on Project Engineers' valuations. In the interim payment certificate, the Engineer will net out 10% retention which should be deposited on Retention Account. However, the Hospital has not opened such an account. Instead, the amounts payable to contractor is processed in the voucher but the retention amount is not processed. The amount recognized therefore is consistent with actual payments. The full value of the asset will be updated and capitalized upon issuance of the final certificate and payment of the final amounts.

Committee Observation

The Committee observed that: -

(i) There was a discrepancy in the Hospital's financial statements on the project cost of the projects including cost of the completed and certified works undertaken by the Hospital as at 30 June 2013.

(ii) The Hospital did not maintain a deposit cashbook and separate bank account to an account in respect of 10% retention fee of the amount certified as due to the contractor on an interim certificate which was retained by the Hospital being the client.

Committee Recommendation

The Committee recommends that the CEO and the Finance Manager ensure that payment vouchers raised for projects are consistent with the invoiced amount and actual payments.

The Committee further recommends that the Hospital keeps accurate and well organised records relating to project costs for ease of retrieval and verification by the Auditor General.

2. LAND: FY 2012/2013 - 2014/2015 ACCOUNTS

The Committee heard that, included in the property, land and equipment balance of KES 1,253,353,648 is Uasin Gishu Memorial Hospital land valued at KES71,037,687. However, as previously reported, ownership of Uasin Gishu Memorial Hospital is subject to a court case between the Hospital and the former Directors of the Hospital. Although the management has explained that the Constitutional Court to which the case was referred ruled in favour of Moi Teaching and Referral Hospital on 10 March 2010, the former Directors appealed against the judgment. The matter has been pending in the High Court for the last five years. Consequently, until the appeal is heard and determined, the ownership status of the land valued at KES 71,037,687 included in the property, plant and equipment figure of KES 1,253.353,648 could not be confirmed as at 30 June 2015.

Management Response

The CEO informed the Committee that, as reported to the Public Investment Committee (PIC) in 2014, the status of ownership still remains the same as per the judgment in MISC. Civil Case No. 12 of 2006 delivered in the High Court of Kenya.

The Hospital is in active and constant pursuit of this matter at the Appellate Court through its lawyers as per the correspondences availed. The case is still ongoing at the Court of Appeal earlier scheduled for hearing on 13December 2016. It was however not case-listed for hearing on that date but instead re-scheduled for hearing on 3 May 2017.

Committee Observation

The Committee observed that: -

(i) the lawsuit on the Corporation's land has been pending in the Court of Appeal since the year 2010 following an appeal by the former Directors of the Hospital.

(ii) that there was an apparent conflict of interest in the representation by Mr. Katwa Kigen as the Hospital's lawyer in Misc. Civil Application 12A of 2006 while he sat on the Hospital's Board. Mr. Kigen is no longer a Member of the Hospital's Board.

Committee Recommendation

The Committee recommends that: -

(i) The Hospital expedites the hearing and conclusion of the matter filed in the Court in 2010.

(ii) The Hospital should ensure that its register of assets includes land, property, plant and equipment are registered in the Hospital's name to protect them from possible illegal transfer to third parties.

3. VARIATION OF CONTRACT PRICE FOR CONSTRUCTION OF SUPPLIES WAREHOUSE: 2012/2013 & FY 2013/2014 ACCOUNTS

The Committee heard that, the property, plant and equipment movement schedule under note 3 indicate a figure of KES 786,654,604 relating to buildings. The balance includes net book value of supplies store. However, as reported in the previous year, the Hospital entered into a contract with a contractor for the construction of the supplies store at a contract price of KES 12,807,835. At the end of the works, a total of KES 29,902,201 was paid to the contractor resulting in a variation of KES 17,094,367 (or 133%) of the contract sum. Although the Hospital explained that all the variation costs of KES 17,094,367 was paid by the donor and therefore was not subject to procurement regulation under section 7(i) of the Public procurement and Disposal Act, 2005. Other projects funded by the same donor had been subjected to the same procurement Act. The Hospital was, therefore, in breach of the Public Procurement and Disposal Act, 2005 and Public Procurement and Disposal Regulations of 2006.

Management Response

The CEO informed the Committee that, as earlier reported to the Public Investments Committee (PIC) in 2014, the Hospital's Tender Committee awarded the contract at a total sum of KES 12,807,835.00 and approved variation of 15% only amounting to KES 1,921,175.25.

The basement was introduced due to the topography which was sloping downwards hence requiring a lot of backfilling which could be expensive.

On the request of the AMPATH program, a basement was created as a separate project whose works were fully funded by donors taking into consideration that the variation was

majorly a consequence of the added basement (Civil Works, Electrical Works and terrazzo paving) in pursuit to provision of section 7 (1) of the Public Procurement and Disposal Act, 2005 using 100% of donor funds. The Donor, Indiana University School of Medicine has confirmed vide their letter.

Summary

Item	**Cost (KES)**
Original Contract	12,809,835
Variation (15%)	1,921,175.25
Creation of basement (Donor Funded)	10,303,640.00
Civil works (addendum Donor Funded)	3,276,220.00
Terrazzo (addendum Donor Funded)	1,593,332.00
Electric Works (Separate Contract)	3,499,140.25
Grand Total	**33,401,342.00**

It was not practically possible to have two contractors on the same job hence the award to the same contractor using the tendered rates. All procurements, even donor-funded projects are subjected to competitive procurement as provided for under the Public Procurement and Asset Disposal Act, 2005 (now repealed to Public Procurement and Asset Disposal Act, 2015).

Committee Observations

The Committee observed that: -

(i) The Hospital contravened Section 85 of the Public Procurement and Disposal Act, 2005 by varying the contract sum by 133%;

(ii) The Hospital subjected the procurement of the fully donor-funded project to competitive procurement in adherence to the Public Procurement & Disposal Act, 2005;

Committee Recommendations

The Committee reiterates its recommendations in the 19th PIC Report which recommended that:-

(i) EACC investigates the conduct of the Chief Executive Officer in relation to supplies stores and recommends prosecution by the Director of Public Prosecutions for failure to adhere to the provisions of Public Procurement and

Disposal Act, 2005, abuse of office contrary to Section 101 of the Penal Code and Section 10 of Public Officer Ethics Act, 2003.

(ii) The CEO and the Tendering Committee ensure that proper planning and costing of the institution's projects is undertaken before any project commences to avoid unplanned variations.

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4. CT SCAN: FY 2012/2013 & 2013/2014 ACCOUNTS

The Committee heard that, as previously reported, the plant, equipment, furniture and fittings figure of KES 340,736,649 include KES 24,031,350 relating to CT Scan equipment. The CT scan was directly procured due to what the Management considered to be emergency measures in order to replace an old CT scan commissioned in May 2006. The CT Scan was meant to have a lifespan of five years as per the comprehensive maintenance contract signed with the supplier but it broke down in May 2009, three years after commissioning and the supplier was unable to repair it. The Hospital filed a case against the supplier for breach of contract which was later withdrawn for an out-of-court settlement. However, the matter has not been settled to date. In the circumstances, the accuracy of the plant, equipment, furniture and fittings balance of KES 340,736,649 as at 30 June 2014 could not be confirmed.

Management Response

The CEO informed the Committee that, as earlier reported to the Public Investments Committee (PIC) in 2014, through an out of court settlement, the Hospital and the Supplier agreed to trade-in the old CT scan for an Ultrasound Machine. Negotiations were successfully conducted which resulted in the delivery and installation of an Ultrasound machine.

The Ultrasound Machine was successfully installed and currently in use, while the Old CT scan was decommissioned. The matter has been resolved.

Committee Observation

The Committee observed that: -

(i) The Hospital and the Supplier (Meditec Systems Ltd) agreed to trade-in the old CT scan for an Ultrasound Machine. Negotiations were successfully conducted which resulted in the delivery and successful installation of the ultrasound machine.

(ii) The matter has since been resolved following an out-of-court withdrawal of the court case filed by MTRH against Meditec Systems Ltd.

Committee Recommendation

The Committee recommends that the Hospital's CEO and the Tendering Committee ensure that in future, the Hospital machines and other equipment procured have a

long warranty period, readily available spare parts and technicians provided by the supplier during the warranty period.

5. **ERECT TO COMPLETION OF OUT-PATIENT UNIT: FY 2012/2013 & 2013/2014 ACCOUNTS**

The Committee heard that, as previously reported, Note 3 to the financial statements reflects a balance of KES 786,654,604 relating to buildings. Included in the figure is an amount of KES 57,970,358 for the construction of an outpatient unit at the Hospital. The Hospital contracted a construction company to erect to completion the outpatient unit at a sum of KES 52,970,358 which was later varied first to capture an additional floor and to replace the roof at an additional cost of KES 3,248,570 and final variation to improve lighting and ventilation on consultation rooms and water proofing on the second floor at an additional cost of KES 3,531,100 bringing the contract cost to KES 57,970,028. However, the land on which the building has been constructed is a subject of court case reference HCC/MISC/case No. 12 of 2006. (O.S) UGMH LTD VS MTRH.

No explanation has been given for putting up a building o the disputed land for which the Hospital has no title. Consequently, the ownership of the buildings of KES 786,654,604 as at 30 June 2014 could not be ascertained.

Management Response

The CEO informed the Committee that, construction of a Modern Outpatient Unit was as a result of demand for services by corporate clients, especially with the coming in of the scheme for civil servants and disciplined forces by NHIF.

The Hospital built the Outpatient Unit in Private Wing II as this is the ordinary service point for corporate clients. The decision to build on the UGMH land is on the strength of the High Court ruling to the effect that the MTRH retains possession and management of the Hospital. The case is still ongoing at the Court of Appeal earlier scheduled for hearing on 13December 2016. It was however not cause-listed for hearing on that date but instead re-scheduled for hearing on 3 May 2017.

<u>Committee Observations</u>

The Committee observed that: -

(i) **the lawsuit on the Corporation's land has been pending in the Court of Appeal since the year 2010 following an appeal by the former Directors of the Hospital.**

(ii) **that there was an apparent conflict of interest in the representation by Mr. Katwa Kigen as the Hospital's lawyer in Misc. Civil Application 12A of 2006 while he sat on the Hospital's Board. Mr. Kigen is no longer a Member of the Hospital's Board.**

Committee Recommendation

The Committee recommends that: -

(i) The Hospital's CEO expedites the hearing and conclusion of the matter filed in the Court in 2010.

(ii) The Hospital should ensure that its register of assets includes land, property, plant and equipment are registered in the Hospital's name to protect them from possible illegal transfer to third parties.

6. TRADE AND OTHER RECEIVABLES: FY 2012/2013 - 2014/2015 ACCOUNTS

a) Corporate Clients Debtors

The Committee heard that, trade and other receivables balance of KES984,538,962 as at 30 June 2015 includes corporate clients debtors of KES431,583,409 out of which an amount of KES260,603,064 relates to 2013/2014 and prior years. However, no reason has been provided for the failure to collect debts as and when they fall due. Further, no documentary evidence was availed for audit review to show efforts being made by the hospital to have these long outstanding debts collected.

Management Response

The CEO informed the Committee that, the Management has adopted various strategies aimed at ensuring corporate clients settle their claims as per contract. Such strategies include:

(i) Demand letters on overdue corporate debtors.
(ii) Debts collection visits.
(iii) Suspension of overdue accounts and institution of collection.
(iv) Put in place a Credit Policy to guide management of debtors.

Corporate debtors relating to 30 June 2015 and prior years has been reduced from KES 431,583,409 to KES 222,074,583 broken down as follows:

(i) Alexander Forbes – KES 20,176,662
(ii) Pioneer Assurance – KES 65,987,368.10
(iii) NHIF Civil Service – KES 35,142,021
(iv) Other Corporate clients – KES 100,772,532

b) Medical Services Providers Debtors

The trade and other receivables balance of KES 984,578,962 further include amounts owed by two medical service providers amounting to KES 20,138,821 and KES 68,778,269 respectively in respect of all contractual arrangements entered into with the hospital to provide medical care to employees of the Hospital. The claims have been outstanding long

after contracts with the two firms were terminated. However, no documentary evidence was availed for the audit review on the measures being taken by the Hospital to ensure that amounts totalling KES 88,917,090 are recovered from the two firms.

Management Response

The Hospital Management has been following settlement of outstanding claims from the two Service Providers. Demand notices were issued to the providers; Alexander Forbes Healthcare Limited and Pioneer Assurance respectively.

These notices did not yield payments on the outstanding amounts hence the decision by the Hospital to file a civil suit against the two providers. The settlement is being pursued by the following appointed Lawyers through the courts:

i. *Alexander Forbes: Case filed in court: Civil Suit No. 13 of 2016*
ii. *Pioneer Assurance: Demand Letters have been issued*

The Hospital's lawyers have engaged the client and the case shall be filed in court given the non-responsiveness of the client.

c) NHIF Civil Service Medical Scheme Debtors

Included in the corporate clients' debtors balance of KES 431,583,409 under note 7.2 to the Financial Statements is an amount of KES 85,585,029 due from NHIF Civil Service Medical Scheme as at 30 June 2015. However, there was no contract signed between the Hospital and the Fund stipulating the obligations of each party. Consequently, the reason for non-settlement of the claim and the basis of the claims amounting to KES 85,585,029 could not be confirmed as at 30 June 2015.

Management Response

The Hospital, as a sister institution to NHIF partnered with it to implement the Provision of Medical Services to Civil Servants and Members of the Disciplined Services as per guidelines provided by NHIF.

Through this partnership, the Hospital has been rendering services to beneficiaries per guidelines and receiving payments from NHIF for services rendered. Contract has been signed and is in place.

The outstanding amount has been reduced to KES 35,142,021 which is a subject of reconciliation between the Hospital and NHIF.

d) Individual Client Debtors

The trade and other receivables balance of KES 984,538,962 as at 30 June 2015 further includes individual client debtors balance of KES 457,757,790. The debts were secured

with ID cards, commitment letters and title deeds and out of which an amount of KES 361,024,834 related to the years 2002 and 2010. Since these debts were secured with very weak collateral, the possibility of their collectability appears remote and the management has not indicated the measures being taken to have the amounts collected. It is therefore likely that these debts may not be recovered and the management has not indicated the measures being taken to forestall the recurrence of similar situation. Consequently, delay in collection of debts affect the cash flow position and adversely affects the operation of the hospital.

Management Response

The Constitution of Kenya 2010 (Article 43) guarantees access to healthcare to all its citizens whether or not they have funds. The socio-economic status of the residents within the Hospital's catchment area is largely comprised of people from a humble background. The consequence of this is the increase in number of indigents that have no valuable collaterals. In order to decongest the wards and avoid hospital acquired infections (nosocomial infections), such patients were discharged with available collaterals mostly Identity Cards.

The Hospital no longer accepts Identification Cards as collaterals and insists on alternative acceptable ones such as Logbooks and Title deeds.

Those who cannot pay are waived instead.

It is therefore the Hospital's request that the government meets the hospitalization cost on behalf of poor patients through settlement of the amount secured by Identity Cards and that which has been waived.

The Hospital Management has taken the following steps to collect old debts and forestall the recurrence of the situation;

(i) Partnered with NHIF and the County Governments to jointly mobilize for NHIF enrolment (see MOU with Uasin Gishu County).
(ii) The Hospital no longer accepts Identification Cards as collaterals and insists on alternative acceptable ones such as Logbooks and Title deeds
(iii) The Hospital Management, from time to time, offers incentives to security holders of a discounted settlement of debts. For instance, the 50% waiver of bill if paid between the periods starting 29 February to March 2016 (collected KES 2,571,282) and 50% waiver for debts paid from 16/01/2017 to 03/03/2017.

Committee Observations

The Committee observed that: -

(i) The Hospital has long outstanding debts relating to corporate clients, unsettled medical bills, medical service providers, individual client debtors and corporate clients whose recoverability is doubtful.

(ii) Some of the debts were secured with very weak collateral, hence the possibility of their collectability appears remote.

(iii) The Management has put in place a Credit Policy to address the general provision for bad debts and step up collection old debts and forestall the recurrence of the situation.

Committee Recommendation

The Committee recommends that: -

(i) The CEO and the Finance Manager ensures that the Hospital makes aggressive follow-up to collect all recoverable debts both corporate and individual to enhance financial growth and cash flow for the Hospital to meet its commitments and provide continuous service delivery.

(ii) The CEO and the Finance Manager should undertake an analysis of all debts and reviews the current policies governing management of debts to establish areas of weaknesses, recommend a prudent debt management system, debt restructuring and to seek Board approval to write-off unrecoverable debts.

(iii) The CEO ensures that the credit policy is stringently enforced to minimize exposure to bad debts; and

(iv) The Hospital should maintain an acceptable level of risk by vetting clients' applications for credit and review credit worthiness of new and existing clients.

6. PROCUREMENT OF DRUGS AND NON-PHARMACEUTICALS ITEMS: FY 2013/2014 ACCOUNTS

The Committee heard that, included under note 5.1 on direct costs of KES 561,834,124 is an amount of KES 27,726,890 expenditure incurred on procurement of drugs and dressings. A review of procurement records however revealed that the purchases were single sourced from suppliers without competitive bidding contrary to section 74 of the Public Procurement and Disposal Act, 2005 and the Public Procurement and Disposal Regulations, 2006. Although the Hospital management explained that the contracted suppliers failed to deliver the drugs and non-pharmaceuticals items ordered, no documentary evidence was provided to justify the explanation given.

In the circumstances, the propriety of the expenditure of KES 27,726,890 incurred during the year ended 30 June 2014 could not be confirmed.

Management Response

The CEO informed the Committee that, the Hospital entered into various contracts as a result of competitive tendering for supply and delivery of drugs during the period under review. The drugs tender had in excess of 600 items and each item had a provision of original, branded and generic drugs.

Due to financial challenges, contracted suppliers occasionally failed to meet their contractual obligations. This necessitated the Hospital Management to come up with a strategy to ensure that services continued uninterrupted, pursuant to provision of section 10 of the Public Procurement Manual for Health Sector.

Low value procurement method was used when drugs were out of stock as provided by Section 90 of the Public Procurement and Disposal Act, 2005 and section 63 of the Public Procurement and Disposal Regulations, 2006. Quotations were sought from local prequalified and registered suppliers. No item exceeded the prescribed threshold for low value procurement, however, the amounts involved of KES 27,726,890.00 can be justified by the range of drugs hospital uses or what was tendered for.

Committee Observation

The Committee observed that, the Hospital contracted suppliers who occasionally failed to meet their contractual obligations to supply drugs and services to the Hospital due to financial challenges. To ensure that the Hospital did not run out of essential supplies like drugs and dressings, the Hospital pursuant to the provisions of Section 90 of the Public Procurement and Disposal Act, 2005 and section 63 of the Public Procurement and Disposal Regulations 2006 and Section 10 of the Public Procurement Manual for Health Sector applied low value procurement method and engaged prequalified and registered suppliers to supply drugs which were out of stock.

Committee Recommendations

The Committee recommends that: -

(i) **The CEO ensures that the Hospital management adheres to the Public Procurement and Asset Disposal Act of 2015 in the procurement of goods and services;**

(ii) **The CEO ensures that the Hospital management undertakes a thorough due diligence on the financial capability of the prequalified and registered suppliers to supply goods and services before awarding of tenders for supply of goods and services.**

7. HOSPITAL UPGRADING PROJECT EXPENDITURE: FY 2013/2014 ACCOUNTS

a) Consultancy Services

The Committee heard that, examination of records maintained by the Hospital revealed that a proposal to upgrade the existing Hospital facilities started in 2003 and soliciting for funding commenced in 2007. The upgrading project involved construction of a fourteen (14) storey 1000-bed inpatient building, construction of four (4)-storey car park, solar plant, modern hospital water management incinerator plant and access roads.

During the year under review, the Hospital Management signed a Contract Agreement No. CMEC/MTRH 2013C-01 with Chinese Mechanical Engineering Company (CMEC) on 18 November 2013 at contract price of KES 25,077,066,198 (or US $291,593,793). In addition, CMEC requested for concessional financial support from the Chinese government for upgrading of MTRH through Kenya National Treasury vide a letter Ref. No. MOF/ERD/25/214/78/03 dated 23 December 2013. One of the requirements for approval of funding was a study report/feasibility study on the project.

Records availed for audit indicates that the Hospital procured the consultancy service to carry out feasibility study though restricted tendering method and a Consultant was awarded the contract at a sum of KES 9,723,099. The Hospital conducted Tender Evaluations on five (5) gazetted physical planners which contravened Public Procurement and Disposal Act, 2005 Section 78(1) requiring the use of at least ten (10) firms while using restricted tender method of procurement.

In the circumstances, the propriety and value for money spent on the feasibility study totalling KES 9,723,099 could not be confirmed.

Management Response

The CEO informed the Committee that, as provided under Section 78(1) of the Public Procurement and Disposal Act, 2005 (now repealed) requiring the use of at least ten (10) firms while using restricted tender method of procurement, the Hospital invited bids from 11 gazetted physical planners thereby complying with the threshold set by the Act.

5 bidders responded and were evaluated as guided by the Act and Guidelines.

The process was, therefore, in compliance with the law.

Committee Observation

The Committee observed that: -

(i) The Modernisation project was aimed at upgrading the Hospital to enable it provide specialized healthcare services to meet the social pillar goals of Vision 2030.

(ii) **The Hospital Tender Committee tendered for feasibility study through restricted tendering method owing to the urgency and importance of the service. The Tender Committee invited bids from 11 (11) gazetted physical planners in compliance with the threshold of a minimum of ten (10) firms set by the Act, however, only five (5) responded. Consequently, the tender evaluation was conducted on the five (5) and Simuplan Consultants was awarded the contract for feasibility study at a sum of KES 9,723,099.**

Committee Recommendations

The Committee recommends that the CEO ensures to the Public Procurement and Asset Disposal Act, 2015 in procurement of goods and services.

b) Expenditure incurred on the Hospital Upgrading Project

During the year under review, the hospital incurred administrative cost of KES 243,918,100 which includes an amount of KES 10,892,711.40 payments on the upgrading project. The payments comprised of payments to a consultant for feasibility study and travel and subsistence allowance of KES 9,723,099 and KES 1,169,612.40 respectively. It was however noted that, the consultant was paid the full contract sum of KES 9,723,099 without withholding the relevant taxes including VAT and 3% withholding tax contrary to Section 4 (1) of the Income Tax Act 2001.

Further, included in the figure of KES 10,892,711.40 is additional costs totalling KES 464,500 incurred by Hospital officers on travel and subsistence while pursuing the project matters in Nairobi. However, payment voucher for travel and subsistence allowance amounting to KES 464,500 incurred on various dates by the officers were not availed for audit review. Despite the total expenditure incurred amounting to KES 10,892,711.40 on the feasibility study and related costs, available information indicate that the upgrading project has been abandoned in favour of construction and equipping of 2000 bed capacity hospital on a new site within Eldoret town.

Consequently, the propriety and value of total amount of money spent on the upgrading project totalling KES 10,892,711.40 could not be confirmed.

Management Response

The CEO informed the Committee that, vouchers for travel and subsistence allowance amounting to KES 464,500 have since been availed to the Auditors for review.

The Upgrading Project has been shelved in favour of construction and equipping of a 2,000-bed capacity super-specialized hospital on a new site within Eldoret town. At the time of the feasibility study, the project was considered viable.

The project has been allocated 200 acres by the Government for the new Hospital. The land has legal issues which are in the Environment and Lands Court in Eldoret and also being handled by the National Lands Commission.

Committee Observations

The Committee observed that: -

(i) The proposed Hospital upgrade was shelved following a Cabinet decision to develop a new modern teaching and referral hospital at a different site;
(ii) No tender was awarded for the upgrading project despite a preliminary contract being signed between the Hospital and China Machinery Engineering Corporation. The Contract was mutually terminated in 2014 in accordance with the provisions of the Contract;
(iii) The shelving of the upgrading project occasioned loss of public funds amounting to KES 10,892,711.40 comprising of KES 9,723,099 to Simuplan Consultant for undertaking a feasibility study and KES 1,169,612.40 for travel and subsistence allowances;
(iv) Payment vouchers for travel and subsistence allowance amounting to KES 464,500 incurred on various dates by the officers were later availed for audit review.
(v) At the time of payment for the feasibility study, the Hospital was not a licensed Withholding Tax Agent. The Hospital is now a withholding tax agent and withholds and remits all Withholding Tax and VAT on projects since the year 2015 following enactment of the Finance Act, 2014.

Committee Recommendations

The Committee recommends that: -

(i) The CEO ensures that the Hospital conducts a thorough due diligence and proper planning before embarking on development of capital projects to avoid unnecessary loss of public funds.
(ii) Before undertaking major projects, the CEO should liaise with the parent Ministry and the relevant National and County Governments agencies responsible for issuing requisite statutory clearances and approvals.

c) Effectiveness of Exit Clauses of the Contract

The Committee heard that, it was indicated in the contract agreement that the contract worth KES 25,077,066,198 shall come into force and become effective after: -

i. the contract has been signed by the Employer and the Contractor approved by the relevant authorities of Government;
ii. the loan agreement has been signed by the Kenyan Government and Chinese financing institute;

iii. full advance payment of the contract price has been received by the contractor from the Kenya Government against presentation of the bank guarantee of the same amount by the contractor.

If due to whatever reason any one of the above mentioned conditions are not fulfilled, the employer and the contractor shall further negotiate to find out the solution or mutually terminate the contract available.

Information indicates that the Project has been abandoned in favour of construction and equipping of the 2,000-bed capacity hospital on a new site in Eldoret. However, no evidence was availed to show that the contract was mutually terminated and as such exposes the Hospital to law suits through international arbitration as stipulated under sub-clause 20.3 of the Contract.

Management Response

The CEO informed the Committee that, the concerned company was duly informed in writing of the Government's decision on the new project. The Hospital has written to the contractor communicating the termination of the Contract.

Committee Observation

The Committee observed that, the Hospital has written to the Contractor communicating the termination of the Contract as per the signed Contract.

Committee Recommendation

The Committee recommends that the CEO liaises with the Chinese company to obtain a formal mutual termination of contract to avoid exposure to lawsuits through international arbitration as stipulated under sub-clause 20.3 of the Contract.

7. FIXED ASSETS REGISTER: FY 2014/2015 ACCOUNTS

The Committee heard that, during the year under review, the Hospital did not maintain a fixed assets register. It was therefore not possible to confirm the value of property, plant and equipment and project costs all totalling KES1,321,005,474 as at 30 June 2015.

Consequently, the accuracy and the existence of the non-current assets valued at KES 1,321,005,474 could not be ascertained as at 30 June 2015.

Management Response

The CEO informed the Committee that, Hospital maintained Assets Register cards for each asset from the year 2002 to 2008. However, the stocks of the cards (Kalamazoo) were depleted and procurement of the same could not proceed since the items were no longer in the market. From the year 2009 when the cards were not in the market, the Hospital started maintaining Asset Register in Ledger Books with each asset having its ledger account.

Records of all the Hospital assets showing cost, depreciation and net book values are available in manual registers.

Committee Observations

The Committee observed that: -

(i) **The Hospital did not maintain a fixed assets register prior to 2014/2015 financial year;**

(ii) **The Hospital has since procured an Asset Tagging & Management software to control, account, track and manage the assets.**

Committee Recommendation

The Committee recommends that the CEO ensures that asset tagging exercise is expeditiously completed and the asset register regularly updated.

8. **LOSS OF REVENUE: FY 2014/2015 ACCOUNTS**

The Committee heard that, revenue collection system (Fun Soft) recorded total receipts of KES 6,011,317,436 as reflected in the statement of financial performance for the year ended 30 June 2015, comprising government grants, cost sharing and income generating activities. However, information available indicates that between 1 July 2014 and January 2015 an amount of KES 12,896,113.90 was invoiced to patients for medical services, which was altered in the system through collusion by some Hospital employees to KES 2,975,775 resulting to a loss of KES 9,920,339. Although the Management has indicated that legal action has been instituted against the officers who colluded to cause the loss of KES 9,920,339, no disclosure or provision for the loss has been made in the financial statements. Consequently, the financial statements for the year under review did not fully comply with paragraph 37 of IPSAS 1 and therefore the statement net loss of KES 149,220,372 is understated by KES 9,920,339 for the year ended 30 June 2015.

Management Response

The CEO informed the Committee that, the Hospital management has made the disclosure of amount lost in the notes to the Accounts under Financial Risk Management (Fiduciary Risk) on the Annual Report and Financial Statements.

The Hospital has drastically reduced cash handling by introducing direct banking by clients, Mpesa payments and Agency Banking.

Committee Observation

The Committee observed that: -

(i) Some Hospital staff in the Accounts Department colluded and altered invoiced amounts of KES 12,896,113.90 to KES 2,975,775 resulting in a loss of KES 9,920,339. The matter is currently before a court of law.
(ii) The Hospital has since reduced cash handling by introducing banking by clients, Mpesa payments and Agency Banking.

Committee Recommendations

The Committee recommends that: -

(i) **The CEO applies for expeditious hearing and determination of the court case;**
(ii) **The CEO ensures recovery of the lost amount from the terminal dues of the former employees involved in the fraud; and**
(iii) **The CEO and the Finance Manager ensures that the Hospital enhances its internal financial controls to avoid any further system alterations.**

9. CASH AND CASH BALANCES: FY 2014/2015 ACCOUNTS

The Committee heard that, the statement of financial position as at 30 June 2015 reflects cash and cash equivalent balances of KES 9,633,249 which includes KES 778,286 in respect of KCB private wings account. However, audit review of the KCB private wing bank reconciliation statement for the month of June 2015 showed un-presented cheques amounting to KES 4,329,286.90 which included two stale cheques totalling KES1,149,000 and three additional cheques totalling KES 215,550 which had become stale as at the time of the audit in May 2016. No reason was however provided for not reversing the stale cheques in the cash book. Consequently, the accuracy and validity of the cash and cash equivalent balance of KES 778,286 could not be confirmed as at 30 June 2015.

Management Response

The CEO informed the Committee that, Hospital follows generally accepted accounting principles in maintaining the cash books. Bank reconciliation is done and cash books updated to capture any amount reflected in bank statement and not posted in the cash books for example the bank charges. At the end of the month all stale cheques are reversed in the cash book. The stale cheques in question were all reversed.

Committee Observation

The Committee observed that, the Hospital's reconciliation statement for the month of June 2015 showed un-presented cheques amounting to KES 4,329,286.90 which included two stale cheques totalling KES 1,149,000 and three additional cheques totalling KES 215,550 which had become stale as at the time of the audit in May 2016. The stale cheques have since been reversed.

Committee Recommendation

The Committee recommends that the Hospital ensures that proper reconciliation of accounts is undertaken on a regular basis as provided for by financial regulations and as per requirements of IAS.

10. BANK OVERDRAFT: FY 2014/2015 ACCOUNTS

The Committee heard that, the statement of financial position as at 30 June 2015 reflects bank overdraft of KES 15,731,326 in respect of KCB main account. However, the Board approval for the bank overdraft indicating the limit and the terms of the overdraft was not availed for the audit review. Further, audit review of the KCB main bank reconciliation statement for the month of June 2015 showed un-presented cheques amounting to KES 16,164,286 out of which cheques amounting to KES 1,191,066.40 were not presented for payment and had become stale at the time of audit in May 2016. No reason has however, been provided for drawing cheques without sufficient funds in the cash book and the Board approval to over draw the account. Consequently, the validity and accuracy of the bank overdraft balance of KES 15,731,326 as at 30 June 2015 could not be confirmed.

Management Response

The CEO informed the Committee that, the Hospital as at 30 June 2015 did not have any overdraft facility with any bank.

Given that payroll deductions include statutory deductions with deadlines, the Hospital normally raises payroll cheques in advance pending receipt of exchequer. During the period, the Government was not providing adequate funds to fully cover the payroll hence resulting in the unremitted cheques. The Hospital did not have an overdraft as at 30 June 2015.

Committee Observation

The Committee observed that, the figure of KES 15,731,326 apparently reflected as an overdraft in the KCB account as at 30 June 2015, was as a result of the Hospital raising payroll cheques in advance pending receipt of exchequer.

Committee Recommendation

The CEO and the Finance Manager ensure that cheques are however not released for any payment until funds are received in the Hospital bank account.

11. IRREGULAR PAYMENT OF EMOLUMENTS: FY 2014/2015 ACCOUNTS

The Committee heard that, personnel emoluments amount to KES 4,525,650,638 reflected in the statement of financial performance for the year ended 30June 2015 include an amount of KES 528,713 being emoluments paid between January 2015 and June 2015 to an

employee who exited the Hospital in December 2014. Consequently, the expenditure of KES 528,713 was an irregular charge to the Hospital's funds.

Management Response

The CEO informed the Committee that, irregular payment of emoluments has been fully recovered from the staff. The matter has been resolved.

Committee Observation

The Committee observed that, the Hospital paid a former employee an amount of KES 528,713 for six months after exiting the Hospital's service.

Committee Recommendation

The Committee recommends that the CEO and the Human Resources Manager ensure that the Hospital maintains an accurate and up-to-date payroll for all its staff.

12. DISCREPANCIES BETWEEN BANK REMITTANCE AND PAYROLL AUDIT: FY 2014/2015 ACCOUNTS

The Committee heard that, a review of the payroll and bank remittances showed discrepancies between the two records for the months of March to June 2015 as shown below;

Month	Variance (KES)
March 2015	99,393.00
April 2015	504.00
May 2015	516,540.00
June 2015	2,681,928.00
Total	**3,099,579.00**

The variance of KES 3,099,579.00 had not been explained or reconciled as at the time of this audit. As per the attached Payroll Summaries and Bank Remittance Schedules, the Payroll amount and the Bank Amount is the same.

Management Response

The CEO informed the Committee that, there was no underpayment of salaries as indicated. There was a breakdown of the payroll system in July 2015, long after the closure of the payroll.

Data recovery for the period created some errors which do not actually represent underpayment. Payroll back up for each month is done.

Committee Observation

The Committee observed that, there was no underpayment of salaries as indicated. The variances were as a result of breakdown of the payroll system in July 2015, long after the closure of the payroll.

Committee Recommendation

The Committee recommends that the CEO and the Human Resource Manager ensures that the Hospital uses and maintains a reliable payroll software to efficiently manage its payroll.

2.32 MOI UNIVERSITY (FY 2008/2009 - 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF MOI UNIVERSITY FOR THE FINANCIAL YEARS 2008/2009 TO 2014/2015

The Acting Vice-Chancellor Prof. Laban Ayiro accompanied by Prof. Daniel Tarus, Deputy Vice-Chancellor Finance; Prof. Nathan Ogendi, Deputy Vice-Chancellor Administration, Planning and Development; Prof. Isaac Kimengi, Deputy Vice-Chancellor Academics, Research and Extension; Mr. George Aduda, Acting Finance Officer and Mr. Eric Liyala, Acting Legal Officer appeared before the Committee on 24 February 2017 to adduce evidence on the Report of the Auditor General on the accounts of Moi University for the financial years 2008/2009 to 2014/2015.

1. PROPERTY, PLANT AND EQUIPMENT: FY 2008/2009 ACCOUNTS

The Committee heard that, property, plant and equipment balance of KES 4,043,274,000 as at 30 June 2009 includes the value of student hostels, dining halls, diagnostic laboratories, anatomy building, boundary wall and operation theatre at the School of Medicine valued at KES 43,472,000, constructed on Moi Teaching and Referral Hospital land. The ownership of the land is yet to be resolved between the Hospital and the University. Although consultations are reported to be on-going between the Ministries of Higher Education, Science and Technology and Health with a view to resolving the issue, it is not yet clear when the matter will be concluded.

Management Response

The Vice- Chancellor informed that, Committee that buildings that are located on Moi Teaching and Referral Hospital land are:-

Asset	Value (KES)
Diagnostic Laboratories	21,772,000
Anatomy boundary wall	1,700,000
Operating Theatre	20,000,000
Total	**43,472,000**

The Students Hostels and Dining Halls are located in Chepkoilel Campus (currently University of Eldoret).

Moi University and Moi Teaching and Referral Hospital (MTRH) are both Government institutions. In recognition of this fact, the resolution of the matter was left to the two parent Ministries. The matter is, therefore, still pending.

However, to continue operating in an amicable manner, the two institutions signed a Memorandum of Understanding on how to deal with shared facilities and resources.

This MOU takes cognizance of the fact that the two institutions perform complementary activities in teaching, research and rendering service. The MOU aims at eliminating misunderstanding, disharmony, disputes or conflict between the institutions. The MOU allows Moi University to use MTRH as a teaching hospital and where there are shared facilities or areas of common interest, the MOU provides that these facilities be owned severally while allowing each party to be responsible for the repair and maintenance of its portion of the facility.

The University has also disclosed in its financial statements that the above buildings are located in land that is in the name of MTRH. The matter has not been concluded.

Committee Observations

The Committee observed that: -

(i) **The ownership of the land on which the University's student hostels, dining halls, diagnostic laboratories, anatomy building, boundary wall and operation theatre at the School of Medicine constructed has taken inordinately long to resolve.**

(ii) **The two institutions have continued to use the MOU on mutual use of the shared facilities to ensure the smooth delivery of clinical services by MTRH and the University;**

(iii) **The delay in handing over of assets and liabilities has hampered the assigning of assets to the respective institutions.**

Committee Recommendation

The Committee recommends that Principal Secretaries responsible for Ministries of Education and Health together with CEO Moi Teaching and Referral Hospital and the Vice-Chancellor Moi University jointly address and resolve the matter of the ownership of the land between the two institutions within one year of the adoption of this Report.

2. WORK IN PROGRESS: FY 2008/2009 - 2011/2012 ACCOUNTS

The Committee heard that, the work in progress of KES 902,942,000 as at 30 June 2012 (KES 669,856,000 as at 30 June 2009) includes projects with cost value of KES 163,137,409 which had stalled in early 1990s. Management has indicated that projects with a value of KES 27,805,048 were completed in the year under review but these were not transferred

from work in progress to the respective asset classes. Other projects with a value of KES 57,192,377 were transferred to Chepkoilel University.

Further and as similarly reported in the previous year, the work in progress balance excludes pending bills totalling KES 322,095,118 relating to stalled projects, which for various reasons stalled before completion and which were the subject of the pending bills closing committee appointed by the Ministry of Finance. In the year under review the committee rejected bills totalling KES 258,837,456, but accepted the balance of KES 63,257,662 which is still not included in the work in progress balance.

In the foregoing circumstances, the accuracy of the carrying value of work in progress as at 30 June 2012 could not be determined.

Management Response

The Vice Chancellor informed the Committee that, the projects under work in progress with a value of KES 27,805,048 were completed after the end of the financial year ended 30 June 2012 and were therefore capitalized in the year ended 30 June 2013.

The University attached a schedule of the fixed assets movement schedule for the year 2013 that shows the capitalization of the assets.

The following projects were located in Chepkoilel Campus:

Asset	Value (KES)
Chepkoilel Water Project	9,920,245.10
Biotechnology Project	11,288,672.00
Chemistry Lab construction	5,627,304.10
Library Extension Project	25,206,582.20
Chepkoilel Lecture Space Project	5,149,573.00
Total	**57,192,377.10**

Following the elevation of Chepkoilel Campus to a constituent college of Moi University in 2010, the above projects are to be completed by University of Eldoret (formerly Chepkoilel Campus).

Pending bills amounting to KES 258,837,456 out of the pending bills of KES 322,095,118 were rejected as not payable during the audit carried by Ernst & Young on behalf of Government to ascertain the veracity of all pending bills. The balance of KES 63,257,662 was being looked into by the Pending Bills Closing Committee, who will establish the amount payable (if any). The University is awaiting the decision of the Committee on how to deal with the pending bills.

The University therefore did not make any provision in the financial statements for the pending bills as their determination and settlement will be decided by the Pending Bills Closing Committees.

Committee Observation

The Committee observed that, the University did not make any provision in the financial statements for the pending bills of work in progress as their determination and settlement is yet to be decided by the Pending Bills Closing Committee.

The Committee Recommendations

The Committee recommends that the Vice-Chancellor ensures that the pending bills relating to carrying value of work in progress be disclosed in the financial statements as a contingent liability pending determination and settlement by the Pending Bills Closing Committee.

The Committee further recommends that the Pending Bills Closing Committee expedites resolution of the matter within six months (6) months of the adoption of this Report.

3. DEBTORS AND ACCRUALS: FY 2008/2009 ACCOUNTS

The Committee heard that, the debtors and accruals balance of KES 781,069,000 as at 30June 2009 reflected under note 7 to the financial statements is prior to a provision for bad and doubtful debts amounting to KES 260,992,000 representing about 33% of the total debts. The debts include KES 128,155,871 relating to the Privately Sponsored Students Programme, which has been outstanding for the last four years. In the circumstances, it is not possible to ascertain that the outstanding debtors and accruals balance of KES 781,069,000 is fairly stated.

Management Response

The Vice Chancellor informed the Committee that, the University has continued to grapple with the issue of students' fees balances. The students joining the University come from diverse economic backgrounds and most of them face acute challenges in meeting their financial obligations to the University.

The University has therefore come up with measures to collect the outstanding fees balances and ensure that the debt does not rise. These measures include:

a) Developing of a debtors' management policy to streamline the collection of debts
b) Installing and implementing an ERP system to ensure timely fees payments and efficiency in managing students' debt
c) Ensuring that students clear fees balances before they are allowed to graduate
d) Posting of accountants to schools to ensure that there is close monitoring of fees payments

The University is also in the process of reviewing all debtors' records, to identify students' debts that may not be recoverable for one reason or the other. These balances will be written off once the requisite approval is obtained so that they are purged from the University's records debts that are uncollectible.

The University has developed a Debt Management Policy to streamline the management of debt collections.

Out of the KES 128,155,871 relating to Privately Sponsored Students, the University has collected KES 123,307,242.

Committee Observations

The Committee observed that: -

(i) The University has developed a debtors' management policy to streamline the collection of debts, installed and implemented an ERP system to ensure timely fees payments and efficiency in managing students' debt

(ii) The University had made progress in recovery of debt due from privately-sponsored students.

Committee Recommendations

The Committee recommends that the Vice-Chancellor:

(i) Ensures that the policies and procedures set by the University Council and Management are implemented and adhered to and that the debt management policy is working to enhance collection of fee balances.

(ii) Continuing students with outstanding fees should not be allowed to sit for any University examinations and be excluded from graduation before clearing the outstanding balances in full.

(iii) Members of the University staff who through any act of commission or omission allow a debt to go bad by not following the laid down debt management procedures be held personally responsible for the debt and the amount be recovered in full from their salaries.

(iv) All pending debts be recovered in full using all practical means including legal action where the cost of recovery is less than the debt.

(v) As part of prudent management practice and in adherence to International Financial Reporting Standards, the University should make a provision for bad and doubtful debts after all reasonable attempts at recovery have been taken and where necessary seeks approval for write off of uncollectable debts.

4. GOK LOAN – KES 250 MILLION: FY 2010/2011 - 2011/2012 ACCOUNTS

The Committee heard that, the University obtained a loan of KES 250 million from the Government in 2008. The purpose of the loan was to purchase a facility to host Karatina

University College. According to the loan agreement, the loan repayment was to commence from 31 December 2009. This did not happen until September 2012 when KES 26,768,170 was paid. It was explained that the balance of the loan is to be transferred to Karatina University which has attained independent legal status. Though the University management had communicated to the Ministry of Finance through a letter Ref No: MU/LO/KC/13 of 19 October 2012 to have the loan balance transferred to Karatina University, the Ministry had not responded to the issues raised by the time of the audit.

Unless the responsibility of repayment of the loan is determined, the terms of the loan agreement will continue to be violated.

Management Response

The Vice-Chancellor informed the Committee that, Moi University was granted a loan by the Government that was utilized for the purchase of KTDA Kagochi Training Institute. The property purchased became the Karatina Campus of Moi University and was eventually elevated to Karatina University College, a constituent college of Moi University through Legal Notice No. 163 of 1 October 2010.

The order establishing the college stated that ".....all rights, liabilities and assets held by or by anybody on behalf of the college shall automatically and fully transferred to the college."

It therefore followed that the land and loan (among other assets and liabilities) should have been transferred to Karatina University College (now Karatina University) from the date of gazettement.

Moi University had made payment of the interest and principal up to the date of gazettement as follows:

(i) On 14, December 2010, KES 6,589,756.92 was paid being interest charges
(ii) On 24 September 2012, KES 8,018,170.08 was paid being interest up to 30September 2010
(iii) On 24 September 2012, KES 18,750,000 was paid being the principal due up to 30 September 2010.

The loan agreement provided in article 3.2 that the University must obtain prior written consent of the Government before assigning the agreement or any of its rights or obligations.

Consequently, the University wrote to the Permanent Secretary, Ministry of Finance on 19 October 2012 seeking written consent to transfer/assign the loan to Karatina University as per the provisions of the above article. The letter also sought that the University be cleared of the outstanding loan balance since the University had fully repaid all the amounts due up to the time Karatina Campus was elevated to a constituent college on 1 October 2010.

The two institutions held a number of meetings and have now signed a handing/taking over agreement that, among other things, details how the loan will be split and repaid.

It is expected Treasury will give the two institutions amended loan repayment schedules to facilitate the full repayment of the loan.

Committee Observations

The Committee observed that: -

(i) The loan by the Government was utilized to facilitate the acquisition of KTDA Kagochi Training Institute. The property purchased became the Karatina Campus of Moi University and was eventually elevated to Karatina University College, a constituent college of Moi University through Legal Notice No. 163 of 1 October 2010 which was subsequently elevated to a fully-fledged chartered Karatina University.

(ii) Karatina University College is the successor in title and assumed all assets and liabilities held in the name of Moi University, Central Kenya Campus through the operation of Karatina University College Legal Order issued vide Legal Notice. 163 of 1 October 2010.

(iii) Karatina University is the successor in title and assumed all assets and liabilities held in the name of Karatina University College through the operation of Section 3 of the Karatina University Charter dated 1 March 2013.

(iv) Pursuant to the aforementioned provisions, Moi University transferred all assets and liabilities with respect to Karatina University College including the government loan to Karatina University on 20 May 2016 vide a hand over/taking over report signed by the Council chairpersons, vice-chancellors and representatives of the Principal Secretaries of the two universities.

(v) Moi University had repaid an amount of KES 18,750,000.00 by the time Karatina became a separate legal entity. After reconciliation of revenues and expenditure incurred in the transition process the parties agreed to transfer an amount of KES 197,607.161 of the outstanding principal to Karatina University, while the balance of the outstanding principal amount of KES 37,120,028 is to be paid by Moi University.

(vi) The two universities had been requested to apportion themselves accrued interest and penalties amounting to KES 39,717,010.89 and agree on its repayment.

(vii) The two institutions have held a number of meetings aimed at resolving the matter and have now signed a handing/taking over agreement that, among other things, details how the loan will be split and repaid.

Committee Recommendations

The Committee Recommends that: -

(i) **Karatina University assumes responsibility for repayment of the outstanding government loan of KES 197,607.161 of the outstanding principal amount while the balance of the outstanding principal amount of KES 37,120,028 be paid by Moi University as agree in the handing over/transfer agreement.**

(ii) **The Principal Secretary, National Treasury issues a letter of consent to allow the transfer of the part of the government loan to Karatina University.**

5. WINDING UP OF MOI UNIVERSITY HOLDINGS LTD: FY 2010/2011 - 2012/2013 ACCOUNTS

The Committee heard that, according to the University's 77 Council meeting of 15 February 2010, the Moi University Holdings Limited, a wholly-owned subsidiary of the University, which evidently had ceased operations, was recommended for winding up. However, the procedures for winding up a company were not followed. The resolution of the shareholders was not obtained and a receiver/liquidator has not been appointed to prepare the statement of affairs of the company and finally liquidate it. The University has therefore continued to be in breach of the law.

Management Response

The Vice-Chancellor informed the Committee University started the process of winding up Moi University Holdings Limited (MUHL) during the year although the process had not been completed by the end of the financial year.

The University followed the steps below in the winding up of MUHL:

(i) Verification of the assets and liabilities of the company and settlement of the liabilities of the company. This was done and all the liabilities were paid.

(ii) The report on the verification of the assets and settlement of the liabilities was then presented to the University Finance and General Purposes Committee.

(iii) A meeting of the members of the Company to pass a resolution to wind up the company. According to the Companies Act, the commencement of the voluntary winding up of a company is the passing of a resolution for voluntary winding up by the company. This resolution was passed on 9 June 2014 during a Special General Meeting of the company. A copy of the resolution was attached.

(iv) Consequent to the passing of the resolution, and a filing of the winding up with the Registrar of Companies, the company was dissolved on 8 April 2016.

Committee Observations

The Committee observed that: -

(i) **The resolution for voluntary winding up by the Company was passed by the shareholders on 9 June 2014 during a Special General Meeting. Consequently, winding up of the Company was filed with the Registrar of Companies and the company was dissolved on 8 April 2016.**

(ii) **All the debts/ liabilities had been settled by the shareholders namely Moi University and assets transferred to the same name.**

(iii) **The one share held by the Company in Rivatex E. A Ltd was transferred to the Vice-Chancellor Moi University to hold it in trust for Moi University.**

Committee Recommendation

The Committee recommends that the Vice-Chancellor ensures that the University follows the due process to dissolve the Company in compliance with the Companies Act, 2015.

6. COUNCIL ALLOWANCES: FY 2010/2011 ACCOUNTS

The Committee heard that, included in the expenditure of KES 46,349,000 on Council and Senate expenses disclosed in note 19 to the financial statements is a figure of KES 5,718,240 paid as sitting allowance to members of staff who were in attendance in Council/committee meetings contrary to section 10(1) of the State Corporations Act, which requires that such allowances be paid to the Chairman and Council Members (except the Chief Executive Officer) only. The University was therefore in breach of the law.

Management Response

The Vice-Chancellor informed the Committee that, payment of sitting allowances to Council members who are members of staff was based on an approval that the University sought and obtained prior to making the payments.

The University Council approved the payments prior to the same being forwarded to the Ministry of Education for final approval. The Ministry approved the payment of sitting allowances to members of staff who are Council members in a letter dated 13November 2006.

On 26 January 2007, the University Council approved the payment of sitting allowances to the members of staff who attend Council meeting by virtue of their offices. These officers were the Chief Administrative Officer, Chief Academic Officer, Principal Chepkoilel Campus and the Finance Officer.

Committee Observation

The Committee observed that: -

(i) **The University paid KES 5,718,240 as sitting allowances to members of staff who were in attendance in Council/Committee meetings contrary to section 10(1) of**

State Corporations Act, which requires that such allowances be paid to the Chairman and Council members only.

(ii) The University made the payments following approval from the Ministry of Education on 13November 2006.

Committee Recommendation

The Committee recommends that the Vice-Chancellor ensures that the University complies with the provisions of the State Corporations Act on the remuneration of Council members which requires that such allowances be paid to Gazetted members only.

The Committee further recommends that to conclusively address this matter, the State Corporations Advisory Committee issues a Circular to all State Corporations giving direction on the matter.

7. GOVERNMENT GRANT: FY 2010/2011 ACCOUNTS

The Committee heard that, the Government grants received in the year under review from the Ministry of Higher Education, Science and Technology comprises of recurrent grants of KES 2,843,826,000 and development grants of KES 249,762,000, all totalling KES 3,093,588,000. However, according to records held at the Ministry, the amount is reflected at KES 3,098,826,000, thereby giving rise to an unexplained variance difference of KES 5,238,000.

Management Response

The Vice-Chancellor informed the Committee that, in the 2010/2011 financial year, the University received recurrent capitation amounting to KES 2,743,826,157, while Karatina and Chepkoilel University Colleges each received KES 50,000,000 giving a total recurrent capitation of KES 2,843,826,157 as reflected in the financial statements.

The University also received capital development grants of KES 249,762,039.

The University wrote to the Chief Finance Officer in the Ministry of Higher Education, Science and Technology on April 2012 confirming the recurrent and capital development grants received in the 2010/2011 financial year.

Again on March 2013 the University wrote to the Chief Finance Officer on the variance between the figures reflected in the Ministry and the amounts that we received in order to clear the query raised by the auditors. The University has not received a response to enable it resolve the query.

The University has indicated all the funds received and has duly accounted for and reflected them in the financial statements.

Committee Observation

The Committee observed that: -

(i) **There was an unexplained variance of KES 5,238,000 between the Government recurrent and capital grants reflected in the University' s financial statements (KES 3,093,588,000) and the records held at the Ministry of Higher Education, Science and Technology (KES 3,098,826,000) for the year ended 30 June 2011.**

(ii) **The University has made attempts to confirm the actual amounts but with no success.**

Committee recommendation

The Committee recommends that Principal Secretary responsible for Higher Education should within three (3) months of the adoption of this Report reconcile its records with those held by the University with the aim of resolving the matter KES 5,238,000 variance.

8. HANDING OVER OF ASSETS AND LIABILITIES BETWEEN MOI UNIVERSITY AND UNIVERSITY OF ELDORET: FY 2012/2013 ACCOUNTS

The Committee heard that, according to the handing over report that was signed on 29 January 2013 between the Council Chairman of Moi University and University of Eldoret, a number of issues were classified as contentious and remain unresolved as shown below:

(i) Research funds amounting to KES 20,000,000
(ii) Tuition fees of KES 146,296,287 collected by Moi University
(iii) Salary top ups of KES 170,972,166 paid by Moi university to staff of University of Eldoret between August 2010 and June 2011
(iv) Outstanding medical bills of KES 2,866,544 owed to Moi Teaching and Referral Hospital
(v) Public Investment Committee (PIC) findings on misappropriation of funds amounting to KES 909,712.
(vi) Pending court cases involving former staff of Moi University at University of Eldoret
(vii) Malindi land measuring 35 hectares on L.R No. 8000
(viii) Homa Hills land measuring 18.72 hectares on L.R No. 22712, and
(ix) Bank accounts balances as at 29 January 2013.

The communication between the two universities officials vide letter reference MST/ADM/2/32 Vol II reflects that the hand-over had not been resolved by 1 November 2013.

Consequently, the delay in handing over of assets and liabilities has hampered the assigning of assets and liabilities to respective institutions.

Management Response

The Vice Chancellor informed the Committee that, the report that was signed by the Council Chairman of Moi University and the then Chepkoilel University College on 29 January 2013 listed the pending items whose resolution was to await the audit report from the Ministry of Education, Science and Technology.

The audit was duly carried out by auditors from the Treasury and recommended the way forward in dealing with all the contentious issues.

The handing over of assets and liabilities between the two institutions was eventually done on 15 December 2014 and was witnessed by the Principal Secretary, Ministry of Education, Science and Technology.

The assets and liabilities that were handed over included:

(i) Research funds amounting to KES 20 million
(ii) Tuition fees of KES 146,296,287 and salary top up of KES 170,972,166
(iii) Outstanding medical bill of KES 2,866,544 owed to Moi teaching and Referral Hospital for the treatment of student registration number Wm/46/08
(iv) Public Investment Committee Report on findings of misappropriation of funds amounting to KES 909,712
(v) Bank accounts
(vi) Fuel card expenses amounting to KES 1,733,340
(vii) Title for Chepkoilel land L.R 22427 measuring 419.3 Ha
(viii) Log books for 44 vehicles
(ix) Livestock and crops in the field as at 13August 2010

The following issues have, however, not been agreed on:

(i) Malindi land LR No. 8000
(ii) Homa Hills land LR 22712
(iii) Pending Court cases

The parcels of land are properties of Moi University and were not being held by Chepkoilel Campus as at the time of gazettement as a constituent college. Hence they should not be included as part of the handing/taking over.

Committee Observations

The Committee observed that: -

(i) The handing over of assets and liabilities between the two institutions was eventually done on 15 December 2014 and all contentious issues had been resolved except for ownership of Malindi land LR No. 8000, Homa Hills land LR 22 and pending court cases involving former staff of Chepkoilel Campus and other cases arising from Chepkoilel University College.

(ii) The two parcels of land Malindi land LR No. 8000 and Homa Hills land LR 22712 were not part of assets owned by Chepkoilel Campus but belonged to the mother institution Moi University.

(iii) That there were 8 legal matters in contention relating to Chepkoilel University College which are at various stages of determination by the courts. The cases could lead to huge financial implications.

(iv) Clause 3(4) of the Chepkoilel University College provides that all rights, liabilities and assets held by or by anybody on behalf of Moi University Chepkoilel Campus, existing at the commencement of the Order shall be fully and automatically and fully transferred to the University College.

Committee Recommendations

The Committee recommends that: -

(i) The issues under contention on the transfer of assets and liabilities are pertinent and negatively impact on smooth handing/take over, operations and development of both institutions.

(ii) The Principal Secretary responsible for Higher Education should within one year of the adoption of this Report develop policy guidelines to be applied on upgrading of constituent campuses/colleges to fully-fledged Universities. This will guide the handover process, especially on transfer of assets.

(iii) The Vice-Chancellors of Moi University and University of Eldoret should immediately jointly refer the matter of the legal cases to the Attorney General for interpretation and guidance.

(iv) The Principal Secretary responsible for Higher Education should allocate funds to a contingent account to cater for the outcomes of the legal cases to cushion the institutions from financial obligations in instances where court cases are determined against them.

9. PROPERTY, PLANT AND EQUIPMENT: FY 2013/2014 ACCOUNTS

The Committee heard that, a review of the assets register revealed that some items of property, plant and equipment costing KES 52,186,276.50 have been fully depreciated. Further, these assets have been included in cost/valuation of property, plant and equipment as at 30 June 2014 at nil carrying amounts.

Audit review also indicated that the University has not revalued these assets with nil carrying amounts contrary to paragraph 44 of International Public Sector Accounting Standards 17 (IPSAS 17) which requires that after recognition as an asset, an item of property, plant and equipment whose fair value can be measured reliably shall be carried at a revalued amount, being its fair value at the date of revaluation, less any subsequent accumulated depreciation, and subsequent accumulated impairment losses. Revaluations

shall also be made with sufficient regularity to ensure that the carrying amount does not differ materially from that which would be determined using fair value at the reporting date.

Consequently, it has not been possible to ascertain that the property, plant and equipment balance of KES 5,049,053,000 as at 30 June 2014 is fairly stated.

Management Response

The Vice-Chancellor informed the Committee that, IPSAS 17 provides that if an item in a certain class of property, plant and equipment is revalued then the entire class of property, plant and equipment to which the item belongs should be revalued.

The finances required to carry out the revaluation exercise are huge. The University was not able to carry out the revaluation during the financial year ended 30 June 2014 because of the huge costs involved and also because there was no budgetary provision for the same during the year.

According to the Valuers (Forms and Fees) (Amendment) Rules 2011, the costs for valuing assets are as follow:

Land	-	*first KES 2 million at 2%; residue at 0.5%*
Plant and machinery	-	*first KES 5 million at 1.5%; residue at 0.5%*
Furniture and fittings	-	*first KES 1 million at 5%; residue at 2.5%*

The University will do the revaluation exercise for the various asset classes in phases due to budgetary constraints. During the financial year 2016/17 KES 7,030,122 was allocated to revalue all motor vehicles.

Committee Observation

The Committee observed that, owing to budgetary constraints, the University did not undertake revaluation exercise of its property, plant and equipment during the financial year ended 30 June 2014 contrary to paragraph 17 and 44 of International Public Sector Accounting Standards. In FY 2016/17, the University allocated KES 7,030,122 to revalue all motor vehicles.

Committee Recommendation

The Committee recommends that the Vice-Chancellor ensures that the University undertakes regular revaluation of its various assets in accordance with paragraph 17 and 44 of International Public Sector Accounting Standards.

10. CASH AND BANK BALANCES: FY 2013/2014 ACCOUNTS

The Committee heard that, the statement of financial position reflects cash and bank balances of KES 121,799,000 which include a balance of KES 575,773.00 for the PSSP

Payment Account number 1102488690 maintained at the Kenya Commercial Bank. Audit review of the bank reconciliation statement for the PSSP Payment Account as at 30 June 2014 reflects un-presented cheques totalling KES 9,859,984.25 out of which cheques amounting to KES 4,307853.46 are stale. However, no action appears to have been taken to reverse the cheques in the cash book. In the circumstances, the accuracy and validity of the cash and bank balances of KES 121,799,000 as at 30 June 2014 could not be confirmed.

Management Response

The Vice-Chancellor informed the Committee that, cheques were reversed in the cash book in the financial year 2014/2015 and the bank reconciliations duly amended.

Committee Observation

The Committee observed that, the University had not undertaken reconciliation of bank balances for the PSSP Payment Account as at 30 June 2014. In FY 2014/2015, the University reconciled its records and the matter therefore resolved.

Committee Recommendation

The Committee recommends that the Vice-Chancellor and the Finance Officer ensures that the University regularly undertakes reconciliation of its accounts.

11. TUITION AND RELATED CHARGES: FY 2014/2015 ACCOUNTS

The Committee heard that, consolidated statement of financial performance reflects tuition and related charges figure of KES 3,722,493,000. However, information about the fees payable for each programme and the number of students for each department were not availed for audit verification.

In the circumstances, the accuracy and validity of the tuition and related charges receipts of KES 3,722,493,000 for the year ended 30 June 2015 could not be confirmed

Management Response

The Vice-Chancellor informed that, Committee that schedules indicating the fees payable for each programme that show the tuition and related charges payable by each student; the list of students in each school and the amount received during the year were later submitted in soft copy.

Committee Observation

The Committee observed that, the University did not avail relevant documents relating to tuition fees to the Auditor-General for verification at the time of audit.

Committee Recommendation

The Vice-Chancellor and the Deputy Vice Chancellors Finance ensures that all accounting documents are availed to the Auditor-General for review during the time of audit as required by the Public Audit Act.

12. ADMINISTRATION AND CENTRAL SERVICES EXPENSES: FY 2014/2015 ACCOUNTS

a) Rivatex Cost of Sales

The Committee heard that, included in the administration and central services expenses of KES 2,136,078,000 reflected in the consolidated statement of financial performance is Rivatex cost of sales figure of KES 159,076,099 which include indirect costs figure of KES 21,083,347 and which is at variance with the supporting schedule figure of KES 17,941,011 resulting in a variance of KES 3,142,336 as shown below:

ITEM	Figure Reflected in the Financial Statement (KES)	Figure Reflected in Supporting Documents (KES)	Variance (KES)
Packaging Material	5,280,568	821,584	4,458,984
Design and Screens	10,996	67,966	(56,970)
Lubricants and Oils	890,008	388,849	501,159
Spares and consumables	8,621,785	8,508,479	113,306
Tailoring Consumables	6,279,990	8,154,133	(1,874,143
Total	**21,083,347**	**17,941,011**	**3,142,336**

However, the variance of KES 3,142,336 has not been explained.

In the circumstance, the accuracy and validity of cost of sales balance of KES 159,076,099 for the year ended 30 June 2015 could not be confirmed.

Management Response

The Vice-Chancellor informed the Committee that, appropriate journal entries have been passed in the books of account to rectify the variances noted in the report of the auditors.

Committee Observation

The Committee observed that, there were unexplained variances in the Rivatex cost of sales as reflected consolidated statement of financial performance of the Company. The financial statements reflect a figure of KES 21,083,347 while the supporting documents reflect a figure of KES 17,941,011 resulting to a variance of KES 3,142,336.

Committee Recommendation

The Committee recommends that appropriate journal entries are made in the books of accounts of the Company.

b) Rivatex Administration Expenses

The Committee heard that, included in the administration and central services expenses of KES 2,136,078,000 reflected in the in the consolidated statement of financial performance is Rivatex administration expenses of KES 32,018,000 which include provision for bad debts of KES 1,099,000. However, the policy for provision for bad debts for Rivatex East Africa Limited has not been disclosed in these financial statements. Further, the validity of the policy to the financial statements which indicate that an estimate is made of doubtful receivables based on a review of all outstanding amounts at the end of the year could not be confirmed.

Under the circumstances, the accuracy and validity of the provision of bad debts of KES 1,099,000 for the year ended 30 June 2015 could not be confirmed.

Management Response

The Vice-Chancellor informed the Committee that, the Board of Rivatex East Africa Limited discussed and approved an amendment to the Company's credit policy in line with the query on the general provision raised by the auditors.

The Board considered and approved a general provision for doubtful debts apart from the specific provision for bad debts. The amended policy now reads "....since not all debts will be collected, businesses typically estimate the amount and record a general provision for doubtful debts of 5% using the allowance method as provided under IAS 39. The general provision shall be arrived at after the following conditions have been fulfilled:

(i) The debt has exceeded 90 days
(ii) Efforts to collect using the company's authorized staff have failed.

This issue has now been rectified and incorporated in the financial statements for the year ended 30 June 2016.

Committee Observation

The Committee observed that, at the time of audit the University had not provided the policy for provision of bad debts for debts related to Rivatex East Africa Limited. The existing policy was later reviewed to include specific provisions for bad and doubtful debts related to Rivatex EA Ltd.

Committee Recommendation

The Committee recommends that the Vice-Chancellor ensures that the policy is fully implemented and adhered to and regularly reviewed to address emerging issues.

13. INVENTORIES: FY 2014/2015 ACCOUNTS

The Committee heard that, included in the inventories balance of KES 561,772,000 reflected in the consolidated statement of financial position is Rivatex inventory balance

totalling to KES 499,715,000 which includes work in progress of KES 246,558,649 which differs from the supporting schedules balance of KES 195,047,435 resulting to a variance of KES 51,511,214 which has not been analysed and explained.

Management Response

The Vice-Chancellor informed the Committee that, the variance of KES 51,511,214 was due to revaluation of inventories. The company invited persons with the requisite technical staff knowledgeable in textile engineering to revalue the inventory and provide expert report in line with the recommendations by the auditors.

Committee Observation

The Committee observed that, the Rivatex inventory balance includes work in progress of KES 246,558,649 which differs from the supporting schedules balance of KES 195,047,435 resulting to a variance of KES 51,511,214 which has not been analysed and explained.

Committee Recommendation

The Committee recommends that the University should within three months of the adoption of this Report engage the services of professional valuers to determine the correct value of its inventory.

14. BIOLOGICAL ASSETS: FY 2014/2015 ACCOUNTS

The Committee heard that, the consolidated statement of financial position reflects biological assets balance of KES 6,906,000 under non-current assets relating to livestock and KES 2,435,000 under current assets relating to crops in the field all totalling KES 9,341,000. However, no documentary evidence was provided for audit verification to confirm that the biological assets were valued in accordance with accounting policy (i) to the financial statements which stipulate that the biological assets are measured at fair values less estimated point of sales costs.

Under the circumstances, the accuracy and validity of biological assets valued at KES 9,341,000 could not be confirmed as at 30 June 2015.

Management Response

The significant assumptions and methods of determining the fair value of the biological assets have been disclosed under note 1(i) to the financial statements.

The note states that the fair value of livestock is determined based on the market price at the local Cheptiret Market, less transport and other costs charged at the market. The fair values that used to value the livestock were based on the general auction prices at the local Cheptiret Market. However, as at the close of the financial year, the University did not

obtain written documents on the livestock prices. The University will ensure that this is done in subsequent years.

The fair value of crops in the field was determined based on the costs incurred as at year end. This is because costs approximate the fair value since little biological transformation had taken place since the initial cost incurrence and the impact of the biological transformation on price was not material. The University attached stock sheets that indicate how the costs had been arrived at as well as the supporting documentation.

Committee Observation

The Committee observed that, the University did not provide documentary evidence for audit verification to confirm that the value of the biological assets in accordance with accounting policy (i) to the financial statements. The University has since availed the evidence.

Committee Recommendation

The Committee recommends that the Vice-Chancellor and the Deputy Vice Chancellor (Finance) ensures that the University's biological assets are valued regularly and documentary evidence availed to the Auditor General for verification.

15. TRADE AND OTHER RECEIVABLES: FY 2014/2015 ACCOUNTS

a) Students' Fees Debtors

The Committee heard that, included in the trade and other receivables figure of KES 763,949,000 is student fees debtors balance of KES 547,916,477 relating to 2014/2015 and earlier years as shown below:

Year	Amount (KES)
2009-2010	4,848,629
2010-2011	6,066,321
2011-2012	85,937,955
2012-2013	139,925,983
2013-2014	167,734,494
2014-2015	143,403,095
Total	**547,916,477**

However, no explanation has been provided for failure to collect student fees debts dating back to 2009/2010 or why the debts were not written off if they were bad.

Under the circumstances, the accuracy, completeness and existence of student fees debtors totalling to KES 547,916,477 as at 30 June 2015 could not be confirmed.

Management Response

The Vice-Chancellor informed the Committee that, the students sometimes face economic challenges leading to some not paying the full fees on time. The University has been encouraging students with difficulties in paying fees to approach various sponsors such as HELB, CDF, Bursaries and other organizations to help them in paying the requisite fees.

The University has put in place measures to ensure that, going forward, students' debts are collected on time. These measures include the acquisition of an ERP system that will more strictly enforce collection of fees, the posting of Accountants to Schools to ensure that there is close monitoring of fees payments by students, ensuring that post graduate students clear all the outstanding fees before they can be supervised in their research projects, not allowing any student to defend his/her thesis before clearing the requisite fees and ensuring that only students with nil balances are allowed to sit examinations and graduate.

As at the end of quarter of the current financial year, the University collected KES 290,301,537 relating to the past students' fees debts. The University expects to collect more in the ensuing quarters.

The University is already in the process of writing off debts that are not collectable. To this end, School Accountants are preparing the lists of uncollectable debts and indicating against each name the reason why the debt cannot be collected. Once this is done then the list will be presented for approval Council first before the debts are actually written off. The University expects that this process will be completed and effected in the current financial year.

Committee Observation

The Committee observed that: -

(i) **Past students owe the University long outstanding unpaid fee balances amounting to KES 547,916,477 as at 30 June 2015. This situation may be indicative of the University's weak debt management system which tends to undermine its liquidity position.**

(ii) **The University has put in place measures to ensure that students' debts are collected on time including acquisition of an ERP system that will more strictly enforce collection of fees.**

Committee Recommendations

The Committee recommends that the Vice -Chancellor:

(i) **Ensures enforcement of the policies put in place to ensure non-accumulation of debts and recovery of the outstanding debts.**

(ii) **Collaborates with Kenya Revenue Authority (KRA) to trace university graduates with debts, partnering with other institutions like NHIF, NSSF, NTSA, TSC and**

Government Ministries with large databases of Kenyans who are gainfully employed and use of debt collection agencies to net defaulters.

(iii) Forward the list of fees defaulters for listing by the Credit Reference Bureau;

(iv) Reviews all the University's debts in terms of recoverability and debt policy in order to make provisions in its accounts where necessary and seek approval for write-off of uncollectable debts.

b) Other Debtors and Accruals

The Committee heard that, included in the trade and other receivables figure of KES 763,949,000 reflected in the consolidated statement of financial position are outstanding temporary imprests of KES 79,608,616 that include imprests totalling KES 4,811,362 and which have been outstanding for long contrary to the requirements of Section 5.6.5 of the Government Financial Regulations and Procedures which stipulate that a holder of a temporary imprest surrender the imprest within 48 hours after returning to duty station failure to which the accounting officer is required to take immediate action to recover the full amount from the salary of the defaulting officer. However, the long outstanding imprests have not been recovered from the defaulting officers. The balance of KES 79,608,616 also includes imprests issued to members of staff during the year under review totalling KES 6,438,887 for purchases of furniture, equipment and building materials contrary to the provisions of Section 5.6.1 of the Government Financial Regulations and Procedures which stipulates that imprest should only be issued to make payments which cannot be conveniently made through the cash office.

Under the circumstances, the management breached regulations governing the management of imprests and therefore propriety of the imprests amounting to KES 6,438,887 issued for purchase of furniture, equipment and building materials cannot be confirmed.

Management Response

The Vice-Chancellor informed the Committee that, the long overdue imprests have now been all accounted for and/or recovered from the payroll for those staff who did not account for them on the due dates.

The purchase through imprests was occasioned by suppliers who insisted on cheques being issued immediately on delivery of goods. To facilitate the processing of the cheques, the University had to raise imprests since payment vouchers cannot be raised for goods not yet supplied. The University ensured that the cheques were not released prior to the goods being supplied and delivered.

All these imprests have been accounted for and the University have ensured that this does not recur.

Committee Observation

The Committee observed that: -

(i) The University issued imprest to members of staff amounting to KES 6,438,887 for purchases of furniture, equipment and building materials contrary to the provisions of Section 5.6.1 of the Government Financial Regulations and Procedures which stipulates that imprest should only be issued to make payments which cannot be conveniently made through the cash office.

(ii) The University procured assets worth KES 6,438,887 without a tendering process and failing to follow the laid down procurement procedures contrary to the Public Procurement and Disposal Act 2005.

(iii) The University has since recovered long overdue imprests from all staff members with outstanding imprests.

Committee Recommendation

The Committee recommends that: -

(i) The then Vice Chancellor be held responsible for contravention of Section 5.6.1 of the Government Financial Regulations and Procedures and the Public Procurement and Disposal Act, 2005 in procurement of goods without following the laid down tendering process.

(ii) The Vice-Chancellor ensures that the University adheres to the provisions of the Public Procurement and Disposal Act 2015 when procuring for goods and services.

(iii) The Vice-Chancellor should ensure that imprest advanced to officers is recovered within the stipulated period in accordance with section 92 of the Public Finance Management Act Regulations of 2015 which allows surcharging of officers for any imprest held beyond the stipulated seven (7) days after return to the work station.

16. BANK OVERDRAFT: FY 2014/2015 ACCOUNTS

The Committee heard that, the consolidated statement of financial position reflects debit bank balance of KES 4,390,945 which includes Kenya Commercial bank balance of KES 196,081 and National Bank of Kenya balance of KES 4,194,864 as shown below:

Account Name	Account Number	Bank	Amount (KES)
Moi University Students Accommodation	1102486558	KCB	196,081
Moi University Research Account	01021-279992-00	NBK	1,537,267

Account Name	Account Number	Bank	Amount (KES)
Moi University VLIR-UOS Programme	01021-0287848-00	NBK	2,653,397
Moi University PSSP Payment	01020062992200	NBK	4,200
Total			**4,390,945**

However, no documentary evidence was presented to confirm that the bank overdraft was approved by the University Council, parent Ministry and the National Treasury in line with government circulars.

Under the circumstances, the propriety of the bank overdraft totalling KES 4,390,945 could not be confirmed.

Management Response

The University did not have bank overdrafts in the following bank accounts. The balances in the accounts as at 30 June 2015 were as follows:

(i) MU Students' Accommodation 546,860.55 (cr)
(ii) MU Research Account 833,120.00 (cr)
(iii) MU VLIR-UOS Programme 5,851,624.40 (cr)

MU PSSP Payment Account had a debit balance of KES 4,200 which was regularised on 16 July 2015.

The bank accounts, as indicated above, had credit balances. However, there were un-presented cheques in the same accounts resulted in debit cash book balances. The bank balances for the three accounts were therefore not overdrawn at all.

Committee Observations

The Committee observed that, the University contested having bank drafts in its bank accounts.

Committee Recommendation

The Committee recommends that the Office of the Auditor General and the Vice-Chancellor reconciles their records to reflect the true position on the matter.

17. BUDGET PERFORMANCE: FY 2014/2015 ACCOUNTS

The Committee heard that, the financial statements do not include a comparison of budget and actual amounts either as a separate additional financial statements or as a budget column in the consolidated financial statements as specified in paragraph 21 (e) of the

International Public Sector Accounting Standards I (IPSAS). Further, included in the total expenditure of KES 7,136,004,000 reflected in the statement of financial performance is an expenditure of KES 4,612,904,000 incurred against a budget of KES 3,580,555,000 resulting to an over expenditure of KES 1,032,349,000 as shown below:

Expenditure	Budget (KES)	Actual Expenditure (KES)	Over Expenditure (KES)
Basic Salaries	2,012,910,000	2,593,186,000	580,276,000
House Allowances	989,799,000	1,118,652,000	128,853,000
House to Office Allowance	152,755,000	262,224,000	109,469,000
Medical Expenses	77,109,000	116,824,000	39,715,000
External Examiners	7,916,000	10,270,000	2,354,000
Internet Expense	30,000,000	39,636,000	9,636,000
Electricity, Water and Conservancy	168,000,000	225,079,000	57,079,000
Teaching Materials	25,690,000	36,509,000	10,819,000
Library Expense	6,939,000	7,568,000	629,000
Audit fees	2,620,000	3,480,000	860,000
Insurance Expenses	24,916,000	55,768,000	30,552,000
Farm Expenses	5,000,000	17,809,000	12,809,000
Maintenance of Buildings	6,848,000	7,260,000	412,000
Maintenance of Playground	1,740,000	1,793,000	53,000
Research Funds Disbursements	33,582,000	54,729,000	21,147,000
Students' Activities	18,538,000	41,381,000	22,843,000
Contingent Liabilities	16,193,000	20,736,000	4,543,000
Total	**3,580,555,000**	**4,612,904,000**	**1,032,349,000**

However, no documentary evidence was presented to show that the excess expenditure of KES 1,032,349,000 was authorized as required under Government Financial regulations.

Under the circumstances, the consolidated statement of financial performance has not been prepared in accordance with International Public Sector Accounting Standards (IPSAS) and the propriety of the excess expenditure of KES 1,032,349,000 for the year ended 30 June 2015 could not be confirmed.

Management Response

The Vice-Chancellor informed the Committee that, statement of comparison of budget and actual expenditure is contained on pages 40-41 of the financial statements for the year ended 30 June 2015. The financial statements therefore included this statement as per the requirements of IPSAS 24.

The University receives a one-line budget that is distributed among the various vote heads. Whenever there's a need for internal re-organization of the budget to take care of specific budget lines, approval is sought and granted in the course of the financial year.

As can be seen from the statement of budget vs actual performance, the University had a positive variance of KES 1,651,593,000 on its budgeted and actual income. Budgeted and actual expenditure had a negative variance of KES 1,596,782,000 giving an overall budget surplus of KES 54,811,000.

The University did not exceed its overall budget.

Committee Observation

The Committee observed that, the University included a statement of comparison of budget and actual expenditure on pages 40-41 of the financial statements for the year ended 30 June 2015 as per the requirements of IPSAS 24.

The University also contested that it exceeded its budget.

Committee Recommendation

The Committee recommends that the University management and the Office of the Auditor General should confirm the true position on the financial statements of the University before publishing to ensure that the Report of the Auditor General contains factual information.

18. BANK OVERDRAFT – FINANCIAL YEAR 2014/2015 ACCOUNTS

The Committee heard that, the consolidated statement of financial position reflects debit bank balance of KES 4,390,945 which includes Kenya Commercial bank balance of KES 196,081 and National Bank of Kenya balance of KES 4,194,864 as shown below:

Account Name	Account Number	Bank	Amount (KES)
Moi University Students Accommodation	1102486558	KCB	196,081
Moi University Research Account	01021-279992-00	NBK	1,537,267
Moi University VLIR-UOS Programme	01021-0287848-00	NBK	2,653,397
Moi University PSSP Payment	01020062992200	NBK	4,200
Total			**4,390,945**

However, no documentary evidence was presented to confirm that the bank overdraft was approved by the University Council, parent Ministry and the National Treasury in line with government circulars.

Under the circumstances, the propriety of the bank overdraft totalling KES 4,390,945 could not be confirmed.

Management Response

The University did not have bank overdrafts in the following bank accounts. The balances in the accounts as at 30 June 2015 were as follows:

(iv)	MU Students' Accommodation	546,860.55 (credit)
(v)	MU Research Account	833,120.00 (credit)
(vi)	MU VLIR-UOS Programme	5,851,624.40 (credit)

MU PSSP Payment Account had a debit balance of KES4,200 which was regularised on 16 July 2015.

The bank accounts, as indicated above, had credit balances. However, there were un-presented cheques in the same accounts resulted in debit cash book balances. The bank balances for the three accounts were therefore not overdrawn at all.

<u>Committee Observations</u>

The Committee observed that, University had credit balances in three University accounts. However, there were un-presented cheques in the same accounts which resulted in debit cashbook balances. The other Moi University PSSP Payment account had debit balance of KES 4,200 but overdrawn in the cash book which was regularised by depositing money within two weeks of over-withdrawal.

Committee Recommendation

The Committee recommends that: -

(i) The Vice-Chancellor and the Finance Manager ensure that cheques/cash are drawn against available balances in the bank accounts.

(ii) The Vice-Chancellor must obtain approval from the University Council and consent of the parent Ministry in cases where the over-draft from any account is a material amount.

2.33 NATIONAL CEREALS AND PRODUCE BOARD (FY 2012/2013 - 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE NATIONAL CEREALS AND PRODUCE BOARD FOR THE FINANCIAL YEARS 2012/2013 TO 2014/2015

Mr. Newton Terer, Managing Director National Cereals and Produce Board (NCPB) accompanied by Mr. Cornelly Ngelechey, General Manager; Mr. John Kanyaa, Manager Operations; Mr. Ernest Ogwara, Marketing Manager; Rosemary Kweya, Manager; Mr. John Ng'etich, Manager and Mr. Philip Maichei, alternate Board Member appeared before the Committee on August 2016 to adduce evidence on the Report of the Auditor General of NCPB for the financial years 2012/2013 to 2014/2015.

1. FINANCIAL PERFORMANCE: FY 2012/2013 - 2014/2015 ACCOUNTS

The Committee heard that, NCPB incurred a net loss of KES 95,016,717 (2014 – KES 216,319,435) which brought the cumulative deficit (revenue resources) to KES 7,956,730,313 as at 30 June 2015. Although the management has explained that the Board is undergoing a restructuring process has not taken well over the last two years. This matter indicates the existence of a material uncertainty, which may cast significant doubt about the ability of the Board to continue as a going concern.

Management Response

The Managing Director informed the Committee that, the loss making is as a result of the ongoing court case with Erad Supplies and General Contracts that led to freezing of NCPB accounts and as a result the operations took a deep hence the planned programmes could not could not be undertaken. Based on strategies put in place by management losses have continued to reduce to KES 95,016, 717 in 2014/2015 as compared to KES 649,797,746.

The factors that have contributed to the poor performance are as follows: -

(i) Lack of working capital

The Board's working capital was seriously eroded by export losses during 2001/2002 and 2002/2003 FY amounting to KES 2.2 billion. The Board has lodged a claim in the

Government and whereas KES 500 million was factored in the printed estimates for 2012/2013 FY, disbursement was not done due to challenges that faced the Board at the time arising from the events occasioned by Erad case. The accelerated repayment of the claim will improve Board's working capital as well as trading activities and hence reduce overreliance on commercial borrowing.

(ii) Large infrastructure

The Board has excess storage facilities that are not generating adequate income to cover costs which are incurred in maintenance, security, staff costs, administrative costs and depreciation charge. The depot network will be reviewed in line with the proposed restructuring of NCPB.

(iii) Delayed Payment from GOK for agency services

The Board provides services to GOK on agency basis but settlement for such services normally delay and in most cases it takes more than one year hence affecting the Board's cash flow as well as its operations. In order to address this, matter the GOK needs to settle all the past and current indebtedness arising from provision of agency services to the GOK; and a firm commitment for prompt payment in future in accordance with the existing instruments.

(iv) Warehousing Receipting and Commodity Exchange

In 2009 the Board and Management had a retreat in which it emerged that for NCPB to remain relevant in liberalized environment restructuring proposals were put forward which are expected to transform the Board's operations so as to maintain a competitive advantage. These proposals include: -

(i) Warehousing Receipting System
(ii) Co-operating of a Commodity Exchange jointly with other stakeholders
(iii) NCPB commercial trading to continue

These restructuring activities are meant to address the current NCPB weak capital position and give it impetus to finance its operations and finance its operations and have a surplus for the owners. Once the WRS bill is enacted by the Houses of Parliament it will regulate and bring uniformity as well as infuse confidence to financial institutions and other stakeholders.

In order to address the challenges facing the Board, GOK the Ministry of Agriculture, Livestock and Fisheries commenced (MOALF) restructuring of the Board by commissioning Ernst and Young as consultants who commence the exercise on 13May 2013.

Current Status

The consultants conducted the study including holding a series of meetings with the Management and MOALF. The draft final report was then presented to the stakeholders

through a series of meetings where their views were taken and incorporated. The final report was taken and incorporated by the NCPB Board of Directors on 19 June 2014 and submitted to MOALF on 20 June 2014. The recommendations by the consultants are awaiting Cabinet deliberations and approval.

Committee Observation

The Committee observed that: -

(i) The Board's financial position is precarious, and is likely to face financial difficulties in meeting its financial obligations as and when they fall due, however losses for the subsequent years have been decreasing and the financial position of the Board may soon improve;

(ii) The Board is set to be restructured to address the current Board's weak capital position and give it impetus to finance its operations to realize a surplus for the owners.

(iii) The delay in restructuring the Board may cast significant doubt on the Board's ability to continue operating as a going concern.

Committee Recommendation

(i) The Committee recommends that the Board explores avenues of increasing its revenue base to mitigate against the losses and over reliance on Government.

(ii) The Committee also recommends that restructuring of the Board be fast-tracked so that it is able to conduct its business without difficulties.

2. PLANT, PROPERTY AND EQUIPMENT: FY 2012/2013 - 2014/2015 ACCOUNTS

a) Storage Facilities

The Committee heard that, plant, property and equipment figure of KES 7,398,236,289 (2013/2014 KES 7,724,446,602) as at 30 June 2015 includes fifty-five (55) donor funded storage facilities whose ownership has not been clarified. Although in its sitting on August 1998, the Public Investments Committee directed both the parent Ministry and Treasury to look into the matter with a view of formally transferring the facilities to the Board, no progress appears to have been recorded to date in this regard.

Management Response

The Managing Director informed the Committee that, the issue of transfer of 55 donor storage facilities was to be addressed as part of the asset divesture programme. However, the asset divesture and review of the legal framework are the two pending commercialization reform actions, which were left outstanding reform actions, which were left outstanding in previous restructuring programme.

The Board has been following the matter with the Government with a reminder done vide

letter Ref: NCPB/11/14/2/Vol. II/300 dated 13January 2010 to the Ministry of Finance.

NCPB subsequently wrote through the parent Ministry to the National Treasury seeking guidance on the matter of transfer of assets vide letter Ref: NCPB/11/14/2/Vol. III/301 dated 15 November 2013. The National Treasury responded vide Ref. ZZ/40/64/011 dated 20 December 2013 in which they sought to know whether vesting orders had been issued by the Government being the legal instrument for transfer of assets to the Board.

The National Treasury further noted that the Board was undergoing restructuring and the preliminary proposal indicated that it may be split into three entities meaning that the Board will not exist in the current form.

Its therefore recommended that, the transfer of the storage facilities be held in abeyance until such a time that it is clear to which entity the facilities will be transferred to.

b) Land

The Committee heard that, plant, property and equipment figure includes thirty-seven (37) parcels of land that have been cost at KES 54,383,887 that do not title deeds. Information available indicates that some of the parcels are leased from Kenya Railways Corporation. The situation is indicative of significant impairment on some of the properties. Consequently, it is not possible to give an opinion on the carrying value of the investments as reflected in the financial statements.

Management Response

The Managing Director informed the Committee that, there are 37 plots whose title documents have not been acquired by the Board; 30 plots have been contracted to various surveyors for processing of the title deeds, 5 plots are under Kenya Railways Corporation awaiting survey completion and title deed preparation which the Board is currently undertaking, after which they will prepare long term leases for NCPB for registration at the respective land registrars while 2 parcels of land have their files in the Land Registry – Nairobi and are in the final process of registration.

Committee Observations

The Committee observed that: -

(i) **The National Treasury has taken inordinately long to issue vesting orders on the transfer of the Board's storage facilities despite constant reminders by the NCBP and the Ministry of Agriculture, Livestock and Fisheries (MOALF). The latest reminder is a letter by Dr. Richard Lesiyampe, Principal Secretary, MOALF Ref. MOALF/SDA/TA/4 dated 4 January 2017 to the PS, National Treasury to formally transfer the projects to NCPB.**

(ii) **The Board has taken an inordinately long time to acquire ownership documents for its various parcels of land. This has put the land at risk of acquisition by third**

parties.

Committee Recommendations

The Committee recommends that: -

(i) The Managing Director pursues acquisition of title deeds of the thirty-seven (37) parcels of land without title deeds with the National Lands Commission as a matter of urgency to protect public land.

(ii) The National Treasury should expedite the formal transfer of donor-funded storage projects to NCPB within six (6) months of the adoption of this Report.

3. **CURRENT ASSETS: FY 2012/2013 - 2014/2015 ACCOUNTS**

a) Debtors and Prepayments

The Committee heard that, the debtors and prepayments figure of KES 334,808,927 and as disclosed under note 6 to the accounts include trade debtor balances of KES 1,020,099,331. Included in the balance are the debtors totalling KES 841,839,931 representing 83% of trade debtors that have been outstanding for more than 3 years. Although a cumulative bad debts provision of KES 943,557,914 has been provided for in the financial statements, it has not been possible to confirm whether and if so, when the Board will be able to recover the amounts. Management has not produced evidence of the actions being taken to ensure recovery of these debts.

Management Response

The Managing Director informed the Committee that, some of the debts are more than two years old statutory barred which make any chance of recovery remote. As prudence measure the management has provided a KES 847.55 million as a provision for doubtful debts. NCPB has vigorously been pursuing payments of all debts including taking legal action against defaulters and currently cases involving KES 199 million are under litigation. In some instances, goods and properties involving to defaulters have been confiscated and the same will be sold to defray the arrears. So far KES 108.2 has been recovered.

Further the management has taken remedial action to ensure that the debt portfolio does not escalate. This includes revamping of the Credit Committee and putting in place new guideline on issuance of credit. The credit policy that was approved by the Board of Directors in the year 2008 is currently under review to realign the same with friendly commercial business practices and at the same time safeguard the interest of the Board. This will accommodate some customers and institutions which by their nature cannot provide security.

The management is developing a write-off corporate policy for approval by the Board of Directors and once approved it will be used to recommend debts that are unrecoverable to the National Treasury for write- off approval.

b) Government Debtors Agency Account

The Committee heard that, the government agency account balance of KES 3, 157,335,431 includes brought forward figures of KES 342,314,936 and KES 191,916,638 relating to Strategic Relief Famine Program – old account and GOK 17 selected depots have remained unpaid for over 16 years and it has not been possible to whether and if so, the Board will be able to recover the amounts. Any provision that would have been necessary in relation to this uncertainty has not been incorporated in the financial statements.

Management Response

The Managing Director informed the Committee that, the outstanding debts are old debts amounting to KES 534.26 million. A Committee was constituted comprising officers from the Ministry of Agriculture, Livestock and Fisheries, Treasury, Ministry of Planning and Devolution and NCPB who went through all NCPB claims. However, the final report was not issued to allow implementation of the recommendations because the officers left their Ministries before presenting the report to the Trustees. The matter will be finalized once a Committee to relook at the claims is reconstituted.

Committee Observations

The Committee observed that, the debts owed to the Board have been long outstanding and their recoverability is doubtful. Further, there is no clear justification for debts amounting to KES 534.26 million being outstanding since the year 2012.

The Committee further observed that, a Committee established to review the claims did not table its findings thereby, leaving the matter in abeyance.

Committee Observations

The Committee recommends that the Board and the Ministry of Agriculture, Livestock and Fisheries, National Treasury, Ministry of Devolution & Planning should within three (3) months of the adoption of this Report establish a mechanism of confirming the status of the debts to facilitate recovery. Further, the Board should employ all means possible including attaching the properties of the debtors and taking legal action before resorting to write-off the debts.

4. PROCUREMENT OF 40, 000 METRIC TONNES OF MAIZE: FY 2014/2015 ACCOUNTS

The Committee heard that, the Board entered into a contract with a company on 26 November 2004 to supply 40,000 MT of white maize at USD 229 per MT. The contract was not executed and on 2 May 2007, the supplier wrote to the Chairman Kenya Chapter, Institute of Chartered Arbitrators for arbitration. In September 2007, the Institute

appointed an arbitrator to arbitrate the dispute between the Board and the supplier. In the ruling of July 2009 the arbitrator awarded the supplier USD 3, 106, 000 for breach of contract. The Board appealed in the High Court which in its ruling made on February 2013, increased the award to USD 6,140,859 equivalent to KES 552,677,382. On 19 March 2013 the Board's banker Kenya Commercial Bank transferred KES 297,368,505 being the decretal sum to the claimant. On 27 June 2013, the Board's banker National Bank of Kenya transferred KES 13,364,671.40 to the claimant to satisfy the decretal sum payable of KES 264,864,285.00 as per the courts order dated 31 May 2013 leaving a balance of KES 251,499,614 to be settled. As at the time of reporting the case was pending in court awaiting hearing and determination.

In the circumstances it has not been possible to ascertain the total actual liability that may arise until the liability is fully settled. Further, the Board may experience serious financial constraints as the main bank accounts have been frozen.

Management Response

The Managing Director informed the Committee that, the matter relates to a contract between NCPB and Erad Suppliers & General Contracts for supply and delivery of 40,000 MT of imported white maize for purposes of replenishing Strategic Grain Reserves during the drought in the 2004/2005 FY. The Supplier failed to deliver the maize within 2 weeks as envisaged in the contract. The Supplier thereafter referred the matter to an arbitrator citing breach of contract where for failing to open a letter of credit (LC). NCPB acted as an agent of the Government in the importation of maize.

The Supplier claimed that the Government should have availed funds to NCPB for opening the LC being the principal. The matter was heard by the arbitrator who awarded the Supplier USD 3,106,000 together with interest of 12%. The Board appealed against the award at the High Court, however the court declined to set aside the award but finally advised that the Court of Appeal was the only avenue NCPB court use to set aside the award.

The appeal has been having been ongoing with the application by EACC to be enjoined in the case and to present additional evidence was heard and the court enjoined them but directed that the additional evidence is heard on priority. However, the court is yet to fix a date to hear the additional evidence,

In the event the Court of Appeal allows the appeal, the arbitral award will be set aside and directions given by the court on the next course of action. The Board shall therefore apply for restitution for funds confiscated and assets taken during the attachment.

If the court dismisses the appeal, the Board shall pay the balance at the decretal sum which will then be passed to the Government. The trustees are regularly updated on the matter.

The court is the only authority which can finally address the amount payable if any or the amount due to the Board if the award is set aside.

KES 314 million was collected through garnishee process where the Board's bankers were compelled to freeze the accounts and transmit the funds to Erad as directed by the court.

Current position

The Board continues to utilize the services of Mr. Joshua Nyawara, the instructing counsel who is ably assisted by Advocates Mohammed Nyaoga, Katwa Kigen, Juma Kiplenge and Paul Gicheru. They have so far successfully applied for stay until the matter is fully determined.
After the PIC inquiry on the matter the board's advocates applied and were granted leave to file fresh evidence which emanated from the Committee inquiry at the appellate court. The court however declined to admit the evidence. On 18 December 2014, EACC applied to the Court of Appeal to be enjoined and present new evidence obtained during their investigations locally and in South Africa which was not available during the arbitration. The court allowed the EACC to be enjoined in the appeal and present new evidence.

The matter came up for hearing on April 2016 where Erad applied for striking out the Board's appeal. The court stated that it could not proceed with the matter following the court's earlier orders directing that the application for adducing additional evidence be heard by the bench which granted the stay of execution on priority.

Consequently, the court ordered the matter be referred back to the bench consisting of Hon. Justice J. W. Mwera. Hon. Justice A.R. M. Visram and Hon. Justice K'Inoti J who are fully seized of the ruling contents.

The parties are awaiting the fixing of the hearing date once the bench is constituted as per the court orders.

The Advocates coming on Board have greatly assisted the Board to preserve its assets that were under imminent threat.

Committee Observations

The Committee observed that, the Committee tabled a Report on the matter of Erad Suppliers & General Contracts, whose recommendations should be implemented by the various agencies. The Committee cast doubt on NCPB's legal capacity to ensure favourable judgment on the matter.

Committee Recommendation

The Managing Director ensures that the Board applies for speedy conclusion of the case on the amount payable if any, or the amount due to the Board if the award is set aside.

5. LEGAL SERVICES: FY 2014/2015 ACCOUNTS

The Committee heard that, as at 30 June 2013, the Board incurred a total expenditure of KES 48,515,172 in legal costs since the commencement of the case, however out of KES 48,515,172 KES 38,560,000 was incurred to pay two additional law firms not included in the list of the prequalified list contrary to Section 32 of the Public Procurement and Disposal Act 2005 read together with Section 25 (1) (2) and (3) of the Public Procurement and Disposal Regulation 2006.

Management Response

The Managing Director informed the Committee that, the expenditure of KES 48,515,172 is the global expenditure which was inclusive of all other legal matters handled during the period. The level at which the case had reached required additional expertise to argue the Board's case. The Board's priority is to ensure that the legal representation is not compromised and is made adequate as much as possible. The Board was fully convinced that the inclusion of Katwa Kigen and Juma Kiplenge was absolutely necessary to bridge any gap in the defence of the crucial court case which the claimant had continued with determination to succeed in enforcing the arbitral award.

Following the adoption of the arbitral award by the High Court Erad commenced execution and proclaimed various assets of the Board including the Strategic Grain Reserves. The Board failed to obtain orders to stop the execution and therefore Erad attached various office equipment, motor vehicles and motor cycles. The Board's operations were brought to a halt due to continued execution of the including garnishee orders issued to the banks to freeze bank accounts. With the attachment and sale of goods and equipment and garnishee orders Erad managed to collect KES 314,658,018.70 leaving a balance of KES 238,019,363.30. In order to fulfil the decree Erad proceeded to apply to the court for attachment of immovable assets (land and plant) to satisfy the balance of the decretal sum. The Board consulted the SGR Trustees and the advice given was strengthening the legal team urgently.

Consequently, the Board on 4 February 2010 reaffirmed retention of Mr. Katwa and Inclusion of Mr. Juma Kiplenge on 15 January 2012. The appointment of Mr. Mohammed Nyaoga Advocate was arrived at after the Board's Advocates noted that the Senior Counsel had successfully argued complex cases leading to setting aside arbitral awards.

Committee Observation

The Committee observed that, though the Board acted with the good intention of saving the Board's assets from attachment and sale, it acted contrary to Section 32 of the Public Procurement and Disposal Act 2005 read together with Section 25 (1) (2) and (3) of the Public Procurement and Disposal Regulation 2006 by engaging the services of additional law firms not included in its list of prequalified lawyers.

Committee Recommendation

The Committee recommends that the Ethics and Anti-Corruption Commission investigates the then Managing Director and takes the necessary legal action against him for contravening Section 32 of the Public Procurement and Disposal Act 2005 read together with Section 25 (1) (2) and (3) of the Public Procurement and Disposal Regulation 2006 by engaging the services of additional law firms not included in its list of prequalified lawyers.

6. PRIOR YEAR ADJUSTMENTS: FY 2014/2015 ACCOUNTS

The Committee heard that, included in the revenue reserve figure of KES 7,956,730,717 as at 30 June 2015 is a balance of KES 78,412,618 described as prior year adjustment. Although the management has explained that the figures relate to credit sales issued to World Food Program in 2005/2006 whose order was for famine relief and not commercial sales, no explanation or documentary evidence has been availed to support the assertion. Consequently, it has not been possible to confirm accuracy and completeness of the negative revenue reserve balance of 7,956,730,717 as at 30 June 2015.

Management Response

The Managing Director informed the Committee that, revenue reserve balance of 7,956,730,717 as at 30 June 2015 relates to credit sales issued to World Food Program vide sale order no 700615 DURING 2005/2006 FY. Reconciliation during 2014/2015 FY revealed that this sales order was for famine relief and not commercial sales, hence the adjustment was made to correct the error. The voucher affecting the reversal, sales order and invoice dispatch advise were later availed for audit review.

Committee Observation

The Committee observed that, the matter was resolved upon availing the necessary documents to the Auditor General for verification.

Committee Recommendation

The Committee recommends that the Managing Director ensures that all documents are availed to the Auditor-General for verification during the audit.

7. STAFF COSTS: FY 2013/2014 - 2014/2015 ACCOUNTS

a) Acting allowances

The Committee heard that, staff and wages figure of KES 983,856,937 includes an amount of KES 4,118,170.58 in respect of acting allowances paid to the employees for periods exceeding six months contrary to the Government code of regulations and the Board's human resource policy. Although the management has explained that the exercise of filling the positions has been put on hold to pave way for the ongoing restructuring process which

has taken well over two years, the management has not given any indications as to when the process will be concluded. The Board is therefore in breach of the Government code of regulations and its Human Resource Policy.

Management Response

The Managing Director informed the Committee that, the number of employees have been working in acting capacity for more than the recommended period of 6 months by the Government. He Board has been undergoing a restructuring process for the last six years. Decision to fill the position for senior managers was deferred; hence the extended acting appointments. The same will be filled through competitive recruitment once the restructuring exercise is concluded.

Suspension of Employees

The Committee heard that, 34 employees were suspended and on reinstatement were not paid withheld salaries and allowances amounting to KES 8, 149,031 as at 30 June 2014 contrary to Board's HR Manual Policy section 13.8-part V which provides that a suspended employee on reinstatement receives the balance of any salary withheld during the period, but if not reinstated then loses the portion of the withheld remuneration. The Board was therefore in breach of its own policy.

b) Management Response

The Managing Director informed the Committee that, non-payment of salary to employees who had been on suspension was based on management decision not to pay for the days the staff were away from work. However, this has been rectified in the revised HR Policies and Procedures Manual approved by the Board of Directors in April 2015. The withheld salaries and allowances were accrued in the accounts for the years ended 30 June 2015 and paid to the beneficiaries in the month of June 2016.

Committee Observations

The Committee observed that: -

(i) Some employees of the Board have been in acting capacities for a period exceeding six months contrary to the Government code of regulations and the Board's human resource policy.

(ii) The proposed restructuring of NCPB which is expected to confirm the Board employees in substantive capacities has taken unnecessarily long.

Committee Recommendation

The Committee recommends that the Chairman, Board of Directors ensures that the Board complies with the requirements of Government code of regulations and the Board's human resource policy in management of its staff affairs.

8. BOARD EXPENSES: FY 2014/2015 ACCOUNTS

The Committee heard that, according to Section 10 (1) of the State Corporations Act, Cap 446 of the Laws of Kenya, the Chairman and members of Board, other than the Chief Executive Officer are paid sitting allowances from the funds of the State Corporation upon attending Board or Committee meetings. However as previously reported, the Board paid a total of KES 480,463 as sitting allowances to non-Board members in attendance during the Board/Committee sittings. The Board was therefore in breach of the law to the extent of these payments.

Management Response

The Managing Director informed the Committee that, the allowances were paid to the representative of the Inspector General of State Corporations. However, the payments were stopped following the clarification that they were on normal duty in December 2013. The clarification was communicated by the Principal Secretary, Ministry of Agriculture, Livestock & Fisheries, State Department of Agriculture.

Committee Observation

The Committee observed that, the Board contravened Section 10 (1) of the State Corporations Act, Cap 446 by paying sitting allowances to non-Board Members for attending meetings.

Committee Recommendation

The Committee recommends that the Managing Director complies with the Section 10 of the State Corporations Act and the *Mwongozo* Code of Governance for State Corporations on remuneration of Board's Chairpersons and Directors.

2.34 NATIONAL HOSPITAL INSURANCE FUND (FY 2012/2013 - 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE NATIONAL HOSPITAL INSURANCE FUND FOR THE FINANCIAL YEARS 2012/2013 TO 2014/2015

Mr. Geoffrey Mwangi, Chief Executive Officer of the National Hospital Insurance Fund accompanied by Mr. Joseph Mbuvi, Acting Director of Finance; Ms. Fransisca Mwanzia, Ag. Manager Financial Accounting and Ms. Irene Rono, Senior Accountant, appeared before the Committee on 2 March 2017 to adduce evidence on audited accounts of the Fund for financial year 2012/2013 TO 2014/2015.

1. CONSTRUCTION OF MULTI-STOREY CAR PARK: FYs 2012/2013 – 2014/15 ACCOUNTS

The Committee heard that, as reported in the year 2013/2014, the National Hospital Insurance Fund entered into an agreement with local construction firm for construction

and completion of a multi storey car park at a contract sum of KES 909,709,305. According to information available, the project commenced in May 2002 and was scheduled for completion in August 2003. Records available however indicate that the contract sum was later revised upwards to KES 1,179,611,756 representing approximately 30% increase above the original contract sum of KES 909,709,305.

Although records available indicate that the car park was completed in July 2008 at a total cost of KES 3,342,120,239, a further amount of KES 626,635,998 and KES 4,706,521 was incurred in 2009/2010 and 2010/2011 respectively on the car park increasing its total expenditure to KES 3,973,462,758 as at 30 June 2011 or resulting to an increase of approximately 337% over and above the original contract sum of KES 909,709,305. As observed in 2013/2014, the escalation of costs of the car park by 337% over and above the original cost has not been justified.

Management Response

The CEO informed the Committee that, the car park is a seven-storey building with basement floors designed to accommodate 780 cars. It was awarded to NK Brothers Ltd with Tectura International as the Project Manager. The Project commenced in May 2002 and was scheduled for completion in August 2003. The Project's original cost was KES 909,709,305.40 over a contract period of 65 weeks.

The completion period was revised from August 2003 due to suspensions of all projects by the Government, vide Treasury Circular no. 10 dated 22 May 2003, as well as the Fund giving preference to core strategic activities resulting to reduced cash flow.

The Management introduced vehicular lifts that were not part of the tendered designs and bills of quantities. The cost could not be retained at the original cost of KES 909,709,305.40 since the Contractor had already increased the service area of the project. This led to design changes to the structure and foundation works. An additional basement floor was created to cater for the displaced area arising because of vehicular lifts, ramps and design overhaul. This led to an increase in service area and an additional cost of KES 673, 465,787.10 making the total cost to be KES 1,583,175,092.50. The vehicular lifts were later found not to be viable leading to downward variation to KES 1,179,611,756.00 as observed in the Audit.

The variation from KES 1,179,611,756.00 to KES 3,342,120,239.00 was due to price escalations as per contract provisions. These were contractual claims which were as per contract provisions and mostly occasioned by delays in completion period and upward increase in cost of materials.

As noted in the audit report the multi storey car park was completed in July 2008. Payments totalling to KES 626,635,998.00 incurred in 2009/10 and KES 4,706,521 incurred in 2010/11 are related to pending claims which were payable to the Contractor after completion of the car park.

The building, however, is complete and is in full use for rental as well as public parking. Some of the organizations that are currently occupying the building are government institutions such as Ministry of Environment, NACADA, Catering & Tourism Development Levy Trustee, Ministry of Lands, Housing and Urban Development, Kenya Roads Board and other small private firms as well as NHIF's Nairobi branch office.

The building is fully occupied and provides rental income of above KES 45 million per annum.

Committee Observations

The Committee observed that: -

(i) The Project took inordinately long to complete;

(ii) There was a very high variation of 337%, over and above the original cost, in contravention of Section 39(8) (b) (i) of the Public Procurement and Disposal Act, 2005 and Regulation 28(2) (a) of the Public Procurement and Disposal Regulations, 2006, which provides that the preferred margin of preference shall be 15% of the evaluated price of the tender.

(iii) The matter was examined in PIC's 13th, 16th and 19th Reports, wherein, the Committee observed the unprofessional manner in which the Project was executed and recommended that, the Director of the Ethics and Anti-Corruption Commission should investigate the procurement process of the Project and come up with appropriate recommendations regarding any breach of law.

Committee Recommendations

The Committee recommends that the Ethics and Anti- Corruption Commission should fast track investigations into the procurement process of the multi-storage car park, with a view of preferring charges against all those found culpable of defrauding the Fund.

2. PROPERTY, PLANT AND EQUIPMENT: FY 2012/2013 - 2014/2015 ACCOUNTS

The Committee heard that, included in the property, plant and equipment balance of KES 12,239,581,983 as at 30 June 2015, is land valued at KES 298,589,665 which includes an amount of KES 93,712,675 for land Ref. No. LR 24968/2 measuring 10 hectares situated at Karen. However, and as previously reported, the ownership of this particular parcel of land is in dispute and the matter is in court.

Further, as previously reported, the land in Karen was acquired by the Fund in FY 2001/2002 at a cost of KES 93,712,675 to construct a Resource Centre. According to information available, the then Chief Executive commissioned consultants to carry out a feasibility study on the development of a Resource Centre in the area. The consultants did the work as commissioned and submitted their report together with their fee notes for KES

734,524,029.25. As observed in the previous year's report, the fee notes were, however, not honoured by the Fund apparently because the Management had not received prior approval for the works from the parent Ministry. This situation resulted in a dispute which was referred to arbitration.

In addition, information available indicated that the Arbitrator after reviewing the matter, awarded the Consultants a sum of KES 352,131,345. Other records revealed that the Fund disputed the award and proceeded to the High Court to seek redress. Available records indicate that the Fund has since paid the Consultants a sum of KES 407,107,645 representing the principal sum and interest in accordance with the Arbitration Consent Order made in the High Court (Milimani Commercial Court) on 6 April 2009.

A further review indicates that included in the property, plant and equipment balance of KES 12,239,581,983 as at 30 June 2015 is Work in Progress balance of KES 1,564,426,320.26 out of which KES 1,444,687,484 was in respect of payments for drawings and designs for the proposed Resource Centre and whose construction has not yet commenced, since the land was acquired thirteen years ago. The management has however explained that construction of the Resource Centre has not yet commenced because of lack of approval from parent Ministry.

In the circumstances, it has not been possible to ascertain the ownership status of the parcel of land in dispute and whether the property, plant and equipment balance of KES 12,239,581,983 as at 30 June 2015 is fairly stated.

Management Response

The CEO informed the Committee that, it is true that as at 30 June 2014, work in progress included an amount of KES 1,444,687,484, in respect of payments for the proposed Resource Centre on the Karen Land whose construction has not yet commenced. The amount comprises cost of land and arbitration award to the consultants and further payments to other professionals that had been engaged. They include quantity surveys, business plans and financial analysis consultancy, legal fees, architectural design services fees and feasibility study.

The said land was purchased from Kaskazi Traders Ltd, Title L.R. NO. 24968/2 KAREN, following Board of Management approval. The transfer was registered to NHIF. It came to the attention of the Fund in September 2004 that a contractor had been commissioned by a third party (Crown line Freighters Ltd) to develop the said plot claiming ownership. The Fund instructed M/S Rachier and Amollo Advocates to protect the interests of the fund by pursuing appropriate action to restrain the third party from interfering with the property.

The Advocates moved to court under HCCC NO. 1071 OF 2004 and sought the following orders:

i. *A declaration that the Fund has the sole proprietary rights and interest over the said parcel of land;*
ii. *An injunction against the third party from continuing with construction on the said parcel of land;*

The court granted the orders.

The Fund is pursuing the matter and has already taken the necessary steps to ensure the matter is determined in its favour.

The Fund is relying on the evidence from the Commissioner of Lands confirming that the land is registered under the Fund's Board of Management. The Commissioner of Lands in his letter referenced 186267/T.C/17 dated 22 August 2007. Letter and copy of title deed attached for ease of reference addressed to the Attorney General stated categorically that the suit property L.R. NO. 209/24968/2/R 87345 is registered in favour of the NHIF Board of Management.

The Permanent Secretary, Ministry of Medical Services on 6 March 2009 wrote to the Attorney General asking the AG to amend their defense to be in line with the Commissioner of Lands instructions. The Attorney General's Office in their letter referenced AG/MLS/292/04 dated 9 November 2009, confirmed receipt of the instructions from the Commissioner of Lands to amend the defense on record as the land is legally owned by the NHIF board of Management.

The Court has since moved the matter to the Environment and Land Division and has assigned the case a new number, i.e., HCCC.ELC NO. 691 of 2011. This is in a bid to ensure the matter is expedited. The matter was mentioned on 5 April 2016 and is yet to be set down for hearing.

Meanwhile, NHIF filed an application seeking an inhibition (caveat) on the title of the land so as to bar any subsequent registration of a right/interest over the said parcel of land until the matter is fully heard and determined. The court allowed the application on 27 July 2016 and issued orders that NHIF can put up a fence around the entire property and an order inhibiting registration of any dealing with the parcel of land.

The project was further revised and the matter is currently in court.

Committee Observations

The Committee observed that: -

(i) The Committee addressed the matter in the 19th PIC Report where it recommended that, the National Land Commission conducts further investigations on the land matter within six months after the adoption of the Report;

(ii) The Fund has made progress in securing the land after filing an application seeking an inhibition (caveat) on the title of the land so as to bar any subsequent registration of a right/interest over the said parcel of land until the matter is fully heard and determined; and

(iii) The Environment and Land Division of the High Court has taken inordinately long to consider and determine case no. HCCC.ELC NO. 691 of 2011.

Committee Recommendation

The Committee recommends that: -

(i) **The Fund fast tracks the hearing and determination of case no. HCCC.ELC NO. 691 of 2011; and**

(ii) **The Fund secures the disputed parcel of land through fencing and hire a competent security firm to guard the property until the case is fully determined.**

3. INVESTMENTS IN SECURITIES – FY 2012/2013 ACCOUNTS

The Committee heard that, as previously reported, the investment in securities balance of KES 2,468,028,367 as at 30 June 2013, is net of provision for impaired investments of KES 1,309,236,859 under note 6 (b) to the financial statements that includes an amount of KES 49.5 million which had been deposited by the Fund on 26 June 2001 at the Consolidated Bank Ltd in Nairobi. However, information available indicates that the entire deposit of KES 49.5 million was off-set by the Bank against a guarantee executed by the Fund's former Chief Executive Officer, on behalf of Euro Bank Ltd. It is not clear and the management has not explained the circumstances under which the Fund's deposit was used as a guarantee by the then Chief Executive Officer.

In the circumstances it has not been possible to confirm that the investment in securities of KES 2,468,028,367as at 30 June 2013 is fairly stated.

Management Response

The CEO informed the Committee that, it is indeed correct that a provision of 100% has been made in the accounts for the entire investment of KES 1,309,236,859. An amount of KES 49.5 million with Consolidated Bank is listed under non-performing investments.

In June 2001, NHIF placed a fixed deposit with Consolidated Bank of KES 600 million. In August 2001, the then NHIF CEO made a guarantee on behalf of Euro Bank to enable Consolidated Bank to use the fixed deposit as security. When Eurobank defaulted payment, Consolidated Bank was unable to recover payment and therefore offset KES 49.5 million from the total amount of KES 600 million.

This matter was handled by the Inspectorate of State Corporations, which was of the view that the Fund had no capacity to provide a guarantee for a loan to a private bank. The

Inspectorate further noted that Consolidated Bank should pay back the amount of KES 49.5 million.

The investments are listed as non-performing and have been provided for with other non-performing investments in the Fund's financial statements. As per the recommendations of the Inspector General, NHIF has written to Consolidated Bank of Kenya seeking the refund of KES 49.5 million. NHIF has approached Consolidated Bank with a view of finding ways on how to pay the outstanding amount.

Committee Observation

The Committee observed that it exhaustively addressed this matter in its Nineteenth (19th) Report on the Accounts of State Corporations and recommended action to be taken by the relevant government agencies.

Committee Recommendations

The Committee recommends that the query should be excluded from the subsequent Reports of the Auditor General, provided that the management makes full disclosure of this unresolved matter in its financial statements as required by the International Accounting Standard no. 37.

4. TRADE AND OTHER RECEIVABLES: FY 2012/2013 ACCOUNTS

The Committee heard that, as similarly reported in the 2011/2012 the trade and other receivables balance of KES 608,057,680 as at 30 June 2013 includes Hospital receivables of KES 5,517,126, outstanding contributions of KES 152,730,066, Refer to Drawer (RD) cheques of KES 11,823,357, staff receivables of KES 1,166,623, supplier advances of KES 4,660,314 and interest of non performing institutions of KES 13,858,936 all totalling KES 219,116,201. These balances have been outstanding for a considerably long period of time and only provisions for bad and doubtful debts of KES 152,730,066 for outstanding contributions, KES 4,660,314 for supplier advances, and KES 2,710,895 for R.D. cheques have been made in the accounts.

In the circumstances it has not been possible to confirm the validity and recoverability of the trade and other receivables balance of KES 602,057,680 as at 30 June 2013.

Management Response

The CEO informed the Committee that, from the balances that have been outstanding for a while the following action has been taken so far:-

i. Staff receivables of KES 1,166,623 as at June 30 2013 includes an amount of KES 444,598.00 relating to medical expenses. The amount relating to medical expenses was fully recovered. Out of the outstanding staff receivables, KES 751,411.85 has been recovered. Effort is being made to track the staff members with outstanding balances. The remaining balance relates deceased staff.

ii. Hospital receivables of KES 5,517,126 as at June 30, 2013 has reduced to KES 5,002,765.50 to date. NHIF conducted an investigation in a bid to trace and pursue the proprietors of the surcharged hospitals. Results of the investigations indicated that out of the hospitals surcharged only two were active (Kitale nursing home and Shalom), the rest are either closed down or are un-operational. The organization has however managed to collect KES 514,361 from the active facilities. Management is looking into the most appropriate mechanism to write –off the debt from the inactive hospitals.

iii. There are no current reports of RD cheques after implementation of revenue collection through banks which further insist on in-house cheques, banker's cheques or cash, online and mobile money transfers. An amount of KES 8,098,188 has been made good out of the balance of KES 11,823,357 outstanding as at 30 June 2013. Management is looking into the most appropriate mechanism to write –off the debt.

iv. The amounts for supplier advance relates to M-tech building works and Essese Engineering Limited. Although the supplier advances of KES 4,660,314 have been outstanding for a while, Management has put efforts to recover the amounts. This is by writing to the Registrar of Companies as well by writing to the suppliers themselves once their addresses were given to NHIF. A reminder has been sent to these two organizations but there has been no response to date. Management looks into the most appropriate mechanism to write –off the debt.

v. The amount of KES 152,730,066 relates to outstanding contribution. Majority of this arose from employers who paid their monthly contributions related to year 2012/13 in the financial year 2013/14. KES 118,251,251 has been made good except for the long outstanding relating to inactive/closed companies and management is looking into the most appropriate mechanism to write –off the debt.

vi. The Fund has also made provisions in the financial statements for bad and doubtful debt which it deemed there exists objective evidence of impairment as per IAS 37.

The matter was resolved.

<u>Committee Observation</u>

The Committee lauded the Fund for implementing the Committee's recommendations contained in 19th PIC Report on Accounts of State Corporations by putting in place mechanisms to cap stealing by staff such as ensuring that all revenues are banked directly at contracted banks, introduction of online revenue collection, use of mobile money transfers and collection by contracted agents.

<u>Committee Recommendation</u>

The Committee recommends that the Fund ensures that, the gains made in improving revenue collection and sealing revenue leakages, are sustained.

5. TRADE AND OTHER PAYABLES: FY 2012/2013 ACCOUNTS

The Committee heard that, trade and other payables balance of KES692,859,289 as at 30 June 2013 includes an amount of KES120,552,483 in respect of claims payable to Kenyatta National Hospital (KNH). However, the financial statements of KNH as at the same period reflect receivables of KES 487,956,316 due from the Fund resulting to un-reconciled and unexplained difference of KES 367,403,833.

In the circumstances, it has not been possible to confirm the validity and accuracy of the trade and other payables balance of KES 692,859,289 at 30 June 2013.

Management Response

The CEO informed the Committee that, a meeting was held between National Hospital Insurance Fund and Kenyatta National hospital to discuss way forward in terms of reconciliation of the differences. Subsequently NHIF also wrote to KNH on the above issue vide letter HF/C/806 Vol. V/51 dated 30 April 2012. It had requested the Hospital to come up with a detailed listing of claims composing the figure of KES 487,956,316. This will enable NHIF reconcile what is in their records vis-à-vis what is in NHIF ledger. There have been several meetings with the management of KNH with the aim of reconciling the differences.

NHIF makes all payment to all hospitals including Kenyatta as and when they fall due if they have relevant supporting documents. There are a number of occasions that claims by KNH (and other hospitals) have been rejected due to reasons such as insufficient documentation. Once a claim document is rejected it is no longer listed as payable in the ledger. It is highly probable that a number of items under receivables in KNH 's financial statements are rejected claims. NHIF, therefore, stands by its amount of KES 120,552,483 as claims payable to KNH as at 30 June 2013.

There have been several meetings with the management of KNH with the aim of reconciling the differences. The query was expunged in subsequent year's auditor's reports.

Committee Observation

The Committee observed that, the matter has since been resolved, following reconciliation of the claims owed to KNH. The Fund now ensures that at every closure of the financial year, consultation is done on any difference in claims in the books of accounts.

Committee Recommendation

The Committee recommends that the CEO and the Director of Finance ensures that the Fund undertakes timely reconciliations of all its trade and payables and further ensures that timely consultations are done on any difference in claims in the books of accounts before closure of a financial year.

6. CIVIL SERVANTS' MEDICAL SCHEME: FY 2012/2013 ACCOUNTS

The Committee heard that, during the year under review the Government through the Ministry of Public Service approved a budget of KES 4,324,546,417 for Civil Servants and Disciplined Services Scheme which is administered by National Hospital Insurance Fund. A total of KES 4,324,366,517 was received from the Ministry of Public Service and a disbursement to contracted health facilities of KES 3,501,806, 538 reflected as benefit – expenses in the Statement of Comprehensive Income for the year ended 30 June 2013 made during the year under review. However, reconciliations from Ministry of Public Services on the number of beneficiaries covered in the Insurance Scheme and accountability returns from health facilities on the number of Civil Servants and Disciplined Services attended to have not been availed for audit review.

In the circumstances, it has not been possible to confirm the propriety of the expenditure of KES 3,501,806,538 included in the benefit – expenses of KES 8,236,279,159 in the statement of comprehensive income for the year ended 30 June 2013 and that the Ministry and Civil Servants obtained value for money on the medical scheme.

Management Response

The CEO informed the Committee that, Civil Servants and Disciplined Services scheme has been in operation since 1 January 2012. It provides medical cover for employees of the civil service & disciplined services and their dependants (spouses and children) for outpatient care, inpatient care and Group life & Last expense. Under outpatient care, benefits available to members include all outpatient procedures including dental & optical care; while under inpatient care benefits available to members include inpatient procedures while admitted to NHIF accredited facilities.

Below is the scheme Income and Expenditure Statement as at 30 June 2013.

Statement of Income & expenditure – Civil servant scheme

PARTICULARS	AMOUNT (KES)
Premium received	4,324,366,517
Expenses:	
Inpatient claims	(320,377,229)
Outpatient capitation	(2,138,470,092)
Group Life & Last Expense premiums	(717,770,701)
Administrative expenses	(325,188,516)
Balance - As at 30 June 2013	**822,559,979**

INPATIENT CARE

17,681 inpatient claims were paid under Civil Servants' Scheme totalling to KES 320,377,229 for the period ending June 30, 2013. Overseas treatment accounted for KES 17,396,257 while refunds to individual members for out-of-pocket expenditure amounted to KES 12,724,399.

Distribution of the claims paid per hospital category is as follows: -

Claim value per hospital category

Category	Claims Count	Total Amount	Claim Value
Faith-based	3,151	6,365,821	2,020
Government	5,943	58,189,569	9,791
Private	8,426	225,701,183	26,786
Refunds	138	12,724,399	92,184
Overseas	23	17,396,257	756,359
Total	**17,681**	**320,377,229.00320,377,229.00**	

The private hospitals category received the highest amount of benefits at KES 225,701,183 and claims count of 8,426 followed by government hospitals with benefits amounting to KES 58,189,569 and a claims count of 5,943.

OUTPATIENT CARE

Total expenditure for out-patient services for the year 2012-13 was KES 2,138,470,092 incurred as follows:

a. Capitation

During the period July 2012-June 2013, a total of KES 2,134,671,946 was incurred in the purchase of outpatient services through the Capitation payment mode. Members of the civil service and their dependants were allocated to facilities as shown in the table below. During the FY 2012-13 Private hospitals were selected by over 50% of the members (427,306), thereby receiving the lion's share of the Capitation funds amounting to KES 1,233,550,709. Allocation of members and payout per hospital category is illustrated below.

Capitation per hospital category

Category	Population	Total
Government	391,354	655,938,325.00

Faith Based	86,029	245,182,912.00
Private	427,306	1,233,550,709.60
Total	**904,689**	**2,134,671,946.60**

b. **Fee for Service (FFS)**

Outpatient services are purchased through the FFS payment mechanism for Civil servants in job group N to T. Total expenditure incurred in the period under review was KES 2,728,570.65.

c. **Refunds to members** arising out of out of pocket expenditure amounted to KES 1,069,574.75

All reconciliations of membership and online hospital returns were availed for audit review and the query was exhaustively responded to. The Auditor has since expunged the matter in subsequent year's reports.

Committee Observations

The Committee observed that, investigations into the NHIF Civil Servants Medical Scheme was carried out and those found culpable have been forwarded to the Director of Public Prosecutions for prosecution.

The culpable staff members were either suspended or terminated from employment. The matter is currently in court.

Committee Recommendation

The Committee recommends that the CEO and the Director of Finance ensure that any individuals found culpable should be surcharged for any funds lost by the Fund, through fraudulent activities in relation to the Civil Servants Medical Scheme.

2.35 NATIONAL WATER CONSERVATION & PIPELINE CORPORATION (FY 2013/2014)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE NATIONAL WATER CONSERVATION & PIPELINE CORPORATION FOR THE FINANCIAL YEARS 2013/2014

Mr. Andrew Wanyonyi, Ag. Managing Director of National Water Conservation and Pipeline Corporation accompanied by CPA Eric Gachiri, Acting Chief Accountant and Mr. Job Kiprotich, Ag. General Manager appeared before the Committee 8 November 2016 to adduce evidence on audited accounts of the Corporation for financial year 2013/2014.

1. PROPERTY PLANT AND EQUIPMENT: FY 2013/2014 ACCOUNTS

The Committee heard that, as reported in the previous years, the property, plant and equipment balance of 575,995,662 as at 30 June 2013 excludes various assets valued at KES 16,781,771,832 earmarked for transfers to various water service boards through various agreements between the Corporation and the Water Service Boards. These agreements although drafted more than six years ago, had not been signed as at 30 June 2014 by the respective parties.

In the circumstances, it has not been possible to confirm whether the carrying values of the property, plant and equipment stated in the financial statements at KES 575,995,662 reflect the fair values as at 30 June 2014.

Management Response

The Managing Director informed the Committee that, the Corporation initially operated under the Legal Notice no.270 of 1988 which gave the mandate to operate 46 water schemes in 7 regions namely Central, Southern, Nairobi, Coast, Rift Valley, Western and Nyanza. The Corporation had assets in terms of property, Plant and Equipment in all these regions. In October 2004, the Cabinet memo defined new roles for the Corporation in line with the Water Act 2002 and subsequently Legal Notice No. 101 was issued. The Corporation submitted Legal notice 101.

Under the Water Act (2002) seven Water Service Boards were established namely Rift Valley, Tana, Athi, Northern, Coast, Lake Victoria North & Lake Victoria South as at 30 June 2005 which took over the mandate of the seven regions and all properties, plants and equipment of the Corporation.

The Corporation initiated the process of transferring these properties valued at KES16,781,771,832 in form of water works & pipelines, offices, motor vehicles, plant and equipment as per the transfer plan provided by the Water Act 2002 as supported by legal notice No 101 of 2005 where a road map and had indicated the completion dates of the transfer as 30 June 2006. However none of the Water Service Board signed the transfer agreements.

Since the signing of the transfer agreement has taken longer and the property, plant & equipment are continuously used by the respective Water Service Boards and it has no economic value to the Corporation, it was prudent to exclude the value of the assets from its book of accounts and the Corporation has since communicated to various Water Service Boards and the Principal Secretary, State Department of Water.

Further, as per the Committee's guidance on the 19th report, the Corporation fast-tracked Assets verification and forwarded the same to the Water Service Boards who are yet to sign the transfer agreements despite the fact that they are in their possession.

Committee Observation

The Committee observed that: -

(i) **The Committee dealt with the mater of transfer of assets to various Water Service Boards across the country in its 19th Report where it made recommendations. Despite the Recommendations, no progress has so far been made in the verification and transfer of assets from NWCPC to water boards.**

(ii) **The matter of transfer of assets reflects in the accounts of various water boards and is hampering the provision of water services by the boards.**

(iii) **The parent Ministry has also failed to provide direction and lead role in the verification and transfer of assets process in line with the spirit of devolution on completion dates of the transfer as 30 June 2016.**

Committee Recommendations

The Committee recommends that the Ministry of Water and Irrigation provides a clear road map on the transfer of assets from NWCPC to the respective water boards within six (6) months of the adoption of this Report.

2. CAPITAL WORK IN PROGRESS: FY 2013/2014 ACCOUNTS

Headquarters Building

The Committee heard that, as reported in previous years, the Corporation in March 2008 awarded a contract for construction of its headquarters building to a firm at a contract sum of KES 485,400,820. However, the contractor abandoned the project after being paid a total of KES 80,660,480. The Corporation thereafter instituted a claim of KES 24,270,401 for damages against the contractor through an insurance firm in respect of the performance bond as provided for in the terms of the contract. The insurance firm however declined to honour the claim and the matter was still pending in a court of law as at 30 June 2014.

The Corporation may not have received value of money in the two contracts due to the delay in completion and huge projects cost variations.

Management Response

The Managing Director informed the Committee that, the Corporation initially awarded the contract for construction of its Headquarter building to a construction firm (M/s Capital Construction Ltd) at a contract sum of KES 485,400,820 in March 2008. However, the contractor abandoned the project after receiving advance payments amounting to KES 48,540,082 and reimbursement of a number of certificates totalling KES 26,465,926. Under the terms and conditions of the signed contract between the Contractor and the Corporation, (specifically Clause 54 of Conditions of Contract) the contractor was bound to the Corporation in a sum equivalent to 5% of the contract sum for due performance until

the certified date of practical completion. In the event of default on due performance by the contractor, the Corporation was entitled to attach the bond from the performance guarantee issuing institution which in this case was M/s Occidental Insurance Co Ltd.

Although the Corporation instituted a claim of KES 24,270,401 for damages against the contractor from M/s Occidental Insurance Co Ltd the Insurance firm declined the claim. The Corporation subsequently took the insurance company to court and terminated the contract on 17 April 2009.

The Corporation applied for summary judgement which was declined and the court directed the matter to full hearing. Hearing was further postponed to 29 September 2014. After several adjournments, the Corporation had not secured a hearing date in 2016 but will secure a date in January 2017 and the outcome will be communicated once the matter is determined.

The Corporation, through an open tender, entered into a new contract of KES 707 million with N.K. Brothers Ltd on 8 December 2011 (three years nine months later) for construction of the building. The building has since been completed and occupied. The Corporation submitted Occupation Certificate and Completion certificates.

Committee Observation

The Committee observed that: -

(i) **The contract for the construction of the Corporation's headquarters was awarded to M/s Capital Construction Ltd at a contract sum of KES 485,400,820 in March 2008 but the contractor abandoned the site without completing the works even after having been paid an advance of KES 80,660,480. The Corporation sued the contractor in March 2009 and the matter is still pending in court;**

(ii) **The Judiciary has taken inordinately long to hear and conclude the matter;**

(iii) **A second contractor was sourced at a cost of KES 707 million resulting in variation of KES 303, 168,781. It is not clear how this contract was sourced.**

(iv) **Management would have saved KES 303 million if the first contract had been completed at a cost of KES 485,400,820.**

(v) **The building is now complete and occupied.**

Committee Recommendations

The Committee recommends that: -

(i) **The then Managing Director and the Board members be held responsible for the possible cost overruns amounting to KES 303 million incurred by NWCPC in the construction of the Headquarters;**

(ii) **The Ethics and Anti-Corruption Commission should investigate the circumstances under which the M/s Capital Construction Ltd was awarded the contract and abandoned the project midway. The EACC should also investigate the award of contract to the second Contractor M/s NK Brothers Ltd;**

(iii) **M/s Capital Construction Ltd, its Directors and related companies be debarred from doing business with any public institution in National or County Governments for a minimum period of five (5) years for their failure to complete the project resulting to NWCPC incurring additional expenditure over and above what had been initially budgeted for.**

(iv) **The Corporation expedites the court case against M/s Occidental Insurance Co Ltd which has been pending hearing and conclusion since 2009.**

3. **RECEIVABLES AND PREPAYMENTS – 2013/2014 FY ACCOUNTS**

The Committee heard that, similarly reported in 2012/2013, the receivables from exchange transactions of KES64,032,033 as at 30 June 2014 excludes water debtors of KES 1,377,265,026 and payment of KES 754,400 transferred to Water Service Boards through various unsigned agreements between the Corporation and the Water Service Boards in the year 2005/2006. These agreements had not been formalized and signed as at 30 June 2014.

Under the circumstances, the receivables from exchange transactions balance of KES64,032,033 as at 30 June 2014 is not fairly stated.

Management Response

The Managing Director informed the Committee that, the Corporation initially operated under the Legal Notice no.270 of 1988 which gave the mandate to operate 46 water schemes in 7 regions namely Central, Southern, Nairobi, Coast, Rift Valley, Western and Nyanza. The Corporation had assets in terms of property, plant and equipment in all these regions. In October 2004 the Cabinet memo defined new roles for the Corporation in line with the Water Act 2002 and subsequently Legal notice No. 101 was issued.

Under the Water Act (2002), seven Water Service Boards were established namely Rift Valley, Tana, Athi, Northern, Coast, Lake Victoria North & Lake Victoria South as at 30 June 2005 which took over the mandate of the seven regions and all properties, plants and equipment of the Corporation.

The Corporation initiated the process of transferring these assets i.e. water debtors of KES1,377,265,026 and prepayments of KES754,400 as per the transfer plan provided by the Water Act 2002 as supported by legal notice No 101 of 2005 where a road map under table 3 had indicated the completion dates of the transfer as 30 June 2006. However none of the Water Service Boards signed the transfer agreements.

Since the signing of the transfer agreement has taken longer than the prescribed period and the receivables were due to the Water Service Boards it was prudent to exclude them from the book of accounts and the Corporation has since communicated to various Water Service Boards and the Principal Secretary, State Department of Water.

Committee Observations

The Committee observed that: -

(i) **The assets and liabilities in question are not reflected in the audited accounts of the Corporation or the Water Service Boards. This raises the possibility of loss of the assets while interest continues to accrue on non-serviced loans.**

(ii) **Of the seven Water Service Boards created, only the Coast Water Service Board has responded to the correspondence from the Corporation and committed to the transfer of assets and liabilities.**

Committee Recommendation

The Committee recommends that the assets and liabilities in question should be included in the books accounts of the Corporation until the transfer plan is finalized.

4. **CONSTRUCTION OF DAMS: FY 2013/2014 FY ACCOUNTS**

a) **Umaa Dam**

The Committee heard that, as previously reported in 2012/2013, a contractor was paid KES 2,000,000 for the purchase of Yamaha motor cycles (125cc) and a further sum of KES 320,000 in respect of overheads and profit. The motor cycles were to be used by the contractor during the site visits to the dam due to the nature of the terrain. However, a market survey of the price in December 2010 for this type of motor cycle indicated that the purchase price may have been inflated by over 300%. Although the management explained that the payments would be reversed in the subsequent interim payment certificate as provided for in clause 60.4 of the general conditions of contract, no reversal had been effected as at 30 June 2014.

As was further previously reported in September 2009, eight months after the commencement of the contract, the contractor submitted a request for variation of the contract price by KES 442,920,633. The variation requested by the contractor represented an increase of 53% of the original contract price of KES 824,457,120. The Corporation in turn declined to approve the variation or settle the contractor's claims on the ground that they were invalid and unjustifiable. The project, therefore, stalled due to the disagreement and the dispute was referred to Arbitration and no value for money has been obtained from the expenditure of KES 824,457,120 as at 30 June 2014.

Management Response

Contrary to the Auditors' report that the Corporation had spent KES 824,457,120, the actual amount expended by the Corporation as 30 June 2014 was KES 527 million.

The Umaa Dam matter has been pending in the arbitral tribunal and the Corporation undertakes to address the issues raised in the auditor's report regarding amount of KES 2,000,000 for the purchase of two motor cycles (Yamaha 125cc) and a further sum of KES 320,000 in respect of overheads and profit and in line with clause 60.4 of the general conditions of contract as it had pledged earlier.

Committee Observation

The Committee observed that, the Corporation did not conduct due diligence to establish the market price of the motor-cycles before signing the agreement and thus purchased the motor cycles at an inflated price of KES 2,000,000 which was approximately 300% overpriced.

The Committee further observed that, the matter of Umaa Dam is still pending before an arbitral tribunal.

Committee Recommendation

The Committee recommends that: -

(i) **The then Managing Director be held accountable and surcharged for the inflated prices of goods in the contract signed by the Corporation;**

(ii) **The matter of Umaa Dam pending before an arbitral tribunal be expedited to allow for conclusion of the matter.**

b) Badasa Dam

The Committee heard that, as reported in the previous year, the progress of work reported as at September 2010 indicated that the overall project completion was 33%, while 52% of contract period had elapsed. Available information indicates that in the year 2012/2013, the contractor was unable to complete the project within the contract period. The Corporation hence entered into an agreement with the contractor on 20 August 2013 which released both parties from the performance of the contract on the account of convenience, without the project being completed. No justification has been provided for this fact.

Management Response

The Managing Director informed the Committee that, the Corporation never released the contractor contrary to the audit finding. However, the project stalled following a dispute between the contractor and the Corporation on levying of liquidated damages.

Subsequently, the contractor declared a dispute and took the Corporation to court where he obtained an injunction restraining the Corporation from terminating the contract.

The original Contract for construction of Badasa Dam did not provide for termination of the contract on account of convenience. The Corporation noted that the progress of work was wanting and thus found it necessary to introduce a clause that would enable it to terminate the Contract on account of convenience. The Corporation confirms that it entered into consent with the Contractor on 20 August 2013 as indicated in the audit report. In the consent, one of the issues was a proposal for disengagement on account of convenience. The spirit of the consent was such that the disengagement was conditional subject to invoking the newly introduced disengagement clause which was yet to be done as at the time of audit. The same has been done and a final exit certificate prepared.

Committee Observation

The Committee observed that: -

(i) **The Corporation had not exercised proper controls on project budgets and as a result, expenditure on construction work had exceeded the respective budgetary provisions;**

(ii) **The dam stalled owing to a dispute on levying of liquidated damages which led the contractor to sue the Corporation and resulted into an injunction restraining the Corporation from terminating the Contract; and**

(iii) **The Corporation entered into a consent with the Contractor on 20 August 2013 which allowed for disengagement on account of convenience. The final exit certificate has since been prepared.**

Committee Recommendation

The Committee recommends that the Auditor General undertakes an up to date performance audit on all the major dams undertaken by the Corporation with a view to determine whether there was value for money, adherence to procurement laws, adherence to provisions of the Public Finance Management Act and other related laws on application of public resources.

5. CASH AND CASH EQUIVALENTS: FY 2013/2014 ACCOUNTS

The Committee heard that, statement of financial position reflects cash and cash equivalents balance of KES 1,933,983,290 as at 30 June 2014. However;

a) Development Account

The bank reconciliation statement as at 30 June 2014 for development account revealed long outstanding un-posted items amounting to KES 24,641,683, cash book under cast of KES 264,740 while long outstanding unpresented cheques of KES 36,683,264 had not been reversed in the cash book.

b) Deposit Account

The deposit account bank reconciliation statement reflects direct deposits cash book overcasts of KES 142,067 which has been recurring throughout the year under review.

c) Recurrent Account

Recurrent account bank reconciliation statements reflects KES 18,220 for cash book over casts, KES 4,381,025 for unposted items, KES 2,000 for stale cheques, KES 2,174,220 for cash book under casts, KES 18,723,014 for unpresented cheques.

d) Special Account

The special account bank reconciliation includes un-posted and unsupported items totalling KES 2,133,281 which relate to prior years.

In view of the foregoing, it has not been possible to confirm that the cash and cash equivalent balance of KES 1,933,983,290 as at 30 June 2014 in fairly stated.

Management Response

a) Deposit Account

The Managing Director informed the Committee that, the recurring item in the deposits account could not be reconciled as a result of a fire that gutted the Corporation's assets premises destroying all crucial accounting records in September 2009. Severally, the Corporation had requested information in form of bank statements and physical cheques from the KCB Bank to aid in the reconciliation. In some cases the bank was experiencing difficulties in obtaining the information as it dated back to 2005. It was under these circumstances that the Finance Committee of the Board resolved to write off the same and it awaits the Full Board Resolution. The same should be concluded during the FY 2016-17.

b) Recurrent Account

The cashbook overcasts of KES18,220.00 have been corrected, while the stale cheques of KES2,000.00 have been written back in the cash book. Further, the cash book under casts have been cleared and most of the unpresented cheques have now cleared.

c) Development Account

The unpresented cheques of KES36,683,234.00 have been cleared as well as the Cash book under casts of KES264,7389.96.

As for the unposted items, the same could not be reconciled as a result of a fire that gutted the Corporation's assets premises destroying all crucial accounting records in September 2009. Severally, the Corporation had requested information in form of bank statements and physical cheques from the KCB Bank to aid in the reconciliation. In some cases the bank was experiencing difficulties in obtaining the information as it dated back to 2005. It was

under these circumstances that the Finance Committee of the Board resolved to write off the same and it awaits the Full Board Resolution. The same should be concluded during the FY 2016-17.

d) Special Account

The recurring item in the special account could not be reconciled as a result of a fire that gutted the Corporation's assets premises destroying all crucial accounting records in September 2009. Severally, the Corporation had requested information in form of bank statements and physical cheques from the KCB Bank to aid in the reconciliation. In some cases the bank was experiencing difficulties in obtaining the information as it dated back to 2005. It was under these circumstances that the Finance Committee of the Board resolved to write off the same and it awaits the Full Board Resolution. The same should be concluded during the FY 2016-17.

Committee Observation

The Committee observed that, the Corporation did not reconcile the cash and cash equivalents in its books on time.

Committee Recommendation

The Committee recommends that the Managing Director ensures that proper reconciliation of accounts is undertaken by the Corporation on a regular basis as provided for by financial regulations and as per requirements of IAS.

6. BOARD EXPENSES: FY 2012/2013 ACCOUNTS

The Committee heard that, the statement of performance reflects that total board expenses declined from KES27,859,914 as at 30 June 2013 to KES21,473,888 as at 30 June 2014. However, the statement of budget comparison and actual amounts reflects actual expenditure of KES20,866,741 against an approved budget of KES31,294,774 the resulting difference of KES 607,147 between the two statements figures however has not been explained. In addition, the Board incurred KES7,016,027 on meetings that were not in the approved board activities for the year under review.

In the circumstances, it has not been possible to confirm the propriety of the unexplained activities and expenditure of KES7,016,027 and unexplained difference of KES607,147 as at 30 June 2014.

Management Response

The Corporation noted the error of reporting in the budget comparison schedule and the correct figure is KES21,473,888.00 as per financial statement inclusive of KES7,016,027 of special meeting against the approved budget of KES31,294,774. Special meetings vote is not scheduled but is provisional to cater for unforeseen activities.

Committee Observation

The Committee observed that, the difference in the Board's expenditure is as a result of error of reporting in the budget comparison schedule.

Committee Recommendation

The Committee recommends that the Managing Director ensures that the books of accounts of the Corporation present all material facts accurately.

2.36 POSTAL CORPORATION OF KENYA (FY 2007/2008 - 2010/2011)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE POSTAL CORPORATION OF KENYA FOR THE FINANCIAL YEARS 2007/2008 TO 2010/2011

Mr. Dan Kagwe, Acting Postmaster General accompanied by Mr. Stephen Wanjiru, acting General Manager Finance; Mr. Titus Juma, General Manager-Payments; Ms. Nancy Mathenge, Manager-Human Resources; Ms. Elizabeth Mwaura, General Manager-Courier Services; Mr. Richard Marusoi- acting Manager ICT; Mr. Samuel Mburu, Assistant Manager-Legal Services; Sorophina Ombati, Manager-Mails, Mr. James Kahonge, Manager-Facilities; Mr. David Fundia, Manager-Finance, Mr. Murerwa Bernard, Director; Mr. George Hinga, Assistant Manager-Accounts; Mr. Joel Mageto, Personal Assistant to the Post Master General and Mr. Henry Mungasia Alternate Director-Ministry of ICT appeared before the Committee on 2 August 2016, 18 August 2016 and 18 October 2016 to adduce evidence on the Report of the Auditor General on the accounts of the Corporation for the financial years 2007/2008 to 2010/2011.

1. LAND AND BUILDINGS: FY 2007/2008 & 2008/2009 ACCOUNTS

The Committee heard that, included in the Plant, Property and Equipment balance of KES 3,970,944,228 are sixty-eight (68) properties valued at KES 881,900,000, against which ownership documents were not availed for audit review.

Excluded from the balance of KES 3,970,944,228 are five (5) properties situated at Bomet, Nanyuki, Machakos, Embakasi and Nairobi West, apparently because the properties had not been valued as at 30 June 2009. Further, the property in Embakasi appears to have been taken over by private developers, while the one in Nanyuki could not be traced.

In the circumstances, it has not been possible to ascertain the ownership status of properties valued at KES 881,900,000 or confirm that the carrying value of KES 3,970,944,228 in respect of Plant, Property, and Equipment is fairly stated as at 30 June 2009.

Management Response

The Postmaster General informed the Committee that, the Corporation owned 170 properties following the split of the defunct KP&TC in 1999. After the split, PCK embarked on registering the properties that were vested to the Corporation which were formerly owned/ registered in the name of the defunct Corporation. The status that was there in 2007/2008 has since then changed. The Corporation has acquired additional titles reducing the numbers of properties without title from 73 in 2008 to only 45 as at 30June 2015. The Corporation has also engaged the services of surveyors to hasten the process of acquiring the remaining titles. Due to the related cost implications and limited budget the process is being done in a phased manner, currently the surveyors are working on Tom-Mboya, Kagio, Kitui, Wundanyi, Embu, Yala, Kabiyet, Iten, Namanga Nyali and Kisumu Block 8/496.

Five (5) properties that were vested to the Corporation had already been grabbed while 4 others had double allocation of ownership documents recommendations made in their report that the Postmaster General engages the Ministry of Lands to revoke the irregularly allocated land. The Corporation wrote to the Ministry of Lands for revocation of the titles. Since then, the corporation has acquired a titled deed for Nakuru block 5/4. The remaining cases are with Ethics and Anti- Corruption Commission for investigation.

Buildings valued at KES 2,550,000 were by then constructed on land that was not owned by the Corporation but this position has since changed as follows:

- ***Mghange Post Office*** *(valued at KES 300,000): Post office constructed in a chief's camp by the then East Africa Post & Telecommunication. Only the building was vested to PCK.*
- ***Makongeni Post Office*** *(valued at KES 1,700,000): The Corporation has secured a letter of allotment on the property.*
- ***Vipingo Post Office*** *(KES 500,000): the Corporation has secured a letter of allotment on the property.*

These buildings were constructed many years back by the East African Post and Telecommunication and prior to the split of KPTC and only vested to PCK in form of building.

- *In the Revaluation of Assets in 2006, four (4) properties- Lamuria, Embakasi, and Nyaru were not valued. However, Machakos Township Plot No. 1/295 among others were valued in 2015.*
- ***Embakasi Plot*** *was not valued as the title document clearly showed it was within Kenya Airports Authority which is a restricted area zone*

- ***Nyaru Plot*** *had no document to facilitate determination of size and proper location. The valuation was subsequently carried out and value determined. The property was later disposed in 2013/2014 financial year.*
- ***Lamuria****- A parcel of land measuring 0.50 acres situated at Lamuria was vested to PCK in 1999. The physical planning map of the area shows the plot which is reserved for post office use is in Dol Dol. However, the same is vested to Telkom Kenya Ltd. The Corporation is following up the issue with the Physical Planner, Nanyuki, to confirm with the maps of earlier years in order to unravel the mix up.*
- ***Bomet Plot****- The plot was not in the vesting deed of 1999 and even the subsequent vestments by the Transition Management Committee. The current letter of allotment from Municipal Council of Bomet bears the name of the defunct Kenya Posts and Telecommunications Corporation (KP&TC.)*
- ***Nairobi West*** *property was grabbed and the Public Investments Committee in its 14 Report expressly indicated that this property should not be included in the financials of the Corporation.*

Committee Observation

The Committee observed that, the Corporation has made progress in acquiring title deeds for its parcels of land thereby reducing properties without title from 73 in 2008 to 45 in 2015.

Committee Recommendation

The Committee recommends that the Postmaster General expedites the acquisition of title deeds and revocation of irregularly allocated land by continually engaging the Ministry of Lands and the National Lands Commission. The Corporation should report progress to the National Assembly within six (6) months of the adoption of this Report.

2. **WORK IN PROGRESS: FY 2007/2008 ACCOUNTS**

The Committee heard that, the work in progress balance of KES 281,765,730 as at 30 June 2008 includes an amount of KES 257,840,188 representing professional fees on deferred projects dating back to 1998/1999 financial year which had been written off from the books of the Corporation in 1999/2000 financial year but were reinstated in the books during the year under review. No explanation has been provided for incorporating these fees in the financial statement. Under the circumstances, it has not been possible to confirm the validity of the respective entries and to confirm that the work in progress balance of KES 281,765,730 as at 30 June 2008 was fairly stated.

Management Response

The Postmaster General informed the Committee that, the treatment of various projects commissioned prior to split of the defunct KPTC were subjected to valuation by

professional valuers M/S Tyson Limited appointed by the Treasury to determine the opening balances of the successor entities of KPTC.

The Work in Progress (WIP) in FY 1999/2000 was adjusted downwards as per the valuation report and incorporated in FY 1999/2000. During the year 2007/2008, the amounts were erroneously brought back into the accounts. The error was however corrected in the year 2008/2009 and the old WIP removed from the financial statements.

Committee Observation

The Committee observed that, an amount of KES 257,840,188 representing professional fees on deferred projects dating back to 1998/1999 financial year which had been written off from the books of the Corporation in 1999/2000 financial year was erroneously reinstated in FY 2008/2009. No monies were paid for professional fees on deferred projects since no work was undertaken.

Committee Recommendation

The Committee recommends that the Postmaster General ensures that the Corporation reports the accurate position in preparing its financial statements.

3. DEBTORS: FY 2007/2008 ACCOUNTS

The Committee heard that, debtors balance stood at KES 2,801,061,733 as at 30 June 2008. However, provision for bad and doubtful debts remained constant at KES 331,822,099 an indication that the Corporation does not have a clear policy on provision for bad and doubtful debts. The adequacy of the provision is, therefore, in doubt. Further, records held by the Corporation show that Afripayments Ltd owed it KES 114,448,394 whereas Afripayments Ltd confirms a debt of KES 69,190,637 thus resulting in unexplained difference of KES 45,257,757. Indications are that the difference may have been lost through fraud or mispostings. In addition, the other debtors' balance of KES 224,576,625 was net of credit balances amounting to KES 15,175,142 in respect of losses by staff which had earlier not been recognised in the books of the Corporation, in effect reducing debtors' balances by an equivalent amount. Further debts amounting to KES 394,735,782 owing from Telkom Kenya Ltd showed no movement in 2007/2008 despite the company having been sold by the Government during the year, suggesting that the debts were not paid during Telkom (K) Ltd privatisation process. The realisation of these debts is therefore uncertain. Consequently, it has not been possible to confirm the recoverability of the long outstanding debts or that the debtors balance of KES 2,801,061,733 was fairly stated as at 30 June 2008.

Management Response

The Postmaster General informed the Committee that, the Corporation has retained the provision for bad and doubtful debts at KES 331,822,099 for both foreign debts and EMS debtors. This provision will be reviewed in 2015/2016.

The Corporation entered into contract with Afripayment Kenya Limited to offer money transfer services. The contract between the Corporation and its Partner Afripayment Kenya Limited appeared to give overriding rights over Postal Corporation. The Corporation's Board of Directors realized this irregularity and ordered an entire audit of the contract in 2007/2008 upon which the contract was terminated. Disciplinary action was also taken against the management of the Corporation who were found to have participated in the irregularity. An independent audit report on data transaction is awaited from Deloitte & Touche to confirm the likely loss or otherwise from the business engagement.

The KES 15,175,142 in respect of losses by staff as noted by the auditors was recoveries from staff who were dismissed. This was in the form of insurance compensation as well as surcharges. It was therefore appropriate to reduce the amount due from staff debtors by the same.

The KES 394,735,782 as at 30 June 2008 was owed by Telkom Kenya Limited (TKL). As at 30 June 2015, the debt stood at KES 440,127,667. The Corporation has a Memorandum of Understanding (MOU) with TKL in regard to this debt. Further this debt was passed over to the new owners of TKL and was consolidated with all other debts due from TKL to be settled together. The outstanding amount was passed over for arbitration that is ongoing.

Committee Observations

The Committee observed that, the Corporation does not have a clear policy on provision for bad and doubtful debts.

Committee Recommendations

The Committee recommends that the Corporation puts in place a clear policy on provision for bad and doubtful debts.

4. CREDITORS: FY 2007/2008 ACCOUNTS

The Committee heard that, the creditor's balance of KES 3,365,873,081 as at 30 June 2008 includes foreign administration creditors amounting to KES 136,016,253 and money orders totalling KES 169,615,887 which have remained unclaimed for between three (3) and twenty-one (21) years. This cast doubt on the validity of such liabilities. No action appears to have been taken to review and deal with these long outstanding liabilities. In addition, the balance is net of a debit balance of KES 10,108,388 in respect of value added tax which was overpaid to Kenya Revenue Authority but was netted off from creditors instead of being reported as debtors. Further, a review of the agency accounts showed that there was an increase of KES 504,204,322 from KES 97,382,972 reported in year 2006/2007 to KES 601,587,294 as at 30 June 2008. However, an examination of supporting schedules produced shows the agency account as KES 497,897,965 as at 30 June 2008. There was, therefore, an overstatement of KES 103,689,329 in the agency account. Under

the circumstances, it has not been possible to confirm that the Corporation's creditors balance of KES 3,365,873,081 was fairly stated as at 30 June 2008.

Management Response

The Postmaster General informed the Committee as follows: -

a) International creditors

The service creditors' balance of KES 136,016,253 as at 30 June 2008 under Foreign Administration account comprised of genuine balance as per each country and airline record in the Corporation. As at 30 June 2015 PCK owed other administrations KES 229,520,374. International liabilities are usually regulated by Universal Postal Union (UPU) and are usually collectable/enforceable under the UPU Post Clear mechanism that collects debts within member nations. Foreign administrations under the same UPU arrangements takes time to reconfirm the weights handled and charges and reconfirmation in- case of weight dispute. The Corporation has on quarterly basis written to the respective administration on current indebtedness in an effort to vouch the specific past years' amounts. The UPU Post Clear accounts settlement mechanism is applied in liabilities between direct exchanging partners. The international creditor position will be reviewed in 2015/2016 for appropriate restatement.

b) Money orders

The money order balance of KES 169,615,887 as at 30 June 2008 is the actual balance due to the public on the money order services which is offered by the Corporation. The position was KES 170,520,065 as at 30 June 2015. The money order account is an active account with transactions taking place on daily basis.

c) Agency Accounts

The audit observation on the differences between the schedules presented for audit and the financial statements were noted. The inaccuracies were reconciled and corrections made in the supporting schedules as evidenced in the following year.

Committee Observation

The Committee observed that, the Corporation did not keep accurate records of its accounts thereby resulting in inconsistencies and inaccuracies in financial reporting.

Committee Recommendation

The Committee recommends that the Postmaster General ensures that the Corporation reports the accurate position in preparing its financial statements.

5. INACCURACIES IN FINANCIAL STATEMENTS: FY 2007/2008 ACCOUNTS

The Committee heard that, the financial statements and the supporting schedules provided for audit by the Corporation did not agree in respect of some items. The management has not revised the accounts as expected and the differences have not been investigated and necessary adjustments made. As a result, the accuracy of the financial statements as at 30 June 2008 could not be confirmed. As a result, the accuracy of the financial statements as at 30 June 2008 could be confirmed.

Management Response

The Postmaster General informed the Committee that, the audit observation on the differences between the schedules presented for audit and the financial statements were noted.

The inaccuracies were reconciled and corrections made in the supporting schedules and the matter closed in the following year.

Committee Observations

The Committee Observed that: -

(i) **There were discrepancies in financial statements and the supporting schedules provided for audit by the Corporation in 2007/2008 financial year in respect of some items.**

(ii) **The Committee further observed that, the matter was resolved after reconciliation of the advances were made and relevant adjustments made in the financial statements in the subsequent year.**

Committee Recommendation

The Committee recommends that the Postmaster General ensures that the books of accounts for the Corporation are regularly and accurately reported.

6. FINANCIAL POSITION: FY 2008/2009 ACCOUNTS

The Committee heard that, the during the year 2008/2009, the Corporation recorded a deficit of KES 63,156,065 compared to a net surplus of KES 93,408,665 realized in the previous year. The deficit is attributable to an increase in operating expenditure by 6%, from KES 3,030,730,204 in 2007/2008 to KES 3,215,998,141 in the year under review, while at the same time the operating revenue decreased by KES 34,444,741 from KES 3,194,756,966 as at 1 July 2008 to KES 3,160,312,225 as at 30 June 2009.

Management Response

The Postmaster General informed the Committee that, the Corporation recorded a deficit of KES 63,156,065 compared to a net surplus of KES 93,408,665 realised in the previous year. This was as a result of increase in operating expenditure by KES 185 million while revenue

decreased by KES 34 Million in the same period. The decrease in revenue was attributed to stiff competition in money transfer service, while increase in operating expenditure was attributed to general price increase of commodities including staff costs and other operational costs including fuel costs. This position changed and the corporation recorded a net profit of KES 173 Million as at 30 June 2013.

Committee Observation

The Committee observed that, the Corporation is facing financial difficulties and its continued operation is a going concern and heavily dependent on support from Government and creditors.

Committee Recommendation

The Committee recommends that the Postmaster General should explore alternative ways of raising revenue including diversification of its business give its potential to supplement releases from Treasury and also ensure that the Corporation's expenditure is constrained within the budgetary provisions.

7. TRADE AND OTHER PAYABLES: FY 2008/2009 ACCOUNTS

The Committee heard that, trade and other payables balance of KES 3,768,801,899 as at 30 June 2009 includes foreign administration creditors and money orders amounting to KES 172,512,857 and KES 109,844,708 respectively, which have been outstanding for considerably long period of time, raising doubts as to the validity of such liabilities.

In the circumstances, it has not been possible to confirm that the payables balance of KES 3,768,801 ,899 is fairly stated as at 30 June 2009.

a) Telkom Kenya

The trade and other receivables balance of KES 3,166,633,378 as at 30 June 2009 includes debts amounting to KES 403,622,149 which have been owing from Telkom (K) Ltd since the year 1999. No indication has however been provided by the Corporation as to when the debts would be settled.

b) Staff Debtors

The receivables balance of KES 3,166,633,378 as at 30 June 2009 also includes staff advances totalling KES 99,847,524 out of which KES 7,615,023 is owed by employees who have since left the Corporation. Although the management indicated that the advances are secured against properties of the employees, no meaningful progress has nevertheless been recorded in recovery of such advances.

c) PostaPay debtors

The Receivables figure of KES 3,166,633,378 as at 30 June 2009 is net of credit balances amounting to KES 12,970,337 in respect of losses incurred by the Corporation through

various irregular Postapay transactions. This particular amount has been disclosed under provision for bad and doubtful accounts. In addition, the figure of KES 3,166,633,378 includes Postapay balance of KES 336,463,324 whose validity and correctness could not be ascertained as at 30 June 2009.

d) Kenya Post Office Savings Bank

The receivables balance of KES 3,166,633,378 similarly includes a Kenya Post Office Savings Bank figure of KES 1,139,843,789 which has accumulated over a period of nine (9) years. However, no documents in support of the latter amount were availed for audit verification.

Consequently, it has not been possible to confirm the validity, accuracy and recoverability of the Trade and Other Receivables balance of KES 3,166,633,378 as at 30 June 2009.

Management Response

The Postmaster General informed the Committee that, Telkom Kenya Ltd owes Postal Corporation KES 403,622,149 for various services. As at 30 June 2015 the debt stood at KES 440,127,667. The Corporation has a Memorandum of Understanding (MOU) with Telkom Kenya Ltd (TKL) in regard to this debt. The debt was passed over to the new owners of TKL/Orange and was consolidated with all other debts due from Telkom Kenya to be settled together. Negotiation between the two organizations failed to materialize into mutual settlement of inter-indebtness.

The Corporation has engaged lawyers to demand KES 96 million (net) from Telkom. An arbitrator has also been appointed to arbitrate between PCK and Telkom in resolving this long outstanding matter.

All staff loans for purchase of properties among them car and shamba loans are secured against the title documents of the assets which are registered in joint name of the borrower and the Corporation. The joint registration reduces any risk of loss that the Corporation would experience. Further all the title documents are in the custody of the corporation and are only released to the borrower upon clearance of the outstanding loan. Former members of staff who exited continue servicing their loans as evidenced by the attached receipts. The corporation through the Human resources department has written demand letters to the individual retirees to settle their loan balances.

During the financial year 2008/2009 KES 12,970,337 being Postapay transactions was lost through fraud. The loss was reported to the CID for investigation and also disclosed in the financial statement awaiting finalisation of investigation. Deloitte & Touche report will also shed more light.

KES 336,463,324 of debt represent amount receivable from Afri-payments Ltd on account of Posta pay transactions. The contract between the Corporation and its Afripayment

Kenya Limited appeared to give overriding rights over Postal Corporation. The Board of PCK realized this anomaly and ordered an entire audit of the contract in 2007/2008 upon which the contract was terminated.

An independent audit report on data reconstruction was commissioned through Deloitte & Touche to confirm amount outstanding and the likely loss from the business. The Corporation has already written to the consultant demanding for the release of the report so that necessary action can be taken to recover the money.

Postal Corporation of Kenya has been offering agency services on behalf of Kenya Post Office Savings Bank (KPOSB) in its network and earning commission in return. In the course of offering the services the two organisations owe each other in terms of commissions and principal amounts. As at 30 June 2009 Post Bank owed Postal Corporation KES 1,139,843,789 while as at 30 June 2015 the debt had grown to KES 1,235,855,807.

Committee Observation

The Committee observed that, the Corporation is owed long outstanding debts by various debtors and no indication has however been provided by the Corporation as to when the debts would be settled and the Corporation has not had any meaningful progress in recovery of the debts.

The Committee further observed that, PCK and KPOSB have been undertaking a joint reconciliation exercise on their mutual accounts which is evidenced in the signed statements. The reconciliation is still ongoing with the aim of signing off all accounts followed by full settlement at conclusion of the exercise.

Committee Recommendations

The Committee recommends that: -

(i) **The Postmaster General recovers all debts owed to the Corporations by various debtors.**

(ii) **The Postmaster General finalizes the joint reconciliation exercise on their mutual accounts with Kenya Post Office Savings Bank within three (3) months of the adoption of this Report.**

8. ELECTRONIC FUNDS TRANSFER: FY 2008/2009 – 2009/2010 ACCOUNTS

a) **Procurement Process**

The Committee heard that, although according to information available advertisements for provision of an Electronic Funds Transfer (EFT) service to the Corporation were placed in the media in November 2005, different criteria from that specified in the Request for

Proposals appear to have been used in the identification of the supplier. Consequently, the fairness and competitiveness of the procurement process is in doubt.

Further, it has also not been clarified and the Management has not provided records to demonstrate how two crucial stages of "Proposal Evaluation" and "Presentation" were carried out.

b) Agreement between Afripayments Kenya Limited (APL) and Postal Corporation of Kenya (PCK)

On 1 February 2006, the Corporation entered into an agreement with Afripayments Kenya Ltd (APL) in association with both Investe Q Capital Ltd and Afripay Ltd, on the marketing expenses of EFT products.

According to the agreement, and amongst other provisions, APL was responsible for international marketing expenses, while the local component was to be shared between the Corporation and APL on a 50/50 basis. However, and without explanation, the agreement was on 21 May 2008 amended placing the responsibility for meeting the entire local marketing expenses under the Corporation. In addition, the effective date of the amendment was backdated to 1 January 2008. As a result of this clearly disadvantageous amendment, the Corporation absorbed expenses totalling KES 17,348,352 already incurred as at the date of the amendment.

c) Information and Communication Technology Governance, Integrity and Environmental Controls

A review of records in respect of Information and Communication Technology (ICT) in relation to EFT revealed the following unsatisfactory observations: -

There is apparent lack of ownership of the EFT system by the Corporation, as most of the crucial management functions of the system have been assumed by APL, almost to the exclusion of the Corporation's management. This is contrary to the best practices that the Corporation itself hosts and manages the system.

There is poor segregation of duties, while unrestrained granting of systems permission was observed in 88 database level accounts. Sharing of passwords between various accounts was also noted during the audit.

d) Accounting Records

Information availed for audit review indicate that the EFT system accounting records are not maintained using appropriate accounting software. For instance, transactions are captured and maintained using the Microsoft Excel spreadsheets and journals, before such transactions are manually processed into the general ledger. This system of accounting has

not only generated errors in the financial records but also exposed the Corporation to the risks of financial irregularities and fraud.

e) Unpaid cheques

Records available indicate that on diverse dates between the years 2006 to 2008, two personal cheques for KES 14.5 million and KES 8.5 million were received by the Corporation, apparently for settlement of part of the debt owed by APL. Apart from the fact that the drawer of the two cheques does not appear to have been officially recognized by the Corporation as a stakeholder in the Posta Pay initiative, the cheques were later returned by the bank due to lack of sufficient funds. Further, evidence of replacement of the cheques had not been seen as at 30 June 2009.

f) Loss of cash at Kakamega Branch

On 19 February 2002, the Corporation entered into an agreement with the National Bank of Kenya (NBK) for payment of teachers' salaries from Teachers Service Commission (TSC). According to information available, the payments were to be processed and settled by 15 day of every month and thereafter all unpaid cash would be returned to NBK headquarters through TSC.

A review of the payroll reconciliation for the period 7 July 2007 to 8 September 2008 however disclosed a loss of KES 650,637 which appears to have been occasioned by poor and inadequate reconciliations between the payroll records and the actual payments.

Although the Corporation has since taken disciplinary action against the officers involved, including dismissal of such officers from the service, the loss had not as at 30 June 2009 been covered by the Corporation's insurance.

Management Response

The Postmaster General informed the Committee that, following suspected irregularities in the procurement, installation and management of an electronic funds transfer system in 2006 (Posta-pay) a forensic audit by Deloitte and Touche was commissioned to evaluate the entire process of the electronic system functionalities and its operations.

The Report gave various recommendations including disciplinary action on specific areas of the senior management which resulted in dismissal of several senior Managers of the Corporation. The full and accurate financial loss was not established by this audit and the Board of Directors recommended for quantifiable financial loss which was to be established by a data reconstruction exercise that was also awarded to the same audit firm. At the time of the audit of 2008/09 accounts, the Report on data reconstruction had not been completed and still in progress as of the date of audit.

Between July 2007 and September 2008 there was a loss of cash in Kakamega Post Office. The loss was discovered by the Corporations inspection team on routine duties in who

noted a variance between the actual payrolls payments and what the cashier claimed to have paid.

Disciplinary action was taken against all the staff who were involved including dismissal from service of the Corporation. The Corporation also reported the loss to the insurer and has already received part payment for the claim/loss and the other balance is being awaited.

Committee Observations

The Committee observed that: -

(i) **The tender for procurement of the Electronic Funds Transfer (EFT) Service by the Corporation in 2006 was in breach of the provisions of the Public Procurement and Disposal Act, 2005 which requires that procurement of goods and service shall be done in a fair, transparent, competitive and cost-effective way.**

(ii) **The Contract entered into by the Corporation with Afripayments Kenya Limited (APL) skewed contract award in favour of the partner.**

(iii) **The PCK's corporate governance and internal controls is considerably weak, thus exposing the Corporation to potential financial losses, in addition to reputational and operational risks.**

(iv) **The Corporation lost KES 650,637 in the 2007/2008 financial year at its Kakamega office through fraud by one its employees through poor and inadequate reconciliations between the payroll records and the actual payments. Although the Corporation has since taken disciplinary action against the officers involved, including dismissal of such officers from the service, the loss had not as at 30 June 2009 been covered by the Corporation.**

(v) **There was poor segregation of duties, while unrestrained granting of systems permission was observed in 88 database level accounts. Sharing of passwords between various accounts was also noted.**

Committee Recommendation

The Committee recommends that: -

(i) **The Ethics & Anti-Corruption Commission investigates the conduct of the then Postmaster General and the Members of the Tender Committee within six (6) months of the adoption of this Report with a view to prosecute and surcharge the concerned officers in accordance with the law for breaching the Public Procurement and Disposal Act, 2005 in procurement of Electronic Fund Transfer (EFT) Service in 2006.**

(ii) **The Postmaster General should ensure that all procurement and disposal of goods/assets and services by the Corporation is undertaken under the**

provisions of the Public Procurement and Asset Disposal Act 2015 and its attendant Regulations and the Constitution of Kenya.

(iii) The Postmaster General should strengthen internal controls in the Corporation and ensure regular reconciliation of the Corporation's books of accounts in order to curb fraud.

(iv) The Corporation ensures that it recovers money lost through the former employees from their terminal dues.

2.37 RONGO UNIVERSITY (FY 2012/2013 - 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF RONGO UNIVERSITY FOR THE FINANCIAL YEARS 2012/2013 TO 2014/2015

Prof. Samuel Gudu, the Acting Vice-Chancellor accompanied by Ms. Janet Chumba, Finance Officer; Ms. Olivia Adhiambo, Accountant and Ms. Jacinta Kapiyo, Council Member representing Principal Secretary Ministry of Education appeared before the Committee on 17 February 2017 to adduce evidence on the Report of the Auditor General on the accounts of the University for the financial years 2012/2013 to 2014/2015.

1. PROPERTY, PLANT AND EQUIPMENT: FY 2012/2013 ACCOUNTS

The Committee heard that, included in the property, plant and equipment figure of KES 351,545,377 as at 30 June 2013 are three parcels of land valued at KES 58,494,795. Information available indicates that the University College has title deeds for two parcels of land and the other three are in the name of Moi Institute of Technology. Also, these financial statements exclude the value of assets taken over from the predecessor institution (Moi Institute of Technology) as at 1 July 2012 and subsequently revalued on 30 March 2013.

Consequently, the accuracy and propriety of property, plant and equipment balance KES 351,545,377 as at 30 June 2013 could not be confirmed.

Management Response

The Vice Chancellor informed the Committee that, even though the land title deeds were in the name of MIT as handed over, some of the parcels that were handed over to RUC had ownership issues and the University Council had not finalized these issues.

Secondly, although the audit query on land refers to five (5) title deeds, there were only four (4) title deeds as captured in the Management letter for the financial year 2012/13, namely:

a) Kamagambo/Kanyajuok/1753

b) Kamagambo/Kanyajuok/71

c) Kamagambo/Kanyajuok/1244

d) Kamagambo/Kanyajuok/70

The following lands were affected:

a) **Kamagambo/Kanyajuok/1753:** This land was handed over to the Council of Rongo University College. The land measures 52.0Ha and has a title deed.
The land belongs to RUC and was valued at about KES 47.6 million as at March 2013.

b) **Kamagambo/Kanyajuok/71:** Although the parcel was handed over to RUC as part of its assets, it was shared with Kitere Catholic Church and Kitere Youth Polytechnic. The portion of land that belonged to MIT had already been incorporated in the parcel Kamagambo/Kanyajuok/1753 above. Thus, the portion belonging to Kitere Catholic Church and Kitere Youth Polytechnic was not part of the asset declared in the financial statement of 2012/13.

c) **Kamagambo/Kanyajuok/1244:** At the time of handover, the title deed for this land was handed over to RUC and subsequently valued at KES 5.2 million as part of RUC land in the financial statements of 2012/2013.

However, on examination of available records in Migori Lands Office, it was clarified that this parcel of land actually belongs to Kitere Primary School. In addition, Kitere Primary School requested MIT to surrender the title deed to Migori Lands Office, for them to be issued with title deed

Further, Rongo University College Council constituted a Special Lands Committee that deliberated on the issue of parcel number 1244 and also confirmed that the parcel belonged to Kitere Primary School.

In addition, the Council checked the ownership of this parcel of land with the then Ministry of Education Science and Technology in August 2015, and the Ministry confirmed that the land belonged to Kitere Primary School and directed that the title deed should be returned to Migori Lands Office.

Once surrendered, the total value of land owned by RU as declared in the 2012/13 financial statement will be restated accordingly.

d) **Kamagambo/Kanyajuok/70**: The parcel measured 6.2 Ha and its title deed was handed over to RUC and the land was valued at KES 5.6 million which was declared in the Financial Statement of 2012/13 as part of RUC assets.

However, this parcel had ownership problem with Okusu market.

A large portion of this parcel had been exchanged with another parcel under title deed "Kamagambo/Kanyajuok/72 which belonged to Okusu market leaving a small portion of 0.21 Ha to RUC. The original plot number 70 was mutated and the

resultant small parcel has been given a reference number Kamagambo/Kanyajuok/2374 and will soon be issued a title deed.

Once the title deed is received, the financial statements for 2012/13 figures on land will be restated to incorporate the same.

Currently Rongo University owns three parcels of land whose titles are as follows:

a) **Kamagambo/Kanyajuok/1753**

b) **Kamagambo/Kabuoro/4100**

c) **Kamagambo/Kanyajuok/2374 (Awaiting title deed)**

The University has since established that the other two title deeds, Kamagambo/ Kanyajuok/1244 and Kamagambo/Kanyajuok/71, do not belong to Rongo University College and therefore adjustment will be made on 2015/16 financial statements accordingly. The matter has been resolved.

Committee Observations

The Committee observed that, following handing over of Moi Institute of Technology to the University, as a prudence measure, the University Council secured all its parcels of land even those it did not apparently own.

After conducting a thorough due diligence, the University Council established that the University owns three parcels of land Kamagambo/Kanyajuok/1753, Kamagambo/Kabuoro/4100 both with title deeds in the name of the University and Kamagambo/Kanyajuok/2374 awaiting issuance of title deed.

The other two parcels Kamagambo/Kanyajuok/1244 and Kamagambo/ Kanyajuok/71 captured in the Auditor's General report do not belong do not belong to Rongo University and the University is in the process of surrendering the ownership of parcels to the legal owners.

Committee Recommendations

The Committee recommends that: -

(i) **The Vice-Chancellor expedites the follow up of issuance of title deed for the University's parcel of land Kamagambo/Kanyajuok/2374.**

(ii) **The Vice-Chancellor and the Finance Officer ensure that the University's financial statements are restated accordingly to reflect the correct value of land.**

2. **INACCURACIES IN THE FINANCIAL STATEMENTS: FY 2012/2013 ACCOUNTS**

The Committee heard that, observed that, according to the audit report of financial year 2012/13 there were inaccuracies in the financial statements which were stated as follows:

(i) The statements of changes in capital fund and reserves has been prepared for the period 1 April 2013 to 30 June 2013, while the financial statements are for the year July 2012 to 30 June 2013. The basis and accuracy of the brought forward figures as at 1 April 2013 could not be established.

(ii) The development grant of KES 22,450,378 disclosed under Note 9 of the financial statements was accounted for as income in the statements of comprehensive income while the same was included as income generated from financing activities in the statement of cash flows. Further, the capital grants of KES 38,799,622 in the statement of changes in capital fund and reserves was not included in income generated from financing activities in the cash flows statement.

(iii) The provision for audit fees of KES 1,000,000 was adjusted to arrive at funds generated from operations, while the same was included to arrive at changes in payables in the statement of cash flows, resulting in double accounting of the same in the statement

Management Response

The Vice-Chancellor informed the Committee that, there was an error in the statement of changes in capital funds and reserves in FY 2012/13 accounts. However, this was corrected in FY 2013/14.

(i) The error of including development grant of KES 22,450,378 in the statement of comprehensive income of financial year 2012/13 was corrected in the financial year 2013/2014 and the issue was resolved.

(ii) Similarly, the omission of capital grant of KES 38,799,622 from the statement of cash flow was corrected in the financial year 2013/2014 and the issue was resolved.

(iii) The issue of audit fees amounting to KES 1,000,000 was resolved in financial year 2013/14. The matter was resolved.

Committee Observation

The Committee observed that, there were inaccuracies in the financial statements for the financial year 2012/13 which included statements of changes in capital fund and reserves, development grant and audit fees. This was however corrected in FY 2013/2014 and the matter resolved.

Committee Recommendation

The Committee recommends that: -

(i) The Vice-Chancellor and the Finance Officer ensures that the financial statements of the University are prepared in accordance with International Financial Reporting Standards and should be free from material mis-statements whether due to error or fraud.

(ii) The University management should ensure it recruits qualified and compet staff in its Accounts department to maintain accounting records and prepa professional financial statements.

3. RECEIVABLES: FY 2014/15 ACCOUNTS

The Committee heard that, the audit report of financial year 2014/15 stated that included in the statement of financial position receivables balance of KES 121,693,899 are uncollected fees brought forward from prior year's figure of KES 38,723,495, student debtors of KES 5,700,376 and accrued fees of KES 20,537,821. The College does not have provision for bad debtor's policy and it has not been possible to confirm whether and if so, when the college will recover these debts. Any provision that would have been necessary in relation to this uncertainty has not been incorporated in these financial statements.

Management Response

The Vice-Chancellor informed the Committee that, brought forward debtors figure of KES 38,723,495 has since reduced.

Rongo University College Council developed and approved a Finance Management Policy which takes care of provision for bad debts. The policy has been implemented in the subsequent financial statements.

Committee Observation

(i) **The Committee observed that, as at 30 June 2015, the University was owed a balance of KES 121,693,899 relating to uncollected fees brought forward from prior years.**

(ii) **The College has since reduced the figure of KES 38,723,495.**

(iii) **The College has however since put in place a Finance Management Policy to address the issue of outstanding debts.**

Committee Recommendation

The Committee recommends that: -

(i) **The University management ensures that the debts owed to the University by students are recovered within six (6) months of the adoption of this Report.**

(ii) **To prevent further accumulation of debts due to non-payment of fees by the student, the University ensures that students clear their fee balance within the academic year.**

4. EMPHASIS OF MATTER: FY 2014/2015 ACCOUNTS

Budget Overruns

The Committee heard that, further the audit report further stated that the statement of comparison of budget and actual amounts to the financial statement shows the budget over runs. Although it was explained that the budget over runs were necessitated by demands from the Commission for Higher Education to improve some of the facilities at the institution for the purpose of granting Charter to College, certain items not related to this process had significant over expenditure. The Auditor-General opinion is not qualified in respect of this matter.

Management Response

The Vice Chancellor informed the Committee that, due to inadequate funding, Rongo University College under budgeted in various line items. This contributed to the budget overruns. However, Rongo University College responded on each item captured under budget overruns. Subsequently, the Council in its meeting held on 23 September 2015 emphasized the need to strictly adhere to the budget as will be demonstrated in the subsequent financial years. The matter was resolved.

Committee Observations

The Committee observed that: -

(i) **The University incurred budget overruns necessitated by demands from the Commission for Higher Education to improve some of the facilities at the institution for the purpose of granting a Charter to the College.**

(ii) **The over expenditure was incurred without prior approval from the National Treasury and the Parent Ministry contrary to the provisions of Section 12 of the State Corporation Act, Cap 446.**

Committee Recommendation

The Committee recommends that the Vice-Chancellor writes to the parent Ministry to obtain a post facto approval and henceforth ensure that Board operates within the approved limits of the budget and individual items of expenditure.

2.38 SUNSET HOTEL (FY 2006/2007 - 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF SUNSET HOTEL FOR THE FINANCIAL YEARS 2006/2007 TO 2014/2015

Mr. Joseph Oduor, the General Manager Sunset Hotel, accompanied by Mr. Stephen Katambani; Manager and Ms. Juliana Jemutai; accountant appeared before the Committee on 17 February 2017 to adduce evidence on the Report of the Auditor General on the accounts of the Hotel for the financial years 2006/2007 to 2014/2015.

1. FINANCIAL POSITION: FY 2006/2007 TO 2014/2015 ACCOUNTS

The Committee heard that, the Hotel realized a deficit of KES 916,759 during the year (2013/14 KES 8,1,154,901) which brought the cumulative loss to KES 77,745,923. The statement of financial position also reflects a negative working capital of KES 44,024,550. In view of the foregoing and as was the case in the previous years, it would appear that the Hotel is technically insolvent and its continued existence as a going concern is dependent upon the financial support from the Government and its trade payables.

Management Response

The General Manager informed the Committee that, the Hotel has been unable to meet its financial obligation as and when they fall due. As pertaining going concern, the management had presented the same through the board meeting held on 29 January 2015. In this meeting, the management made a request to the shareholders to support the company through the capital budget of 2015/2016 for it to remain a going concern.

TFC as the majority shareholder is putting measures and strategies that will turn around the performance of Sunset Hotel.

Committee Observations

The Committee observed that: -

(i) **The Hotel's financial position is precarious and it is operating on a negative capital. As a result, it is unable to meet its financial obligations as and when they fall due. The Hotel will continue depending on government financial support and its creditors unless a turn-around strategy is put in place to return the Hotel to profitability;**

(ii) **The Hotel is struggling to meet its customers' expectations and compete effectively for business with other hotels in the area.**

(iii) **A New Manager has been posted to the Hotel to assist in restoring the Hotel back to profitability.**

Committee Recommendations

The Committee recommends that: -

(i) **The General Manager should ensure that the Hotel's budget is rationalized and its recurrent expenditure is maintained within budgetary provisions. Further the Hotel is advised to explore alternative means of generating and enhancing revenue to supplement budgetary allocations from the government to reduce over-reliance on government funding.**

(ii) **The Hotel's shareholders, Kenya Tourism Development Corporation and Kisumu County government are requested to inject funds to refurbish and modernize the Hotel in order to attract business and compete effectively with other hotels in the Region.**

2. KTDC LONG-TERM ADVANCE FOR RENOVATING EXTENSION AND REFURBISHING OF HOTEL: FY 2006/2007 TO 2008/2009 ACCOUNTS

a) Legal Charge

The Committee heard that, the Hotel negotiated a long-term advance of KES 28,210,000 for renovation, extension and refurbishment of the Hotel with Kenya Tourist Development Corporation (KTDC) and the advance stood at KES 22,371,366 as at 30 June 2007. However, the advance agreement specifying the terms and conditions of the advance were not produced for audit verification. Consequently, it was not possible to confirm the accuracy and completeness of the advance balance of KES 22,371,366 as at 30 June 2007.

b) Loan Balance

The long term advance of KES21,221,366 as at 30 June 2008 is at variance with the figure of KES28,330,432 reflected in the books of KTDC. The resultant difference of KES7,109,066 has not been explained. Further, interest for the current year amounting to KES2,469,051 has not been accrued in these financial statements. Had the interest been accrued in the financial statements, the hotel would have reported a loss of KES1,587,552 for the year under review. Although the Hotel has indicated that KTDC will cancel the said interest, correspondence from KTDC confirming this commitment was not made available. In the circumstances, it is not possible to confirm the validity and accuracy of the loan balance of KES21,221,366 and the resultant net profit for the year of KES881,499.

c) Renovation, Extension and Refurbishment Works of the Hotel

As reported in the previous year and as reflected in note 2 to the financial statements, the property, plant and equipment assets figure of KES 102,950,395 included work in progress figure of KES 26,911,576 on account of renovation, extension and refurbishment of the Hotel in regard to a contract entered into with a construction firm in July 2004 at a cost of KES 18,474,512. This resulted to cost overruns of KES 8,437,064 (46% increase) that have

not been supported with necessary approvals and documentation. Further, no completion certificate for the renovations completed in June 2011 has been availed for audit verification.

Management Response

The Hotel Manager informed the Committee that: -

(i) **On legal charge:** TFC as a majority shareholder is trying to safeguard the interest of its subsidiary by advancing a loan when a problem arises. In this case therefore, the legal charges were taken up as long term advance loan without necessarily providing the security clause since the title deed for Sunset acts as a collateral for the loan.

(ii) **On loan balance:** The management of Sunset has put measures in place that every year the Hotel receives statements from TFC to reconcile the figures and confirm in their books.

(iii) **On the Hotel Refurbishment:** The Hotel renovated and refurbished its facility at a cost of KES 26,911,576. This work, despite being completed and the facility being fully furnished in June 2011, it has not been operational due to lack of certificate of completion and operation. This has led to loss of money from unearned business income; also, the Hotel is incurring interest on Tourism Finance Corporation loan and depreciation charged on the building and furniture.

However, the management is pursuing the contractor, Costbill Systems Ltd to issues certificate of completion and occupation, for the Hotel to get value for money.

Committee Observations

The Committee observed that: -

(i) The terms and conditions of the loan under the security clause have not yet been finalised in the legal debenture, creating a first charge on all the assets of the hotel.

(ii) The Hotel did not avail to the Auditor General any correspondence from KTDC as evidence of commitment to cancel interest accruing from the loan.

(iii) In spite of the completion of refurbishment, extension and renovation works of the Hotel in 2011, part of the Hotel has not been operational because the contractor has not handed over the completed section of the Hotel to the management together with the certificate of completion and operation.

(iv) The delay in handing over the completed section of the Hotel has resulted in loss of funds from unearned business income.

Committee Recommendations

The Committee recommends that: -

(i) The Hotel's Manager avails all audit evidence to the Auditor General at the time

of audit in accordance with the provisions of Section 21 of the Public Audit Act 2015;

(ii) The Hotel should pursue the Contractor, Costbill Systems Ltd to issue the certificate of completion and occupation for the Hotel to get value for money.

(iii) The Hotel should report the Consultant to the Engineers Board of Kenya to investigate the professional conduct and ethics Consultant Costbill System and recommend further action.

3. LAND: FY 2006/2007 ACCOUNTS

The Committee heard that, included in the property, plant and equipment as at 30 June 2007 is leasehold land valued at KES15 million. Information available indicates that the Hotel held leasehold title for Block 11/78 dated 18 March 1986 and a letter of offer dated 28 August 1981 for an un-surveyed plot B adjacent to Block 11/78. The two parcels were consolidated to form Block 11/87 which was subsequently subdivided into block 11/89 and 11/90. Records indicate that certificates of lease for Block 11/90 were issued to two individuals on 17 June 1998. There was no record to show how the decision was made to allocate Block 11/90 to the two individuals or the consideration for it. In view of the unexplained hiving off of Block 11/90 and its allocation to two individuals and the fact that the Hotel did not produce the title documents for Block 11/89 for audit verification, it was not possible to confirm the ownership of the land on which the Hotel stands valued at KES15 million. The Hotel management has also explained that Block 11/90 which was hived off from Block 11/89 and grabbed is registered under two individuals as per Registrar of Land's records.

Management Response

The Hotel Manager informed the Committee that, the Hotel legally owns Block 11/89 and it has a title deed which is kept by Tourism Finance Corporation as collateral for the past loans given to Sunset Hotel.

Block 11/90 was grabbed and was owned by Hayer Hsian as per the documents at the Registrar of lands.

The ownership was contested by Tourism Finance Corporation and the Public Investments Committee in its 17 Report directed the National Land Commission to cancel the parcel of land that had been hived and consolidate it with the Sunset Hotel parcel that had remained. NLC has not yet implemented the resolution. In addition, PIC directed the EACC to prosecute all those who had been involved in hiving the land including Members of Staff of Kenya National Audit Office, Kisumu Branch. EACC is yet to prosecute them.

Committee Observations

The Committee observed that: -

(i) The parcel of land Block 11/90 belonging to Sunset Hotel was grabb Hayer Hsian as per the documents at the Registrar of Lands.

(ii) The National Lands Commission and the EACC are yet to implement the recommendations in its 17 Annual Report regarding the parcel of land Blo 11/90 which directed the revocation of title issued to Hayer Hsian an prosecution of all those who had been involved in hiving the land including Members of Staff of Kenya National Audit Office, Kisumu Branch.

Committee Recommendations

The Committee reiterates its earlier recommendation that the National Lands Commission and the EACC revokes title issued to Hayer Hsian and prosecution all those who had been involved in hiving the land including Members of Staff of Kenya National Audit Office, Kisumu Branch.

4. TRADE AND OTHER RECEIVABLES: FY 2006/2007 TO 2014/2015 ACCOUNTS

The Committee heard that, trade and other receivables balance of KES17,495,359 as at 30 June 2015 increased to KES22,046,007 as at 30 June 2015 by KES4,550,648. Included in the trade debtors is KES19,086,550 owed by Government institutions whose continued non-payment negatively affects the Company's working capital.

Although a provision for bad and doubtful of KES957,132 has been made, and additional provision that would have been necessary in relation to this uncertainty has not been incorporated in this financial statement.

Management Response

The Hotel Manager informed the Committee that, debts dating back to the AT&H management were written off in 2010 by the Board of Directors then, for they had proven to be uncollectable. The current debts incurred are being pursued for collection. However, the bulk of it belongs to counties and Ministries who take long to get their funds cleared for payment e.g. Kisumu County, Ministry of Devolution and Water Resources Management Authority.

The Hotel now prepares regular, monthly debtors listing to guide on the position of the aging of the debts.

Committee Observation

The Committee observed that, the Hotel is owed debts by Counties & Ministries arising from hotel accommodation and hire of conference facilities. The Counties and the Ministries take inordinately long to settle the debts.

Committee Recommendation

The Committee recommends that the Hotel Manager ensures that the debts are recovered from the government agencies and ensures that debts are settled promptly after use of the Hotel facilities.

5. LACK OF BOARD MEETINGS: FY 2008/2009 ACCOUNTS

The Committee heard that, during 2008/2009 financial year, the Hotel operated without a Board of Directors and as a result there were no Board Meetings contrary to Section 8 of the State Corporations Act, Cap 446. The functions of the Board were therefore performed by the Hotel Manager.

Management Response

The Hotel Manager informed the Committee that, the Hotel did not have Board Members in 2008/2009 financial year. The functions of the Board were performed by the Manager through the guidance of the Managing Director of the Tourism Finance Corporation.

Committee Observation

The Committee observed that, the Hotel operated without Board of Directors in 2008/2009 financial year contrary to Section 6 of the State Corporations Act, Cap 446 putting the operations of the Hotel in precarious situation.

Committee Recommendation

The Committee recommends that the Cabinet Secretary, Ministry of Tourism ensures that a new Board is fully constituted in accordance with section 6(1) immediately after the lapse of the term of the existing Board to carry out functions relating to the direction and management of the Hotel.

6. AUDIT FEES: FY 2008/2009 TO 2014/2015 ACCOUNTS

The Committee heard that, as reported in the previous year, the trade and other payables balance of KES31,125,867 as at 30 June 2015 includes audit fees amounting to KES3,344,000 part of which have remained outstanding for the last 11 years. The Hotel is therefore in breach of Section 19(1) of the Public Audit Act, 2003 which require a state corporation whose accounts are examined and audited to pay for the costs of the audit services.

Management Response

The Hotel Manager informed the Committee that, due to cash flow problems, it was not possible to pay these fees when they fall due. Currently, the Board is putting strategic

measures to turn around Sunset Hotel once and for all. The key measures in the year 201 is for the shareholders to pump in money for renovation in order to gain the lost glory. The audit fees will be cleared once the cash flow improves.

Committee Observations

The Committee observed that: -

(i) The Hotel failed to honour audit fees payments to the Office of the Auditor General for the costs of the audit services provided. The fees have accumulated to KES 3,344,000 over a period of 11 years of non-payment.

(ii) The Hotel is in breach of Section 19(1) of the Public Audit Act, 2003 which required that "state corporations whose accounts are examined and audited shall pay for the costs of the examination and audit."

Committee Recommendation

The Committee recommends that the Hotel Management should seek alternative means of raising funds in order to improve the Hotel's financial base and meet all its financial obligations.

7. PRIOR YEAR ADJUSTMENTS: FY 2008/2009 ACCOUNTS

The Committee heard that, the statement of changes in equity for the year ended 30 June 2010 reflects a prior year adjustment figure of KES7,259,794 effected during the year under review. However, no explanatory note was provided for the adjustment and as a result, it has not been possible to establish what it represents.

Management Response

The Hotel Manager informed the Committee that, the matter was settled in the preceding years prior by restating the equity.

Committee Observation

The Committee observed that, during the year under review, prior year adjustment of KES 7,259,794 was not supported by documentary evidence. Further, the adjustments of KES 7,259,794 were later effected during the succeeding year.

Committee Recommendation

The Committee recommends that the Hotel Manager and the Finance Manager should establish sound accounting and internal control systems to ensure the sanctity of financial reporting devoid of material or immaterial errors.

8. WITHHOLDING TAX ARREARS: FY 2011/2012 TO 2014/2015 ACCOUNTS

The Committee heard that, trade and other payables balances of KES31,125,867 as at 30 June 2015 includes withholding Value Added Tax (VAT) and statutory Pay As You Earn

(PAYE) of KES1,456,346 and KES2,263,343 respectively being arrears due to Kenya Revenue Authority. The arrears and penalties continue to attract additional charges as per Section 15 (1) and (2) of VAT Act Cap.476 which has not been incorporated in this financial statement.

Management Response

The Hotel Manager informed the Committee that, the Hotel paid KES31,125,867 with a promise from the KRA Regional Office Manager that once the principal was settled, the interest would be waived. This did not happen despite settling the amounts in 2011. However, the hotel is pursuing a waiver of penalties and interest of KES 1,456,346 on withholding value added tax with KRA. The hotel is yet to receive an official communication from Kenya Revenue Authority.

Committee Observation

The Committee observed that, the Hotel remitted the full amount of delayed payments relating to withholding Value Added Tax (VAT) and Pay As You Earn (PAYE) to Kenya Revenue Authority, however the consent on waiver of accrued interest is yet to be effected by KRA.

Committee Recommendation

The Committee recommends that the Hotel Manager continues to pursue a waiver of penalties and interest on withholding VAT and PAYE with the Commissioner of Domestic Taxes.

9. REVALUATION RESERVE: FY 2013/2014 TO 2014/2015 ACCOUNTS

The Committee heard that, revaluation reserve balance of KES 79,262,476 has remained constant since the assets were last revalued in 2004. This is in breach of International Accounting Standard No. 40 which requires that transfers are made to the revenue reserves on an annual basis as the assets are depreciated. Further, the standard requires that assets be revalued periodically. However, the Hotels' assets have not been revalued in the last twelve (12) years.

Management Response

The Hotel Manager informed the Committee that, due to cash flow problem, it was not possible to carry out this exercise. The Hotel is currently trying to source funds from shareholders to carry out this exercise.

Committee Observation

The Committee observed that, by not undertaking asset valuation of the Hotel, the Hotel Management was in breach of International Accounting Standard No. 40 on recognition, measurement and disclosure of investment property which requires

that assets must be revalued periodically and that transfers are made to the revenue reserves on an annual basis as the assets are depreciated.

Committee Recommendations

The Committee recommends that the Hotel Manager and the Finance Officer ensures that financial statements of the Hotel are prepared in accordance with International Accounting Standard and International Financial Reporting Standards.

Further, the Hotel explores alternative means of generating and enhancing revenue to strengthen its cash flow in order to undertake periodic valuation of its assets.

2.39 RIVATEX EAST AFRICA LTD (FY 2008/2009 - 2013/2014)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF RIVATEX EA LTD FOR THE FINANCIAL YEARS 2008/2009 TO 2013/2014

Prof. Thomas Kipkurgat, the Managing Director of Rivatex EA Ltd., accompanied by Prof. Jenesio Kinyamario, Board Chairman; Mr. Eric Oyondi, Board Member; Mr. John Tema, Board Director; Mr. Hezekiah Okeyo, Alternate Director; Mr. Patrick Nyaga, Alternate Director and Mr. Titus Kipkemboi, Finance and Administration Manager; appeared before the Committee on 24 February 2017 to adduce evidence on the Report of the Auditor General on the accounts of Rivatex EA Ltd. for the financial years 2008/2009 to 2014/2015.

1. FINANCIAL PERFORMANCE: FY 2008/2009 - 2013/2014 ACCOUNTS

The Committee heard that, during the year 2013/2014, the Company recorded a net loss of KES161,825,595 (as compared to a net loss of KES122,125,683 in year 2012/2013 and KES70,756,164 in FY 2008/2009 which brought the accumulated losses to KES115,710,520 as at 30 June 2014. Turnover also reduced to KES55,732,290 compared to KES60,630,763 during the year 2012/2013.

Although the management indicates that it has partially addressed the challenge of quality of goods produced, production capacity and processes through acquisition of a jigger dyeing machine, no indication has been provided of the measures being taken to increase the sales volume. The statement of comprehensive income further reflects turnover of KES55,732,290 as compared to cost of sales of KES150,991,974 which is over 2.7 times (2012/13:2 times) of turnover.

As previously reported, the financial performance of the company is precarious and if strategies are not put to reverse the trend, the company is likely to face financial difficulties in its future operations.

Management Response

The company through the jigger dyeing machine accounted for over 50% of the company's sales in 2014/2015 financial year from stitched graduation gowns for various Universities including Moi University, Maasai Mara University, Multi Media University, South Eastern University and Kabianga University.

The company has been able to procure additional machines thanks to increased government grants after the National Assembly members of Finance and Planning visited the factory and promised to assist to ensure all the required machines are financed fully by the government. Through the funding the company procured in the 2014/205 financial year one (1) thermos stenter which is crucial for polyester/cotton blend fabrics like school uniforms. The market segment is huge and is expected to contribute over 40% of the company's revenue in coming years so long as we get the required funding to modernize all the production departments.

Following the National Assembly intervention and support the Company was allocated capital grants that enabled procurement of three (3) machines for Spinning and other three (3) machines Processing departments in 2015/2016 financial year .

The three (3) machines namely one (1) card, one (1) breaker draw frame and one (1) finisher draw frame are being installed and shall be commissioned before end of November 2017. This will address the challenges of yarn quality that shall improve production efficiencies in weaving preparation and weaving department which will consequently lead to an increase in production volumes of woven fabrics. The increased fabrics volumes will in turn lead to increased production of dyed and printed fabrics for the market and thus increase in sales volumes.

The three (3) processing machines namely one (1) singeing, one (1) steam ager and one (1) washing range shall enable the company produce efficiently more quality fabrics thus increase sales volumes improve customer retention rates and consequently repeat sales.

It is therefore through these deliberate and planned modernization steps by the Board and management with the assistance of the National Assembly and National government that the company's financial performance shall improve.

Committee Observations

The Committee observed that: -

(i) **The financial performance of the company is precarious and if strategies are not put to reverse the trend, the company is likely to face financial difficulties in its future operations.**

(ii) **The financial performance of the Company was poor due to piecemeal government thus the inability to procure new machines to increase efficiency.**

(iii) The Company has since procured new machines to address machinery obsolescence challenges, frequent breakdowns, boost production of fabric and increase sales

Committee Recommendation

The Committee recommends that the Managing Director ensures that the Company puts in measures to increase its production, compete with other textile companies globally and reverse to reverse the loss making trends after the acquisition of the new machines.

2. WORLD BANK GRANT: FY 2011/2012 ACCOUNTS

The Committee heard that, the Company received KES3,159,225 from World Bank during the year under review for promotion of cotton cultivation as disclosed in note 14 to the financial statements. The donation brings the total received from the financier and for the same purpose to KES 17,663,332 as at 30 June 2012. The donations have been classified as long term and medium term liabilities in the statement of financial position. Further donations of the kind are of revenue nature, which should be accounted for through the statement of comprehensive income as per the requirements of IAS 20. The management has however not explained why donations are treated as liabilities.

Management Response

The company prepares its financial statement in accordance with International Financial Reporting Standards (IFRSs) and the World Bank grant were used to partly finance cotton cultivation with over 80% going towards financing apparels and garment making department as intended by the donors. The land was being tilled to produce biological assets for the first time. As such it was treated as capital in nature. The amounts were used to augment the initial funding from Danish Development Aid (DANIDA) which were entirely used for setting up and equipping a state-of-the-art apparels and garment making department for value addition purposes.

The Company has however corrected the anomaly and transferred the amounts to capital reserves in the financial year ending 30 June 2013.

Committee Observation

The Committee observed that, the Company received donation of KES3,159,225 from World Bank which the Company classified as long term and medium term liabilities in the statement financial of financial position contrary to the requirements of IAS which provides that of revenue of kind nature/donations should be accounted for through the statement of comprehensive income.

Committee Recommendation

The Committee recommends that the Managing Director and the Finance Manager ensure that the Company prepares its financial statements in compliance with International Financial Reporting Standards (IFRSs) and International Accounting Standards (IAS) and that the financial position and statement of comprehensive income are in agreement with the books of accounts.

3. CASH & BANK BALANCES: FY 2011/2012 ACCOUNTS

The Committee heard that, cash in hand of KES 246,811 disclosed under note 8 as at 30 June 2012 excludes cash in Narok, Nairobi, Kisumu and Mupen outlets of KES 49,745, KES 153,184, KES 4,400 and KES17,806 respectively, all totalling KES 225,135. Further, management has not indicated when the unpresented cheques amounting to KES 2,739,804 which were stale at the time of audit will be cleared by the banks or reversed in the cash books.

The bank reconciliation statement of June 2012 of sales account also had payment in bank not in cashbook totalling KES 8,965,154, which management did not provide analysis or sources.

In the foregoing circumstances, the accuracy of cash and bank balance of KES74,026,295 as at 30 June 2012 could not be confirmed.

Management Response

The Managing Director informed the Committee that, figures were omitted erroneously but the anomaly was conclusively addressed to avoid such clerical errors in future.

Committee Observations

The Committee observed that: -

(i) **The Committee observed that, the Hospital's reconciliation statement as at 30 June 2012 showed un-presented cheques amounting to KES 2,739,804 which were stale at the time of audit.**

(ii) **The Company sales account had payment in bank not reflected in the cashbook totalling KES 8,965,154 which management did not provide analysis or sources which the Management did not provide for audit review.**

Committee Recommendations

The Committee recommends that: -

(i) **The Managing Director and the Finance Manager ensure that all stale cheques are reversed promptly at the end of the month alongside bank reconciliations.**

(ii) **The Managing Director and the Finance Manager ensures that the Company undertakes regular reconciliation of cash and bank balances.**

4. TRADE AND OTHER RECIEVABLES: FY 2012/2013 ACCOUNTS

The Committee heard that, included in the trade and other receivables of KES73,915,700 as at 30 June 2013 are trade receivables of KES13,723,408 that include long outstanding debts of KES 11,960,847. Any provision that would have been necessary in relation to this uncertainty has not been incorporated in this financial statement.

Management Response

The Managing Director informed the Committee that, credit control mechanisms put in place are stringent and has enabled the company collect most of the debts except for KES 1,392,963 which have since been presented to the Board for writing off and were approved.

During the 2012/2013 financial year the company had no approved policy guiding the company on how to provide for bad debts. The Board subsequently approved, in their 23 Board meeting held on 10 April 2014, a policy to guide management on procedure to follow before providing for bad debts.

Committee Observation

The Committee observed that: -

(i) **Prior to 2013/2014 financial year that the Company's credit policy did not have a provision to guide on the procedure to adopt when providing for doubtful and bad debts.**

(ii) **The Board adopted an amended credit policy with provision for doubtful debts drafted in conformity with existing tax laws, State Corporations Act, National Treasury guidelines, International Financial Reporting Standards (IFRSs) and International Accounting Standards (IAS) which was approved on 10 April 2014.**

Committee Recommendations

The Committee recommends that the Managing Director and the Finance Manager ensure the Company enforces that the credit policy to ensure that:

(i) **The annual provision for bad debts recognizes any doubt as to the collectability of the debts and the potential for the debt to deteriorate and become bad.**

(ii) **The Company makes provision for doubtful debts on the basis that the debt may eventually become bad and subject to write off.**

(iii) **The Managing Director and the Finance Manager ensure that trade and other receivables are written off as a bad debt only under exceptional circumstances, as continued efforts are made to collect all outstanding amounts from customers and defaulters.**

5. RELATED PARTY BALANCES: FY 2013/2014 ACCOUNTS

The Committee heard that, records maintained by Moi University shows related parties account balance of KES257,599,000 as at 30 June 2013 in respect of Rivatex East Africa Limited. The amounts are said to have been paid on behalf of Rivatex East Africa Limited at the initial stages of its acquisition. However, the financial statements of Rivatex Eats Africa Limited as at 30 June 2014 do not reflect under liabilities the amounts owed to Moi University totalling KES257,599,000.

Consequently, the liabilities of the company as at 30 June 2013 have been understated by KES257,599,000.

Management Response

The Managing Director informed the Committee that, the books of account of Rivatex East Africa Limited reflected under Shareholders loans of KES 474,500,000. Therefore the amount was properly stated in our books under shareholders loan given that they were used to procure machines and fund initial operations of the company before the government started giving the company capital grants.

The same item was presented to the Annual General Meeting and was approved by the shareholder's awaiting the Moi University Council to consider and approve the request to convert the KES257,599,000 to share capital.

Committee Observation

The Committee observed that, the debt of KES257,599,000 owed to Moi University by Rivatex was converted into share capital.

Committee Recommendation

The Committee recommends that the Managing Director ensures that shareholders of Rivatex approve harmonization of the financial statements of the Rivatex and Moi University to reflect the true position in accordance with the relevant International Financial Reporting Standards (IFRSs) and International Accounting Standards (IAS)

6. CASH AND CASH EQUIVALENTS: FY 2013/2014 ACCOUNTS

The Committee heard that, excluded in the cash and cash equivalents balance of KES82,409,913 is bank charges of KES7,988.40 not recorded in the cash book.

Further, included in the cash and cash equivalents balance of KES82,409,913 are reversed stale cheques of KES1,114,057.84 whose supporting details were not availed for audit review.

In addition, excluded from the cash and cash equivalents as at 30 June 2014 are contra balances of employees' canteen bank account staff benevolent bank account totalling to KES64,385 and KES492,835 respectively.

Further, the cash and cash equivalents balance of KES82,409,913 has been arrived at after offsetting a bank overdraft of KES5,917 contrary to the requirement of IAS 1 paragraph 54 which states that an entity shall not offset net assets against liabilities unless another International Accounting Standard allows.
Consequently, the accuracy and validity of cash and cash equivalents balance of KES82,409,913 as at 30 June 2014 could not be confirmed.

Management Response

The Managing Director informed the Committee that, stale cheques of KES 1,114,057.84 were in fact cancelled cheques which had not been posted in company's books of account.

The Factory Canteen account is operated separate from the main business of the Company. The canteen is purely operated for staff welfare of Rivatex East Africa Limited and when the Company becomes profitable the Board may consider not to charge employees for the meals they consume at the factory canteen.

Secondly the Benevolent Account is operated separately by a committee elected by Staff to run the affairs of the Rivatex Staff Benevolent Scheme. The members elect annually new Committee comprised of Chairman, Treasurer and Secretary to operate the account on their behalf.

Therefore by including their bank balances would have been contrary to the Generally Accepted Accounting Standards and IAS 1 regarding true and fair view in preparation of financial statements.

The exclusion of the overdraft in arriving at the closing balance would have overstated the Cash and Cash Equivalents thus failing to adhere to the true and fair presentation requirement of all financial statements. The Company has however noted the audit query and ensured that its vigilant as per the Auditor's advice even though it did not have a overdrawn accounts.

Committee Observations

The Committee observed that: -

(i) **The stale cheques of KES 1,114,057.84 were cancelled cheques which had not been posted in company's books of account.**

(ii) **The Factory Canteen and the Benevolent accounts are operated separately from the main business of the Company and it would be contrary to the Generally Accepted Accounting Standards and IAS 1 to include the accounts in preparation of the financial statements of the Company.**

(iii) **The accounts of Company have not been withdrawn.**

Committee Recommendations

The Committee recommends that: -

(i) **The Managing Director and the Finance Manager ensure that Company's financial statements are prepared in accordance with International Financial Reporting Standards (IFRSs) and International Accounting Standards (IAS)**

(ii) **The Managing Director and the Finance Manager ensure the accounts of the Company are not over withdrawn.**

7. COST OF SALES: FY 2014/2015 ACCOUNTS

The Committee heard that, included in the cost of sales figure of KES159,076,099 reflected in the statement of comprehensive income is total indirect costs of KES21,083,365 which is at variance with supporting schedule figure of KES17,941,011 resulting to a difference of KES3,142,354 as shown below which has not been reconciled or explained. In the circumstances, the accuracy and validity of cost of sales figure of KES159,076,099 for the year ended 30 June 2015 could not confirmed.

Item	Figure reflected in the financial statement (KES)	Figure reflected in supporting documents (KES)	Variance (KES)
Packaging material	5,280,586	821,584	4,459,002
Design and screens	10,996	67,966	(56,970)
Lubricants and oils	890,008	388,849	501,159
Spares and consumables	8,621,785	8,508,479	113,306
Tailoring consumables	6,279,990	8,154,133	(1,874,143)
Total	**21,083,365**	**17,941,011**	**3,142,354**

Management Response

The Managing Director informed the Committee that, management passed the necessary Journal Entries (Appendices) in the company's books of account and presented the same to the Finance, Administration and Strategy Committee (FASC) in their 9th Special meeting held on 9 September 2016. The Board of Directors (BoD) received and discussed the 9th FASC deliberations and recommendations and adopted the Journal Entries passed to address the audit query in their 14 Special BoD meeting held on 30 September 2016. The Auditors were also notified of the Journal Entries passed during the final audit of the financial statements of the company for the year ended 30 June 2016 which was undertaken in the month of October 2016.

Committee Observation

The Committee observed that: -

(i) There were variances on various amounts relating to cost of sales in the statement of comprehensive income and supporting documents.

(ii) The Company had not undertaken reconciliation of cost of sales of various items which had a variance of KES3,142,354

Committee Recommendation

The Committee recommends that the Managing Director and the Finance Manager ensure that: -

(i) Appropriate and respective journal entries are passed in the books of accounts to address the audit query

(ii) Regular reconciliation of the financial statements of the Company and are undertaken any overstated or understated costs of sales are reversed.

8. PROVISION FOR BAD DEBTS: FY 2014/2015 ACCOUNTS

The Committee heard that, included in the administration expenses of KES32,018,262 reflected in the statement of comprehensive income is provision for bad debts of KES1,098,578. However, the company has not disclosed the policy on provision for bad debts. In the circumstances, the accuracy and validity of the provision for bad debts of KES1,098,578 included in the administration expenses could not be confirmed for the year ended 30 June 2015.

Management Response

The Managing Director informed the Committee that, the management prepared a proposed an amendment to the company's approved Credit policy to address the general provision for bad debts audit query. The FASC in their 9th Special meeting held on 29 September 2016 discussed the proposal and presented the same to the Board for approval in the 14 Special BoD meeting held on 30 September 2016. The amendment was subsequently approved for implementation in the 14 Special BoD meeting. The amended Credit policy was used in arriving at the provision for bad debts amount reflected in the financial statements for the year ended 30 June 2016.

Committee Observation

The Committee observed that: -

(i) Prior to 2014/2015 financial year The Company did not have an approved general provision for doubtful trade debt in its Credit policy approved in 2014 to address the general provision for bad debts in accordance with IAS 39.

(ii) The Company amended Credit policy in 2016to include the procedure for arriving at the debts as bad debts in accordance with IAS 39.

Committee Recommendation

The Committee recommends that the Managing Director and the Finance Manager ensure enforcement of the amended credit policy for management of debts

9. INVENTORY: FY 2014/2015 ACCOUNTS

The Committee heard that, included in the inventories figure of KES499,714,762 in the statement of financial position is work in progress figure of KES246,558,649 which is at variance with the supporting schedules amount of KES195,047,435 resulting to a difference of KES51,511,214 which has not been analysed, reconciled or explained. Further, the inventory balance of KES499,714,762 is variance with respective note 17 balance of KES481,139,378 again resulting to unexplained or reconciled variance of KES18,575,384. In the circumstances, the very accuracy and authenticity of the inventory of KES499,714,762 could not be confirmed as at 30 June 2015.

Management Response

The Managing Director informed the Committee that, Board approved the proposal to have Innovations Firm Limited which is wholly owned by Moi University to value the amounts of inventory that the company has to establish the amount of Work In Progress in terms of yarn and grey cloth. The lead consultant who is a textile expert and lecturer at Moi University is expected to commence work in December 2016.

Committee Observations

The Committee observed that: -

(i) The inventories figure in the financial statements is at variance with the supporting schedules amount of resulting to a difference of KES51,511,214 which has not been analysed, reconciled or explained.
(ii) The inventory balance is at variance with respective note 17 balance of again resulting to unexplained or reconciled variance of KES18,575,384 which has also not been analysed, reconciled or explained.

Committee Recommendation

The Committee recommends that Managing Director ensures that work in progress inventory is revalued by an expert to provide exact value of the inventories of the Company.

10. RE-EVALUATION RESERVES: FY 2014/2015 ACCOUNTS

The Committee heard that, the statement of financial position reflects a revaluation reserve figure of KES106,283,598 as indicated in note 23 to the financial statements, which include

revaluation of work in progress for the year of KES47,7373,362. Further valuation report of work in progress was not availed for audit verification. In the circumstances, the revaluation reserves of KES106,283,598 could not be confirmed as at 30 June 2015.

Management Response

The textile consultant's report shall also inform the figure to be taken to revaluation reserves of the company thus address the audit query.

Committee Observation

The Committee observed that, the Management did not provide report of work in progress was not availed for audit verification at the time of audit.

Committee Recommendation

The Committee recommends that the Managing Director ensures that the Company's inventory is revalued by an expert to provide exact value of the inventories of the Company and the report availed to the Office of the Auditor-General for verification.

2.40 TANA & ATHI RIVERS DEVELOPMENT AUTHORITY (FY 2012/2013 - 2013/2014)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE TANA & ATHI RIVERS DEVELOPMENT AUTHORITY FOR THE FINANCIAL YEARS 2012/2013 TO 2013/2014

Mr. Steven Githaiga, the Managing Director of Tana and Athi Rivers Development Authority (TARDA) accompanied by Mr. David Kimaiyo (Ag. Chief Manager - Finance and Accounts) and Ms. Beth Wanjiru (Ag. Finance Manager) appeared before the Committee on 21 June 2016 to adduce evidence on the report of the Auditor General on the financial statements of the Authority for the financial years 2012/2013 and 2013/2014.

1. GOING CONCERN: FY 2012/2013 ACCOUNTS

The Committee heard that, in the 2012/13 financial year, the Authority recorded a loss of KES 717,088,891 (797,665,456 in FY 2012/13 in) bringing its cumulative deficit to KES 11,008,565,545 as at 30 June 2013. The deficit has been mainly attributed to depreciation charges of KES 387,963,972 on Masinga and Kiambere hydro electricity power facilities and non-remittance of accrued revenue due from Kenya Power and Lightning Company, following a government directive that all revenue from power facilities be remitted to the National Treasury.

In view of the foregoing, going concern status of the Authority is dependent on continued financial support from the Government, bankers and its creditors.

Management Response

Before 1988, TARDA was self-sustaining through its internally generated revenue from its projects. The Authority did not require any financial assistance from the Exchequer streams.

Immediately KPLC disregarded the lease of commercial agreement in 1988 and eventually transfer of power generating and transmitting assets in 2000, the financial base and solvency of the Authority was incapacitated.

TARDA has been insolvent since the day the generating and transmission assets were transferred to KenGen amounting to KES12.8 billion and KES 0.52billion respectively.

In view of the above, the issue is with Parliamentary Investment Committee (PIC) and has not been concluded to date. It is only fair and justifiable that the outstanding claim that the Authority is asking from KPLC and KenGen amounting to KES9.0 billion be released under agreeable framework.

Unless the claims are honoured, the going concern and balance sheet accounting of the Authority will continue to be negative and recurring year after year despite the fact that it's not the inefficiency of TARDA but the effect of the power sector restructuring in the late 1990's.

Current Status

During the year under review the operational deficit was KES 329,103,919 as opposed to the accumulated deficit which stood at KES 11,487,852,926. This was prompted by unpaid creditors which spilled over from the previous Financial Year.

The operation deficit amounted to KES717m which is structured as follows;

a) Masinga and Kiambere (KES 388 M)

This deficit is expected to be financed from the benefits attached to the two facilities. Since 1988, when such benefits inform of revenue generated from Masinga and Kiambere dams stopped coming from KPLC and KenGen, TARDA as the owner of the above facilities continued to incur depreciation accounting which has not been having any commensurate revenue to support.

b) Operational Activities (KES 329M)

The operational deficit mentioned above signify that during the year under review, TARDA's receipt supply system registered an operational deficit of KES160, 570,873.00

The bulk of KES 329,103,919, resulted from creditors who were not paid from the previous year inform of pending bills.

The Committee heard that, as reported in year 2011/12, the Authority recorded a loss of KES 797,665,456 (2011/12 629,072,114) bringing its cumulative deficit to KES 11,008,565,545 as at 30 June 2013. The deficit has been mainly attributed to depreciation charges of KES 387,963,972 on Masinga and Kiambere hydro electricity power facilities and non-remittance of accrued revenue due from Kenya Power and Lightning Company, following a government directive that all revenue from power facilities be remitted to the National Treasury. Further, the statement of financial position indicates that the Authority's current liabilities of KES 407,261,757 as at 30 June 20113 exceeded the current assets balance of KES 212,69,237 as at the same date, resulting in a negative working capital of KES 15,092,520.

In the circumstances, the going concern of the Authority cannot be ascertained since the financial statements have been prepared on a going concern basis, on the assumption of continues financial support from the Government, bankers and creditors.

Committee Observations

The Committee observed that, during the last appearance before the Committee, TARDA had been instructed to resolve the matter with the Ministry of Energy, Ministry of Water and the National Treasury to settle the matter of the two dams.

The Cabinet Secretary for Water convened a meeting to discuss the matter and TARDA, Kenya Power Ltd and KenGen attended but the two Energy sector organizations did not honour a subsequent invite. During the first meeting, the two organizations refused to discuss the matter of debts owed to TARDA, only discussing rent for houses they were occupying without paying rent.

Efforts made by the Authority to pursue debts owed by Kenya Power and KENGEN have not been successful. The debts have been long outstanding and there is need to address the matter with finality through a joint inter-ministerial and energy sector inter agency meeting.

The non-remittance of accrued revenue due to TARDA by Kenya Power and KENGEN since 1988 occasioned by the Government directive that all revenue from hydroelectric power be remitted to Treasury needs to be addressed by relevant parties involved in the dispute.

Committee Recommendation

The Committee reiterates its earlier recommendation in the 19th Report which recommended that, the Ministry of Energy, Treasury, KPLC, KENGEN, Inspectorate of State Corporations, Attorney General's Office and TARDA's Parent Ministry work together to reach an amicable solution on the matter.

The Committee further recommends that Ministry of Energy and Petroleum, KENGEN and KPLC should honour the sales and lease agreements between TARDA and KENGEN and KPLC and pay debts owed to TARDA in accordance with the Head of Public Service letter dated 1 August 1988.

2. PROPERTY, PLANT AND EQUIPMENT: 2012/2013 & 2013/2014 ACCOUNTS

The Committee heard that, property, plant and equipment balance of KES 11,661,262,601 as at 30 June 2014 includes an amount of KES 22,674,600 representing the value of 3 (three) parcels of land measuring 924.83 hectares whose ownership documents have not been availed for audit verification.

In the circumstances, it was not possible to confirm the ownership status of the 3 (three) parcels of land and that the property, plant and equipment balance of KES 12,287,988,609 is fairly stated as at 30 June 2014.

Land without Title Deeds

The Management is yet to acquire the title deeds for Kibwezi, Emali and Kitui projects, whose acquisition is in process. Consequently, the Management has so far acquired title deeds for Masinga, Kiambere and TDIP projects.

a) Kitui

In line with the unbundling process between National Government and the County Government, Kitui was earmarked and forwarded to TA appointed by the President to handle the transfer of Assets.

b) Kibwezi

There has been a dispute between the local community and TARDA on the size of acreage that TARDA would release to local farmers. This problem has now been resolved and the process of title acquisition is in progress.

The Authority had requested the County Government to approve the acquisition of the title deed.

c) Emali

The project was leased for the purpose of livestock breeding and multiplications as well as technology transfer to the local communication of both Makueni and Kajiado. The allocation of the land by the Kajiado County is expiring on September 2017. The Authority has already forwarded its request to the County Government to approve the title acquisition of the land.

Management Response

Land without Title Deeds

The Committee heard that, as correctly observed by the auditor, the Management is yet to acquire the title deeds for Kibwezi, Emali and Kitui projects, whose acquisition is in process. Consequently, the Management has so far acquired title deeds for Masinga, Kiambere and TDIP projects.

a) Kitui

In line with the unbundling process between national Government and the County Government, Kitui was earmarked and forwarded to Transition Authority appointed by the President to handle the transfer of Assets.

b) Kibwezi

There has been a dispute between the local community and TARDA on the size of acreage that TARDA would release to local farmers. This problem has now been resolved and the process of title acquisition is in progress.

The Authority had requested the County Government to approve the acquisition of the title deed.

c) Emali

The project was leased for the purpose of livestock breeding and multiplications as well as technology transfer to the local communication of both Makueni and Kajiado.

The allocation of the land by the Kajiado County is expiring on September 2017. The Authority has already forwarded TARDA's request to the County Government to approve the title acquisition of the land.

3. PROCUREMENT OF 2 FARM TRACTORS: FY 2012/2013

During the year under review, the Authority procured two tractors at a total cost of KES 7,930,000. However, the expenditure of KES 7,930,000 has not been included in the figure of KES 8,514,048 reflected under note 3 to the financial statements as total additions for property, plant and equipment during the year. Further, available information indicates that the logbooks for the two tractors have not been registered in the name of the Authority.

In the circumstances, it has not been possible to confirm the ownership status of the two tractors and that property, plant and equipment balance of KES 121,287,988609 is fairly stated as at 30 June 2013.

Management Response

The two tractors were to be utilized in farm production at the Authority's Tana Delta Irrigation Project. The Parent Ministry committed to provide funds for the tractors acquisition, a promise which it failed to honour. Subsequently, the supplied tractors were inspected and found not to conform to the requested specifications. The Authority therefore in consultation with TARDA Board, rejected the tractors and returned them to the supplier. No money was paid for the tractors. Since they were rejected and returned, inclusion in the Authority's property, plant and equipment schedule would not be appropriate.

Current Status

The Auditors confirmed that no money was paid out for the two tractors.

4. ASSETS HELD BY FORMER MANAGING DIRECTORS: FY 2012/2013 ACCOUNTS

During the year under review, the Authority incurred expenditure totalling KES 422,500 on purchase of various mobile phones and iPads which were issued to a former Managing Director between July 2012 and February 2013.

In addition, available records indicate that another former Managing Director was issued with a laptop, camera and mobile phones which had not been surrendered to the organization as at 30 June 2013. The management has not sufficiently explained why these assets were not recovered from the Managing Directors after their tenure.

In the circumstances, it has not been possible to confirm that the property, plant and equipment balance of KES 12,287,609 as at 30 June 2013 is fairly stated.

Management Response

The Management undertakes to pursue the concerned former Managing Directors with a view of recovering the Authority's assets in their possession.

Mr. Abdul Agonga's case is in the court for his reinstatement. It's only fair that his case be heard and determined for the Management to take action as to return of Authority items under his custody.

The Management undertakes to pursue the concerned former Managing Directors with a view of recovering the Authority's assets in their possession.

Committee Observation

The Committee observed that: -

(i) **The legal cost of pursuing the recovery of the assets in question, un-surrendered by the former Managing Directors could be higher than the value of the assets;**

(ii) The former Managing Directors have not been paid their dues after vacating office as matter is the subject of an ongoing court case.

Committee Recommendation

The Committee recommends that: -

(i) The Management undertakes to pursue the concerned former Managing Director, Mr. Abdul Agonga, with a view of recovering the Authority's assets in his possession.

(ii) The Authority further recovers the money from the terminal dues of the former Managing Directors.

(iii) The Inspectorate of State Corporations to be enjoined in the recovery process and ensure the amounts are deducted from the dues of the two directors once the cases are concluded.

5. CAPITAL WORKS IN PROGRESS: FY 2012/2013 & 2013/2014 ACCOUNTS

The Committee heard that, as reported in the previous financial year, the capital work-in-progress balance of KES 235,449,689 comprises work-in-progress in respect of staff houses, a construction project that commenced in 1990 at Tana Delta Irrigation Project (TDIP) in Garsen valued at KES 234,152,289 and work-in-progress at Emali in respect of construction of Bore hole which started in 2010 valued at KES 1,297,400 which has continued to be carried forward. However, no document was available for audit verification to support the work-in-progress balance of KES 235,449,689.

In the circumstances, it has not been possible to confirm the accuracy of the work-in-progress balance of KES 235,449,689 as at 30 June 2014.

Management Response

a) Tana Delta Irrigation Project

The statement of financial position as at 30 June 2014 includes work in progress of KES 235,449,689.00. These are buildings at the Authority's Tana Delta Irrigation project that were destroyed by the El Nino of 1997 before their completion.

Development of TDIP rice Project was earmarked to commence in late 1980s at a cost of 6 billion Japanese Yen which has the following 3 development components:

b) Administration works

The statement of financial position as at 30th June 2013 includes work in progress of KES 235,449,689.00. These are buildings at the Tana Delta Irrigation project that were destroyed by the El Nino of 1997 before their completion.

Development of TDIP Rice Project was earmarked to commence in late 1980s at a cost of 6 billion Japanese Yen which has the following 3 development components:

i) Administration works which was contracted to Niason at a cost KES 100m;

ii) Dykes, farm construction works, water intakes, delivery channels and rice components (which includes rice mill, dryers and conveyance systems). It also included the farm machinery, tractors, and combine harvesters among other and sufficient spare parts for this equipment. The total cost of this was 4.2 billion Japanese Yen constructed by China Road and Bridge Corporation; and

iii) The third component consists of various social amenities including police station, hospital, primary school, super market and butchery.

The Japanese Government provided loan facility for item (i) & (ii). Kenya Government component was to finance item no. (iii) which was contracted by TARDA to Twiga Construction Company in 1991/92 FY.

The contract relating to item (i) & (ii) above were completed as designed and expected. However, the El-Nino of 1997 destroyed the whole infrastructure system and rendered machinery and rice mill in-operational. TARDA has been rehabilitating them little by little as per available resources and currently the Authority has managed to produce irrigated rice to 1,200ha per annum instead of 4,000ha per annum as originally planned.

However, TARDA did not manage to get the amount of the Kenya Government component which was earmarked under Twiga Construction. TARDA only managed to get KES40m towards this component and due to lack of sufficient resources the Contractor abandoned the work in 1994 despite the fact that over 80% was already complete. During the period 1992 – 1997 a total of KES134m had been paid and an outstanding balance of KES111m remained unsettled by the end of this period.

c) Emali Borehole

The Management is in agreement that the work in progress of Emali borehole was never supported for audit verification.

The total costs comprised of the items mentioned below and supporting documents have now been availed for verification.

Date	Cheque no.	Payee	Amount
4.4.2011	001083	Turn-O-Metal Engineers	382,350 .00
12.5.2011	001089	Turn-O-Metal Engineers	892,150 .00
		Casual wages	22,900.00
Total			**1,297,400.00**

The borehole has been successfully completed as per the requirements of the scope of works in the contract awaiting commissioning and handover to TARDA.

Committee Observation

The Committee observed that: -

(i) **The works in progress relates to buildings at the Authority's Tana Delta Irrigation Project (TDIP) that were destroyed by the El Nino in 1997 before their completion and in the circumstances they it cannot be verified.**

(ii) **The borehole has been successfully completed as per the requirements of the scope of works in the contract awaiting commissioning and handover to TARDA.**

Committee Recommendations

The Committee recommends that: -

(i) **The works-in-Progress figure of KES 235,449,689 relates to buildings at the Authority's Tana Delta Irrigation Project (TDIP) that were destroyed by the El Nino in 1997 be written off as it can no longer be considered Works in Progress.**

(ii) **The Authority submits the relevant documents relating to the completed Emali borehole for audit verification.**

6. TRADE AND OTHER RECEIVABLES: FY 2012/2013 & 2013/2014 ACCOUNTS

The Committee heard that, trade and other receivables balance of KES 60,262,030 as at 30 June 2014 (2012/2013 – KES 58,785,623) is net of the Kenya Power and Lighting debtor account of KES 1,267,783,057 and which is fully provided for. According to note 18 to the financial statements, the accounts relates to bulk power sales amounting to KES 1,179,215,376 for the period prior to 1988 and which has been under dispute.

Further, the balance of KES 60,262,030 includes other debtors account – car loan balance of KES 259,396 which the Authority has said is historical and cannot be supported and debtor account – Freshco Kenya Limited of KES 7,576,126 which is not properly supported by contract documents.

In the circumstances, it has not been possible to confirm the correctness and recoverability of the trade and other receivables balance of KES 60,262,030 as at June 30 2014.

Management Response

As correctly reported by the Auditors, KPLC payment of KES 1,179,215,376.30 debts as at 30 June 2014 ended up in Parliamentary Investment Committee (PIC) where it remains un

determined to date. The Management in the financial statements as at 30 June 2008, provided for the entire figure as bad debt in compliance to International Accounting Standards No. 36.

The other debtors' of KES 60,262,030 mainly from institutions and former staff have been outstanding for considerably a long period of time. The Management after the 1998 Bomb blast has made several efforts to locate relevant documents in a view to adjust its books of accounts and/or institute legal proceedings to enable recovery of the debts. These efforts have been largely fruitless.

Committee Observation

The Committee observed that, the particular debts have been outstanding for a considerably long period of time and their recoverability is therefore doubtful because of the loss of relevant supporting documents in the 1998 bomb blast.

Committee Recommendations

The Committee recommends that: -

(i) **The Authority transfers its filing system to a paperless system and provide a backup of the new system to avoid scenarios like the 1998 bomb blast where it lost most of its records.**

(ii) **The Management circularizes all debts and seek all the available avenues to bring down the figure by analysing those debts which can be written off and those which proves difficult can be settled under arbitration.**

(iii) **The Authority considers writing off debts whose supporting documents cannot be located as a result of the 1998 bomb blast.**

7. BOARD EXPENSES: FY 2012/2013 ACCOUNTS

The Committee heard that, as disclosed in note 24 of the financial statements, the figure for board expenses of KES 13,134,344 includes an amount of KES 4,101,126 in respect of mileage claim paid to some board members which have not been supported with verifiable documents.

Under the circumstances, it has not been possible to ascertain that the expenditure of KES 4,101,126 was proper charge to public funds.

Management Response

The Management paid the Directors mileage claims based on documents which were availed by the concerned directors. There was an alleged claim that Directors resided in Nairobi which prompted the matter to be taken over by the Ethics and Anti-Corruption Commission. The matter is yet to be concluded.

Committee Observation

The Committee observed that, the Board of Directors made illegal claims on mileage allowances using falsified documents.

Committee Recommendation

The Committee recommends that: -

(i) The Ethics and Anti-Corruption Commission (EACC) should expedite investigations into the matter and present its Report to the National Assembly within three (3) months of the adoption of this Report. If found culpable, the former Directors and any other officer of the Authority should be prosecuted and surcharged in accordance with the law.

(ii) The Authority should put in place control measures to evaluate and validate all claims before honouring them.

8. MISAPPROPRIATION OF CASH: FY 2012/2013 ACCOUNTS

The Committee heard that, available information indicates that a former employee of the Authority embezzled funds amounting to KES 1,556,305 on diverse dates between May 2011 to March 2012, through irregular cash withdrawals by inflating amounts in the cheques and use of bank counter cheques to make withdrawals. Although the former employee has since made a refund of KES 100,000, the management has not explained the action been taking to recover the balance of KES 1,456,305.

Management Response

The Managing Director informed the Committee that, the Authority's former employee embezzled funds amounting to KES 1,556,305 on diverse dates between May 2011 to March 2012. The officer was arrested and charged in Embu Law Courts on 30 March 2012. Ruling was obtained on 21 April 2015 where the former employee was fined KES 30,000. The Management is currently in the process of pursuing the matter in a civil court in order to recover the lost money. The employee has since been dismissed from service.

Committee Observation

The Committee observed that, a former employee embezzled public funds amounting to KES 1,556,305 through irregular cash withdrawals by inflating amounts in the cheques and use of bank counter cheques to make withdrawals.

The Committee further observed that, the employee was sued and fined a paltry KES 30,000 by the Embu Law Courts in March 2012.

Committee Recommendations

The Committee recommends that: -

(i) **The Director of Public Prosecution reviews the case with a view of obtaining a stiffer penalty for the offense.**

(ii) **The Authority puts in place necessary structures and management policies to enhance financial controls, detect and curb embezzlement of funds.**

9. TRADE AND OTHER PAYABLES – FY 2012/2013 ACCOUNTS

The Committee heard that, included in trade and other payables balance of KES 407,261,757 as at 30 June 2013 are creditors amounting to KES 49,007,501.35 in respect of statutory deductions due to Commissioner of VAT, National Social Security Fund (NSSF) and Barclays Trust Fund. The payables balance also includes an amount of KES 239,030,317 in respect of Masinga Dam compensation dues owing to various land owners whose properties were acquired by the Authority in 1978 for a long period of time and the matter is before a court of law. Further, the payables include an amount of KES 31,510,352.35 owed to contractors who were contracted to implement the economic Stimulus Programme at Tana Delta Irrigation Project in the financial year 2009/2010. In addition, the payables balance of KES 407,261,757 however, does not include amount of KES 7,930,000 due to the firm which supplied the Authority with the two tractors during the year.

Consequently, it has not been possible to confirm the accuracy and completeness of trade and other payables of KES 407,261,757 as at 30 June 2013.

Management Response

The Managing Director informed the Committee that, included in trade and other payables balance of KES 407, 261,757 are creditors amounting to KES 49, 007,501.35 in respect to statutory deductions which the Management is struggling to clear due to underfunding from the Exchequer.

An amount of KES 239,030,317 relates to compensation claim in respect of Masinga Hydropower where various land owners whose properties were acquired by the Authority in 1978 during construction of the dam. This compensation was set aside by the Court of Appeal sitting in Nyeri on 3 October 2013. Consequently, this outstanding debt was adjusted in the Authority's books of accounts.

Payables amounting to KES 31,510,352.35 owed to contractors who were contracted to implement the Economic Stimulus Programme at Tana Delta Irrigation Project has been outstanding for a long time. They cannot be paid because the matter was taken up by EACC and the issue is still under investigation.

Payables amounting to KES 7,930,000 relate to two tractors which were rejected and returned to the supplier, hence no money is owed to the supplier as earlier explained.

Committee Observation

The Committee observed that: --

(i) **Statutory deductions due to Kenya Revenue Authority, National Social Security Fund (NSSF) and Barclays Trust Fund have been outstanding for a long time and will continue to accrue interest unless the Authority seeks additional funds to settle the dues.**

(ii) **On the matter of KES 31,510,352.35 owed to contractors who were contracted to implement the Economic Stimulus Programme at Tana Delta Irrigation Project, the Ethics and Anti-Corruption Commission has taken inordinately long to conclude and report its findings on the matter;**

(iii) **On the matter of compensation of Masinga land owners, the Authority owes the farmers KES 239,030,317 in respect of their land acquired in 1978.**

(iv) **The Authority does not owe KES 7,930,000 for the two tractors which were rejected and returned to the supplier.**

Committee Recommendations

The Committee recommends that: -

(i) **The Managing Director should ensure that all statutory obligations are met by the Authority when they fall due.**

(ii) **The Ethics and Anti-Corruption Commission should hasten investigations into the matter of payment of contractors for the Economic Stimulus Programme at Tana Delta Irrigation Project and take the necessary legal action on those found culpable of defrauding the Authority.**

10. EUROPEAN UNION (EU) GRANT: KES 30,714,048 – FY 2012/2013 ACCOUNTS

The Committee heard that, included in the statement of financial position as at 30 June 2013 is KES 30,714,048 in respect of grant received from European Union (EU) for implementation of Community Based Mini-hydropower Development in Upper Tana Basin for poverty alleviation Project. However, the funds have remained unutilized for a period of over four years. Available information indicates that the EU has since recalled the funds in the financial year 2013/14 and advised TARDA to come up with a new proposal for another grant.

The management has not explained why the funds were not put to intended use resulting to withdrawal of the same by the donor.

Management Response

The Managing Director informed the Committee that, TARDA received KES 30,714,048 as a Grant from EU for implementation of Community based Mini-hydro power project in Upper Tana Basin in line with poverty alleviation programmes. This being EU's part contribution which was to be 75%, The Kenyan Government through Treasury committed to contribute towards the project to a tune of 20% while the local community undertook to contribute the final 5% in form of cash, local material and labour. The Government failed to honour its side of the bargain despite management in several years including the committed figure in the requested development funding during budgetary process coupled with follow ups.

With this delay in implementation of the project, the EU recalled their already disbursed funds in the financial year 2013/14 after the expiry of the contract period.

Committee Observations

The Committee observed that: -

(i) **The government failed to allocate 20% of funds towards implementation of a community-based mini hydropower project in the Upper Tana Basin. This one was one of the conditions of the European Union grant. As a result, the implementation of the project failed to take place and the donor recalled the grant.**

(ii) **Successful implementation of the project would have enhanced income-generating activities and contributed to poverty alleviation of the community.**

Committee Recommendations

The Committee recommends that the Executive should honour agreements relating to donor-funded projects entered into with development partners that are geared towards promoting resource-based investments for sustainable development and enhanced livelihoods of communities.

11. TOURIST TRUST FUND: FY 2013/2014 ACCOUNTS

The Committee heard that, the statement of financial position as at 30 June 2014 reflects a balance of KES 28,114,000 in respect of Tourists Trust Fund Promotion in Masinga Resort, which has not been supported. In the absence of supporting documents, it has not been possible to confirm the accuracy and validity of this balance.

Management Response

The Fund was set to promote tourism in Masinga Dam Resort and was audited by Ernest & Young Associates who were the appointed Auditors to audit the funds for the period between January 2007 to March 2008. Their appointment was done by the EU. The audit report was never submitted to TARDA.

In the completion of the project and each party's obligations, Management found it necessary to close the project's books in financial year 2007/2008. The bank account which was earlier set aside exclusively for EU activities and which had the balance of KES 28,114 was given out to other uses as opposed to letting it lie idle. The account has other funds other than the EU funds.

The money was spent to improve the facilities particularly the ground floor (repairing of tents which were torn by the wind).

As a way forward, the Management will request the Board to donate the funds to charitable organizations as per the advice of the auditors.

Committee Observation

The Committee observed that, the Tana and Athi Rivers Development Authority planned to open up the River as an ecotourism site to help diversify the Authority's investments and strengthen its financial position.

Committee Recommendation

The Committee recommends that the Authority should explore ways of re-introducing the Masinga ecotourism project and manage it in a prudent and sustainable way to strengthen its financial position which is currently a going concern.

12. REVALUATION RESERVE – FY 2012/2013 - 2013/2014 ACCOUNTS

The Committee heard that, disclosed in note 22 to the financial statements, the figure for revaluation reserve of KES 19,697,833,221 as at 30 June 2014 could not be verified as no documentary evidence was availed to support any revaluation of assets that may have depreciated. In the circumstances, it has not been able to confirm the accuracy of the revaluation reserve balance of KES 19,697,833,221, at 30 June 2014.

Management Response

The Management last revalued its assets in 2006. As clearly stated by the auditor, the figure of KES 19,697,833,221 as at 30 June 2014 is based on the last revaluation.

Committee Observation

The Committee observed that, the Authority last revalued its non-current assets in 2006 thus the current true value of assets owned by the Authority could not be accurately is unknown due to depreciation over the years. The Authority was therefore in breach of International Financial Reporting Standards which require regular valuation of an entity's assets.

Committee Recommendation

The Authority should provide a budget to revalue all its assets in the 2016/2017 financial year in order to comply to with International Financial Reporting Standards on valuation of assets.

13. TRADE AND OTHER PAYABLES: FY 2013/2014 ACCOUNTS

The Committee heard that, included in the figure for trade and other payables of KES 177,503,864 as at 30 June 2014, is KES 51,120,723 in respect of statutory deductions which have been outstanding for long period of time, some dating back to 2010.

Further, it was noted that the Authority does not reconcile reported amounts of arrears and penalties owed to NSSF to confirm the authenticity of the payments made and outstanding balances which is an indication of poor internal control systems. The Authority is likely to suffer heavy penalties if the trend is not reversed.

Consequently, it has not been possible to confirm the accuracy and completeness of the trade and other payables balance of KES 177,503,864 as at 30 June 2014.

Management Response

The Managing Director informed the Committee that, the management is in agreement with the auditors that the figure of KES 177,503,864 has been outstanding for a relatively long period. The Management after the 1998 Bomb blast has made several efforts to locate relevant documents in a view to adjust its books of accounts has been largely fruitless.

The management has done circularization to confirm the existence of the trade payables.

The Management is also pursuing all the legal, arbitration or administrative channels to resolve this matter once and for all.

The Management concurs with the Auditors on the statutory deductions of KES 51,120,722.60 comprising of outstanding VAT of KES 1,707,468.14 and Pension of KES 37,901,268.30 respectively. The amount will be paid once the financial position of the Authority improves. The KES 6,372,023.90 is in respect to NSSF arrears and the Management is repaying it at KES 236,000 per month. At the moment, the Authority is not in a position to increase this figure but should the financial position improve then the figure will be increased.

The balance of KES 5,139,962.26 is in respect to June 2014 deductions which was paid in July 2014.

The Management is currently remitting statutory deductions as they fall due to avoid penalties. The Management maintains only the payment schedule of the outstanding balances.

Committee Observation

The Committee observed that, the Authority failed to meet its statutory obligations relating to NSSF, VAT and pension remittances some of which continue to accrue interest.

Committee Recommendation

The Committee recommends that the Managing Director ensures that the Authority remits all statutory deductions within the time frame stipulated in law.

14. ASSETS ISSUED TO FORMER MANAGING DIRECTORS:FY 2013/2014 ACCOUNTS

Irregular Staff Recruitment

The Committee heard that, the acting Managing Director approved recruitment and signed appointment letters for 37 employees from the date of his appointment in April 2013 up to the time of reporting in view of the fact that he is not substantively confirmed to the position of the Managing Director. The total basic pay for the 37 employees for the period under review amounted to KES 13,787,412.

A scrutiny of those appointed revealed that 17 of the 37 were from one region. In addition, the Authority did not get any enhanced recurrent expenditure provision for the year under review and no approved staff establishment was availed for audit verification. This is an indication that the Authority could be using development funds to meet its recurrent expenditure including the salary for the new employees.

Management Response

The Managing Director informed the Committee that, the annual salary for staff who left during the year under review was KES 25,894,956.00, equivalent to (KES 2,157,913 per month) whereas the annual salary of staff engaged during the same year was KES 13,787,412.00, equivalent to (KES 1,148,951 per month). This brought an annual salary saving from the above transaction by KES 12,107,544.00 equivalents to (KES 1,008,962 per month).

Therefore, TARDA did not require any other extra source in support of the new staff engaged during the year under review.

Committee Observation

The Committee observed that: -

(i) **The Ag. Managing Director did not have the authority to recruit and appoint new staff in his capacity as an acting Managing Director.**

(ii) The Authority made a saving of KES 12,107,544 per annum following recruitment of new staff and therefore did not draw funds from the development vote to fund this expenditure.

(iii) The recruitment of new staff was skewed to one region of the country contrary to the principles of public service espoused in Article 232 of the Constitution of Kenya.

Committee Recommendation

The Committee recommends that: -

(i) The Inspectorate of State Corporations investigates the actions of the Ag. Managing Director and whether he had authority to undertake recruitment in his acting capacity. The Inspectorate should further conduct an audit of the ethnic background of the recruited staff. If found culpable, the Inspectorate should institute the necessary disciplinary proceedings against the Ag. Managing Director.

(ii) The Committee recommends that recruitment of staff should take into account considerations of age, gender, regional balance and other considerations in accordance with the Constitution of Kenya and the National Cohesion and Integration Act of 2012. In addition, the recruitment process must be competitive.

15. PROCUREMENT: FY 2013/2014 ACCOUNTS

The Authority made procurement of goods and services to firms which were not pre-qualified, contrary to Public Procurement and Disposal Act 2005 as listed below:

Item	*Amount*
Legal Services	*1,839,315*
Consumable Items	*185,770*
Motor Vehicles	*1,396,320*
Total	*3,421,405*

Consequently, it has not been possible to confirm the propriety of the expenditure of KES 3,421,405 as a proper charge to public funds.

Management Response

a) Legal Services (KES 1,839,315)

The listed suppliers in respect to legal services had cases which have been carried forward from previous years and they did not offer themselves for prequalification. Since they are in possession of TARDA's crucial files and the cases were not concluded in the previous

years, the Management was forced to re-engage them. These suppliers are competent and are among the best law firms in the country.

The Management has pre-qualified them in the current financial year.

b) Consumable Items (KES 185,770)

The listed suppliers are the Authority's traditional suppliers for high perishable goods. They are strategically positioned near the Authority's offices and they offer competitive prices. Due to their past good record, fair prices, proximity to the office, the nature of goods and the procurement threshold it has been difficult to change them.

The Management has currently prepared framework contracts according to the advice given by the Auditors.

c) Motor Vehicles (KES 1,396,320)

The suppliers are the Kenyan registered sole dealers of motor vehicles who did not offer themselves for prequalification. Though not prequalified they offer the best prices and quality. The Management has always resulted to them on urgent procurement/services. As part of adhering to procurement laws and regulations, the Management will in future advise them to participate in prequalification processes.

As per the supply circular No. R04/2015-2016, all Government Ministries and departments have been authorized to procure motor vehicles from the approved suppliers list.

Committee Observations

The Committee observed that, Authority procured goods and services from firms which were not pre-qualified, contrary to the provisions of the Public Procurement and Disposal Act ,2005.

Committee Recommendations

The Committee recommends that: -

(i) The Managing Director be held liable for breaching the Public Procurement and Disposal Act, 2005 in procurement of goods and services during the year under review.

(ii) The Managing Director adheres to the provisions of the Public Procurement and Asset Disposal Act, 2015 and attendant regulations in procurement of goods and services.

16. ALLEGATIONS AGAINST THE MANAGING DIRECTOR

The Committee heard that, the Managing Director Mr. Steven Ruimuku had changed his name from Steven Maina Githaiga to Steven Githaiga Ruimuku and that he changed his date of birth.

Management Response

Mr. Steven Ruimuku responded to the Auditor's report of FY 2013/14 regarding his name and age as follows:

He was employed by TARDA in 1984 after finishing a Master's degree in Public Finance. He had worked in several departments, rising to his current position as Managing Director.

The Managing Director pointed out perceived anomalies in the audit process that concluded he had changed his name and date of birth. He stated that during the audit exercise for the year under review, there was no single time when the matter of his name or date of birth arose during both the Systems and Management Audit Reports as well as the Draft Final Certificate.

He noted that the matter remains extraneous and that what appeared in the final certificate was gathered outside of the scope of the auditing mandate. He further stated that the allegations on change of name and date of birth were gathered from various anonymous and untrue allegations.

The Managing Director took exception in the manner in which a Mr. David Mwangi Njoka, a former employee of TARDA who is now based at KENAO personalized the audit exercise and continues to do so.

He listed instances of malpractices and incidences where Mr. Njoka allegedly threatened and intimidated the leadership of TARDA including:

Year 2000 when Mr. Njoka took a loan from TARDA Sacco and allegedly disappeared without paying and when asked to pay, he refused and threatened the Sacco management. The matter ended up in court in the year 2008.

Year 2010 - He allegedly intimidated the then Managing Director, Mr. Francis Agoya when his wife was summarily dismissed for absconding duty. Mr. Njoka's wife, Mrs. Lucy Kinyanjui, worked in TARDA's Accounts department while he was in Audit. Mr. Njoka allegedly wrote a threatening letter to the Managing Director and exchanged bitter words with him. The matter ended up in court.

Year 2010 - Mr. Njoka was the Auditor in-charge of Rural Electrification Authority (REA) and he allegedly used his influence to have his wife employed at REA. The position was not competitively sought.

2013 - In March 2013, Mr. Njoka requested the current Managing Director, Mr. Githaiga to write a recommendation for his wife who was seeking a new post at her employer's. Mr. Githaiga declined to the request based on the manner in which Mr. Njoka's wife was dismissed from TARDA and this led to alleged threats from Mr. Njoka.

Mr. Njoka had allegedly concealed information on loss of KES 70 Million by the Authority when a bill was re-routed to Ari Credit Financial Institution instead of TARDA's account

with National Bank in 1993. Mr. Njoka, then an Auditor at TARDA, allegedly ensured non-disclosure of this information to TARDA's Board to conceal the illegal transaction which has seen the Authority lose the funds. The matter was brought up before the Public Investments Committee in subsequent financial years and Mr. Githaiga was part of the TARDA delegation that disclosed the matter to the Committee in 2003/04 financial year. Mr. Githaiga alleged that Mr. Njoka was a bitter Auditor who was avenging for this disclosure which the latter had tried to hide.

The Managing Director noted that the matter of his name and date of birth was under investigation by the Ethics and Anti-Corruption Authority and requested the Committee to follow up the matter with EACC.

He further sought the PIC to prevent such perceived harassment by Auditors who used their positions to carry out illegal activities without the knowledge of the Auditor General.

Response from the Registar of Persons and Immigration dated 7 March 2017

Following a request by the Committee, Maj. Gen. (Rtd) Dr. Gordon Kihalangwa, Director-General of Registration of Persons and Immigration Services in his letter Ref. IMMS/1/22 VOL.2(19) dated 7 March 2017 responded as follows; -

i. Mr. Steven Githaiga Ruimuku first applied for a passport on the 27/09/1979 under the names of Steven Githaiga and Passport No: A000216 was issued to the subject;
ii. He made his second application on the 27/5/1984 under the names of Steven Githaiga Ruimuku and Passport No. A044658 was issued to him.
iii. His third application was made on 20/06/2005 and he was issued with Passport No. A964883.
iv. He then applied for his fourth passport on 2/2/2011 and was issued with Passport No. A1593455.
v. On 24/4/2013 the subject wrote to the Department of Immigration indicating that the above Passport No. A1593455 had been stolen and a replacement was issued i.e. Passport No. A2012679.
vi. He further wrote to the Department on the 15/07/2013 alleging that Passport No. A2012679 which was issued on the 30/04/2013 had been stolen, consequently, the Department issued him with Passport No. A2043008 on 19/07/2013, that is the current passport held by the subject.

Initial Investigations Findings:

Investigations on the subject's immigration records were prompted by an inquiry by the EACC on 27/01/2016. The following were the initial findings that the Immigration Department shared with EACC: -

- There are no records of the subject's original ID Card or copy; however; at all times while making his applications for these passports he has indicated his ID No as 1901968;
- The Integrated Population Registration System (IPRS) indicates that ID No. 1901968 was issue to one Steven Maina Githaiga who was born on 31 December 1953 in Kamoko, Mumwe East, Othaya, Nyeri.
- From the Office of the Registrar of Persons records, Marriage Certificate Entry No 58/88, issued at Registrar of Marriage in Nairobi indicates that Mr. Steven Maina Githaiga was married on the 22 July 1988 to one Joyce Gathoni Ndegwa. At the time of his marriage, he was 35 years hence born in 1953. A fact corroborated by the search result from the Passport Application Information system indexing.
- The Registrar of Persons has cause to believe that Steven Maina Githaiga and Steven Githaiga Ruimuku is one and the same person.
- In the initial application form for his earlier passport, there are indications of tampering with the declared date of birth as 20 October 1958.

The Director of Immigration is awaiting the outcome of EACC investigations in order to recommend appropriate penal sanctions against the subject in respect of immigration records.

Committee Observations

The Committee observed that: -

(i) **The Office of the Registar of Persons has reason to believe that the allegations of the Managing Director, TARDA altering his actual date of birth from 1953 to 1958, are true. The matter is under active investigation by the Ethics and Anti-Corruption Commission.**

(ii) **There exists personal differences between the Auditor charged with auditing TARDA and the Managing Director.**

Committee Recommendations

The Committee recommends that: -

(i) **The Ethics and Anti-Corruption Commission should within three (3) months of the adoption of this Report, table its findings on the allegations against Mr. Steven Githaiga Ruimuku a.k.a Steven Maina Githaiga, the Managing Director, TARDA with a view to prosecute and surcharge the said officer in accordance with the law.**

(ii) **The Auditor General and the Institute of Certified Public Accountants of Kenya (ICPAK) should investigate the conduct of Mr. David Njoka on alleged professional misconduct in the course of auditing TARDA.**

2.41 UNIVERSITY OF ELDORET (FY 2011/2012 - 2014/2015)

EVIDENCE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF UNIVERSITY OF ELDORET FOR THE FINANCIAL YEARS 2011/2012 TO 2014/2015

Prof. Teresa Akaranga, Vice Chancellor, University of Eldoret accompanied by Prof. Pius Kipkemboi - Ag. DVC Accounting and Finance; Mr. Stephen Anditi - Sr. Legal Officer; Mr. Eron Totona - Ag. Finance Officer and Mrs. Aileen Mungiria - Representative of PS, Ministry of Education, Science and Technology appeared before the Committee on 24 February 2017 to adduce evidence on the Report of the Auditor General on the accounts of University of Eldoret for the financial years 2011/2012 to 2014/2015.

1. HANDING OVER OF ASSETS AND LIABILITIES BY MOI UNIVERSITY: FY 2011/2012 - 2013/2014 ACCOUNTS

The Committee heard that, as reported in the previous year, the statement of financial position as at 30 June 2014 excludes assets and liabilities of undetermined value that were to be handed over by Moi University as per Legal Notice No. 125 of 13August 2010 that created the University. Consequently, it has not been possible to confirm whether the statement of financial position as at 30 June 2014 is fairly stated.

Management Response

The Vice-Chancellor informed the Committee that, is true that the statement of the financial position as at 30 June 2014 excludes assets and liabilities that were to be handed over by Moi University as per the Legal Notice No. 125 of 13August 2010.

The current position however, is that progress has been made with land (on which the University is sitting), most of motor vehicles, plant and machinery having been transferred to the University. This has strongly improved the balance sheet position of the University.

Committee Observation

The Committee observed that: -

(i) **Various assets and liabilities including staff, livestock and crops were handed over by Moi University as per Legal Notice No. 125 of 13August 2010 to University of Eldoret (formerly Chepkoilel University College) on 15 December 2014. However, there are some contentious assets and liabilities that have not been resolved between the two institutions which include ownership of Malindi land LR No. 8000, Homa Hills land LR 22 and pending court cases involving former staff of Chepkoilel Campus and other cases arising from Chepkoilel University College which were similarly captured in the report of the Auditor General on the accounts of Moi University.**

(v) The two parcels of land Malindi land LR No. 8000 and Homa Hills land LR 22712 were not part of assets owned by Chepkoilel Campus but belonged to the mother institution Moi University.

(vi) That there were 8 legal matters in contention relating to Chepkoilel University College which are at various stages of determination by the courts. The cases could lead to huge financial implications.

(vii) Clause 3(4) of the Chepkoilel University College provides that all rights, liabilities and assets held by or by anybody on behalf of Moi University Chepkoilel Campus, existing at the commencement of the Order shall be fully and automatically and fully transferred to the University College.

Committee Recommendations

The Committee recommends that: -

(i) The issues under contention on the transfer of assets and liabilities are pertinent and negatively impact on smooth handing/take over, operations and development of both institutions.

(ii) The Principal Secretary responsible for Higher Education should within six months of the adoption of this Report expeditiously develop policy guidelines to be applied in upgrading of constituent campuses/colleges to fully-fledged Universities.

(iii) The Vice-Chancellors of Moi University and University of Eldoret should immediately jointly refer the matter of legal cases to the Attorney General for interpretation and guidance.

(iv) The Principal Secretary responsible for Higher Education should allocate funds to a contingent account to cater for the outcomes of the court cases to cushion the institutions from financial obligations in situations where the court cases are not determined in their favour.

2. GOING CONCERN: FY 2011/2012 & FY 2013/2014 ACCOUNTS

The Committee heard that, as similarly reported in the previous year, the statement of financial position as at 30 June 2015 reflects total current liabilities of KES 853,389,391 that exceeded current assets balance of KES748,811,429 (As at 30 June 2013 the liabilities of KES 325,534,109 exceeded assets balance of KES 274,293,647 by KES 51,240,462) resulting to a negative working capital of KES 104,577,962. As at the same date, the University had accumulated deficit of KES 14,255,071. The University is therefore technically insolvent and may face financial challenges in settling liabilities as and when they fall due. Consequently, the financial statements have been prepared on going concern basis on the strength of continued support from the Government and creditors.

Management Response

The University going concern has been a persistent feature in our financial statements mainly attributed to inadequate funding to the University during the period with the Exchequer contributing a total of KES 1.148 billion for recurrent expenditure purposes with KES 1.032 billion in the previous year, after a refund of KES115.7 million following a directive from the Parent Ministry which was meant for the 2010/2013 Collective Bargaining Agreement (CBA) arrears.

However, as part of the return to work formula, the Ministry had promised to remit KES 74.9 million towards pension component of the CBA. This has not been received and has continued to have an impact on the cash flow situation of the University and deteriorated the going concern status.

The current status indicates that the University is stabilizing financially despite low funding levels.

Management has however put in place adequate plans to pay off substantial amounts of part time claims and trade creditors which comprise a larger portion of the current liabilities. Similarly, corrective measures are being worked on to reduce the built up of prepaid fees and unallocated fees by ensuring generation of automatic invoices upon reporting and implementing the online receipting that give rise to such liabilities to keep them under control.

Committee Observation

The Committee observed that: -

(i) **The University being a fairly new institution faced funding challenges in the 2011/2012 & 2013/2014 financial years. During the 2013/2014 financial year, the Government accelerated intake of student in public universities with an intention to increase access to university education. This was however undertaken without commensurate government capitation.**

(ii) **Further, the Government promised KES 200 million to support facilitative infrastructure which it did not honour leaving the enormous financial obligations to be borne by the University, which adversely impacted on financial position of University.**

(iii) **The University's financial position improved after the management put in place plans to pay-off substantial amounts of part time claims arising from self - sponsored programs and trade creditors which comprise a larger portion of the current liabilities.**

Committee Recommendations

The Committee recommends that: -

(i) **The Vice-Chancellor ensures that the University puts in place measures to control its expenditure and maintain it within the budgetary allocation and ensure strategic allocation of available resources.**

(ii) **Within six (6) months of the adoption of this Report, the Principal Secretary responsible for Higher Education ensures that the Ministry urgently allocates KES 74.9 million to the University towards pension component of the CBA between the Public Universities and Staff Trade Union which was agreed upon as part of the return to work formula in May 2014.**

(iii) **Within six (6) months of the adoption of this Report, the Principal Secretary responsible for Higher Education ensures that the Universities' current capitation funding model be reviewed to take into consideration the differentiated unit cost/the amount of money required by the University to offer an academic programme per year per student.**

(iv) **The Principal Secretaries responsible for Higher Education and National Treasury respectively should ensure timely disbursement of the Exchequer to all SAGAs to reduce accumulation of unpaid bills and cash flow challenges.**

3. **EXCESSIVE OVERDRAFT: FY 2012/2013 ACCOUNTS**

The Committee heard that, the University's financial statements as at 30 June 2013 shows bank overdraft of KES165,175,314. However, the University Council only approved an overdraft limit of KES162,000,000 on 2 April 2012 resulting in excess leverage of KES3,175,314.

Management Response

The Vice-Chancellor informed the Committee that, the University's financial statement had bank overdraft of KES 165,125,314 which includes KES 164,862,973 at the National Bank of Kenya and an amount of KES 312,341 at KCB-VLIR Research Account held at KCB, Eldoret West branch.

The University had an overdraft exposure at the main account held at the National Bank of Kenya only as at 30 June 2013 and the amount being KES 162,077,438.10 as the outstanding overdraft amount and KES 2,785,534.50 as interest loaded on the outstanding overdraft at 30 June 2013. This facility was secured with the approval of Council and the concurrence of both the parent Ministry and the National Treasury as required.

The KCB-VLIR Research account had a credit balance of KES 1.4 million as at that date. The figures reflected in the report are cash book balances. Therefore, there was no overdraft exposure with the Kenya Commercial Bank. The matter was resolved.

Committee Observation

The Committee observed that: -

(i) The University borrowed a loan of KES 162,000,000 from the National Bank of Kenya in 2012 to finance short term financing gap with the approval of the University Council and concurrence of both the parent Ministry and the National Treasury in accordance with the State Corporations Act Section 5(2). The matter has since been resolved.

(ii) The University did not take any over-draft facility from Kenya Commercial Bank.

Committee Recommendations

The Committee recommends that: -

(i) The University Council should borrow funds to finance development projects and not to finance recurrent operations of the University.

(ii) The Vice-Chancellor ensures that the University's capability to repay the loan be must ascertained before borrowing and upon maturity the University should honour repayment promptly without recourse to the parent Ministry of the National Exchequer for bail out.

4. TRADE AND OTHER PAYABLES FROM EXCHANGE TRANSACTIONS: FY 2014/2015 ACCOUNTS

The Committee heard that, note 28 to the financial statement revealed that the University had accumulated trade and other payables from KES556,240,400 in previous year 2013/2014 to KES754,309,958 as at 30 June 2015. In addition, the supporting documents such as invoices, demand notes or suppliers' statements were not availed for audit verification.

Consequently, the completeness and accuracy of the trade and other payables figure of KES754,309,958 as at 30 June 2015 could not be confirmed.

Management Response

The Vice-Chancellor informed the Committee that, trade and other payables fall into three categories namely supplier related comprising of trade creditors and related transactions, student related comprising of prepaid fees, caution money and unallocated items of HELB, CDF, sponsorships and deposits as well as payroll related from staff remuneration cost and deductions.

Management has instituted necessary controls to comply with Treasury Circular Ref: AG3/101/(7S) of 26 September 2001 and Section 26(6) of the public procurement and disposal act, 2009 through budgetary enforcement controls. However, cash flow challenges and delays in release of capitation have hindered the attainment of the desired status.

Management has also made every effort to pay off the payables.

Committee Observations

The Committee observed that: -

(i) The University had accumulated trade and other payables amounting to KES 754,309,958 as at 30 June 2015 related to creditors and related transactions, prepaid students' fees, caution money and unallocated items of HELB, CDF, sponsorships and deposits and payroll related from staff remuneration cost and deductions.

(ii) The University did not avail supporting documents such as notes or suppliers' statements for audit verification.

Committee Recommendations

The Committee recommends that: -

(i) The Vice-Chancellor and the DVC Finance ensures that proper analysis of trade and other payables is undertaken and the University puts in place necessary financial plans to pay its creditors in time so as reduce accumulation of liabilities. This will also ensure overdue payments do not attract penalties or unwarranted litigation.

(ii) The Vice-Chancellor and DVF Finance ensure corrective measures are instituted to reduce build-up of prepaid and unallocated students' fees from HELB, CDF, sponsorships and deposits as well as payroll payables. The University should continuously improve on the management and collection of fees to minimize undetermined prepaid fees and student debts.

(iii) Further, the Vice-Chancellor and the DVC Finance should ensure that all supporting information and documents with respect to accumulated trade and other payables in support of the figures are availed to the Auditor-General for verification.

5. OUTSTANDING STAFF IMPREST: FY 2014/2015 ACCOUNTS

The Committee heard that, note 23 to the financial statements and the records examined revealed that the University staff outstanding imprest for the year ended 30 June 2015 was KES49,758,002 out of which an amount of KES 43,259,595 relates to FY 2013/2014 period. The schedules availed for audit also indicated that the management granted imprest to officers who had not surrendered previous imprests contrary to Chapter 5.6.6 of the Government Financial Regulations and Procedures which require that no second imprest should be issued to any officer before the first imprest is surrendered or recovered in full from his/her salary. No reason was provided for non-recovery of these long outstanding imprests.

Consequently, the University is in contravention of Government Financial Regulations and Procedures and the propriety of the imprest of KES 49,758,002 could not be confirmed as at 30 June 2015.

Management Response

The University fully adopted the Government Financial Regulations and Procedures as stated in chapter 5.6.5 as reinforced by the University of Eldoret Financial Policy Paragraph 7.2 (vi) & (c) on one imprest at a time and accounting within 48 hours after planned trip/activity.

The ERP system was effectively configured to effect the above adjustments as per policy with all the long overdue outstanding imprest being recovered in full following management resolution on 25 November 2015. The issue is now fully under control except for postgraduate research grants managed for postgraduate students on behalf of National Council of Science and Technology and conditional research grants undertaken by teaching staff.

Committee Observations

(i) **The Committee observed that, some University members of staff had outstanding imprest of KES 49,758,002 as at 30 June 2015 out of which an amount of KES 43,259,595 has been outstanding for over a year as it relates to FY 2013/2014 financial period.**

(ii) **The University management failed to recover the outstanding imprest from the salaries of the said staff members and went ahead to issue them with a second imprest contrary to Government Financial Regulations and Procedures.**

(iii) **Recoveries were later made and the matter resolved.**

Committee Recommendation

The Committee recommends that the Vice-Chancellor and the DVC Finance should ensure that imprest advanced to officers is recovered within the stipulated period in accordance with section 92 of the Public Finance Management Act Regulations of 2015 which allows surcharging of officers for any imprest held beyond the stipulated seven (7) days after return to the work station.

6. **UNAPPROVED EXCESS EXPENDITURE: FY 2014/2015 ACCOUNTS**

a) **Staff Remuneration Costs**

The Committee heard that, note 10 of the University statement of financial performance indicate staff remuneration costs figure of KES 1,424,866,015 whose budget of KES 1,393,611,649 was exceeded by KES 32,254,366. No evidence was provided for audit review to confirm that the over expenditure of KES 31,254,366 was approved by the board.

Consequently, the propriety of the excess expenditure of KES 31,254,366 on staff remuneration could not be confirmed for the year ended 30 June 2015.

Management Response

The Vice-Chancellor informed that, Committee that the University's expenditure was generally within the budget, except staff remuneration costs and staff and student welfare mainly attributed to inadequate budgetary provision as constrained by low government funding as well as increased demands by the staff and students for quality education in line with requirements of regulatory bodies mainly Engineers Board of Kenya and Commission for University Education for purposes of accreditation of engineering courses.

Indeed, the actual staff cost at KES 1.42 billion during the year as compared with a budgeted allocation of KES 1.39 billion was exceeded. The wage bill cost went beyond the budget during the year because of increase in staff salaries and house allowances as a result of the full implementation of the pending elements of 2010/13 National CBA awards and payment of arrears arising thereof, recruitment of critical additional staff and award of normal annual increments to staff. Additional staff was necessitated by the need to provide quality education in line with requirements of regulatory bodies mainly Engineers Board of Kenya and Commission for University Education for purposes of accreditation of Engineering courses.

In addition, the high cost was also as a result of full implementation of a 14% minimum wage increase directive by His Excellency the President of the Republic of Kenya during the Labour Day vide Legal Notice no 197.

Committee Observations

The Committee observed that: -

(i) **The University admitted that it exceeded its staff remuneration costs and student welfare budget by KES 32,254,366 during the financial year ended 30 June 2015 owing to low government funding and increased demands by staff and students for quality education in line with requirements of regulatory bodies mainly Engineers Board of Kenya and Commission for University Education.**

The increase was also necessitated by the increase in staff salaries and house allowances as a result of implementation of 2010/13 National CBA awards, recruitment of critical additional staff and implementation of a 14% minimum wage increase directive by the President vide Legal Notice no. 197 of 2015 which affected 328 employees of the University.

(ii) **Notwithstanding the justification for over expenditure, the University should have sought prior approval in writing from the Parent Ministry and the National Treasury pursuant to Section 12 of the State Corporations Act. The University**

was thus in breach of the Act.

Committee Recommendations

The Committee recommends that: -

(i) The Vice-Chancellor should seek post-facto approval for the over-expenditure in year ending 30 June 2015.

(ii) In future, the University management should ensure that it obtains prior approval in writing before incurring any expenditure above the approved budget.

(iii) The University Council should ensure that the academic programmes offered by the University are only those whose financial provision is within the budget and with requisite infrastructure, human resource and approvals so as to reduce keep within the budgetary constraints.

(iv) The University should seek alternative sources of revenue and enhance viability of income generating activities to supplement budgetary allocations from the Exchequer.

b) Staff and Student Welfare

The Committee heard that, note 11 to the University's statement of financial performance indicate staff and student welfare figure of KES 87,589,288 whose budget of KES 81,600.000 was exceeded by KES 5,989,288. No evidence was provided for audit review to confirm that the over expenditure of KES 5,989,288 was approved by the University Council.

Consequently, the propriety of the over expenditure of KES 5,989,288 on staff and student welfare, could not be confirmed for the year ended 30 June 2015.

Management Response

The staff and students' welfare went beyond the approved budget by KES 5.9 million resulting from Inter-University games which were held in Uganda. This was not anticipated and required payment of participation fees in US dollars. The activity was un-anticipated and it was not possible to request Council to approve in advance. However, the financial expenditure was reported to the Council.

Committee Observations

The Committee observed that: -

(i) The University breached Section 12 of the State Corporations Act by incurring additional expenditure of KES 5,989,288 on the Inter-University Games held in Kampala, Uganda in December 2014 without the prior approval by the parent Ministry and the National Treasury.

(ii) **The management sought and was granted post-facto approval by the University Council.**

Committee Recommendation

The Committee recommends that: -

(i) **The Vice-Chancellor ensures that any over expenditure should be sanctioned by the University Council prior to expenditure.**

(ii) **In future, the University management should ensure that it obtains prior approval from the Council, parent Ministry and National Treasury before incurring any expenditure above the approved budget.**

7. VALUATION OF ASSETS: FY 2014/2015 ACCOUNTS

The Committee heard that, note 25 to the University's statement of financial position on property, plant and equipment, indicate transfer of assets from Moi University figure of KES 979,141,065. However, no valuation report was provided in support of this transfer to the respective assets.

Consequently, the validity and accuracy of the property, plant and equipment net book value of KES 887,951,122 reflected in the statement of financial position could not be confirmed as at 30 June 2015.

Management Response

The Vice-Chancellor informed the Committee that, partial transfer of Assets from Moi University constituting property, plant and equipment was done on 15 December 2014 at their carrying book values. The process of valuation is indeed necessary and important. However, the University has initiated the valuation process through the advertisement of tender in The Daily Nation on 8 February 2017.

Committee Observations

The Committee Observed that: -

(i) **Transfer of assets from Moi University to University of Eldoret was conducted. However, the current valuation report was not availed in support of the transfer and as such, the net book value of the assets in the statement of financial position could not be confirmed.**

(ii) **The University advertised for consultancy services for valuation of the University's assets on 8 February 2017 and the tender process is ongoing.**

Committee Recommendation

The Committee recommends that the Vice-Chancellor ensures that the University conducts professional valuation of all the University assets as a matter of urgency

and further ensure that the true value is included in the financial statements of the University.