THE NATIONAL ASSEMBLY
PAPERS LAID
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TABLED BY: The Leader of The Majority Party (LOM)
CLERK-AT-THE-TABLE: Inzofu Mwale.

REPORT

OF

THE AUDITOR-GENERAL

ON

THE NATIONAL GOVERNMENT

MINISTRIES, DEPARTMENTS AND AGENCIES

FOR

THE YEAR 2021/2022

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Foreword

This report, popularly referred to as the Blue Book, is a compilation of the audit reports of Ministries, Departments and Agencies including their respective Donor Funded Projects for the year ended 30 June, 2022.

The Auditor-General is mandated by the Constitution of Kenya, under Article 229, to audit and report on the use of public resources by all entities funded from public funds. These entities include the National Government, County Governments, the Judiciary, Parliament, Statutory Bodies/State Corporations, Commissions, Independent Offices, Public Debt, Political Parties funded from public funds, other government agencies and any other entity funded from public funds. In addition, Article 229(6) requires the Auditor-General to confirm whether or not public resources have been applied lawfully and in an effective way. The mandate of the Auditor-General is further expounded by the Public Audit Act, 2015.

Article 229 (7) of the Constitution requires the Auditor-General to audit and submit reports to Parliament or the relevant County Assembly within six (6) months after the end of the financial year. However, Section 81(4) of the Public Finance Management Act, 2012, reduces the timeline to three (3) months by giving entities leeway up to the end of September to prepare and submit financial statements for audit. This reduces the duration for audit and reporting from six (6) months given by the Constitution to three (3) months. This has been adversely affecting the timelines for reporting, leading to backlogs and affecting the efficiency and effectiveness for oversight by Parliament and the County Assemblies.

Further, as previously reported, an effective mechanism for follow up on implementation of audit recommendations is lacking and as such most audit queries recur in subsequent audit reports due to lack of requisite action. Section 204(1)(g) of the Public Finance Management Act, 2012 provides that the Cabinet Secretary for matters relating to finance may apply sanctions to a national government entity that fails to address issues raised by the Auditor-General, to the satisfaction of the Auditor-General.

However, despite numerous reports indicating lack of accountability and documents to support the legality and effectiveness in the use of public resources, failure to apply the requisite sanctions and consequences has resulted to some Accounting Officers not adequately accounting for the management and use of public resources with impunity. Lack of action and sanctions has also led to fiscal indiscipline including misallocations, wastage of resources, lack of value for money in implementation of projects and loss of public funds, thereby impacting negatively on development programmes. This in turn threatens economic growth and sustainability of service delivery to citizens. There are instances where some Accounting Officers are in breach of Section 62 of the Public Audit Act, 2015 by failing to adequately prepare for audit which is exhibited by numerous inaccuracies in financial statements presented for audit, lack of requisite supporting

documents, several revisions of financial statements and, in some cases, reluctance to cooperate with the auditors during the audit process.

The Office of the Auditor-General has been continuously improving on the effectiveness and quality of the audit process to ensure that the results of audit and the recommendations thereof are credible, relevant, reliable and value adding. This is geared towards influencing improved decision making and positive impact on the lives and livelihoods of citizens and other stakeholders. Provision of quality and effective audit services and confirmation of the lawfulness and effectiveness in programme implementation requires comprehensive scrutiny and evaluation of supporting documents. Most critical is the physical confirmation of the existence and utilization of projects or programmes implemented throughout the country. To achieve this requires an independent and well-resourced audit Office with guaranteed adequate funding to enable efficient, effective and timely execution of the audit cycle as well as retention of optimal staffing levels to ensure continuous, quality and sustainable audit operations.

The Office continues to seek financial independence and support from Parliament and The Executive through The National Treasury for enhancement of resources to enable it build technical capacity, expand its presence in the counties, widen the scope and comprehensiveness of audit and motivate staff. We continue to devolve our services closer to the people through establishment of regional offices and construction of office premises to accommodate our staff in order to address the audit needs at the grassroot level. During the year under review, we established the Upper North Regional Office in Isiolo and the North Western Regional Office in Kitale. We have so far constructed regional offices in Garissa, Kakamega and Eldoret, while construction works in Embu is almost complete. Plans for construction of our Headquarters in Nairobi, which is currently at the design stage, has been delayed by lack of funding. However, the Office continues to make appeals to Parliament and The National Treasury for adequate funds to enable us perform our functions and achieve our mandate in enhancing accountability across government, both at the national and county levels, and in all other entities funded from public funds.

The audit scope has been expanding over the years due to the expansion of government programs to ensure sustainable development and delivery of continuous and quality services to the citizens. This has led to growth in the national budget and formation of additional entities that I am required to audit and report on. All the over nine thousand (9,000) Public Secondary Schools were from 30 June, 2022 required to prepare and submit financial statements to the Auditor-General for audit and quite a number have complied. In addition, I am required to audit and report on financial statements for all the three hundred and fifty-eight (358) Level 4 hospitals and fourteen (14) Level 5 hospitals separately. In the current financial year, I am also required to audit a total of two hundred and eighteen (218) Technical and Vocational Education and Training (TVET) Institutions and the number could increase as we are currently undertaking an evaluation exercise with the State Department for Technical, Vocational Education and Training to identify all institutions funded by the Exchequer including the Community Vocational Training

Institutions that are estimated to be over one thousand and two hundred (1,200) Institutions. In addition, new projects and funds have been created that require timely oversight.

During the period under review, the Office of the Auditor-General made great strides in enhancing delivery of audit services to the people of Kenya. The Office has entered into partnerships with other Supreme Audit Institutions (SAIs) regionally and globally and with local oversight institutions such as the Ethics and Anti-Corruption Commission (EACC), the State Corporations Advisory Committee (SCAC) and the Salaries and Remuneration Commission (SRC) among other organizations, as we strive to increase the impact of audit through learning, knowledge sharing, innovation and collaboration.

Specific reports together with my opinion for each entity are contained in the respective MDA's audited financial statements for the year ended 30 June, 2022, which I have already submitted to Parliament and to each Accounting Officer. A summary highlighting key cross-cutting audit findings will be submitted separately.

I wish to sincerely thank the entire staff of the Office of the Auditor-General for their commitment, passion and professionalism in carrying out their duties despite the challenges posed by lack of adequate funds. Special appreciation goes to the team that prepared this Consolidated Audit Report.

I wish also to appreciate my clients or auditees for the cooperation they accorded my staff during the audit.

CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

20 February, 2023

Introduction

1.1 Constitutional Mandate of the Auditor-General

The Auditor-General is mandated by the Constitution of Kenya, under Article 229, to audit and report on the use of public resources by all entities funded from public funds. These entities include; the National Government, County Governments, the Judiciary, Parliament, Statutory Bodies/State Corporations, Commissions, Independent Offices, Public Debt, Political Parties funded from public funds, other government agencies and any other entity funded from public funds. The mandate of the Auditor-General is further expounded by the Public Audit Act, 2015.

The Constitution requires the Auditor-General to audit and submit the audit reports of the public entities to Parliament and the relevant County Assemblies by 31 December, every year. In carrying out the mandate, the Auditor-General, is also required, under Article 229 (6) to assess and confirm whether the public entities have utilised the public resources entrusted to them lawfully and in an effective way.

Further, the objects and authority of the Auditor-General, as outlined in Article 249 of the Constitution, are: to protect the sovereignty of the people; to secure the observance by all State Organs of democratic values and principles; and, to promote constitutionalism. The Auditor-General has also been given powers by the Constitution, under Article 252, to conduct investigations, conciliations, mediations and negotiations and to issue summons to witnesses for the purpose of investigations.

1.2 Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of the financial statements in accordance with the International Public Sector Accounting Standards (IPSAS), as prescribed by the Public Sector Accounting Standards Board (PSASB), and for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

Management is also responsible for maintaining an effective internal control environment necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error, and for the assessment of the effectiveness of internal control, risk management and governance.

Further, Management is required to ensure that the activities, financial transactions and information reflected in the financial statements, are in compliance with the law and other relevant or applicable authorities, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the financial reporting process, reviewing the effectiveness of how each Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance

and risk management, and ensuring the adequacy and effectiveness of the control environment.

1.3 Auditor-General's Responsibility

My responsibility is to conduct an audit of the financial statements in accordance with the International Standards of Supreme Audit Institutions (ISSAIs), and to issue an auditor's report. The audit report includes my opinion as provided by Section 48 of the Public Audit Act, 2015, and the report is submitted to Parliament in compliance with Article 229(7) of the Constitution.

In addition, Article 229(6) of the Constitution requires me to express a conclusion on whether or not, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the law and other authorities that govern them, and that public resources are applied in an effective way. I also consider the entities' control environment in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems, in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015.

I am independent in accordance with Article 249(2) of the Constitution of Kenya and ISSAI 130 on the Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of public entities in the Republic of Kenya.

1.4 Reporting Structure

The reporting structure of my report address the reporting requirements of Article 229(6) of the Constitution of Kenya, which requires that an audit report shall confirm whether or not public resources have been applied lawfully and in an effective way. Section 7(1) (a) of the Public Audit Act, 2015 also requires that I provide assurance on the effectiveness of internal controls, risk management and overall governance.

In addition, the International Standards of Supreme Audit Institutions (ISSAIs), require the incorporation of Key Audit Matters in the report on the financial statements, which are those matters that I determine in my professional judgment, are of most significance in the audit of the financial statements as a whole, for the year under review.

In order to address these requirements, my audit reports contain the following:

i. **Report on Financial Statements**, in which I give an audit opinion on whether the financial statements present fairly, in all material respects the financial position and performance of the entity.

ii. **Report on Lawfulness and Effectiveness in Use of Public Resources**, in which I give a conclusion on whether or not public resources have been applied lawfully and in an effective way.

iii. **Report on Effectiveness of Internal Controls, Risk Management and Governance**, in which I give a conclusion on whether internal controls, risk management and overall governance were effective.

iv. **Report on Other Legal and Regulatory Requirements** is included where applicable, especially for the entities that are registered under the Companies Act, 2015 and any other enabling legislation or authorities that require such disclosure.

1.5 Audit Opinions

I have expressed different types of audit opinions based on the following criteria:

a) Unmodified Opinion

The books of accounts and underlying records agree with the financial statements and no material misstatements were found. The financial statements present fairly, in all material respects, the operations of the entity. The financial statements with Unmodified Opinion are listed in Appendix A.

b) Qualified Opinion

Financial transactions were recorded and are to a large extent in agreement with the underlying records, except for cases where I noted material misstatements or omissions in the financial statements. The issues though material, are not widespread or persistent. The financial statements with Qualified Opinion are listed in Appendix B.

c) Adverse Opinion

The financial statements exhibit significant misstatements with the underlying accounting records. There exists significant disagreement(s) between the financial statements and the underlying books of accounts and/or standards. These problems are widespread, persistent and require considerable interventions by the management to rectify. The financial statements with Adverse Opinion are listed in Appendix C.

d) Disclaimer of Opinion

The financial statements exhibit serious and significant misstatements that may arise from inadequate information, limitation of scope, inadequacy or lack of proper records such that I was not able to form an opinion on the financial operations. The financial statements with Disclaimer of Opinion are listed in Appendix D.

The key findings noted during the audit of the financial statements for the year ended 30 June, 2022 are highlighted in the ensuing pages.

THE NATIONAL TREASURY - VOTE 1071

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1. Unconfirmed Expenditure Balances

The statement of receipts and payments reflects an expenditure of Kshs.1,606,952,339 in respect of acquisition of assets which, as disclosed in Note 15.12 to the financial statements, includes an amount of Kshs.9,847,738 relating to purchase of office furniture and general equipment. However, the latter amount was at a variance with the amount of Kshs.89,234,988 reflected in the Integrated Financial Management Information System (IFMIS) system payments report by an unexplained variance of Kshs.79,387,250. Similarly, the statement of receipts and payments reflects an amount of Kshs.25,026,311,607 in respect of use of goods and services which, as disclosed in Note 15.06 to the financial statements, includes an amount of Kshs.13,063,400 in respect of fuel, oil and lubricants. However, the amount of Kshs.13,063,400 was at variance with the amount of Kshs.50,091,990 computed from the fuel statements by an unexplained variance of Kshs.37,028,590.

In the circumstances, the accuracy of the expenditure of Kshs.9,847,738 incurred on purchase of office furniture and general equipment and the expenditure of Kshs.13,063,400 incurred on fuel, oil and lubricants could not be confirmed.

2. Long Outstanding Bank Reconciling Items

The statement of assets and liabilities reflects an amount of Kshs.3,657,492,025 in respect of bank balances. However, review of the bank reconciliation statement for the development bank account for the month of June, 2022, revealed that a number of reconciling items had been outstanding for a long period. The bank reconciliation statement reflected receipts of Kshs.4,839,939,398 recorded in the bank statement on 26 May, 2022 but not in the cash book. Further, the bank reconciliation statement reflected receipts in the cash book not yet recorded in the bank statement totalling Kshs.2,716,155,626 out of which receipts totalling Kshs.623,593,984 were dated between 13 May, 2020 and 02 December, 2021. No explanation was provided for failure to clear the long outstanding reconciling items.

In the circumstances, the accuracy of the cash and cash equivalents balance of Kshs.3,657,492,025 as at 30 June, 2022 could not be confirmed.

Other Matter

3. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final receipts budget and actual on comparable basis of Kshs.167,894,349,737 and Kshs.126,414,837,692 respectively resulting to an underfunding of Kshs.42,782,675,278 or 25% of the budget.

Similarly, The National Treasury spent a total of Kshs.125,778,027,665 against an approved budget of Kshs.167,894,349,737 resulting to an underexpenditure of Kshs.42,116,322,072 or 26% of the budget.

The underfunding and underperformance affected the planned activities of The National Treasury and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

4. Lack of Fixed Assets Register

As previously reported, Annex 4 to the financial statements reflects a summary of fixed assets register with a historical cost of Kshs.6,570,539,354 (2021: Kshs.5,614,749,522) and which included assets valued at Kshs.955,789,832 as additions during the year under review. However, The National Treasury did not provide an assets' register to support the assets valued at Kshs.6,570,539,354 as required by Regulation 143(1) of the Public Finance Management (National Government) Regulations, 2015 which states that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

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

5. Over-Commitment of Salary

The statement of receipts and payments reflects an expenditure of Kshs.3,192,672,341 on compensation of employees, which, as disclosed in Note 15.05 to the financial statements, includes an amount of Kshs.1,652,229,155 paid as basic salaries to permanent employees. However, review of the payroll data revealed that, during the year under review, one hundred and twenty five (125) employees earned a net salary less than one-third (⅓) of their basic salary. This was against Section C.1(3) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which states that public officers shall not over-commit their salaries beyond two thirds (⅔) of their basic salaries and Heads of Human Resource Units should ensure compliance.

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

6. Non-Operational Vehicle Scanning Machines

During the financial year 2014-2015, The National Treasury awarded a contract to install modern vehicle scanning machines at the Treasury Building and Bima House to a local contractor at a cost of Kshs.164,510,341. The contract entailed the supply of three (3) handheld advanced, explosive, trace, particulate and vapor detectors at a cost of Kshs.16,882,502. However, none of the scanners or detectors were in operation at the time of the audit in the month December, 2022.

In the circumstances, it was not possible to confirm whether The National Treasury obtained value for money from the expenditure of Kshs.16,882,502 incurred on the project.

7. Failure to Implement the Public E-Procurement System

Review of procurement processes in government corporations and other public procuring entities revealed that, by the time of their respective audits, the entities' procurement processes had not been linked with the Integrated Financial Management Information System (IFMIS) as per Executive Order No. 2 of 2018. The Order had directed that by 01 January, 2019, The National Treasury was to facilitate seamless integration of all public procurement entities to the Integrated Financial Management Information System (IFMIS) and that by that same date, all Public Procuring entities undertake all their procurement through the e-procurement module. Most of the non-complying procuring entities have blamed The National Treasury for failing to create the integration platform.

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

8. Unauthorized Staff Establishment

Review of The National Treasury staff establishment revealed that thirty-nine (39) positions with ninety-two (92) members of staff in-post were not authorized. Similarly, forty-five (45) positions with an authorised establishment of four hundred and sixty-six (466) members of staff had one thousand and sixty-one (1,061) staff members in-post, exceeding the approved establishment by five hundred and ninety-five (595) staff members.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

9. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NATIONAL EXCHEQUER ACCOUNT

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

10. There were no material issues noted during the audit of the financial statements of the National Exchequer Account.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

11. Non-Compliance with Article 260 of the Constitution - Late Exchequer Releases

As disclosed in Note 13.6 to the financial statements, an amount of Kshs.39,964,834,094 was indicated as payments in the cash book not yet recorded in the bank statement (uncleared items). However, examination of records indicated that the amount relates to Exchequer releases to Ministries, Departments and Agencies, Public Debt and County Governments that were disbursed after the end of the financial year. This was contrary to Regulation 97(4) of the Public Finance Management (National Government) Regulations, 2015 which states, inter alia, "that an actual cash transaction taking place after the 30 June, shall not be treated as pertaining to the previous financial year." This was also in breach of Article 260 of the Constitution which states that "financial year means the period of twelve months ending on the thirtieth day of June or other day prescribed by national legislation."

Further, the practice of backdating transactions to 30 June, is against the concept of IPSAS cash accounting. Management has explained that the late Exchequer releases were occasioned by late receipt of revenues and that approval was given by the Controller of Budget.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

12. There were no material issues relating to effectiveness of internal controls, risk management and governance.

CONSOLIDATED FUND SERVICES - PUBLIC DEBT

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

13. There were no material issues noted during the audit of the financial statements of the Consolidated Fund Services - Public Debt.

Emphasis of Matter

14. Payment of Commitment Fees on Undrawn Amounts

As reported in the previous year, the statement of receipts and payments for the year ended 30 June, 2022 reflects finance costs including loan interest amounting to

Kshs.510,090,079,877 which, as disclosed in Note 13.3 to the financial statements, includes interest payments on foreign borrowing of Kshs.121,494,973,255. The latter balance includes commitment fees on undrawn amounts paid during the period under review amounting to Kshs.1,486,813,083. The commitment fees relates to undrawn loans signed between the Government of Kenya and foreign lenders.

Further, review of the summary statement of debt stock as at 30 June, 2022 revealed that twenty (20) loans agreements with cumulative loans of Kshs.379,943,389,070 were signed between 1 July, 2019 and 31 December, 2020. However, no drawdowns on these loans had been made by the various implementing Agencies for the funded projects and programmes as at 30 June, 2022. Had the implementing Agencies put proper mechanisms in place to enable absorption of the committed credit within the agreed timeframe, payment of commitment fees would have been minimized. The National Treasury, being the overall supervisor of Government Ministries, Departments and Implementing Agencies needs to ensure that programmes and projects are ready for execution before committing the Government to bear the loans.

15. Guaranteed Debts

The summary statement of public debt reflects total outstanding debt stock balance of Kshs.8,478,949,965,757 as at 30 June, 2022. Review of the debt stock records provided revealed that the balance includes guaranteed loans amounting to Kshs.145,356,697,726 as at 30 June, 2022. As reported in the previous year, these are loans advanced to State Agencies for which The National Treasury is the guarantor. Although the guaranteed loans are serviced by the recipient entities and would only be charged to the Consolidated Fund in cases of default, the guaranteed loans constitute contingent liabilities and form part of public debt as guaranteed debts. However, the balance does not include loans and overdrafts, if any, held by other National and County Governments entities. Management has however indicated that there were no borrowings by the County Governments and The National Treasury did not guarantee any loan by State Agencies during the year. Management has also indicated that where a State Agency secures a loan, it is the responsibility of the Board of Directors to ensure that the amount is repaid and is not chargeable to the Consolidated Fund.

However, the National Government is obliged to bail out any amount that could be defaulted by the County Governments and State Agencies using public resources.

16. Default on Debt Repayment

As reported in the previous year, review of records held by The National Treasury's Commonwealth Secretariat Debt Recording and Management System as at 30 June, 2022 revealed that the Government had defaulted on servicing an amount of Kshs.11,039,138,761 in respect of three (3) loans advanced by an International Commercial Bank towards the construction of three (3) dams as detailed below:

Project	Disbursed Amount Euro	Principal Defaulted Euro	Interest Defaulted Euro	Total Arrears Euro	Equivalent (Kshs.)
Arror Dam	91,852,267	3,196,591	9,874,612	23,071,203	2,861,297,485
Itare Dam Project	141,552,608	36,388,094	6,735,832	43,123,926	5,348,242,211
Kimwarer Dam	71,878,751	15,380,277	7,435,335	22,815,612	2,829,599,065
Total	**305,283,626**	**64,964,961**	**24,045,779**	**89,010,741**	**11,039,138,761**

The credit agreements for these loans were not provided for audit review to confirm the terms of the loans and if the termination of the credit was conducted in accordance with the provisions in the respective agreements. Management indicated that the lender has cancelled the remaining balance and the credit agreements for the three (3) dams are in the custody of the Directorate of Criminal Investigation (DCI) as the matter was in court. The default on debt repayment exposes the Government to risks of legal suits that may lead to punitive penalties and subsequent loss of public resources.

17. Increase in Domestic Borrowings

Review of Summary statement of public debt for the year ended 30 June, 2022 revealed that external debt rose from Kshs.3,761,235,298,615 to Kshs.4,076,028,476,708 or 8.37% against that of internal debt which increased from Kshs.3,635,319,130,686 to Kshs.4,257,564,791,323 or 14.62%. Interest on internal debt for the financial year ended 30 June, 2022 stood at 76% to that of external debt which stood at 24% of the total finance costs, including loan interest. The cost of domestic debt is three times the cost of external borrowings. Management has not indicated the measures being put in place to guard against the excessive internal borrowings with a view to reducing the crowding out effect of local borrowers in the economy.

In the circumstances, the high domestic borrowings may have a negative impact on the country's interest rates, inflation rates and may lead to crowding out of private investors due to reduced loanable funds in the market.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

18. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

19. There were no material issues relating to effectiveness of internal controls, risk management and governance.

RECEIVER OF REVENUE (RECURRENT)

REPORT ON THE REVENUE STATEMENTS

Unmodified Opinion

20. There were no material issues noted during the audit of the recurrent revenue statements.

Other Matter

21. Budgetary Control and Performance

As disclosed in Note 5 to the revenue statements, fees on licenses under the Traffic Act and Petroleum Development Levy realized during the year under review was Kshs.4,424,032,458 and Kshs.26,132,322,347 respectively, against estimated revenues of Kshs.5,106,206,554 and Kshs.37,132,000,000 resulting in under-collections of Kshs.682,174,096 or 13% and Kshs.10,999,677,653 or 30%, respectively. Further, as disclosed in Note 8 to the revenue statements, sundry revenue realized during the year under review was Kshs.275,548,422 against estimated revenue of Kshs.902,639,669 resulting to under-collection of Kshs.627,091,247 or 69%.

The under-collection may have impacted negatively on funding the budgets of the various public entities and therefore affecting development and service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

22. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

23. Long Outstanding Arrears of Revenue

As reported in the previous year, the statement of arrears of revenue reflects total tax arrears amounting to Kshs.1,558,258,572,271 as analyzed in the Kenya Revenue Authority debt portfolio. The balance includes an amount of Kshs.177,788,000,000 categorized as long outstanding legacy debts. The debts date back to 1992 and relate to penalties, interest, prior years debt, estimated assessment debt and other debts that are subject to other factors such as data corrections, objections and appeal processes.

Further, the statement of arrears of revenue as at 30 June, 2022 reflects non-tax revenues arrears of Kshs.79,955,123,344 comprising of loan redemption amounting to Kshs.38,078,376,052 and loan interest amounting to Kshs.41,876,747,292. Included in

the balance is an amount of Kshs.54,100,388,350 which has been outstanding for more than two years.

Although Management provided various reasons for the non-receipt of the revenues and explained measures in place to improve the outstanding debt arrears position, it is not clear why some unrecovered long outstanding balances continue to be retained in the revenue statements.

In the circumstances, the existence of an effective mechanism to ensure full realization of the outstanding arrears of revenue could not be established.

DEVELOPMENT REVENUE STATEMENTS

REPORT ON THE REVENUE STATEMENTS

Unmodified Opinion

24. There were no material issues noted during the audit of the development revenue statements.

Other Matter

25. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final revenue budget and actual on comparable basis of Kshs.96,570,519,961 and Kshs.61,046,004,175 respectively resulting to under performance of Kshs.35,524,515,786 or 37% of the budget. Management attributed the under performance to underutilization of budgets by the respective Projects in the Ministries, Department and Agencies.

The underperformance resulted to underfunding of planned development activities which may have adversely impacted on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

26. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

27. There were no material issues relating to effectiveness of internal controls, risk management and governance.

GOVERNMENT INVESTMENTS AND PUBLIC ENTERPRISES - REVENUE STATEMENTS

REPORT ON THE REVENUE STATEMENTS

Basis for Qualified Opinion

28. Unreconciled Outstanding Loans Balances

The summary schedule of outstanding loans reflects total outstanding loans of Kshs.920,690,539,503. However, eighteen (18) entities with a total loan balance amounting to Kshs.268,875,962,951 reflected in the summary schedule differed with the loan balance of Kshs.268,241,119,147 independently confirmed from the entities resulting to an unexplained variances as summarized below;

No.	Company/Institution	Balance as per the Revenue Statements (Kshs.)	Balance Confirmed After Circularization (Kshs.)	Variance (Kshs.)
1.	Athi Water Services Board	47,181,677,443	44,780,310,172	2,401,367,271
2.	Coast Water Service Board	15,839,546,804	12,865,923,145	2,973,623,659
3.	Equity Bank Limited	136,672,275	14,913,236	121,759,039
4.	Kenya Airports Authority	1,708,012,739	1,709,808,167	(1,795,428)
5.	Kenya Electricity Generating Company Limited	81,533,589,265	88,136,215,941	(6,602,626,676)
6.	Kenya Electricity Transmission Company Limited	2,306,257,099	2,563,713,710	(257,456,611)
7.	Kenya Meat Commission	940,241,100	300,000,000	640,241,100
8.	Kenya Power and Lighting Company Limited	56,147,469,037	56,340,742,324	(193,273,287)
9.	Kilifi Mariakani Water and Sewerage Company Limited	283,998,236	379,210,338	(95,212,102)
10.	Lake Victoria North Water Services Board	11,594,143,705	12,618,417,315	(1,024,273,610)
11.	Lake Victoria South Water Services Board	12,991,985,210	9,471,336,598	3,520,648,612
12.	Malindi Water, Sewerage and Sanitation Company Limited	284,748,410	354,033,526	(69,285,116)
13.	Northern Water Services Board	5,389,000,000	3,267,383,722	2,121,616,278
14.	Nzoia Sugar Company Limited	458,510,100	11,454,385,173	(10,995,875,073)
15.	Rural Electrification Authority	13,426,088,636	13,385,625,937	40,462,699
16.	Tana Water Services Board	7,543,116,143	4,545,195,118	2,997,921,025
17.	Tanathi Water Services Board	9,713,565,506	5,691,292,426	4,022,273,080
18.	Water Resource Management Authority	1,397,341,243	362,612,300	1,034,728,943
Total		**268,875,962,951**	**268,241,119,147**	

Further, institutions with outstanding balances amounting to Kshs.14,566,060,517 did not confirm their loan balances as at 30 June, 2022 as detailed below:

No.	Institution	Balance as Per Revenue Statements (Kshs.)
1.	Halal Meat Products	27,701,420
2.	Kenya Urban Transport Various Towns	40,706,140
3.	Local Government Loans Authority	7,594,273,720
4.	Miwani Outgrowers Mills Limited	6,600,000
5.	Miwani Sugar Company (1989) Limited	16,000,020
6.	Miwani Sugar Mills Limited	78,088,180
7.	Mombasa Pipeline Board	22,964,980
8.	Mumias Outgrowers Company Limited	16,517,400
9.	Mumias Sugar Company Limited	3,000,000,000
10.	Nairobi City Council	102,333,760
11.	National Water Conservation and Pipeline Corporation	2,460,874,897
12.	Uchumi Supermarkets Limited	1,200,000,000
Total		**14,566,060,517**

In the circumstances, the validity, accuracy and completeness of the reported outstanding loans balance of Kshs.920,690,539,503 as at 30 June, 2022 could not be confirmed.

Other Matter

29. Dormant Loans

As previously reported, the summary schedule of outstanding loans reflects total loans outstanding of Kshs.920,690,539,503. Included in the balance are twelve (12) loans amounting to Kshs.13,151,255,401 which had no movement during the year and have remained unpaid over a significant period. Further, the Management did not provide the aging analysis of the dormant loans tabulated below:

No.	Institution	Amount Outstanding as at 30 June, 2022 (Kshs.)
(i)	Agro-chemical and Food Company Limited	2,941,884,000
(ii)	East African Sugar Industries Limited, Muhoroni	177,123,100
(iii)	Halal Meat Products	27,701,420
(iv)	Kenya Meat Commission	940,241,100
(v)	Kenya Urban Transport Various Towns	40,706,140
(vi)	Miwani Outgrowers Mills Limited	6,600,000
(vii)	Miwani Sugar Company (1989) Limited	16,000,020
(viii)	Miwani Sugar Mills Limited	78,088,180
(ix)	Mumias Sugar Company Limited	3,000,000,000
(x)	National Irrigation Board	2,262,036,544
(xi)	National Water Conservation and Pipeline Corporation	2,460,874,897
(xii)	Uchumi Supermarkets Limited	1,200,000,000
	Total	**13,151,255,401**

Management has not disclosed measures put in place to ensure all loans are being repaid and in case of default, sanctions imposed on the defaulters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

30. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

31. There were no material issues relating to effectiveness of internal controls, risk management and governance.

EAST AFRICA TOURIST VISA FEE COLLECTION ACCOUNT

REPORT ON THE REVENUE STATEMENTS

Unmodified Opinion

32. There were no material issues noted during the audit of the revenue statements of the East Africa Tourist Visa Fee Collection Account.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

33. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

34. Lack of Annual Audit Services

The statement of receipts and payments reflects total receipts of Kshs.205,071,201 collected during the year under review. However, there was no evidence of establishment of a Joint Verification Committee to subject the collection account to annual audit. This was contrary to Article 9(4) of the Memorandum of Understanding between the Government of the Republic of Kenya, the Government of the Republic of Rwanda and the Government of the Republic of Uganda which stipulates that a Joint Verification Committee from the parties shall be put in place to carry out annual audit, although the

process of sharing the East Africa Tourist Visa revenues shall be done through mutual trust and respect.

In the circumstances, the effectiveness of the collection account internal controls system and risk management processes were not tested during the year.

STATEMENT OF OUTSTANDING OBLIGATIONS GUARANTEED BY GOVERNMENT OF KENYA

REPORT ON THE FINANCIAL STATEMENTS

Basis for Disclaimer of Opinion

35. Unsupported Balance

As reported in the previous years, the statement of outstanding obligations guaranteed by the Government of Kenya continue to reflect an outstanding balance of Kshs.152,317,825; (2021-Kshs.152,317,825) being capital and interest owed by the Cereals and Sugar Finance Corporation. However, the balance has not been supported by any verifiable records or documents and this constitutes a limitation of scope. Although Management has indicated that the Corporation is dormant and has embarked on the process of winding up of the Corporation, it is not clear how the guaranteed debt will be cleared without supporting documentation on the same.

36. Undisclosed Balances

The Consolidated National Government Investment Report for the year 2021/2022, prepared by The National Treasury in accordance with Section 89 of the Public Finance Management Act, 2012 and the Summary Statement of Public Debt for the year 2021/2022 reflects guaranteed debts/undischarged guarantee from four (4) entities totaling Kshs.145,357,000,000 which have been omitted from the statement of obligations guaranteed by Government of Kenya as indicated below:

Entity	Lender	Guaranteed Debt (Kshs.)
Kenya Electricity Generating Company PLC	Government of Japan and Federal Republic of Germany-GTZ	24,513,000,000
Kenya Ports Authority	Government of Japan	33,077,000,000
Kenya Airways	Exim Bank USA	77,824,000,000
Kenya Power and Lighting Company	Government of Japan	9,943,000,000
Total		**145,357,000,000**

In the circumstances, the completeness, accuracy and the status of the outstanding obligations guaranteed by the Government of Kenya as at 30 June, 2022 could not be ascertained.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

37. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for my audit conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

38. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for my audit conclusion.

CONSOLIDATED FUND SERVICES - SUBSCRIPTIONS TO INTERNATIONAL ORGANIZATIONS

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

39. There were no material issues noted during the audit of the financial statements of the Consolidated Fund Services – Subscriptions to International Organizations.

Other Matter

40. Multiple Laws Guiding Operations of the Fund

As previously reported, prior to 2017, the Government through The National Treasury had been paying subscriptions to international organizations through Vote R53 – Consolidated Fund Services - Subscriptions to International Organizations under various pieces of legislation namely: International Finance Corporation Act, Cap 466, International Development Association Act, Cap 465, Bretton Woods Agreements Act, Cap 464, the African Development Bank Act, Cap 492 and the Multilateral Investment Guarantee Agency Convention,1988 (Revised 2010). Other Ministries, Departments and Agencies, MDAs have been remitting such subscriptions through their voted provisions within their budgets.

However, the Public Finance Management (African Union and Other International Organizations Subscription Fund) Regulations, 2017 established the African Union and Other International Organizations Subscription Fund through which Kenya's contributions to African Union and Other International Organizations across all Government agencies were to be paid. This in effect rendered all other individual voted provisions to be consolidated and budgeted under one umbrella body, the African Union and Other International Organizations Subscription Fund.

Management has not caused the revocation or repealing of the earlier laws to be in tandem with the current legislation and avert the risk of making multiple payments to the international organizations.

41. Budgetary Control and Performance

Review of the statement of comparison of budget and actual amounts revealed that the Fund had a budget of Kshs.500,000 but did not incur any expenditure during the period under review resulting in under absorption of funds by the same amount or 100% under-utilization. The under-utilization of funds was attributed to the fact that the Fund did not receive any invoices during the period under review.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

42. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE.

Conclusion

43. There were no material issues relating to effectiveness of internal controls, risk management and governance.

CONSOLIDATED FUND SERVICES - SALARIES, ALLOWANCES AND MISCELLANEOUS SERVICES

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

44. There were no material issues noted during the audit of the financial statements of the Consolidated Fund Services – Salaries, Allowances and Miscellaneous Services.

Other Matter

45. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts and actual receipts on comparable basis of Kshs.4,542,867,150 and Kshs.3,195,244,429, respectively resulting in a receipts shortfall of Kshs.1,347,622,721 or 30% of the budget. Similarly, the statement reflects expenditure budget and actual payments on comparable basis of Kshs.4,542,867,150 and Kshs.3,200,966,015, respectively resulting in underabsorption of Kshs.1,341,901,135 or 30%.

The undercollection and underexpenditure imply that some of the budgeted programs and activities may not have been executed during the year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

46. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

47. There were no material issues relating to effectiveness of internal controls, risk management and governance.

CONSOLIDATED FUND SERVICES – PENSION AND GRATUITIES

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

48. Long Outstanding Bank Reconciliation Items

The statement of financial assets and liabilities reflects a bank balance of Kshs.1,991,824,419 which, as disclosed in Note 9 to the financial statements, includes an amount of Kshs.1,324,694,712 in respect of funds held in the recurrent bank account at the Central Bank of Kenya. However, an examination of the bank reconciliation statement for the month of June, 2022 revealed payments in cash book not in bank amounting to Kshs.145,813,004 with some transactions dating back September, 2019. Further, the reconciliation statement reflects payments in bank not in cash book of Kshs.17,545,255 with some transactions having remained outstanding since 2008. In addition, the bank reconciliation statement reflects receipts in bank not in cash book amounting to Kshs.30,858,908 while receipts in cash book not in bank amounted to Kshs.15,499,065 with some transactions having remained outstanding since 2010. No explanation was provided for failure to clear the long outstanding reconciling items.

In the circumstances, the accuracy of the recurrent bank balance of Kshs.1,324,694,712 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

49. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

50. Incomplete Pension Records

Note 7 to the financial statements discloses an amount of Kshs.67,582,563,409 paid as ordinary pensions during the year under review. However, in making the payments, Management did not confirm that the payees were alive as there was no mechanism put in place to remove pensioners from the payroll upon their demise. Further, an amount of Kshs.350,736,433 included in the pension payments relates to pensioners with dummy and unconventional identification numbers. In addition, an amount of Kshs.242,936,971 relates to pension payments to pensioners who are below the age of 18 years.

In the circumstances, the integrity of the pensioners' data used for processing pension payments could not be confirmed.

REVENUE STATEMENTS OF THE PENSIONS DEPARTMENT

REPORT ON THE REVENUE STATEMENTS

Unmodified Opinion

51. There were no material issues noted during the audit of the revenue statements.

Other Matter

52. Budgetary Control and Performance

The statement of receipts and disbursements reflects an amount of Kshs.588,577,979 in respect of total contributions which, as disclosed in Note 12 to the financial statements, exceeded the budget of Kshs.369,993,817 by Kshs.218,584,162 or 159% of the budget. Budgets should be realistic in order to ensure commensurate efforts and resources are geared towards achievement of the set targets.

The over-realisation of contribution from Government employees to social and welfare schemes within Government is an indication of poor budgeting processes.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

53. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

54. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECTS

FINANCIAL SECTOR SUPPORT PROJECT (IDA CREDIT NO.5627-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

55. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

56. Uncertainty in Sustainability of Services

The statement of comparison of budget and actual amounts reflects an expenditure on compensation of employees amounting to Kshs.23,001,570 against a budget provision of Kshs.27,537,084 resulting to underexpenditure of Kshs.4,535,515 or 16% of the approved budget. Although Management has explained the underexpenditure was due to delayed project restructuring, available information indicates that the Project Implementation Unit contracted employees' terms lapsed in April, 2022 and they continued to offer services to the Project without compensation. Further, the Project disbursing period lapses in October, 2022 and lack of valid contracts of the Project Implementation Unit staff, exposes the project operations to the risk of external interference and casts doubt on the finalization of the project activities and subsequent closure.

My opinion is not modified in respect of this matter.

Other Matter

57. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,816,346,218 and Kshs.267,192,000 respectively resulting to an underfunding of Kshs.1,549,154,218 or 85% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.1,816,346,220 and Kshs.271,002,735 respectively resulting to an underexpenditure of Kshs.1,545,343,486 or 85% of the budget.

Based on the approved estimates, the underfunding and underexpenditure affected the planned activities and may have impacted negatively on service delivery to the public.

58. Pending Bills

Note 9 and Annex 2 to the financial statements indicates that the Project had pending bill of Kshs.3,930,401 as at 30 June, 2022. Management has not explained why the bill was not settled during the year when it occurred. The Project risks incurring significant interest costs and penalties with continued delay in payment.

Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

59. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

60. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

61. As required by International Development Association (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

GLOBAL FUND - TO ACCELERATE THE REDUCTION OF TB, LEPROSY AND LUNG DISEASE BURDEN THROUGH PROVISION OF PEOPLE-CENTERED, UNIVERSALLY ACCESSIBLE, ACCEPTABLE AND AFFORDABLE QUALITY SERVICES IN KENYA PROGRA - KEN-T-TNT, GA 1548

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

62. Failure to Analyse Counterpart Funding

As previously reported, the statement of receipts and payments reflects Nil balance under transfers from Government (counterpart funding) and a comparative balance of Kshs.387,459,444 for the financial year ended 30 June, 2021 bringing the cumulative

to-date balance from inception to Kshs.637,459,444. Management has however, not provided an analysis to indicate how the balance was built up since the inception of the Program. Further, the amount had previously been omitted from the audited financial statements for previous years and the balances were not marked as restated on the face of the financial statements.

In the circumstances, the accuracy and completeness of the reported cumulative transfers from Government of Kshs.637,459,444 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

63. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

64. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

65. As required by the Global Fund, I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Program and the Program's financial statements are in agreement with the accounting records and returns.

INFRASTRUCTURE FINANCE AND PUBLIC PRIVATE PARTNERSHIPS PROJECT - IDA CREDIT NO.5157-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

66. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

67. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.495,638,120 and Kshs.126,024,642 respectively resulting to an underfunding of Kshs.369,613,478 or 75% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of

Kshs.495,638,120 and Kshs.65,165,272 respectively resulting to an underexpenditure of Kshs.430,472,848 or 87% of the budget.

The underfunding and underexpenditure affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

68. Advance to Infrastructure Finance and Public Private Partnerships Project-Additional Financing Cr.6121-KE

The statement of receipts and payments reflects advance to Infrastructure Finance and Public Private Partnerships Project-Additional Financing Cr.6121-KE of Kshs.20,682,665. Although Management has explained in Note 9 to the financial statements that the amount relates to salary payments for November, 2021, May, 2022 and June, 2022 and was reimbursed from Cr.6121-KE in July, 2022, it was not in the annual program of activities furnished to the Association and proposed for implementation as required under Section E I of schedule 2 of the Project financing agreement between the Republic of Kenya and the International Development Association dated 5 December, 2012.

Management was in breach of the financing agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

69. Lack of Internal Audit Services

During the year under review, there was no evidence of the Project having been reviewed by The National Treasury's internal audit function contrary to Section 73(1) of the Public Finance Management Act, 2012 requires all government entities to make appropriate arrangements for internal audit function. Further, paragraph 3.2.8 of Infrastructure Finance and Public Private Partnerships Project Implementation Manual provides for Internal Audit and the Audit Committee of The National Treasury to provide internal audit services and oversee the adequacy of internal control mechanisms over the Project.

In the circumstances, it has not been possible to confirm whether the Project has an effective and efficient internal control mechanism to safeguard against loss of public resources.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

70. As required by International Development Association (IDA), I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

PUBLIC FINANCIAL MANAGEMENT REFORMS PROGRAM (CREDIT NOS. DANIDA FY06, SIDA 51110081, IDA GESDEK-6133-KE, AFD/CKE 1130 & PASEDE CRISNO:041-658)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

71. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

72. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a receipts budget and actual receipts on comparable basis of Kshs.757,639,703 and Kshs.339,166,280 respectively, resulting in a receipts shortfall of Kshs.418,473,423 or 56% of the budget. Similarly, the statement reflects expenditure budget and actual payments on a comparable basis of Kshs.757,639,703 and Kshs.556,803,181 respectively, resulting in under-absorption of Kshs.200,836,522 or 27% of the approved budget.

The underfunding and underperformance affected the planned activities and impacted adversely on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

73. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

74. Lack of a Risk Management Policy and Internal Audits

During the year under review, it was revealed that the Program's audit services were to be offered by the internal audit of The National Treasury. However, no reports by the Internal Auditor-General on the Program were provided for audit review. As a result, the Program lacks appropriate arrangements for conducting internal audit services as provided in the guidelines by the Accounting Standards Board. Further, review of the internal control processes revealed that Management had not developed risk management strategies to fraud prevention mechanism and a system of risk management and internal control that builds robust business operations.

In the circumstances, the existence of an effective internal control mechanism could not be ascertained.

75. Failure to Fill Vacant Positions

Review of the staff establishment revealed that the Program had in place twenty-eight (28) members of staff against the authorized establishment of forty-eight (48), resulting in a deficit of twenty (20). The staff shortage, if not addressed, could adversely affect the operations of the Program and service delivery to the public.

In the circumstances, the Program may not achieve its goals due to inadequate human capacity and capabilities.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

76. As required by DANIDA FY06, SIDA 51110081, IDA GESDEK-6133-KE, AFD/CKE 1130 & PASEDE CRIS NO:041-658 Agreements, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Program and the Program's financial statements are in agreement with the accounting records and returns.

STUDY AND CAPACITY BUILDING FUND PROJECT (GRANT NUMBERS CKE 6015 01K, CKE 1043 01F AND CKE 1047 01K)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

77. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

78. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.18,700,000 and Kshs.15,827,126 respectively, resulting to an underfunding of Kshs.2,872,874 or 18% of the budget. Similarly, the Project expended Kshs.15,827,126 against an approved budget of Kshs.18,700,000 resulting to an underexpenditure of Kshs.2,872,874 or 18% of the budget. Management had attributed the underperformance on delay in procurement of process for computers and office furniture.

The underfunding and underperformance affected the planned activities and impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

79. Irregular Termination of Technical Assistant's Contract

As previously reported, contrary to the provisions of Section 153(1) of the Public Procurement and Asset Disposal Act, 2015, the contract for a Technical Assistant (consultant) was terminated without the approval of the Accounting Officer. Further, no prior written notice was served to the consultant contrary to Clause 13 of the signed contract. The project may incur undetermined cost in form of damages and interests thereof in case of any litigation on the above.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

80. There were no material issues relating to effectiveness of internal controls, risk management and governance.

TECHNICAL SUPPORT PROGRAMME (FINANCING AGREEMENTS NO. KE/FED/2009/021421; NO. KE/FED/023-733 AND NO. KE/FED/037-941)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

81. There were no material issues noted during the audit of the financial statements of the Programme.

Emphasis of Matter

82. Dormant Project Bank Account

As reported in the previous year, the Project continues to maintain a local currency account in a local commercial bank which had a balances of Kshs.22,823,152 as at 30 June, 2022. The account did not have any transaction during the year under review. Although Management had stated that it was awaiting the finalization of project verification exercise by the European Union (EU) and subsequent issue of recovery order to transfer unspent funds to the EU, the continued maintenance of the dormant account exposes the Programme to risk of loss of funds.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

83. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

84. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

85. As required by Financing Agreements No. KE/FED/2009/021421, No.KE/FED/023-733 and No. KE/FED/037-941, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Programme and the Programme's financial statements are in agreement with the accounting records and returns.

MICRO FINANCE SECTOR SUPPORT CREDIT PROJECT (CREDIT NO. CKE 3004 01E AND CKE 6010 01E)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

86. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

87. Amount Withdrawn but Unclaimed

As reported in the previous year, Part B of the statement of special (designated) account reconciliation for the project reflects Euro 1,152,653.73 (Kshs.142,952,115.59) at the then exchange rate of 1 Euro at Kshs.124.02 as withdrawn but unclaimed as at 30 June, 2022. The amount represents cumulative funds transfers to the local project bank account but whose expenditure returns had not been submitted to The National Treasury by close of the financial year ended 30 June, 2022. Further, an additional Euro 30,000 (Kshs.3,720,600) cash advance to the project reflected in the list of advances which ought to have been justified by 31 December, 2015 was yet to be justified as at 30 June, 2022 under the Grant Facility CKE 6010.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

88. Failure to Close the Project

According to Clause 10 of the Financing Agreement, the Project was to end on 31 October, 2010 but the closing date was later extended to 31 December, 2014. However, as reported in the previous year, the Project Management is yet to formally prepare and submit the Project closure report. In the circumstances, the existence of the project is therefore not hinged on any formal agreement with Agence Francaise Development (AFD) and the outstanding balance risk being diverted to other purposes.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

89. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

90. As required by Agence Francaise de Development (AFD), I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

PROGRAMME FOR RURAL OUTREACH OF FINANCIAL INNOVATIONS AND TECHNOLOGIES (PROFIT) (IFAD LOAN NO.814-KE AND GRANT NO.1218-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

91. There were no material issues noted during the audit of the financial statements of the Programme.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

92. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

93. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

94. As required by Financing Agreements No. (IFAD Loan No.814-KE and Grant No.1218-KE), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Programme and the Programme's financial statements are in agreement with the accounting records and returns.

GLOBAL FUND - TO REDUCE MORBIDITY AND MORTALITY CAUSED BY MALARIA IN THE VARIOUS EPIDEMIOLOGICAL ZONES BY TWO-THIRDS OF THE 2015 LEVEL BY 2020 PROGRAM - KEN-M-TNT, GA 1546

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

95. Unsupported Expenditure - Counterpart Funding

As previously reported, the statement of receipts and payments reflects comparative receipts from the Government of Kenya (Counterpart funding) of Kshs.383,971,795 for the financial year ended 30 June, 2021 and cumulative to-date from inception balance of Kshs.633,971,795. However, Management had not analyzed the expenditure to indicate how the balance had been built up since the inception of the Program. Further, although the amount had previously been omitted in the audited financial statements for previous years, the balances had not been indicated as restated on the face of the financial statements.

In the circumstances, the accuracy and completeness of the reported cumulative receipts from Government of Kenya of Kshs.633,971,795 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

96. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

97. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

98. As required by the Global Fund, I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Program and the Program's financial statements are in agreement with the accounting records and returns.

GLOBAL FUND - TO CONTRIBUTE TO ACHIEVING VISION 2030 THROUGH UNIVERSAL ACCESS TO COMPREHENSIVE HIV PREVENTION, TREATMENT AND CARE (NFM 2) PROGRAM - KEN-H-TNT, GA 1547

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

99. Unsupported Expenditure - Counterpart Funding

As previously reported, the statement of receipts and payments reflects comparative balance for transfer from Government entities (Counterpart funding) of Kshs.1,840,254,274 for the year ended 30 June, 2021 and cumulative to-date from inception balance of Kshs.3,454,700,355. However, Management had not analyzed the expenditure to indicate how the balance was built up since the inception of the Program. Further, although the amount had previously been omitted from the audited financial statements for previous years, the balances were not marked as restated on the face of the financial statements.

In the circumstances, the accuracy and completeness of the reported cumulative transfer from Government entities of Kshs.3,454,700,355 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

100. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

101. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

102. As required by the Global Fund, I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Program and the Program's financial statements are in agreement with the accounting records and returns.

INFRASTRUCTURE FINANCE AND PUBLIC PRIVATE PARTNERSHIPS PROJECT - ADDITIONAL FINANCING (IDA CREDIT NO. 6121-KE)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

103. Irregular Recruitment of an Advisor

The statement of receipts and payments reflects expenditure on purchase of goods and services of Kshs.121,590,772 which, as disclosed in Note 4 to the financial statements includes expenditure on consultancy services of Kshs.28,836,511. As reported in the previous year, The National Treasury, through the Project, procured the services of an advisor to the Cabinet Secretary – The National Treasury and Planning vide a contract dated 30 July, 2020 for a period of two (2) years effective 1 August, 2020 to 31 July, 2022 at a salary of Kshs.1,813,029 per month all amounting to Kshs.34,447,551 in addition to other undetermined allowances. It was however noted that the position was not provided for in the approved Project organization structure as outlined in the IFPPP Project Implementation Manual.

Although Management indicated that the advisor was recruited using direct selection method and based on "No objection" communication from the World Bank, the recruitment was contrary to Section 5(2) of the Employment Act, 2007 which state that an employer shall promote equal opportunity in employment and strive to eliminate discrimination in any employment policy or practice.

Further, the advisor's salary was negotiated with a negotiation committee appointed by the Cabinet Secretary and was not subjected to the advisory by the Salaries and Remuneration Commission for salary grading of the officer nor was it pegged on the Public Service or other existing criteria.

The advisor subsequently resigned in February, 2022 before the lapse of the contract period. The circumstances under which the advisor resigned and when the terms of the

contract were changed from employment to consultancy was not explained and the supporting documents for the consultancy services rendered to the project were not provided for audit.

In addition, examination of the terms of reference of the employment contract of the advisor revealed that the scope of service goes beyond the mandate of the project and workplans and progress reports detailing the deliverables of the advisor were not provided for audit verification.

In the circumstances, the Management was in breach of the law and may jeopardize the continued funding by the development partner.

Other Matter

104. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects approved revenue budget of Kshs.529,053,924 and actual amounts realized of Kshs.831,635,238 resulting to an over-funding of Kshs.302,581,314 or 57% of the budget. Similarly, the Project spent Kshs.205, 539,545 out of the approved budget of Kshs.529,053,924 resulting to an under expenditure of Kshs.323,514,379 or 61% of the approved budget. Management has attributed the under expenditure to various delayed project activities.

In the circumstances, under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

105. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

106. Lack of Internal Audit Services

During the year under review, the Project was not subjected to review by The National Treasury internal audit unit. This was contrary to Section 73(1) of the Public Finance Management Act, 2012 which requires all government entities to make appropriate arrangements for internal audit function. Further, paragraph 3.2.8 of IFPPP Project Implementation Manual provides for Internal Audit and the Audit Committee of The National Treasury to provide internal audit services and oversee the adequacy of internal control mechanisms over the Project.

In the circumstances, the effectiveness of the Project's internal control system and risk management processes were not tested during the year under review.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

107. As required by International Development Association (IDA), I report based on my audit, that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the Financing Agreement.

FINANCING LOCALLY-LED CLIMATE ACTION PROGRAM CREDIT NO. IDA 6980; TF B6810 - KE (P173065)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

108. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

109. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.341,150,000 against actual receipts on comparable basis of Kshs.174,123,195 resulting in a shortfall of Kshs.167,026,805 or 49% of total budget.

Similarly, the Program spent a total of Kshs.184,186,961 against an approved budget of Kshs.341,150,000 resulting to an underexpenditure of Kshs.156,963,039 or 46% of the budget.

Management has attributed the under expenditure to delayed conclusion of procurement activities and the Project Coordinator and Project Manager Finance and Strategy having been sent on compulsory leave during the year under review.

The shortfall of receipts and the underexpenditure affected the planned activities of the Program and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

110. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

111. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

112. As required by the International Development Association (IDA) and Credit Facility Agreement No. IDA 6980 - KE dated 10 November, 2021, I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

PUBLIC DEBT MANAGEMENT SUPPORT PROJECT - ADB GRANT AGREEMENT NO.5500155013708

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

113. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

114. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted total receipts of Kshs.104,000,000 against the actual receipts of Kshs.72,727,976 resulting to an under-collection of Kshs.31,272,024 or 30% of the budget. Similarly, the statement reflects budgeted expenditure of Kshs.104,000,000 against the actual expenditure of Kshs.72,727,976 resulting to an underexpenditure of Kshs.31,272,024 or 30% of the budget.

In the circumstances, the under-collection and the underexpenditure imply that some of the budgeted programs and activities may not have been executed during the year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

115. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

116. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

117. As required by African Development Bank (ADB) and African Development Fund, I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

GLOBAL FUND - TO REDUCE MALARIA INCIDENCE AND DEATHS BY AT LEAST 75 PERCENT OF THE 2016 LEVELS BY 2023, WORKING TOWARDS A MALARIA-FREE KENYA PROGRAM - KEN-M-TNT, GA 2064

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

118. Unsupported Counterpart Funding Balances

The statement of receipts and payments reflects an amount of Kshs.407,869,725 with respect to transfer from Government entities (Counterpart funding) and a similar amount with respect to other grants and transfers/payments. The amount relates to the Government Counterpart funds drawn from the ledger as expenditure incurred by The National Treasury on behalf of the Program. However, supporting expenditure returns and schedule for expenditure amounting to Kshs.112,952,484 were not provided for audit.

In the circumstances, the eligibility and accuracy of the counterpart funding and other grants and transfers/payments of Kshs.112,952,484 could not be confirmed.

Other Matter

119. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final total receipts budget of Kshs.671,212,074 against the actual receipts of Kshs.559,372,521 resulting into an underfunding of Kshs.111,839,553 or 17% of the budget. Similarly, the statement reflects budgeted expenditure of Kshs.671,212,074 against the actual expenditure of Kshs.557,199,867 resulting to an underexpenditure of Kshs.114,012,207 or 17% of the budget.

The underfunding and underperformance affected the planned activities and impacted adversely on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

120. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

121. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

122. As required by the Global Fund, I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Program and the Program's financial statements are in agreement with the accounting records and returns.

GLOBAL FUND - TO CONTRIBUTE TO ACHIEVING VISION 2030 THROUGH UNIVERSAL ACCESS TO COMPREHENSIVE HIV PREVENTION, TREATMENT AND CARE PROGRAM - KEN-H-TNT, GA 2065

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

123. Unsupported Counterpart Funding Balances

The statement of receipts and payments reflects an amount of Kshs.1,245,777,523 with respect to transfer from Government (Counterpart funding) and a similar amount with respect to other capital grants and transfer payments. The amount relates to the Government Counterpart funds which was drawn from the ledger as expenditure incurred by The National Treasury on behalf of the Program. However, expenditure returns and supporting schedule amounting to Kshs.678,541,713 were provided for audit while supporting expenditure returns and schedule for expenditure amounting to Kshs.567,235,810 were not provided for audit.

In the circumstances, the eligibility and the accuracy of the counterpart funding and other grants and transfers/payments of Kshs.1,245,777,523 could not be confirmed.

Other Matter

124. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final total receipts budget of Kshs.6,495,340,220 against the actual receipts of Kshs.5,469,261,414 resulting into an underfunding of Kshs.1,026,078,806 or 16% of the budget. Similarly, the statement reflects budgeted expenditure of Kshs.6,495,340,220 against the actual expenditure of Kshs.5,464,880,474 resulting to an underexpenditure of Kshs.1,030,459,746 or 16% of the budget.

The underfunding and underperformance affected the planned activities and impacted adversely on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

125. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

126. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

127. As required by the Global Fund, I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Program and the Program's financial statements are in agreement with the accounting records and returns.

AFFORDABLE HOUSING FINANCE PROJECT (IDA CREDIT NO.8958-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

128. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

129. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.200,000,000 and Kshs.25,364,260 respectively

resulting to an underfunding of Kshs.174,635,740 or 87% of the budget. Similarly, the Project spent a total of Kshs.20,512,676 against an approved budget of Kshs.200,000,000 resulting to an underexpenditure of Kshs.179,487,324 or 90% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

130. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

131. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

132. As required by International Bank for Reconstruction and Development Credit No.8958 dated 5 December, 2019, I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

NATIONAL TREASURY CAPACITY STRENGTHENING PROJECT (GRANT NO.5500155013902 ID NO.P-KE-KOO-011)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

133. Omitted and Unsupported Expenditure - Extraneous Allowances

During the year under review, a total of Kshs.1,140,000 was paid as extraneous allowances to the Co-ordinating Team for African Development Bank Appraisal Mission between 28 February, 2022 to 24 March, 2022. However, the expenditure was not included in the Project's financial statements and no documentary evidence was provided to justify payment of the extraneous allowances to officers who were performing their normal duties. Management has indicated that the amount was incurred on Public Debt Management Office (PDMO) activities but was erroneously captured under the Project

account. Further, the Project's Management has requested The National Treasury to raise a journal entry to reverse the erroneous expenditure. However, a copy of the Journal entry was not provided for audit review.

In the circumstances, the accuracy and completeness of the Project's financial statements could not be confirmed.

Other Matter

134. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.13,000,000 and Kshs.8,684,571 respectively, resulting to an underfunding of Kshs.4,315,429 or 33% of the budget. Similarly, the project spent a total of Kshs.6,432,328 against an approved budget of Kshs.13,000,000 resulting to an under expenditure of Kshs.6,567,672 or 51% of the approved budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

135. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

136. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

137. As required by African Development Bank Grant No.5500155013902 dated 9 February, 2021, I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

GLOBAL FUND - TO ENSURE PROVISION OF QUALITY CARE AND PREVENTION SERVICES FOR ALL PEOPLE IN KENYA WITH TB, LEPROSY AND LUNG DISEASES PROGRAM - KEN-T-TNT, GA 2067

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

138. Unsupported Counterpart Funding Balances

The statement of receipts and payments reflects an amount of Kshs.351,984,277 with respect to counterpart funding and a similar amount of other grants and transfers/payments. The amount relates to the Government counterpart funds which was drawn from the ledger as expenditure incurred by The National Treasury on behalf of the Program. However, expenditure returns and supporting schedule amounting to Kshs.25,025,377 was provided for audit review while supporting expenditure returns and schedule for expenditure amounting to Kshs.326,958,900 were not provided.

In the circumstances, the eligibility and the accuracy of the counterpart funding and other grants and transfers/payments of Kshs.351,984,277 could not be confirmed.

Other Matter

139. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final total receipts budget of Kshs.446,913,742 against the actual receipts of Kshs.370,996,060 resulting into an underfunding of Kshs.75,917,682 or 17% of the budget. Similarly, the statement reflects budgeted expenditure of Kshs.446,913,742 against the actual expenditure of Kshs.365,055,188 resulting to an under expenditure of Kshs.81,858,554 or 18% of the budget.

The underfunding and underperformance affected the planned activities and impacted adversely on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

140. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

141. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

142. As required by the Global Fund, I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Program and the Program's financial statements are in agreement with the accounting records and returns.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE NATIONAL TREASURY

EASTERN AFRICA REGIONAL TRANSPORT, TRADE AND DEVELOPMENT FACILITATION PROJECT (IDA CREDIT NO.5638-KE) – KENYA REVENUE AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

143. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

144. Slow Absorption of Project Funds

As disclosed under Note 1.7 on the Project information and overall performance, the Project was earmarked to close in December, 2021 but was restructured through an amended Finance Agreement extending the completion to 31 December, 2023. Further, the Projects' funding summary indicates that the Donor had made commitment amounting to Kshs.1,284,347,000 equivalent of USD10,900,000 as at 30 June, 2022. However, actual drawdowns during the Project life amounted to Kshs.316,707,000 equivalent to USD3,072,000 leaving out an amount totalling Kshs.922,374,000 or USD 7,828,000 undrawn. Management has indicated that planned initiatives will be fully implemented and allocated funds fully utilized before closure of the Project.

However, and considering the credit lapse period, the Project's planned deliverables earmarked for completion may not be realized.

145. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.416,696,000 and Kshs.146,488,000 respectively, resulting to an underfunding of Kshs.270,208,000 or 65% of the budget. Similarly, the Project spent a total of Kshs.142,413,000 against an approved budget of Kshs.416,696,000 resulting to an underexpenditure of Kshs.274,283,000 or 66% of the budget. Management has indicated that construction of Rapid Response Unit (RRU) offices will account for 60% of the proposed budget while the remaining funds will be

utilized in procurement of enforcement equipment, annual training and payment to consultants.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

146. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

147. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

148. As required by International Development Association Credit No.5638 dated 20 July, 2015, I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

HORN OF AFRICA GATEWAY DEVELOPMENT PROJECT (IDA CREDIT NO. 6768) – KENYA REVENUE AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

149. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

150. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.142,241,000 and Kshs.70,066,000 respectively resulting to an underfunding of Kshs.72,175,000 or 51% of the budget. Similarly, the

Project spent a total of Kshs.297,000 against an approved budget of Kshs.142,241,000 resulting to an underexpenditure of Kshs.141,944,000 or 99% of the budget. Management has attributed the underfunding and underperformance to delayed implementation of the Project due to COVID-19 pandemic and delayed approval of the 'letter of no objection' from the World Bank.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

151. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

152. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

153. As required by International Development Association Credit No.6768 dated 7 October, 2020, I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

STATE DEPARTMENT FOR PLANNING - VOTE 1072

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

154. There were no material issues noted during the audit of the financial statements of the State Department.

Other Matter

155. Pending Bills

As disclosed in Note 17.2 and Annex 1 to the financial statements, the State Department had pending bills amounting to Kshs.2,789,002 that were not settled during the year under review but were instead carried forward to the 2022/2023 financial year. However, the pending bills lacked the relevant supporting documentation including requisitions, local purchase/service orders, invoices and delivery notes.

No plausible explanation was provided for non-payment of the pending bills before the end of the financial year. This was contrary to Regulation 42(1)(a) of the Public Finance Management (National Government) Regulations, 2015 which states that debt service payments shall be a first charge in the Consolidated Fund and the Accounting Officer shall ensure this is done to the extent possible that the government does not default on debt obligations.

Further, failure to settle bills during the year in which they relate to adversely affects the budgetary provisions for the subsequent year to which they have to be charged.

156. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Effectiveness of Internal Controls, Risk Management and Governance. Management had indicated that the issues were responded to. However, the issues remained unresolved as Parliament had not met to deliberate on the same.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

157. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

158. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR PLANNING

COORDINATION OF POPULATION POLICY IMPLEMENTATION PROJECT (UNFPA-KEN09POP) - NATIONAL COUNCIL FOR POPULATION AND DEVELOPMENT

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

159. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

160. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

161. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NATIONAL INFORMATION PLATFORM FOR FOOD SECURITY AND NUTRITION PROJECT (FOOD/2017/393-022) - KENYA NATIONAL BUREAU OF STATISTICS

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

162. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

163. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.140,000,000 and Kshs.138,432,660 respectively resulting to underfunding of Kshs.1,567,340 or 1% of the budget. Similarly, the Project

spent an amount of Kshs.82,296,910 against an approved budget of Kshs.140,000,000 resulting to an underexpenditure of Kshs.57,703,090 or 41% of the budget. The underexpenditure affected the Project's planned activities and impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

164. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

165. There were no material issues relating to effectiveness of internal controls, risk management and governance.

THE EXECUTIVE OFFICE OF THE PRESIDENT - VOTE 1011

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

166. There were no material issues noted during the audit of the financial statements of the Executive Office of the President.

Emphasis of Matter

167. Pending Bills

As disclosed in Note 20.1 to the financial statements, the Executive Office of the President had pending bills totalling Kshs.15,950,133,545 as at 30 June, 2022 out of which, bills amounting to Kshs.14,814,008,078 related to Nairobi Metropolitan Services (NMS) while the balance of Kshs.1,136,125,467 related to State House and other Departments within the Executive Office of the President. The Nairobi Metropolitan Services pending bills totaling Kshs.14,814,008,078 consisted of amounts of Kshs.553,291,857, Kshs.267,696,314, Kshs.1,361,463,344 and Kshs.12,631,556,563 for the financial years 2018/2019, 2019/2020, 2020/2021 and 2021/2022, respectively.

The bills were not paid during the year under review but were instead carried forward to 2022/2023 financial year. Failure to settle bills during the year to which they relate distorts the budget implementation of the subsequent year as the outstanding bills form a first charge on resources available.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

168. Inadequacies in Projects under Nairobi Metropolitan Services

Review of the projects implemented under the Nairobi Metropolitan Services revealed the following anomalies:

168.1 Construction and Equipping of Health Facilities

During the year under review, the Ministry of Health entered into a contract for construction and equipping of ten (10) level two (2) and nine (9) level three (3) health facilities in Nairobi County at a contract sum of Kshs.869,400,000. The contract was to be implemented within ninety (90) days.

AMREF Health Africa having obtained a license as a procurement agent for the Ministry of Health, appointed a contractor to construct and equip the nineteen (19) health facilities at a cost of Kshs.900,000,000. Subsequently, Nairobi Metropolitan Services entered into a Deed of Assignment with the Ministry of Health for the construction of the nineteen (19) health facilities in Nairobi County.

Although the procuring agent was paid the full cost of Kshs.869,400,000 for constructing the nineteen (19) facilities, four (4) health facilities namely Sinai, Pumwani Majengo, Lucky Summer and Gumba/Mabatini were at 85%, 15%; 10% and 5% completion levels respectively at the time of audit. Further, no contract extension or reasons for the slow progress of work was provided despite full payment of the contract sum.

In the circumstances, it was not possible to confirm whether value for money for the expenditure of Kshs.869,400,000 incurred in the construction of the health facilities was realized.

168.2 Irregular Procurement of Street Lights

Examination of documents supporting payment of Kshs.66,576,000 made to a contractor for supply and installation of bulbs along the Nairobi-Thika Super Highway (A2) road revealed that, NMS used a term contract between KeNHA and an electricals Company in the procurement of 150/180W lights. On 8 June, 2020 a requisition was made for 2,000 pcs of 150/180W LED at a cost of Kshs.29,200 each as indicated in the contract obtained from KeNHA. However, NMS received 2,000 pcs at a unit cost of Kshs.33,288 resulting to a price difference of Kshs.4,088 each leading to an overpayment of Kshs.8,176,000.

Further, the contract used for the procurement was a three-year performance-based contract signed on 31 December, 2018 at a contract sum of Kshs.528,599,196, for the maintenance of street lightings on Nairobi-Thika Super Highway (A2) road for a period of thirty-six (36) months. However, at the time NMS was procuring the lights for installation at the Nairobi -Thika Highway, the contract between KeNHA and the electricals Company was still in force and no evidence was provided for audit review to prove that KeNHA had transferred the contracted services to NMS.

In the circumstances, it is not possible to confirm propriety, validity and value for money for the expenditure of Kshs.8,176,000 incurred on procurement of street lights.

168.3 Construction of Kamitha Road

Review of procurement records revealed that the Nairobi City County entered into a contract with a construction company for the construction of Kamitha Road, Gatina at a contract price of Kshs.52,786,597 in 2020/2021 financial year. On 27 January, 2021, a Deed of Novation was entered into transferring the contract to NMS. The Project start date was 27 March, 2020 with a completion date 27 March, 2021.

However audit verification of the Project on 9 February, 2022 revealed that, although the contractor laid the inverted block drainage, the drains were silted causing the culverts to block completely while the headwalls did not have plaster finish as provided for in the Bill of Quantities. Further, a road section between World Hope Stadium and the Lavington Estate had fresh asphaltic concrete an indication that the contractor had not properly compacted the base while there were no road makings and road signs.

In the circumstances, value for money on the funds used in the construction of the Kamitha Road could not be confirmed.

168.4 Water Sewer Extensions and Street Lighting

Nairobi Metropolitan Services entered into a contract with a contractor in 2021 to expand water sewer and street lighting in Dandora, Kangemi, Kawangware, Dagoretti Corner, Waithaka, Riruta, Kibera, Korogocho, Mathare, Zimmerman, Thome, Githurai 45 Mwihoko, Kasarani and Mwiki at a contract sum of Kshs.4,475,766,419. The contract period was for twelve months starting 25 March, 2021.

Review of records revealed that, a total amount of Kshs.1,640,073,278 had been paid, out of which Kshs.1,192,496,636 was paid in 2021/2022 financial year and an advance of Kshs.447,576,642 in 2020/2021 financial year. However, the average combined progress of work was at 30% as per the Contract Implementation Team (CIT) site meeting held on 27 May, 2022. The contractor was behind schedule and no explanation or evidence of extension of the contract was provided.

In the circumstances, the delayed completion of the Project casts doubt on the realization of value for money incurred in the Project.

168.5 Incomplete Rehabilitation of Jevanjee Park

The Nairobi Metropolitan Services initiated the upgrading and maintenance of Jevanjee Park at an estimated cost of Kshs.15,000,000. The works were to be done in-house by NMS and materials were procured for the Project. The Project was to run for four (4) months commencing on 25 February, 2020. However, audit inspection of the Project carried out on 22 November, 2022 revealed that the Project was still incomplete despite NMS having procured materials, some of which were still on site and exposed to theft.

The Project was behind schedule and value for money for the expenditure incurred on the project may not be realized.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

169. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECTS

UNICEF - KENYA GENERATION UNLIMITED (GENU) PROJECT (PROGRAMME NO.2400/A0/A6)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

170. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

171. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

172. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA - EU PARTNERSHIP FOR THE IMPLEMENTATION OF THE NATIONAL STRATEGY TO COUNTER VIOLENT EXTREMISM IN KENYA - NATIONAL COUNTER TERRORISM CENTRE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

173. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

174. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

175. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR INTERIOR AND CITIZEN SERVICES - VOTE 1021

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

176. Long Outstanding and Un-Reconciled Bank Balances

The statement of assets and liabilities reflects bank balances of Kshs.397,763,378 as disclosed in Note 20A to the financial statements. The balances include recurrent bank balance of Kshs.1,647,036. Review of recurrent bank reconciliation statement for June, 2022 revealed various unreconciled items that had been outstanding for more than one (1) year as indicated below;

Description of Item	Amount (Kshs.)
Unpresented cheques	678,479,199
Receipts in bank not in cash book	162,608,851
Payments in bank not in cash book	121,433,488
Receipts in cash book not in bank	576,458,443

In the circumstances, the accuracy and completeness of the bank balances of Kshs.397,763,378 could not be confirmed.

Emphasis of Matter

177. Unsupported Pending Bills

Note 28 to the financial statements reflects nil balance on pending bills. However, Annex 1 to the financial statements reflects pending bills balance of Kshs.5,508,101,204 resulting to unexplained variance of Kshs.5,508,101,204. Further, Management did not analyze the pending bills contrary to the Public Sector Accounting Standard Board prescribed reporting template for June, 2022.

Failure to settle bills in the year for which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of this matter.

Other Matter

178. Unresolved Prior Year Matters

In the previous year's audit report, several issues were raised under the Reports on Financial Statements, Lawfulness and Effectiveness in Use of Public Resources, and Effectiveness of Internal Controls, Risk Management and Governance. Although

Management had indicated in the progress on follow-up on prior year's auditor's recommendations that the matters were resolved, the matters remained unresolved as the Public Accounts Committee had not made recommendations and resolutions on the same.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

179. Provision of Enhanced Comprehensive Group Life Cover

The statement of receipts and payments reflects expenditure on use of goods and services of Kshs.33,238,685,883 as disclosed in Note 11 to the financial statements. The expenditure includes insurance costs of Kshs.5,581,452,440. Review of procurement documents revealed that the Ministry of Interior and Coordination of National Government entered into a one-year contract for provision of enhanced comprehensive group life cover for the National Police Service and the Kenya Prisons Service with National Hospital Insurance Fund for the period 1 January, 2021 to 31 December, 2021. The insurance cover was intended to cover principal members and dependents in employment at the commencement of the cover. The total agreed premium was Kshs.2,295,594,440 covering a total population of 131,816 officers. The contract ended on 22 December, 2021 and was extended for a period of three months to cover 1 January, 2022 to 31 March, 2022. However, review of records revealed the following unsatisfactory matters:

179.1 Non-Provision of Quarterly Reports

Comprehensive quarterly reports on claims from the service provider were not provided for audit. This was contrary to Clause 3.1.5 of the contract which provided that NHIF shall provide a comprehensive report to the National Police Service and the Kenya Prisons Service on claims under this scheme every three months. The report shall be submitted by the 15th day of the month following the lapse of the three months. It was therefore not possible to evaluate or analyze performance based on the claims paid, pending claims and any outstanding claim against the premiums paid by the State Department.

179.2 Unpaid Claims under Work Injury Benefits Act (WIBA)

Review of payment details and claims made to the service provider revealed that NHIF had not paid seventeen (17) employees who had suffered non-fatal injuries, amounting to Kshs.4,856,237 contrary to Clause 13 of the contract which provides that death, illness /injury as a result of occupational causes (Employment -WIBA Act 2007) shall be paid at the rate of gross remuneration of the member for eight (8) years. Further, eighty eight (88) members of staff had not been paid claims on WIBA death that occurred during the year 2021. No explanation was provided for the anomaly.

179.3 Unpaid Sums for Critical Illness-Group Life Benefit

Audit verification of the contract document against the data provided by the Kenya Police Service indicated that NHIF had not paid any sums for Critical Illness-Group life benefit contrary to Clause 2.2.9.2 of the contract which states that where a beneficiary is

diagnosed as suffering from critical illness including COVID related illness as certified by a specialist in the field, compensation shall be at a rate of 30% of the group life sum assured subject to a maximum of Kshs.3,000,000.

Further, the contract for Group Life Cover, did not specify benefits under group personal accident such as disability benefit as required by the Public Service Superannuation Scheme Act.

179.4 Under Budgeting for Comprehensive Group Life Cover

Review of records maintained by the State Department revealed that NHIF had quoted for a one-year contract for provision of the aforementioned services at an annual premium of Kshs.8,573,590,531 against an annual budget of Kshs.2,295,594,440. Negotiation meeting took place on 16 February, 2022. The total agreed premium after negotiations was Kshs.1,155,559,931 with a total population of 132,876 members as beneficiaries for a further extended period of three months from 1 April, 2022 to 30 June, 2022.

However, the budget allocation of Kshs.2,295,594,440 was not sufficient to cater for the annual premium as evidenced by the amount quoted for the contract in the year under review supported by the service provider quote of the previous financial years. This may affect the quality of services offered to the members of the scheme.

179.5 Unsupported Adjustment of Premiums

The National Health Insurance Fund quoted an annual premium of Kshs.8,573,590,531 per annum to provide health insurance cover for both the National Police Service and the Kenya Prisons Service. This translates to Kshs.714,465,878 monthly and therefore for three months the premium for the cover would have been Kshs.2,143,397,633. However, the Department negotiated and the premium agreed was Kshs.1,155,559,931 for a period of three months. However, the negotiated premiums, which would have reduced the annual premium by Kshs.987,837,702 was not factored in the contract.

179.6 Unpaid Claims on Last Expense

Review of details of claims made for funeral expenses covered in the Comprehensive Group Life cover in the months of April, 2022 to June, 2022 and up to the time of audit in November, 2022 revealed that one hundred and twelve (112) claims of principal members, spouses and children valued at Kshs.19,250,000 had been submitted to NHIF but had not been paid. This was contrary to Clause 5.2 of the contract agreement which provides that NHIF shall upon written notification of death of a member or dependent while the cover is in force pay to the next of kin or such other person may in writing direct the amount specified for funeral expenses within two (2) days subject to provision of a duly completed claim form and copy of burial permit.

179.7 Lack of Standing Committee Reports

The approved list of standing committee members, monitoring and evaluation reports, sensitization programmes reports, and quarterly reports or minutes to the client were not provided for audit. This was contrary to Clauses 13.1 and 13.2 of the contract agreement which provides that parties to the contract shall establish a standing committee for

contract management under terms set out in the contract and shall comprise of representatives drawn from the National Police Service, the Kenya Prisons Service and NHIF. Further, clause 14 provides that the administrative expenses for the scheme shall not exceed 5% of the premium paid by the client. However, report on the administrative expenses was not provided to confirm how much had been spent and whether the expenditure limit was observed.

In the circumstances, the Ministry did not obtain value for money on expenditure for provision of enhanced comprehensive group life cover and expenditure on insurance costs of Kshs.5,581,452,440 could not be confirmed.

180. Provision of Comprehensive Medical Cover

The statement of receipts and payments reflects expenditure on use of goods and services of Kshs.33,238,685,883 as disclosed in Note 11 to the financial statements. The expenditure includes insurance costs of Kshs.5,581,452,440. Review of procurement records revealed that, the National Police Service entered into a contract with NHIF for provision of a comprehensive medical cover for one hundred and twenty eight thousands seven hundred and ninety seven (128,797) employees of the National Police Service and the Kenya Prisons Service for the period 1 July, 2021 to 30 June, 2022. The insurance cover was intended to cover principal members in employment at the commencement of the cover and was to be on family-shared basis covering the principal member and dependents at a contract sum of Kshs.4,785,805,560. However, the following matters were noted:

180.1 Comprehensive Medical Cover Last Expense Claims

Review of records relating to last expense claims made during the year under review revealed that two hundred and twenty-one (221) claims of principal members and dependent valued at Kshs.34,600,000 were submitted to NHIF for payment but were yet to be paid. This was contrary to Clause 6.2 of the contract which provides that there shall be last expense paid for the principal members and one declared dependent of two hundred thousand (Kshs.200,000) and fifty thousand shillings (Kshs.50,000) respectively. The last expense payment shall be made within seventy-two (72) hours from the time of reporting subject to submission of properly filled claim documents.

180.2 Ex-Gratia/Excess of Loss Benefits

Review of the contract documents and payment vouchers provided for audit revealed that the standing committee did not provide approval for payment of any ex-gratia claims for the year under review. This was contrary to Clause 6.21 of the agreement which states that there shall be ex-gratia of Kshs.200,000,000 and the ex-gratia claims shall be approved by the standing committee of the client before any payment is made. Further, NHIF was required to submit detailed quarterly report on all ex-gratia claims including the value, beneficiary, background and status of the claims among others to the standing committee and any unspent amount of ex-gratia at the end of the contract period. However, NHIF did not provide quarterly reports or unspent ex-gratia amount during the year under review.

In the circumstances, the State Department did not obtain value for money on expenditure for provision of comprehensive medical cover of Kshs.4,785,805,560.

181. Non-Compliance With One Third Rule on Basic Salary

Review of the Human Resources Management Policy and the payroll provided for audit indicated that a total of one thousand three hundred and twenty-eight (1,328) officers were receiving less than a third of their respective basic salaries. This was contrary to Section C.1(3) of the Human Resource Policies and Procedures Manual for the Public Service of May, 2016.

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

182. Acquisition of Assets

The statement of receipts and payments reflects expenditure on acquisition of assets of Kshs.5,430,216,381 as disclosed in Note 16 to the financial statements. However, the following observations were noted in relation to the expenditure;

182.1 Delayed Construction of 100 PAX Hostel Block

The Department entered into a contract with a firm, for the construction of one hundred (100) Pax hostel block at the Kenya School of Adventure and Leadership in Meru County at a contract sum of Kshs.198,109,780. The contract was signed on 20 March, 2020 for a period of two (2) years ending 20 March, 2022. As at 30 June, 2022, the contactor had been paid a total of Kshs.87,858,647.

Examination of the project records revealed that, the project had not been completed as at the time of the audit inspection in July, 2022. Further, inspection reports from the Department of Public Works relating to the certificates raised were not provided for audit. It was not possible to confirm whether the building conforms to the specifications. In addition, the delayed completion of the project may have denied the School the benefit derived from the completed project.

182.2 Stalled Construction of Staff Houses

The Department entered into a contract with for the construction of staff houses at the Kenya School of Adventure and Leadership in Meru County at a contract sum of Kshs.24,367,350. The project commenced on 13 February, 2020 with a contract period of thirty-two (32) weeks. As at 30 June, 2022 the contractor had been paid a total amount of Kshs.6,490,978.

However, examination of the project records and audit verification revealed that the project had not been completed as at the time of the audit in July, 2022. Further, the audit verification revealed that construction had stopped at the lintel level and roofing works had not been carried out exposing the walls to damages and deteriorations.

182.3 Incomplete Climbing and Rescue Tower

The Department entered into a contract with a firm for the construction of a climbing and rescue tower at the Kenya School of Adventure and Leadership in Meru County at a cost of Kshs.6,462,719. However, audit verification of the project carried out in July, 2022, revealed that the contractor had not completed the external timber cladding. Further,

review of the project records revealed that the contractor had under quoted the cladding cost, and therefore was unable to proceed with the project to its practical completion. As at 30 June, 2022 the contractor had been paid an amount of Kshs.5,963,340.

182.4 Stalled Construction of Deputy County Commissioner's Office Block at Tigania Central Meru

Review of documents provided for audit indicated that, Construction of the Deputy County Commissioner's Office Block at Tigania Central Meru was allocated Kshs.30,000,000 on 8 May, 2018. The project commencement date was 6 May, 2019, with a contract period of twenty four (24) weeks ending 21 October, 2019 which was extended to 30 January, 2020. The contractor has been paid Kshs.29,755,000 inclusive of retention money for Certificates No.s 1 to 7. However, a certificate of completion had been issued but the project had not been completed. Further, audit verification carried out in November, 2022 revealed that the building was incomplete and had stalled. No explanation was provided on why the project had stalled for over four (4) years.

182.5 Stalled Construction of Tigania East Sub County Office Block at Muriri

The construction of the Deputy County Commissioner office block commenced in 2011 and was carried out in phases. The project had at least five different contractors for the different phases up to the seventh phase. Management did not provide records of payments made to the different contractors up to the seventh phase. Inquiries from Management revealed that the project stalled in 2019. Audit verification in November, 2022 indicated that the ground floor and first floor were complete and in use. However, the remaining works on the second floor and the roof were incomplete. Further, the roofing works which were part of the Bills of Quantities in the sixth and seventh phase was partially carried out.

182.6 Incomplete Igembe North Sub County Offices at Laare

The Department entered into a contract with a firm for the construction of Igembe North Sub County Offices on 10 June, 2020 at a contract sum of Kshs.28,234,704 for a period of twenty four (24) weeks. As at 30 June, 2022 the contractor had been paid a total amount of Kshs.25,479,566. However, audit verification conducted in November, 2022 revealed that the project was incomplete with doors and some windows not installed. Further, painting was not complete and the roof was leaking while the contractor was not on site.

182.7 Stalled Construction of Staff Houses (4 Units -Two Bedroomed Each)-Kigumo Police Station

The project was allocated Kshs.10,000,000 on 8 May, 2018 and commencement date for the project was 12 June, 2018, with completion date of 12 October, 2018. The records further indicate that an amount of Kshs.6,942,952 was paid and the unused balance of Kshs.3,057,048 returned to The National Treasury. However, inspection of the project in November, 2022 revealed that the project had stalled. Further, there were construction materials on site that were exposed to theft or further deterioration.

182.8 Unoccupied County Police Headquarters in Kerugoya

The Department constructed Kerugoya County Police Headquarters in phases at a contract sum of Kshs.9,995,180 and a certificate of practical completion was issued on 25 October, 2021. As at 30 June, 2022 the contractor had been paid a total amount of Kshs.8,432,330. However, audit verification of the project carried out in November, 2022 revealed that the building had not been occupied. Reasons for the non-occupation of the building were not provided casting doubt on the value for money on the expenditure of Kshs.8,432,330 incurred on the project.

182.9 Stalled Construction of Kirinyaga West (Ndia East) Sub County Police Station and Offices at Baricho

The first phase of construction of Kirinyaga West (Ndia East) Sub County Police Station at Baricho was awarded to a contractor at a contract sum of Kshs.9,440,155 for a period of 12 weeks. However, physical verification of the project conducted in November, 2022 revealed that although the ground floor had been constructed, finishing works, windows, doors and paintworks had not been carried out. Further, the design of the building included a first floor but the works on the first floor had not commenced. In addition, payment records and certificates issued for payment by works officers on the stalled project were not provided for audit. It was therefore not possible to confirm the amount paid up to the point when the project stalled.

182.10 Stalled Construction of Mwea East Sub County Police Station and Offices

Phase one of the construction of Mwea East Sub County Police Station was awarded on 8 June, 2020 at a contract sum of Kshs.9,939,130. However, audit verification of the project carried out in November, 2022 revealed that the project had stalled and no allocation had been made to the project for several financial years. Further, the slab had deteriorated and had visible cracks due to continuous exposure to different weather patterns. In addition, payment records and certificates issued for payment by works officers on the stalled project were not provided for audit.

182.11 Delay in Completion of Construction of Mwea West Sub County Headquarters at Kandongu

Review of records provided for audit revealed that phase one of the construction of Mwea West Sub County Headquarters was awarded at a contract sum of Kshs.22,997,670 while phase two works were awarded at a contract sum of Kshs.9,723,140. The contracts were to run for twenty (20) weeks from 14 March, 2022. Payments made for the first and second phase was Kshs.22,997,610 and Kshs.7,516,975 respectively. However, audit verification of the project conducted in November, 2022 revealed that works on the second floor had not been completed, the contractor was not on site and the contract period for second phase of project has already elapsed.

182.12 Construction of Mwea West Subcounty Police Station and Offices

Phase four (4) of the construction of Mwea West Subcounty Police Station and Offices was awarded to a contractor at a contract sum of Kshs.19,697,540. The scope of works included electrical, paint, mechanical and external works. However, audit verification carried out in November, 2022 revealed that the although the contract period had elapsed,

the contracted works were incomplete and contractor was still on site. Further, electrical ducts on the walls were left open, ceiling boards had cracks, the roof was leaking and the septic tank had cracks. In addition, payment records and certificates issued for payment by works officers on the stalled project were not provided for audit.

182.13 Proposed Renovation, Construction and Completion of Deputy County Commissioner's Office at Balambala Sub County in Garissa County

The Department, through the Deputy County Commissioner- Garissa County, entered into a contract for renovation, construction and completion of Deputy County Commissioner's Office at Balambala Sub County at an estimated cost of Kshs.13,115,000 on 13 April, 2022. As at the time of the audit in November, 2022 the contractor had been paid a total of Kshs.8,093,853. However, review of the project file revealed the following:

(i) The Tender Opening Committee signed a tender opening register that was incomplete and the registers did not include the firm's names and bid amounts.

(ii) The contractor provided an invalid tax compliance certificate number KRAEON0158252021 dated 10 October, 2021.

(iii) Although the expected completion date was 14 September, 2022, audit inspection in November, 2022 revealed that the project had not been completed and there was no recommendation by the Evaluation Committee or approval by the Accounting Officer for extension of the contract period.

(iv) The Deputy County Commissioner did not have deposit account to hold retention sums totalling to Kshs.899,317 which were being held in the recurrent account and were subject to irregular use particularly when there was delay in Exchequer issues.

182.14 Construction and Completion of Danyere Assistant County Commissioners Office at Balambala Sub County in Garissa County

The Department, through the Deputy County Commissioner (DCC) Garissa County, entered into a contract for the renovation, construction and completion of the Assistant County Commissioner's Office, Danyere Ward at an initial estimated cost of Kshs.14,990,685 on 13 April, 2022. As at the time of the audit in November, 2020, the contractor had been paid a total of Kshs.9,426,546. However, review of the project file revealed the following:

(i) Tender Opening Committee register dated 29 March, 2022 was incomplete with no names of companies participating and amounts quoted at the point of opening.

(ii) Although the contract period had elapsed, the project was incomplete as at the time of the audit in November, 2022.

(iii) There was no recommendation by the Evaluation Committee or approval by the Accounting Officer for extension of the contract period.

(iv) The office of the DCC did not have a deposit account to hold retention money totalling Kshs.1,047,394 which was held in the recurrent account and was at risk of use on normal operation activities or irregular use.

The land on which the office of the DCC Balambala was built had no title deed or proof of ownership.

182.15 Proposed Construction of National Registration Office Block – Kakamega East Sub County

The Department entered into a contract for the construction of the National Registration Office Block in Shinyalu Kakamega East, at an estimated cost of Kshs.4,164,138. The contract was signed on 3 March, 2022 for a period of 24 weeks. Review of documents provided for audit review revealed that payments made against AIE B133492 of 28 September, 2021 was Kshs.3,600,000. However, the project records and inspection carried out in November, 2022 indicated that the project was handed over to the State Department in May, 2022 but as at the time of the inspection, six months after completion, the office block was still not in use. Further, the inspection of the project revealed construction defects and non-adherence to provisions of the Bill of Quantities as detailed below:

(i) Use of ordinary colored iron sheets instead of box profile iron sheets as per BQ specifications.

(ii) Use of blue gum timber instead of cypress timber on trusses as per BQ specifications.

(iii) The contractor did not use steel on the windows and did not install window fasteners.

(iv) The contractor did not use steel doors, cypress frames for the doors and Union mortice locks.

(v) Window curtain holders were not put in place and defects on walling were identified.

182.16 Dry Docking of Kenya Coast Guard Vessel

Examination of records at Kenya Coast Guard Service (KCGS) revealed that a contractor was engaged to provide dry docking services for the repair, service and maintenance of M/V KCGS DORIA at a contract price of Kshs.59,930,408. However, as at the time of the audit in November, 2022, the Department paid a total of Kshs.62,245,104 which was beyond the contracted amount. Further, audit verification of assets at the KCGS offices revealed that the vessel was not operational as at the time of audit in November, 2022 and was docked at the Shimoni Station despite the payment to the service provider.

In the circumstances, the Department may not have obtained value for money on expenditure incurred on projects and acquisition of assets expenditure of Kshs.5,430,216,381 could not be confirmed.

Basis for Conclusion

183. Lack of Ownership Documents for Police Land

Review of records provided for audit indicated that the Kenya Police Service has over three thousand (3,000) parcels of land around the country. However, only approximately four hundred and sixty-four (464) parcels had title deeds which were under the custody of the Deputy Inspector General. The title documents for other parcels of land were said to be in the custody of The National Treasury but their details were not provided for audit. This implies that only approximately 20% of the parcels of land owned by the Kenya Police Services have ownership documents while approximately 80% do not have the same. Further, the Department did not budget for land title processing cost for the year under review.

In the absence of ownership documents, the land is exposed to the risk of encroachment.

184. Defective Birth Certificate Booklets

Records at Civil Registration Services indicated that there were birth certificate booklets received from the Government Printer (GP) that were defective since they were double perforated and could easily tear. Further, the register for birth certificate booklets indicated that these booklets were returned to the Government Printer, however there was no records to confirm that the certificates were indeed returned and replaced.

The defective certificates may be irregularly issued to unsuspecting members of the public and therefore loss of revenue.

185. Delay in Separation of Electricity Meters

Following the Presidential directive on National Police Service policy framework and strategy for reorganization of the National police Service and provision of decent housing for police officers and integration with the community in September, 2018, a policy change was made which necessitated the separation of electricity meters between the Kenya Police Service and individual police officers who are required to pay their electricity bills. In the financial years 2020/2021 and 2021/2022, the Department paid Kshs.78,000,000 and Kshs.72,000,000 respectively to the Kenya Power and Lighting Company to aid in separating electricity meters from the one common meter paid by the State Department to individual police officers. However, during the year under review, the service provider had only fitted few housing units with separate meters at West Park Estate with prepaid meters in November, 2021 and no other works have been undertaken in other police lines. Explanation on why the separation of meters had not been completed was not provided.

Further, analysis of water and electricity budgetary allocation revealed that the State Department had reduced the budget provision to cater for electricity expenditure from Kshs.722,262,837 before policy change in the financial year 2018/2019 to Kshs.267,975,300 in the financial year 2021/2022. The reduction of the budgetary allocation for utilities was implemented before the meter separation exercise was completed by the State Department of Housing and the bills for the meters that were not

separated were billed to the Kenya Police Service. This has resulted to a pending bill of Kshs.179,000,000 owed to KPLC in regard to institutional houses occupied by police officers. However, a breakdown of the institutional houses and the pending electricity bills were not provided for audit.

In the circumstances, there exists a risk of loss public resources with the delayed separation of the meters.

186. Lack of Adequate Storage Space for Food and Ration at the National Police Service"B" Campus Embakasi

Inspection of stores at the National Police Service "B" Campus Embakasi revealed that the stores facilities which were built approximately fifty (50) years ago were still in use and were unable to accommodate food and ration requirement for the College.

In the circumstances, the inadequate storage space could result to inadequate controls and loss of stocks.

187. Stations Operating Without AIE Allocations

Review of records and physical verification revealed that forty-nine (49) gazetted police stations and nine (9) Coast Guard field stations were operating without funding (AIE). The stations were meeting their recurrent expenditures through support from the mother stations.

The lack of funding may affect the ability of the stations to adequately deliver services to the public.

188. Kenya Coast Guard Service-Assets with no Ownership Documents

The assets register of the Kenya Coast Guard Service (KCGS) revealed that the Service has a total of fifty-nine (59) boats without proof of title ownership despite custody, regular use, repair and maintenance of the vessels by KCGS. In addition, some of the vessels had been transferred to KCGS from other government Agencies without ownership documents or official transfer deed documentation.

In the circumstances, effective control and use of the assets without ownership documents increases the risk of assets loss.

REVENUE STATEMENTS - STATE DEPARTMENT FOR INTERIOR AND CITIZEN SERVICES

REPORT ON THE REVENUE STATEMENTS

Basis for Qualified Opinion

189. Long Outstanding Arrears of Revenue

As disclosed in Note 7 to the revenue statements, the statement of arrears of revenue reflects arrears of Kshs.547,823,400 at 30 June, 2022 which includes a total of Kshs.453,872,900 that has been outstanding for over three years as detailed below:

Description	Amount (Kshs.)
Security of Government Buildings	246,827,500
Kenya Police Service (Nairobi Area)	517,600
Certificate of Good Conduct (DCI)	206,527,800
Total	**453,872,900**

Although the matter had been raised in previous audit reports and discussed by the Public Accounts Committee, the Committee recommendations and action taken by Management were not provided.

In the circumstances, the recoverability of the long outstanding arrears of Kshs.453,872,900 owed by various Government Agencies could not be confirmed.

Other Matter

190. Budgetary Control and Performance

The State Department had budgeted to collect revenue amounting to Kshs.18,676,624,068 in the financial year 2021/2022 as detailed in Notes 1,2,3 and 4 of the revenue statements. However, a total of Kshs.14,423,267,175 was collected resulting to an unrealized revenue of Kshs.4,253,356,893 or 29% of the budgeted amounts.

The under collection of revenue adversely affected Exchequer releases, budget execution and the overall performance of the Government programmes.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

191. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

192. Manual Collection of Revenue by Civil Registration Service

As reported in the previous year, inquiry from the Civil Registration Service on the revenue collection from births and deaths revealed that the Service continued to use manual system in the collection and accounting of revenue. In addition, there were no effective controls in place to mitigate against the risk associated with the manual system. For instance, data on the various categories of the certificates issued during the year was not provided for audit in order to confirm the accuracy of the reported revenue.

In the circumstances, it was not possible to confirm the effectiveness of the internal controls system in place.

NATIONAL COHESION AND INTEGRATION COMMISSION

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

193. There were no material issues noted during the audit of the financial statements of the Commission.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

194. Irregular Expenditure on Taskforce Allowance

During the year under review, the Commission incurred an expenditure of Kshs.2,165,000 on taskforce allowances. However, there was no specific duration of the assignment stated contrary to the guidelines in the appointment and management of taskforce allowances in the public service as provided for in the circular from the Head of Public Service Ref.MSPS.2/1A VOL.XLVIII(119) of 2 August, 2013.

In the circumstances, the Commission was in breach of the provisions of the circular and regularity of the expenditure could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

195. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECT

TECHNICAL ASSISTANCE TO ENHANCE THE CAPACITY OF THE PRESIDENT'S DELIVERY UNIT (ADB GRANT NO. 5500155012902) PROJECT

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

196. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

197. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

198. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

199. As required by the African Development Bank, I report based on the audit that, I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and Project's financial statements agree with the accounting records and returns.

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

200. Inaccuracies in the Financial Statements

The statement of receipts and payments reflects total payments of Kshs.28,626,720,359. Review of the Integrated Financial Management System (IFMIS) payment reports processed against the payments made in bank revealed that 605 transactions amounting to Kshs.207,096,701 were paid in bank but not captured in payment details in the IFMIS.

In the circumstances, the propriety, accuracy and completeness of the payments of Kshs.207,096,701 could not be confirmed.

201. Unsupported Cash and Cash Equivalents

As disclosed in Note 9A to the financial statements, the statement of assets and liabilities reflects a balance of Kshs.187,143,716 in respect of total cash and cash equivalents. However, the bank reconciliations and cash book presented for audit had the following inaccuracies and inconsistencies;

(i) Payments amounting to Kshs.7,726,653 were made in the bank but not recorded in the cash book with some dating as far back as 9 September, 2021.

(ii) The reconciliation statement for the pending bills account as at 30 June, 2022 reflected unpresented cheques amounting to Kshs.55,157,766, out of which payments of Kshs.10,801,430 related to outstanding payments from previous financial years were yet to be written back to the cash book.

(iii) Unpresented cheques amounted to Kshs.29,718,182, even though the State Department makes payments through Real Time Gross Settlement System (RTGS). No explanation was given for the long outstanding payments.

(iv) The bank reconciliation statement for the pending bills account reflected receipts in the bank statement not recorded in the cash book of Kshs.4,385,459 out of which receipts amounting to Kshs.2,967,744 were related to the previous financial year. It was not explained why these amounts were yet to be recorded in the cash book.

(v) Further, the statement reflected payments in bank not recorded in the cash book amounting to Kshs.27,593,051 indicating that payments may have been made in bank without processing them through IFMIS.

(vi) Review of cash books held at various Sub-County Treasuries revealed an amount of Kshs.2,238,451 which remained unspent as at 30 June, 2022 but was not returned to the exchequer account.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.187,143,716 as at 30 June, 2022 could not be confirmed.

Other Matter

202. Understated Pending Bills

Disclosed in Note 17.1 and Annexure 1 to the financial statements are pending accounts payable amounting to Kshs.200,444,053. Further, examination of the supporting schedules indicates that the pending accounts payable excludes balances of Kshs.265,331,826 and Kshs.71,251,080 owed to Kenya Revenue Authority (KRA) unpaid PAYE from September, 2014 and suppliers to various correctional facilities, respectively. Although Management had requested for funds from The National Treasury for settlement of the debts owed to KRA, The National Treasury had declined the request.

In addition, as disclosed in Note 17.2 and Annexure 4 to the financial statements, the State Department had contingent liabilities amounting to Kshs.65,822,046 relating to twenty-eight (28) determined court cases whose liabilities have not been settled. Although there were no active appeals filed against the court's determination, Management did not provide any evidence on the measure being taken to clear these outstanding liabilities.

In the circumstances, the accuracy of the reported pending account payables balance of Kshs.200,444,053 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

203. Encroachment on Prisons Land

Annex 2 to the financial statements on summary of fixed assets register reflects assets with historical total cost of Kshs.3,114,336,538. However, the balance excludes undetermined values of parcels of land spread all over the Country whose details of ownership could not be determined. Audit inspection conducted in July, 2022 revealed various parcels belonging to five sampled correctional facilities of which four measured 2,483.4601 acres while one had unknown value, currently occupied by informal settlers such as people, churches and other Government institutions who continue to use such land for residential and commercial purposes.

Further, Management did not provide a report prepared by the Inter-Ministerial Committee on Narok Prison Land (16.1881 cares) pursuant to the Attorney General advice to the Commissioner General of Prison informal settlers of 7 March, 2022 and evidence of the action taken so far as to evict the illegal occupants in compliance with Government directives among them the PAC directive issued on 28 May, 2022.

In the circumstances, the completeness, ownership and security of the assets of Kshs.3,114,336,538 could not be confirmed.

204. Poor Maintenance of Motor Vehicles, Plant, Machinery and Equipment in Prisons

Review of motor vehicle, plant, machinery and equipment record in respect of repairs and maintenance provided for audit revealed that the Service has forty-one (41) departmental owned vehicles which are recorded as economical to repair. However, the vehicles were

grounded due to lack of funds to purchase spare parts, carry out repairs or pay dealers were involved in major repairs. During the financial year under review, an annual procurement plan was prepared detailing various spare parts required for repairs of serviceable grounded vehicles and which are economical to repair at an estimated cost of Kshs.13,975,784.

However, the State Department only funded the repairs totalling to Kshs.6,156,656 during the year representing 44% of the estimated total cost. Further, several leased ambulance vehicles deployed to various stations in Kisii, Eldoret and Bungoma were grounded due to various mechanical problems.

In the circumstances, the inefficiencies in motor repair and maintenance may affect service delivery to both the inmates and other Government agencies that depend on the Prisons Service.

205. Poor Living Conditions at Various Prisons

205.1 Poor Maintenance of Buildings at Nairobi Medium Security and Nairobi Remand Prison

Audit inspection conducted in September, 2022 revealed that Nairobi Medium Security Prison has inadequate office accommodation for staff. The Prison has three (3) office rooms utilized by the Officer in Charge (OIC), general office and accounts office. It was also observed that the floors to the prisoners' wards are dilapidated with rough floors, potholes, dirty marks on the walls with some sections of the roof leaking when it rains. Further, the prison did not have adequate budget for repairs and maintenance of building, purchase of generator and installation of CCTV cameras for monitoring activities within the prisons.

In the circumstances, lack of adequate budget provision may lead to further deterioration of prisons assets and inefficient service delivery.

205.2 Poor Sanitation and Lack of Water at Migori Main Prison

Review of records provided for audit and an audit verification carried out in October, 2022 revealed that, Migori GK Prison is holding approximately 700 inmates and 230 members of staff. The main source of water for the facility is a seasonal unprotected well situated within the Institution and roof catchment with storage reservoirs. Reports of 17 June, 2022 and of 2 March, 2022 by Public Health and NEMA Inspectors respectively indicates that the available source of water for drinking and general use was non-compliant with national standards for safety. Further, the prison does not have in place appropriate safeguards for waste water management.

In the circumstances, the inmates, staff and the community may be exposed to contagious and other water borne diseases.

206. Stalled Projects

Physical inspection at various sampled correctional facilities revealed abandoned projects at different levels of completion in nine (9) correctional facilities with contracts sum and payments to date of Kshs.116,655,736 and Kshs.21,889,077 respectively.

In the circumstances, and with lack of adequate budgetary allocation, it was not possible to confirm that these projects will be completed in time to deliver the intended services and value for money.

207. Poor Construction of a Perimeter Wall at Busia G.K. Prison

During the year under review, the State Department entered into a contract for the construction of a perimeter wall at Busia G.K Prison at a contract sum of Kshs.20,549,887. The contractor handed over the Project to the State Department without completing the following items in the contract:

i. Counterfort walls had not been done to provide lateral support.

ii. Inaccuracies in the original Bill of Quantities, where ground beams and ring beams were not captured. The said items had a big implication on the overall cost of the Project. The Project implementation team agreed to exchange the plaster work with ground beams and ring beams.

Further, the following deficiencies were noted in the project implementation phase:

i. The Bill of Quantities provided for 300mm wide *75mm thick precast concrete coping bended which was not done.

ii. The Bill of Quantities further provided for application of three coats of crown permacote paint on rendered surface externally which was not done.

iii. The Bill of Quantities provided for two steel double gates of 5000 mm x 2400mm high fabricated on 50 *5000mm R.H.S in framing and box 25mm R.H.S in fills at 100mm centers and with 100*100mm R.H.S side posts coat into mass which was not done.

No approved variations to the contract were provided for audit. Further, the Management did not explain the circumstances under which the above contracted works were omitted at the execution stage.

In the circumstances, the value for money for the expenditure of Kshs.20,549,887 incurred could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

208. Failure to Produce Offenders in Courts on Time

During the year under review, the Homa Bay Prison Management failed, on several occasions to produce offenders to various courts within Homa Bay County as and when required to do so. This was due to the existing official transport challenges whereby the Prison had one vehicle only to serve seven courts.

In the circumstances, failure to produce offenders in court frustrates the fair administration of justice and denies the offenders their constitutional rights to defend themselves in court.

STATE DEPARTMENT FOR DEVOLUTION - VOTE 1032

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

209. Unaccounted for District Suspense

The statement of assets and liabilities and as disclosed in Note 11 to the financial statements reflects accounts receivables-outstanding imprest and clearance accounts balance of Kshs.85,782,292 relating to district suspense. However, no documents in form of returns were provided for audit, to explain the requisition process, evidence of receipt by the respective recipients and the usage.

In the circumstances, the accuracy, validity and completeness of the district suspense balance of Kshs.85,782,292 could not be confirmed.

210. Non-Payment of Pending Bills

Note 18.1 and 18.2 to the financial statements reflects pending bills totalling Kshs.1,373,260,296 comprising of pending accounts payables of Kshs.1,034,991,583 and other pending payables of Kshs.338,268,713 respectively as detailed in Annex 1 and 2. Management had not explained why the bills were not settled during the year when they occurred. The State Department is at risk of incurring significant interest costs and penalties with their continued delay in payment. Further, failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

In the circumstances, completeness and accuracy of the pending accounts payables amounting to Kshs.1,373,260,296 could not be confirmed.

Emphasis of Matter

211. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.4,802,396,610 and Kshs.4,336,273,421 respectively resulting to an underfunding of Kshs.466,123,189 or 10% of the approved budget.

The underfunding affected the planned activities and programmes of the State Department which may have impacted negatively on effective service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

212. Unresolved Prior Year Matters

Various prior year audit issues remained unresolved as at 30 June, 2022. Management had not provided reasons for the delay in resolving prior year audit issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

213. Delay in Completion of the Proposed AFRICITIES Convention Centre

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects acquisition of assets expenditure of Kshs.344,015,400. The expenditure includes an amount of Kshs.280,000,000 for construction of buildings which further includes Kshs.250,000,000 which was paid to a contractor being part-payment for construction of proposed AFRICITIES convention centre in Kisumu County. The contract was awarded at a contract sum of Kshs.890,829,345 for a duration of thirty-eight (38) weeks commencing on 16 July, 2021. An extension period was granted where the contract period was revised to seventy-three (73) weeks with the new completion date of 16 December, 2022.

However, physical verification carried out in the month of November, 2022 revealed that the Project was only fifty-five (55) percent complete. Although Management attributed the delay to lack of funding, the Project was behind schedule.

In the circumstances, the regularity and value for money realized from the expenditure of Kshs.250,000,000 incurred on the delayed Project could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

214. Lack of Audit Committee and Public Finance Management Committee

The State Department did not have an independent Audit Committee and Public Finance Management Committee as required by Regulations 174(1) and 18(1) of the Public Finance Management (National Government) Regulations, 2015 respectively. An Audit Committee forms a key component in the governance process by providing an independent expert assessment of the organization's activities, quality of the risk management, financial reporting and management to the top management, while the Public Finance Management Standing Committee provides strategic guidance to the entity on public finance management matters.

In the circumstance, the effectiveness of the internal controls, risk management and overall governance for the State Department could not be confirmed.

215. Lack of Approved Information Technology Security Policy

The State Department did not have an approved Information Communication Technology (ICT) Policy for governance and management of its ICT resources. In addition, there is no ICT steering committee in place to assist in the development of ICT policy framework to enable the Department to realize long-term ICT strategic goals. Lack of an approved ICT Policy may result in an unclear direction regarding maintenance of information

security across the organization and safeguarding the Department`s ICT assets. Further, without a sound and approved framework, users do not have any rules and procedures to follow in order to minimize risk of errors, fraud and the loss of data confidentiality, integrity and availability.

In the circumstances, the strength of governance systems around the Information Communication Technology could not be confirmed.

DONOR FUNDED PROJECTS

INSTRUMENTS FOR DEVOLUTION ADVICE AND SUPPORT (IDEAS) CREDIT NO.KE/FED/024-230

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

216. Double Payments for Supplies

The statement of receipts and payments reflects transfers to other Government entities expenditure of Kshs.100,438,873 as disclosed in Note 4 to the financial statements which includes an amount of Kshs.31,676,176 transferred to Kisumu County. However, review of contract documents revealed the following anomalies:

i. The contract for the supply and delivery of tractor, trailer and 3-Disc plough was awarded to a Company on 5 May, 2021. Payment were made vide PV NO.5060 dated 23 February, 2022 of Kshs.4,548,462 and PV No.5060 dated 13 October, 2021 of Kshs.5,276,216, resulting to double payments for the same supply.

ii. In addition, a proforma invoice from the Company attached to the payment voucher was for Kshs.5,276,210 and dated 20 September, 2021. The bank statement of the project confirmed that two payments were made to the Company on 14 February, 2022 of Kshs.4,548,462 for Local Purchase Order (LPO) Number 10778 and on 13 April, 2022 of Kshs.4,548,462 for the same LPO Number 10778.

iii. Further, another payment of Kshs.510,703 was made to the Company on 21 June, 2022 being refund of 16% VAT deducted. However, the supporting documents to confirm that withholding tax was deducted and remitted to the relevant authority were not provided for audit.

iv. Audit verification of the assets revealed that, a trailer was missing and no explanation was provided for the anomaly.

In the circumstances the propriety, accuracy and completeness of the expenditure of Kshs.10,335,381 incurred could not be confirmed.

217. Unapproved Expenditure on Transfers to Other Government Entities

The statement of receipts and payments reflects transfers to other Government entities of Kshs.100,438,873 as disclosed in Note 4 to the financial statements. However, review of the approved budget revealed Kshs. Nil amount for transfers to other Government entities resulting to an over expenditure of Kshs.100,438,873. No documents were provided for audit to explain the reallocation of funds.

Failure to specify the expenditure in the budget as estimates is a contravention of the provision of Section 72(6) of the Public Financial Management (National Government) Regulations, 2015 which states that National Government shall ensure grants are factored in the budgets and counterpart funds appropriated accordingly.

In the circumstances, the propriety and approval of the expenditure of Kshs.100,438,873 transferred to other Government entities could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

218. Delay in Completion of Projects

Review of documents revealed that the European Union (EU) had transferred a cumulative total of Kshs.1,251,492,628 to fifteen (15) Counties in two (2) tranches for the implementation of seventeen (17) Local Economic Development (LED) Projects as at 30 June, 2022. However, out of the 17 Projects, four (4) Projects worth Kshs.440,000,000 had not been completed and commissioned while seven (7) Projects valued at Kshs.660,000,000 did not receive the second tranche due to failure to adhere to the conditions of the Financing Agreement which included poor workmanship, utilization of funds in ineligible expenditure and misuse of the funds.

In the circumstances, the regularity and value for money realized from the expenditure of Kshs.1,100,000,000 incurred on the eleven (11) delayed Projects could not be confirmed.

219. Failure to Transfer Grants to Specific Project Account in Wajir County

The statement of receipts and payments reflects transfers to other government entities expenditure of Kshs.100,438,873 as disclosed in Note 4 to the financial statements. The expenditure includes transfers to Wajir County of Kshs.19,908,166 which further includes an amount of Kshs.784,381 allocated for a milk project. However, review of supporting documents provided revealed that the money was not transferred to the specific project account. This was contrary to the provisions of Section 74(5) of Public Finance Management (County Governments) Regulations, 2015 which states that monies received for specified projects which have been paid into the County Revenue Fund, shall be released when required to the appropriate project bank account.

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

220. Irregular Procurement of Construction of Camel Slaughter House

The statement of receipts and payments reflects transfers to other Government entities expenditure of Kshs.100,438,873 as disclosed in Note 4 to the financial statements . The expenditure includes transfers to Wajir County of Kshs19,908,166 which further includes the amount of Kshs.2,912,242 which was paid to a Company for the construction of a camel slaughter house including holding pen, concrete pathway and the rehabilitation of an alternative slaughter area. However, the slaughter house had a poor disposal system for by-products from slaughtered camels which might be an indication of poor workmanship.

Further, purchase of construction materials were not supported with adequate relevant procurement documents such as stores register, goods received and issued vouchers, bin cards, procurement professional opinion, invoices, receipts, delivery notes, inspection and acceptance committee report and the stores ledger.

In the circumstances, the regularity and value for money realized from the expenditure of Kshs.2,912,242 incurred could not be confirmed.

221. Irregular Procurement of Dairy Cows

The statement of receipts and payments reflects transfers to other Government entities expenditure of Kshs.100,438,873 as disclosed in Note 4 to the financial statements. The expenditure includes transfers to Kisumu County of Kshs.31,676,176 which further includes an amount of Kshs.2,900,000 incurred on purchase of dairy cows. However, review of contract documents revealed that a Company was paid Kshs.2,900,000 for supply and delivery of sixteen (16) dairy cows. However, audit verification conducted revealed that there were twelve (12) dairy cows and seven (7) calves as opposed to sixteen (16) dairy cows stated in the bill of quantities, delivery note, invoice, and inspection and acceptance committee minutes resulting to variance of four (4) dairy cows. No explanation was provided for the anomaly.

In the circumstances, the regularity and value for money realized from the expenditure of Kshs.2,900,000 incurred could not be confirmed.

222. Irregular Procurement of Goods and Services

The statement of receipts and payments reflects transfers to other Government entities expenditure of Kshs.100,438,873 as disclosed in Note 4 to the financial statements. The expenditure includes transfers to Kisumu County of Kshs.31,676,176 which further includes an amount of Kshs.11,588,565 incurred on purchase of assorted office items, farm equipment and electricity services at Muhoroni Milk Plant. However, the electricity connection to the Project had not been done despite the full payment of connection fees.

Further, procurement documents supporting purchase of farm equipment were not provided for audit. In addition, Information Communication Technology equipment had not been delivered.

In the circumstances, the regularity and value for money from the expenditure of Kshs.11,588,565 incurred could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

223. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

224. As required by the Financing Agreement between the European Commission and the Government of the Republic of Kenya, I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

KENYA COOPERATION AND PARTNERSHIP FACILITY (KCPF) PROJECT NO. KE/FED 2019/041-712, CREDIT NO.FED/2021/423-175

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

225. Inaccuracies in the Statement of Receipts and Payments

Review of the financial statements revealed variances between the figures reflected in the statement of receipts and payments with the ledgers and supporting documents as indicated below:

Component	Financial Statements Amount (Kshs.)	Ledgers Amount (Kshs.)	Variance (Kshs.)
Purchase of Goods and Services	4,594,500	4,686,835	92,335
Compensation of Employees	5,425,901	7,096,717	1,670,816
Total	**10,020,401**	**11,783,552**	**1,763,151**

In the circumstances, the completeness and accuracy of the financial statements could not be confirmed.

Other Matter

226. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.30,000,000 against actual receipts of Kshs.31,534,900 resulting to overfunding of Kshs.1,534,900 or 5% of the approved budget. Similarly, the Project expended an amount of Kshs.10,020,401 against final budget expenditure of Kshs.30,000,000 resulting to under expenditure of Kshs.19,979,599 or 67% of the budget.

The underperformance affected the planned activities and programmes which may have impacted negatively on service delivery to the citizens.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

227. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

228. Lack of Internal Audit Unit and an Audit Committee

The Project does not have in place an Internal Audit Unit and Audit Committee contrary to the provisions of Section 73(1) and (5) of the Public Finance Management Act, 2012 which requires every public entity to have arrangements in place for internal audit unit for the purpose of carrying out in depth reviews of Management operations and internal controls. As such the Project did not benefit from the assurance and advisory services from the internal audit unit as well as oversight from the Audit Committee.

In the circumstances, the effectiveness of the internal controls could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

229. As required by the Financing Agreement between the European Development Fund and the Government of the Republic of Kenya, I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

OTHER DONOR FUNDED PROJECT IMPLEMENTED BY AN AGENCY UNDER THE STATE DEPARTMENT FOR DEVOLUTION

KENYA SYMBIOCITY PROGRAMME - PROJECT NO. SIDA 51110060 - COUNCIL OF GOVERNORS

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

230. Unverified Assets

Note 5 to the financial statements reflects acquisition of non-financial assets cumulative balance of Kshs.9,592,060. However, analysis of the assets register reflected that fifteen

(15) laptops and seven (7) projectors with a combined value of Kshs.1,444,100 held by the various County Governments and Project Programme Officers could not be physically verified during an audit inspection carried out in the month of October, 2022.

In the circumstances, the existence and ownership of the fixed assets totalling to Kshs.1,444,100 could not be confirmed .

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

231. Irregular Procurement of Laptops and Printers

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an expenditure of Kshs.1,129,200 in respect to acquisition of non-financial assets which includes an amount of Kshs.969,200 which was incurred on purchase of laptops and printers. However, review of procurement documents revealed that two (2) bidders who did not pass the technical evaluation stage were allowed to proceed to the financial evaluation stage. Further, the winning bidder supplied laptops and printers whose specifications differed with the specificantions contained in the quotation.

In the circumstances, the regularity and value for money realized from the expenditure of Kshs.969,200 could not be confirmed.

232. Purchase of Goods and Services

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects purchase of goods and services expenditure of Kshs.97,466,233. However, the following anomalies were noted in procurement:

232.1 Irregular Procurement of Consultancy Services

Review of the contract documents revealed that Kshs.199,800 was paid in respect of consultancy services for Environmental and Social Impact Assessment (ESIA) for the proposed Butere Multi-purpose Eco Park in Kakamega County. However, the procurement was undertaken through request for quotation instead of request for proposal method. Further, technical proposals submitted by bidders were not provided for audit to ascertain the validity of the award.

232.2 Inconsistencies in Procurement of Metal Containers for Market Stalls

Review of the contract documents revealed that an amount of Kshs.18,543,319 was paid for procurement of metal containers in Mbita - Homabay County. However, the approved budget for the works was Kshs.10,256,701 while the actual expenditure was Kshs.10,678,892 leading to an over expenditure of Kshs.422,191 of the approved budget. This was contrary to the provisions of Section 45(3)(a) of the Public Procurement and Asset Disposal Act, 2015. Further restricted tender method was used instead of open tender method which was indicated in the procurement plan and the contractor failed to provide performance security. This was contrary to Section 142(1) and (3) of the Public Procurement and Asset Disposal Act, 2015 which states that a successful tenderer shall

submit a performance security equivalent to not more than ten per cent of the contract amount before signing of the contract.

232.3 Unprocedural Procurement of Air Tickets

Included in domestic travel and subsistence expenditure of Kshs.6,272,730 was an amount of Kshs.541,030 which was paid for purchase of air tickets for various officers. However, the award was skewed in favour of a single service provider since there was no rotation of service providers despite the Project having prequalified a total of twenty-nine (29) firms for the provision of air ticketing services. This was contrary to the provisions of Section 91(5) of the Public Procurement and Asset Disposal Regulations, 2020 which requires the rotation of service providers while sending request for quotations.

232.4 Irregular Purchase of Fuels and Lubricants

Review of the expenditure documents revealed that an amount of Kshs.375,000 was paid for purchase of fuels and lubricants. The fuel and lubricants were drawn from National Oil Corporation Kenya (NOCK) through fuel cards and payments were made in advance. However, the contract agreement between the National Oil Corporation of Kenya and the Council of Governors was not provided for audit review.

In the circumstances, the regularity and value for money realized from the expenditure of Kshs.375,000 could not be confirmed.

232.5 Construction of Modern Mixed - Use Integrated Market

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects purchase of goods and services expenditure of Kshs.97,466,233 which includes an amount of Kshs.77,541,491 in respect to Change Project - Consultancy which further includes an amount of Kshs.20,843,743 which was paid in respect of proposed construction of a modern mixed - use integrated market in Ontulili Town, Meru County (Phase 1). However, review of tender documents revealed that the Contractor had provided performance bond of Kshs.2,045,671 dated 7 October, 2021 which was four (4) months after the receipt of letter of acceptance and over one (1) month after the signing of the contract. This was contrary to the provisions of Section 142(1) of the Public Procurement and Asset Disposal Act, 2015 which requires the performance security to be provided by the contractor before signing of the contract.

232.6 Construction of Drainage Works at Jewathu Settlement

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects purchase of goods and services expenditure of Kshs.97,466,233 which includes Change Project - Consultancy fees amounting to Kshs.77,541,491. The expenditure further includes an amount of Kshs.14,111,582 which was paid in respect to construction of proposed drainage works at Jewathu settlement in Njoro Sub County, Nakuru County. However, review of the tender documents revealed an over expenditure of Kshs.1,706,901 since the approved annual procurement plan had a budget of Kshs.12,404,681 for the works. This was contrary to the provisions of Section 45(3a) of the Public Procurement and Asset Disposal Act, 2015 which stipulates that all

procurement processes shall be within the approved budget of the procuring entity and shall be planned by the procuring entity concerned through an annual procurement plan

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

233. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

234. As required by the Financing Agreement between the Government of Sweden and the Government of the Republic of Kenya, I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR DEVELOPMENT OF THE ARID AND SEMI-ARID LANDS (ASALS) - VOTE 1035

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

235. Unsupported Expenditure

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects use of goods and services expenditure of Kshs.1,118,267,287. The expenditure includes the amounts of Kshs.28,493,878, Kshs.157,539,125 and Kshs.2,626,886 for routine maintenance-vehicles and other transport equipment, routine maintenance-other assets and printing and advertising respectively all totalling Kshs.188,659,889 which were not supported with adequate relevant documents.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.188,659,889 on use of goods and services could not be confirmed.

236. Unsupported Accounts Payables

The statement of assets and liabilities and Note 7 to the financial statements reflects accounts payables retention balance of Kshs.7,714,520 relating to retention for construction contracts. However, details of the constructions undertaken and their contracts that form the basis of the balance were not provided for audit. Further, no explanation was provided for the delay to refund the outstanding balances, some dating back to March, 2014.

In the circumstances, the accuracy, completeness and validity of the accounts payable balance of Kshs.7,714,520 could not be confirmed.

Other Matter

237. Pending Accounts Payable

Note 12.1 to the financial statements reflects pending accounts payables of Kshs.30,632,211 and other pending payables of Kshs.7,714,520 both totalling Kshs.38,346,731 which were not settled during the year but instead carried forward to 2022/2023 financial year. Management has not explained why the bills were not settled during the year they occurred. Further, pending bills reflected in Note 12.1 to the financial statements was at variance with Annex 1 to the financial statements which reflects pending accounts payable amount of Kshs.29,703,310. The variance of Kshs.8,643,421 was explained.

Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

238. Unresolved Prior Year Matters

Various prior year audit issues remained unresolved as at 30 June, 2022. Management has not provided reasons for the delay in resolving prior year audit issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

239. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

240. Lack of an Effective Internal Audit Function

The State Department does not have an effective internal audit function and an active Audit Committee contrary to the provisions of Section 73(1) and (5) of the Public Finance Management Act, 2012 which requires every public entity to have arrangements in place for internal audit function and Audit Committee for the purpose of carrying out in depth reviews of Management operations and internal controls.

In the circumstances, the State Department did not benefit from the assurance and advisory services from the internal audit function as well as oversight from the Audit Committee.

DONOR FUNDED PROJECT

KENYA DEVELOPMENT RESPONSE TO DISPLACEMENT IMPACTS PROJECT (KRDIP) IDA CREDIT NO.6021-KE AND GRANT NO. TFOA 7762-KE

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

241. Inconsistencies in the Financial Statements

The statement of comparison of budget and actual amounts reflects miscellaneous receipts balance of Kshs.1,503,027,234. However, the amount has not been disclosed in both the statement of receipts and payments and statement of cashflows for the year under review. In addition, there was no note in the financial statements to show the breakdown or composition of the miscellaneous receipts balance.

In the circumstances, the accuracy and completeness of the miscellaneous receipts of Kshs.1,503,027,234 reflected in the statement of comparison of budget and actual amounts could not be confirmed.

242. Unsupported Compensation of Employees Expenditure

The statement of receipts and payments reflects compensation of employees' expenditure of Kshs.620,893,048 as disclosed in Note 3 to the financial statements. The expenditure includes an amount of Kshs.284,277,134 which was paid to temporary employees working under the Labour Intensive Public Works (LIPW) Program in Turkana West, Wajir South and Garissa. However, Needs Assessment Reports, Workplans, Soil Texture Tests, Site History Reports, Soil Fractional Tests or Jar Test Reports and Distribution of Seedlings Reports were not provided for audit review to confirm the effectiveness of the activities.

Further, the visited land reclaimed areas had invasive Prosopis and other overgrown invasive vegetation and the irrigation schemes have not been implemented due to heavy reliance on rains which had not materialized causing lack of any visible tangible agricultural activity on the sites.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.284,277,134 incurred could not be confirmed.

Other Matter

243. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.3,878,239,137 against actual receipts of Kshs.5,049,358,103 resulting to overfunding of Kshs.1,171,118,966 or 30% of the approved budget. Similarly, the Project expended an amount of Kshs.3,524,340,128 against the final budget of Kshs.3,878,230,137 resulting to under expenditure of Kshs.353,899,009 or 9% of the budget. No explanation was provided for failure to spend all the available funds.

In addition, compensation of employees had a final budget of Kshs.338,452,188 against actual expenditure of Kshs.620,893,048 leading to an over expenditure of Kshs.282,440,860 which was not explained nor accounted for. This is non-compliance with the budget.

The underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

244. Lack of Monitoring and Evaluation of the Community Groups

The statement of receipts and payments reflects purchase of goods and services expenditure of Kshs.1,795,961,678 as disclosed in Note 4 to the financial statements. The expenditure includes capital grants to community groups totalling to

Kshs.1,156,852,378 which further includes an amount of Kshs.315,000,000 which was disbursed to community groups in Turkana County. However, the audit revealed that there were no regular meetings and monitoring and evaluation reports were not provided for audit.

Further, the community groups could not be verified since most of them are pastoralists and were not available for engagement and thus it could not be confirmed whether the Project had a social and economic impact to them.

This is contrary to the provisions of the Community Operational Manual, which states that the Community Groups should receive livelihood grants after adhering to five core group principles which are regular meetings, proper record keeping, inter-loaning and regular repayments and thereafter approval of their business plans.

In the circumstances, the Project's Management was in breach of the Community Operational Manual and the value for the funds spent could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

245. Lack of an Approved Information Communication Technology Policy

Review of the Information Communication Technology (ICT) systems revealed that the Project did not have an approved ICT Policy for governance and management of its ICT resources. In addition, there is no ICT Steering Committee in place to assist in the development of ICT Policy framework to enable the Project to realize long-term ICT strategic goals. Lack of an approved ICT Policy may result in an unclear direction regarding maintenance of information security across the organization and safeguarding the Project`s ICT assets. Further, without a sound and approved framework, users do not have any rules and procedures to follow in order to minimize risk of errors, fraud and the loss of data confidentiality, integrity and availability.

In the circumstances, the security, confidentiality and integrity of the Project's data could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

246. As required by the Financing Agreement between the International Development Association and the Government of the Republic of Kenya, I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

MINISTRY OF DEFENCE - VOTE 1041

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

247. There were no material issues noted during the audit of the financial statements of the Ministry.

Other Matter

248. Pending Bills

Note 17.2 and Annex 1 to the financial statements reflects pending bills balance of Kshs.1,755,046,240 as at 30 June, 2022 owed to suppliers of goods and services which were not paid in the year under review but were carried forward to 2022/2023 financial year.

Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

249. Contingent Liabilities

As disclosed in Note 17.4 to the financial statements, the Ministry of Defence had contingent liabilities amounting to Kshs.1,807,350,099 as at 30 June, 2022. The contingent liabilities related to court cases against the Ministry. Detailed analysis of the balance provided for audit indicated that the total courts awards amounted to Kshs.2,171,750,099, out of which an amount of Kshs.364,400,000 was paid during the year, leaving a balance of Kshs.1,807,350,099 outstanding.

No explanation was provided for failure to pay the outstanding balance of Kshs.1,807,350,099 in compliance with the court rulings.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

250. Unbudgeted Expenditure Incurred on Projects

During the year under review, Ministry of Defence received funding for infrastructure projects procured and supervised by the Ministry on behalf of another Ministry/Agency as detailed below:

	Ministry/Agency	Project Description	Contract Amount (Kshs.)	Amount Paid (Kshs.)	Unbudgeted Expenditure (Kshs.)
1	Ministry of Interior & Citizen Services	National Police Service - Level IV Hospital	824,928,279	400,000,000	424,928,279
2	Ministry of Interior & Citizen Services	State Department for Correctional Services – Level IV Hospital	999,628,135	400,000,000	599,628,135
3	State House - Nairobi Metropolitan Service	Uhuru & Central Park Rehabilitation Project	1,183,494,712	778,192,768	405,301,944
	Total		**3,008,051,126**	**1,578,192,768**	**1,429,858,358**

However, Ministry of Defence signed contracts for amounts above the actual funds received for the respective projects resulting to an unbudgeted expenditure of Kshs.1,429,858,358. This was contrary to Section 53(8) of the Public Procurement and Asset Disposal Act, 2015 which requires an Accounting Officer not to commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in the approved budget estimates.

Further, although physical verification done in the month of October, 2022 confirmed that the projects were completed, the unpaid amounts totalling to Kshs.1,429,858,358 were not included as pending bills as at the end of the financial year. Ministry of Defence had continuously requested for the outstanding balances from the respective Ministry/Agency without success due to unavailability of funds. However, Management did not disclose how the extra expenditure of Kshs.1,429,858,358 committed by the Ministry would be funded in the absence of an approved budget.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

251. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REVENUE STATEMENTS - MINISTRY OF DEFENCE

REPORT ON THE REVENUE STATEMENTS

Unmodified Opinion

252. There were no material issues noted during the audit of the revenue statements of the Ministry.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

253. Irregular Transfer of Revenue

The statement of receipts and disbursements reflects total tax receipts of Kshs.4,417,951,213 for the year ended 30 June, 2022. The statement also reflects disbursements of Kshs.496,791,300 and Kshs.3,921,159,913 to MOD Escrow Account and Exchequer Account, respectively. However, the disbursement of Kshs.496,791,300 to the Escrow Account was contrary to the provisions of Article 206(1) of the Constitution of Kenya, 2010 which established a Consolidated Fund, "into which shall be paid all money raised or received by or on behalf of the National Government, except when reasonably excluded from the Fund by an Act of Parliament and payable into another public fund established for a specific purpose; or under an Act of Parliament, retained by the State organ that received it for the purpose of defraying the expenses of the State organ".

Although Management provided authorization from the National Treasury for opening and operating the escrow account at the Central Bank of Kenya, there was no enabling legislation to support the transfer of revenue into an account other than the Consolidated Fund Account.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

254. There were no material issues relating to effectiveness of internal controls, risk management and governance.

MINISTRY OF FOREIGN AFFAIRS - VOTE 1052

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

255. Long Outstanding Reconciling Items

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.1,737,179,819 which includes bank balances totalling Kshs.1,736,879,371 as disclosed in Note 11A to the financial statements. Review of the Ministry's bank reconciliation statements for the month of June, 2022 revealed long outstanding reconciling items which include; payments in cash book not in bank statements of Kshs.233,210,044, receipts in bank statements not in cash book of Kshs.50,815,226, payments in bank statement not in cash book of Kshs.280,157,533 and receipts in cash book not in bank statement of Kshs.13,030,179. No documentary evidence was provided for audit to confirm efforts made by Management to clear these long outstanding reconciling items.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.1,737,179,819 as at 30 June, 2022 could not be confirmed.

Other Matter

256. Pending Bills

Note 19.2 to the financial statements reflects pending accounts payables totalling Kshs.701,161,995 as at 30 June, 2022. These bills were not paid during the year under review but were instead carried forward to the financial year 2022/2023.

Failure to settle bills during the year to which they relate distorts the budget implementation of the subsequent year as the outstanding bills form a first charge on resources available.

257. Contingent Liabilities

Disclosed in Note 19.4 to the financial statements are contingent liabilities totalling Kshs.112,013,123 arising from court cases and awards against the Ministry. Review of the Ministry's records indicate that the Government of Kenya through the missions abroad had been sued by local staff employed by the missions. Further, in some cases the Ministry was yet to pay the court awards and has not appealed the decision of the courts.

In the circumstances, the court cases may attract further charges which may lead to loss of public funds.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

258. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

259. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR VOCATIONAL AND TECHNICAL TRAINING - VOTE 1064

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

260. Unsupported Other Revenues

The statement of receipts and payments reflects other revenues amounting to Kshs.4,676,474,119 being Appropriations-In-Aid collected by Vocational and Technical Training institutions. However, no supporting documents were provided to confirm the revenue earned, received and reported in the financial statements. Further, the amounts captured were extracted from the budget estimates and not the actual revenue from the institutions. In addition, no evidence was provided to show that revenue collected was surrendered to the Receiver of Revenue as required.

In the circumstances, the accuracy and completeness of other revenues amounting to Kshs.4,676,474,119 for the year ended 30 June, 2022 could not be confirmed.

261. Unsupported Procurement of Equipment under Kenya-China Project

The statement of receipts and payments reflects proceeds from foreign borrowings amounting to Kshs.895,820,309 as disclosed in Note 3 to the financial statements. The Government of Kenya through the then Ministry of Education, Science and Technology entered into a contract with a firm for supply of equipment. The project was for establishment of Technical and Vocational Training (TVET) workshops through an addendum dated 25 May, 2016 that includes an amount of Kshs.149,799,955 paid under the Kenya China Project for the installation of low voltage boards in fifteen (15) TVET institutions. However, Management did not provide the disbursement schedule, payment vouchers and information on how the firm was identified, selected and awarded, casting doubt on whether the payments were actually made and received. Further, no information was provided on how the beneficiary institutions were identified.

In the circumstances, the accuracy, completeness and regularity of the expenditure of Kshs.149,799,955 for the year ended 30 June, 2022 could not be confirmed.

262. Loss of Cash Through Use of Duplicate Bank Account Details in the IFMIS System

The statement of assets and liabilities reflects a bank balance of Kshs.84,898,890 as disclosed in Note 10 to the financial statements. However, review of IFMIS details, bank reconciliations and cash books revealed that the State Department lost a total of Kshs.356,000 due to an account in IFMIS created under an individual's name. No explanation was provided on how the account was created under the shared name without authority and how the State Department planned to recover the lost funds.

In addition, recovery of the amount is in doubt. Further, key processes and internal controls put in place to mitigate against theft, embezzlement, fraud or errors could be weak.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.84,898,890 as at 30 June, 2022 could not be confirmed.

263. Expenditure on Rent Made Without Valid Lease Agreements

The statement of receipts and payments reflects use of goods and services amounting to Kshs.867,132,447 as disclosed in Note 6 to the financial statements. Included in this amount is Kshs.52,317,911 in respect of rentals of produced assets. The amount includes Kshs.50,052,418 in respect of rent of office space for the various Departments whose lease agreements did not indicate the lease period and date signed.

In the circumstances, the accuracy and validity of the rent amounting to Kshs.50,052,418 could not be confirmed.

264. Long Outstanding Accounts Receivables - District Suspense

The statement of assets and liabilities and Note 11 to the financial statements reflects accounts receivables of Kshs.856,570 relating to the district suspense which was not supported with the relevant supporting documents or schedules. Further, excluded from the balance is a district suspense balance of Kshs.1,012,351 brought forward in respect of disbursements to the districts to support their operations. However, the respective districts did not account for the amounts disbursed.

In the circumstances, the validity, accuracy, completeness and recoverability of the accounts receivables balance of Kshs.856,570 as at 30 June, 2022 could not be confirmed.

Emphasis of Matter

265. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.23,053,129,473 and Kshs.20,412,015,477 respectively, resulting to an underfunding of Kshs.2,641,113,996 (or 11%) of the budget. Similarly, the State Department spent Kshs.20,494,170,177 against an approved budget of Kshs.23,053,129,473 resulting to an underabsorption of Kshs.2,558,959,297 (or 11%) of the budget.

The underfunding and underabsorption affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

266. Lack of Public Finance Management Standing Committee

Review of documents provided for audit revealed that the State Department did not have a Public Finance Management Standing Committee in place as required by Regulation

18(1) of the Public Finance Management (National Government) Regulations, 2015 that would have provided strategic guidance on Public Finance Management matters.

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

267. Mentorship Program and Construction of New Technical and Vocational Colleges

The State Department initiated construction of thirty (30) new Technical and Vocational Colleges (TVC's) across the Country to enhance technical training. To oversee these constructions, a number of existing institutions were appointed to mentor the new institutes. Review of financial and contractual records as well as physical verification of these projects in the month of November, 2022 revealed the following unsatisfactory matters:

267.1 Construction of the Kakrao Technical Training Institute (TTI)

Records examined at Rongo University College indicated that a contract was signed on 24 October, 2014 between the College and a local contractor for construction of the proposed Kakrao Technical Training Institute at a contract sum of Kshs.48,720,833 for a period of 52 weeks ending on 14 October, 2015. Physical verification of the Project in September, 2022 revealed that although the Project was handed over, it was still incomplete. Further, no explanation was provided for the significant delay in completion of the Project.

267.2 Kilifi North Technical Vocational College

The contract was awarded to a firm on 30 September, 2019 at a contract sum of Kshs.59,062,876 for construction and completion of twin workshop, classrooms and office block - 2 storey under the mentorship of Kenya Coast National Polytechnic. The agreed contract period was 52 weeks. At the time of audit, the amount paid was Kshs.44,421,301 and the project had stalled at 60% completion.

267.3 Matuga Technical Vocational College

The contract was awarded to a firm on 17 May, 2019 at a contract sum of Kshs.57,794,573 for a period of 52 weeks. The total amount paid as at the time of audit was Kshs.45,487,514. The project had stalled at 70% completion as the contractor was waiting for funds to enable him proceed with the remaining part of the project. Further, the provisional sum of Kshs.2,072,000 paid to the contractor was not justified as required by Section 139(2)(e) of the Public Procurement and Asset Disposal Act, 2015 which provides that an Accounting Officer of a procuring entity, on the recommendation of an Evaluation Committee, may approve request for use of prime cost, provisional sum and contingencies which request shall be accompanied by a certificate from the tenderer making a justification for such cost.

267.4 Igembe Central Technical Vocational College

The mentor institution for this project was Mukiria Technical and Vocational Training College. The construction and completion of a two storey twin workshop, classrooms and

office block at Igembe Central TVC had received development funds from the Ministry amounting to Kshs.33,097,400 from inception. Further, the National Government Constituencies Development Fund had contributed Kshs.10,000,000 for the Project, bringing the total receipts to Kshs.43,097,400. The Project was 50% complete and had stalled for 2 years due to delayed funding from the National Government. The Project Manager complained of defects noted due to poor workmanship. In addition, the financial evaluation for the contractor awarded this contract was also in doubt since works could only proceed once payments were received.

267.5 Kisii National Polytechnic

The Kisii National Polytechnic mentors South Mugirango and Kitutu Chache South (KIAMWASI) technical and vocational colleges.

267.5.1 South Mugirango Technical and Vocation Training College

South Mugirango Technical and Vocation Training College construction project was awarded at a contract sum of Kshs.55,241,205. The Kisii National Polytechnic had paid Kshs.45,241,205 by the time the Project stalled at 60% completion level. At the time of the audit, the contractor was not on site. Further, the building was dilapidated, infested with weeds, site was not fenced which made the building prone to vandalism and rain water was dripping on the walls and the floor slab.

267.5.2 Kitutu Chache South Technical and Vocation Training College

Kitutu Chache South Technical and Vocation Training College project was awarded at a contract sum of Kshs.57,053,885 out of which an amount of Kshs.47,053,885 was paid. Audit verification revealed that works had stalled with floor, electrical works, ceiling, staircase, septic tank and soak pits, internal wooden doors, landscaping, and parking not completed.

In the circumstances, value for money may not be realized from the incomplete projects.

268. Excess Disbursements to Mentor Institutions

The statement of receipts and payments and Note 7 to the financial statements reflects transfers to other Government units amounting to Kshs.12,559,152,267. Included in the amount is Kshs.927,500,000 disbursed as development grants to various Technical Training Institutions and Technical Vocational Mentor Centers. It was however, noted that an amount of Kshs.11,300,600 out of a total of Kshs.927,500,000 disbursed to three (3) mentor institutions was above the Ministry's contribution to the projects. Further, no documents were provided to prove that the excess amount was recovered from the respective three (3) Mentor Institutions.

In the circumstances, value for money and regularity of the excess disbursement of Kshs.11,300,600 could not be confirmed.

269. Allocation of Capital Grants to Non-Existent Technical and Vocational Centres

The statement of receipts and payments and Note 7 to the financial statements reflects an amount of Kshs.12,559,152,267 in respect of transfers to other Government units.

Included in this amount was capital disbursement to twelve (12) Technical Institutes of Kshs.271,500,000 out of which Sigalagala National Polytechnic and Nairobi Technical Training Institute received Kshs.20,000,000 each for the construction of mentee institutions namely Emalulu and Mathare Technical and Vocational Colleges respectively. However, audit verifications carried out in the month of November, 2022 revealed that the sites for construction were yet to be identified and therefore, the amounts sent for the two (2) institutions were not utilized. Further, the State Department did not provide evidence that funds were retained for future use.

In the circumstances, value for money may not be realised on the transfer of Kshs.40,000,000 for the construction of mentee institutions.

270. Failure to Enforce One Third Rule on Basic Salary

Review of compensation of employees documents revealed that in the month of June, 2022, seven (7) officers earned less than one-third ($^1/_3$) of their basic salaries. This was contrary to Section 19(3) of the Employment Act, 2012 which provides that the total amount of all deductions that may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds ($^2/_3$) of such wages or such additional or other amount as may be prescribed by the Minister either generally or in relation to a specified employer or employee or class of employers or employees or any trade or industry.

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

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

271. Processing of Payments

271.1 Voided Transactions

Analysis of the system payments indicated that twenty-seven (27) transactions of Kshs.405,309,396 were voided during the year 2021/2022. No approval was given from the Controller of Budget approving the payments and the voiding.

271.2 Transactions in System Payments not Processed in Payment Details

Analysis of the IFMIS system payment reports processed against the payments made, revealed sixty-nine (69) transactions amounting to Kshs.63,953,049 that were paid but not captured in IFMIS payment details as at 30 June, 2022.

In the circumstances, the effectiveness of key processes and internal controls put in place to process payments could not be confirmed.

272. Failure to Update Pending Bills Annexure

During the year under review, there were no pending bills disclosed in the financial statements except for an amount of Kshs.58,702,226 which was disclosed in Note 12 as deposits. However, IFMIS data indicated accounts payable of Kshs.161,095,556

(recurrent accounts Kshs.1,393,888 and development accounts Kshs.159,701,668) that were not disclosed in the financial statements and whose supporting documents were not provided for audit review.

In the circumstances, the effectiveness of the key processes and controls put in place to capture accurately the accounts payables could not be confirmed.

DONOR FUNDED PROJECTS

KENYA ITALY DEBT FOR DEVELOPMENT PROGRAM

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

273. Unsupported Prior Year Adjustments

The statement of financial assets reflects a prior year adjustment amounting to Kshs.442,821. However, this has not been disclosed in the Notes to the financial statements on the nature of the error that relates to the prior period and the fact that comparative information has been restated or that it is impracticable to do so. Further, the cash at the beginning of the period has not been adjusted by the amount of error and journal entries signed by the Accounting Officer or an officer designated by him.

This was contrary to Regulation 103 of the Public Finance Management (National Government) Regulations, 2015 which provides that journal entries prepared for all adjustments to be authorised by the accounting officer or an officer designated by him or her before posting them in a financial record. Further, the Regulations requires that the journal vouchers to be supported by sufficient explanations, authorisations, and documentation to facilitate accounting adjustments to be understood.

In the circumstances, the accuracy and completeness of the prior year adjustments balance of Kshs.442,821 could not be confirmed.

274. Unsupported Domestic Travel and Subsistence

The statement of receipts and payments reflects purchase of goods and services amount of Kshs.6,348,978 as disclosed in Note 2 to the financial statements. Included in this amount is an amount of Kshs.6,319,400 in respect of domestic travel and subsistence allowances on monitoring and evaluation activities for the project. However, Management did not provide work plans and an imprest register for audit. Further, Note 2 to the financial statements reflects domestic travel and subsistence cumulative to date comparative amount of Kshs.28,904,902 which was at variance with the previous year audited amount of Kshs.24,015,759 resulting in an unreconciled variance of Kshs.4,889,143.

In the circumstances, the accuracy, completeness and regularity of domestic travel and subsistence expenditure amount of Kshs.6,319,400 and the cumulative to-date amount of Kshs.35,224,302 for the year ended 30 June, 2022 could not be confirmed.

275. Omitted Donor Commitment

The project information and overall performance reflect the source and application of funds on pages vii and viii. The summary does not reflect the donor commitment, amounts received, amounts undrawn and unutilized balances, and amounts received to date in donor currency as prescribed by the reporting template by the Public Sector Accounting Standards Board.

In the circumstances, the annual report and financial statements for the year ended 30 June, 2022 are not fairly stated in respect of the source and the application of funds.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Conclusion

276. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

277. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

278. As required by the Agreement in the Form of Exchange of Letter-Kenya Italy Debt for Development Program, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Program and the Program's financial statements are in agreement with the accounting records and returns.

SUPPORT TO TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING FOR RELEVANT SKILLS DEVELOPMENT PROJECT-PHASE II (LOAN NO.2100150033295)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

279. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

280. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final budget and actual receipts on a comparable basis of Kshs.848,500,000 and Kshs.790,803,552 respectively, resulting to an underfunding of Kshs.57,696,448 (or 7%) of the budget. Similarly, the Project spent an amount of Kshs.790,803,552 against an approved budget of Kshs.848,500,000, resulting to an underexpenditure of Kshs.57,696,448 (or 7%) of the budget.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

281. Delay in Completion of Training Institutes

The statement of receipts and payments reflects acquisition of non-financial assets amount of Kshs.541,222,628 as disclosed in Note 4 to the financial statements. The expenditure includes an amount of Kshs.426,222,628 in respect of overhaul, refurbishment of construction, and civil works for training institutions for contracts engaged in the year 2016/2017 whose performance bonds had expired. Review of these projects revealed that construction works in four (4) Institutions with a combined contract cost of Kshs.798,608,059 and payments of Kshs.629,578,884 had not been completed. The Project is scheduled to come to an end on 30 December, 2022 by which time the projects will be incomplete and not put to the intended use.

In the circumstances, value for money has not been realised.

282. Delay in Supply, Delivery, Installation, Commissioning, Learning and Training Assistive Devices and Equipment

The Project Management entered into a contract for supply, delivery, installation, and commissioning of learning and training in the use of assistive devices and equipment to four (4) Special Technical Training Institutes at a contract sum of Kshs.119,989,397 in August, 2017. However, records to confirm receipt of the devices and equipment by the receiving institutions were not provided for audit.

In the circumstances, it was not possible to confirm whether value for money was achieved in the procurement.

283. Failure to Open and Maintain a Separate Project Bank Account

The Project Management did not maintain a specific project bank account as funds received were credited to the Ministry's development bank account instead of a separate project account. It was therefore not possible to trace the receipts to the cash book and in the bank statement. This is contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which provides for the purpose

of disbursement of project funds, there shall be opened and maintained a project account for every project at the Central Bank of Kenya unless it is exempted by the Cabinet Secretary, in writing, into which all funds shall be kept and such an account shall be known by the name of the project for which it is opened and each project shall maintain only one bank account.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

284. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

285. As required by African Development Fund, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the financial statements are in agreement with the accounting records and returns.

EAST AFRICA SKILLS FOR TRANSFORMATION AND REGIONAL INTEGRATION PROJECT (EASTRIP) IDA LOAN CREDIT NO.6334-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

286. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

287. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final expenditure budget and actual on comparable basis of Kshs.700,000,000 and Kshs.87,107,119 resulting in an under expenditure of Kshs.612,892,881 (or 88%) of the budget.

The underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

288. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis of Conclusion

289. Failure to Tag Assets

The summary of the fixed assets register reflects fixed assets valued at Kshs.30,632,223 as disclosed in Annex 2 to the financial statements. Included in this balance is Kshs.6,315,200 and Kshs.11,065,423 in respect to office equipment, furniture and fittings, and ICT equipment, software and other ICT assets respectively. Verification of the assets revealed that the assets had not been tagged or serialized for ease of identification and management.

In the circumstances, the security and custody of the assets may not be assured raising the likelihood of misuse, theft and loss.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

290. As required by International Development Association, based on the audit procedures performed, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

PROMOTION OF YOUTH EMPLOYMENT AND VOCATIONAL TRAINING IN KENYA (TVET PHASE I) PROJECT LOAN REFERENCE: BMZ NO.2016 67 211 & BMZ NO.2016 65 298 AND PROJECT GRANT REFERENCE NO.1930 05 527

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

291. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

292. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final budget and actual receipts on a comparable basis of Kshs.633,000,000 and Kshs.135,196,299 respectively, resulting in an underfunding of Kshs.497,803,701 (or 79%) of the budget. Similarly, the Project spent an amount of Kshs.135,196,299 against an approved budget of Kshs.633,000,000, resulting in an underexpenditure of Kshs.497,803,701 (or 79%) of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

293. Slow Pace of Project Implementation

The Financing Agreement dated 21 February, 2020 indicated that Phase I of the Project had twelve (12) activities. The activities were meant to construct, equip and upgrade three (3) Institutions identified as Centres of Excellence through training of trainers on the use and maintenance of equipment, development, and procurement of teaching, learning and assessment materials and tools as well as provision of scholarships to disadvantaged youths. However, the project is at the third activity, an indication that nine (9) activities had not been implemented as of the time of the audit in October, 2022. Further, the Project has only fourteen (14) months remaining before the expiry of the three (3) year period casting doubt on the completion of the project.

In the circumstances, value for money may not be realized in the implementation of the project due to the slow implementation.

294. Irregular Procurement and Payment for Consultancy Services

As previously reported, the State Department requested assistance from the Development Partner in undertaking the procurement of a consultant on 22 August, 2017. The consultancy service contract was awarded at a contract sum of Kshs.446,041,869 on 9 September, 2020. However, this was done before the Project financier was identified.

The following anomalies were also noted: -

i. A Tender Agent based in Germany was engaged on an unidentified date to undertake the evaluation on behalf of the State Department;

ii. The terms of engagement of the Tender Agent including the contract, procurement process, appointment, remuneration if any, and the contractual obligations were not provided for audit review;

iii. The engagement with KfW to assist in the procurement of the consultant was on 22 August, 2017 which was more than two years before the signing of the Financing Agreement on 21 February, 2020;

iv. The notification of the award was made on 17 July, 2018 to the successful consultant based in Germany while the contract was signed on 9 September, 2020 which was more than two years after the notification of the award;

v. The contract was signed between the State Department and a locally incorporated company that was not part of the bidding consortium and which was not the one notified of the award; and,

vi. The payments were made to the local Company that did the invoicing even though they were not a party to the contract and there was no apparent contractual obligation.

In the circumstances, the Project Management and the State Department were in breach of the law on procurement and value for money has not been realised. Further, the payments made were irregular as the Company was not part of the consortium at bidding for the service.

295. Failure to Open and Maintain a Separate Project Bank Account

The Project Management did not maintain a specific project account as funds received were credited to the Ministry's development bank account instead of a separate project account. It was therefore, not possible to trace the receipts to the cash book and in the bank statement. This is contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which provides for the purpose of disbursement of project funds, there shall be opened and maintained a project account for every project at the Central Bank of Kenya unless it is exempted by the Cabinet Secretary, in writing, into which all funds shall be kept and such an account shall be known by the name of the project for which it is opened and each project shall maintain only one bank account.

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

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

296. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

297. As required by the Kreditanstalt fur Wiederaufbau (KfW), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

PROMOTION OF YOUTH EMPLOYMENT AND VOCATIONAL TRAINING PHASE II IN KENYA LOAN NO.BMZ 2018 65 120

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

298. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

299. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final budget and actual receipts on a comparable basis of Kshs.217,000,000 and Kshs.14,559,774, respectively, resulting in an underfunding of Kshs.202,440,226 (or 93%) of the budget. Similarly, the Project spent an amount of Kshs.14,559,774 against an approved budget of Kshs.217,000,000 resulting in an underexpenditure of Kshs.202,440,226 (or 93%) of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

300. Failure to Open and Maintain a Separate Project Bank Account

The Project Management did not maintain a specific project bank account as funds received were credited to the Ministry's development bank account instead of a separate project account. It was therefore not possible to trace the receipts to the cash book and in the bank statement. This is contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which provides for the purpose of disbursement of project funds, there shall be opened and maintained a project account for every project at the Central Bank of Kenya unless it is exempted by the Cabinet Secretary, in writing, into which all funds shall be kept and such an account shall be known by the name of the project for which it is opened and each project shall maintain only one bank account. Further, the receipts were not supported with respective itemized exchequer issue notifications and receipt vouchers to confirm the receipt of funds.

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

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

301. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

302. As required by the Kreditanstalt fur Wiederaufbau (KfW), I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

SUPPORT TO TECHNICAL AND VOCATIONAL EDUCATION TRAINING AND ENTREPRENEURSHIP (TVETE PROJECT PHASE III) (LOAN NO. 2100150042254)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

303. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

304. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final budget and actual receipts on a comparable basis of Kshs.445,000,000 and Kshs.52,749,532 respectively, resulting in an underfunding of Kshs.392,250,468 (or 88%) of the budget. Similarly, the Project spent an amount of Kshs.52,749,532 against an approved budget of Kshs.445,000,000, resulting in an underexpenditure of Kshs.392,250,468 (or 88%) of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

305. Failure to Open and Maintain a Separate Project Bank Account

The Project Management did not maintain a separate Project bank account instead funds received were credited to the Ministry's development bank account. This is contrary to

Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which provides that, for the purpose of disbursement of Project funds, there shall be opened and maintained a Project account for every Project at the Central Bank of Kenya unless it is exempted by the Cabinet Secretary, in writing, into which all funds shall be kept and such an account shall be known by the name of the Project for which it is opened and each Project shall maintain only one bank account.

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

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

306. Failure to Constitute Procurement Committees

Review of documents revealed that during the year, the accounting officer did not establish ad hoc opening and evaluation Committees to open, evaluate and record the procurement proceedings. This is contrary to Section 44(1) and 2(b) of the Public Procurement and Asset Disposal Act, 2015 which states that, In the performance of the responsibility under subsection (I), an accounting officer shall constitute all procurement and asset disposal committees within a procuring entity in accordance with the Act.

In the circumstances, governance systems of the Project were not effective.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

307. As required by African Development Fund, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR VOCATIONAL AND TECHNICAL TRAINING

EAST AFRICA SKILLS FOR TRANSFORMATION AND REGIONAL INTEGRATION PROJECT (EASTRIP) (IDA LOAN NO.6334-KE) - MERU NATIONAL POLYTECHNIC

REPORT ON THE FINANCIAL STATEMENTS

Basis of Qualified Opinion

308. Inaccuracies in the Financial Statements

308.1 Statement of Cash Flows

The statement of cash flows reflects net cash flow from operating activities of Kshs.61,625,064 which is incorrectly stated due to the following;

i. Increase in accounts receivables of Kshs.2,815,000 which ought to be subtracted was added to payments from operating activities.

ii. Recomputation of net cash flows from operating activities revealed that the increase of accounts receivables of Kshs.2,815,000 was not included in the total of Kshs.61,625,064.

iii. The statement reflects Nil balance on change in accounts payable. However, Note 17 reflect increase in accounts payable of Kshs.13,483,335.

308.2 Changes in Accounts Receivables

Note 16 to the financial statements reflects changes in accounts receivables which was wrongly described as follows;

i. Opening receivables as at 1 July, 2021 was wrongly described as deposit and retentions as at 1 July, 2021.

ii. Closing accounts receivables as at 30 June, 2022 was wrongly described as closing accounts payable as at 30 June, 2022.

iii. Change in receivables of Kshs.2,815,000 was wrongly described as change in payables.

308.3 Changes in Accounts Payable

Note 17 to the financial statements reflects Kshs.13,483,335 in respect of changes in accounts payable. However, recomputation revealed a balance of Kshs.13,904,223 resulting to a variance of Kshs.420,888 which was not reconciled or explained.

In the circumstances, the accuracy of the financial statements for the year ended 30 June, 2022 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

309. Cost Variation to the Construction Project

Management advertised for works in June, 2021 for the construction of Building Technology Flagship Center and other facilities where a contract was signed on 8 October, 2021 at a contract sum of Kshs.444,473,290 with a project duration of eighteen (18) months. However, review of site meeting minutes of the Project Implementation Team dated 10 June, 2022 revealed that the progress of works was behind schedule and the contractor was advised to provide project status report and give recovery plan for the lost time, which was not provided for audit verification.

Further, the Quantity Surveyor for the project at the same meeting, acknowledged receipt of cost variation claims from the contractor amounting to Kshs.96,372,034 which was a variation of 21.67 % of the original contract sum. The Quantity Surveyor indicated that the claim was being reviewed for onward transmission to the client. However, it was not possible to confirm what percentage of the claim was payable.

In addition, audit verification carried out in October, 2022 revealed that the works were progressing at a slow pace since the contractor appeared to have slowed down the works awaiting the decision from the Project Management on the cost escalation claims.

Further, there was no evidence to show that the cost variation was reviewed by the Project Implementation Team and submitted through the head of procurement function to the Project Coordinator for approval as required by law.

In the circumstances, value for money expended on the Project could not be confirmed.

310. Non-Compliance with Ethnicity and Regional Distribution

Review of personal files revealed that all Project employees were from the same ethnic community. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which states that no public establishment shall have more than one third of its staff from the same ethnic community.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

311. Failure to Insure Project Assets

During the year under review, the Project Management only procured insurance services for two Project vehicles but did not insure ICT equipment, office equipment and furniture

and fittings all appearing in the assets register and valued at Kshs.17,084,714 as required by law and EASTRIP risk policy.

In the circumstances, the safety and security of the Project assets could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

312. As required by International Development Association, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

EAST AFRICA SKILLS TRANSFORMATION AND REGIONAL INTEGRATION PROJECT (EASTRIP) GRANT/CREDIT NO.IDA 6334-KE - KISUMU NATIONAL POLYTECHNIC

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

313. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

314. Budgetary Control and Performance

Section 1.2 of the financial statements on project information and overall performance indicates that the Project duration is five (5) years or 60 months from 2020 to 2024, with a donor commitment of EUR 9,280,000 equivalent to Kshs.1,080,000,000. However, as at 30 June, 2022, the Project had received EUR 2,715,517 equivalent to Kshs.315,000,000 or 29% of total budgeted funds despite 30 months or 50% of the project timeline having lapsed. Further, out of the Kshs.315,000,000 total amount received as at 30 June, 2022 only Kshs.274,390,015 had been spent on project activities representing 25.4% of the donor project commitment amount of Kshs.1,080,000,000 and an 87% absorption rate of the received funds.

This was an indication of delay in project implementation and Management had not explained interventions that were put in place to recover the lost time.

Further, the statement of comparison of budget and actual amounts reflects nil actual receipts against budgeted amount of Kshs.509,122,906 resulting to a 100% underfunding. Similarly, the statement reflects an actual expenditure of Kshs.158,681,506 against budgeted amount of Kshs.509,122,906 resulting to under expenditure of Kshs.350,441,401 or 69% of the budget. Although, the Management attributes the underfunding and under absorption to the effects of COVID-19 pandemic, it is an indication that the goals and objectives of the Project may not have been achieved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

315. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

316. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

317. As required by International Development Association and the Project Grant/Credit Number IDA-6334-KE, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

EAST AFRICA SKILLS TRANSFORMATION AND REGIONAL INTEGRATION PROJECT (CREDIT NUMBER 6334 – KE) – KENYA COAST NATIONAL POLYTECHNIC

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

318. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

319. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.300,000,000 and nil respectively resulting to a 100% under funding. Similarly, the Project spent Kshs.46,907,550 against the budgeted expenditure of Kshs.300,000,000 resulting to underexpenditure of Kshs.253,092,450 or 84% of the budget. Management attributed the underfunding and related under expenditure to lengthy approval and contract signing process for acquisition of equipment.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

320. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

321. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR UNIVERSITY EDUCATION AND RESEARCH - VOTE 1065

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

322. Unsupported Other Grants and Transfers

The statement of receipts and payments reflects other grants and transfers amount of Kshs.251,964,581 as disclosed in Note 7 to the financial statements. Included in the amount is an expenditure of Kshs.14,964,580 which was not supported with relevant records and documents including receipts, minutes, committee appointment letters, back-to-office reports, invitations and travel documents. Further, an amount of Kshs.2,286,800 was spent on payment for tea, snacks, security and training and Management had not explained how the expenditure relates to scholarships and other educational benefits.

In the circumstances, the regularity of the expenditure of Kshs.17,251,380 for the year ended 30 June, 2022 could not be confirmed.

323. Failure to Prepare Bank Reconciliations

The statement of financial assets reflects a bank balance of Kshs.182,274,170 as disclosed in Note 10A to the financial statements. Review of records revealed that the State Department did not prepare monthly bank reconciliations for deposit and recurrent accounts except for the month of June, 2022. Further, the bank reconciliation statements for the month of June, 2022 reflects payments in the recurrent and development cash books not in the bank statements of Kshs.166,163,553 and Kshs.84,413,082 respectively whose dates of clearance by the bank was not indicated.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.182,274,170 as at 30 June, 2022 could not be confirmed.

324. Undisclosed Foreign Travel

The statement of receipts and payments reflects use of goods and services amount of Kshs.136,047,476 as disclosed in Note 5 to the financial statements. The amount includes Kshs.8,774,221 in respect of foreign travel and subsistence which was not captured in the financial year's expenditure work plan.

In the circumstances, the accuracy and completeness of foreign travel and subsistence expenditure of Kshs.8,774,221 for the year ended 30 June, 2022 could not be confirmed.

325. Other Operating Expenses

325.1 Expenditure not Disclosed as a Pending Bill

The statement of receipts and payments reflects Kshs.136,047,476 in respect to use of goods and services as disclosed in Note 5 to the financial statements. Included in the expenditure is an amount of Kshs.5,117,748 in respect of other operating expenses out

of which Kshs.814,320 was for the provision of garbage collection and disposal for the months of July, 2020 to June, 2021. However, the amount was not disclosed as a pending bill in the 2020/2021 financial year.

325.2 Expenditure Wrongly Classified

Included in other operating expenses are transactions amounting to Kshs.621,890 wrongly classified and posted under other operating expenses instead of conference facilities and domestic travel.

In the circumstances, the validity and accuracy of other operating expenses amounting to Kshs.5,117,748 could not be confirmed.

326. Compensation of Employees

The statement of receipts and payments reflects Kshs.258,008,361 in respect of compensation of employees as disclosed in Note 4 to the financial statements. The expenditure increased from Kshs.209,477,209 in previous year to Kshs.258,008,361 by Kshs.48,531,152 (or 23.2%) which was not explained. Further, the verified payment vouchers total was Kshs.244,939,158 resulting into an unreconciled and unexplained variance of Kshs.13,069,203. In addition, the statement of comparison of budget and actual amounts reflects employee compensation over-expenditure of Kshs.16,408,361 that was not supported by an approved budget contrary to Regulation 43(2) of Public Finance Management (National Governments) Regulations, 2015 which states that National Government entities shall execute their approved budgets based on the annual appropriation legislation, and the approved annual cash flow plan with the exception of unforeseen and unavoidable spending dealt with through the Contingencies Fund, or supplementary estimates.

In the circumstances, the accuracy, completeness and regularity of compensation of employees expenditure of Kshs.258,008,361 could not be confirmed.

327. Transfers to Other Government Entities

327.1 Current Grants to Government Agencies and Other Levels of Government

The statement of receipts and payments reflects transfers to other Government units of Kshs.85,016,468,678 as disclosed in Note 6 to the financial statements. The amount includes Kshs.78,128,307,412 in respect of current grants to Government Agencies and other levels of Government. Included in the amount is a transfer of Kshs.42,057,700 to Biosafety Appeals Board whose supporting documents was not provided for audit.

Further, the board is not functional as a separate entity and was also not included in the authorized schedule for disbursements to Semi-autonomous Government Agencies (SAGAS).

Transfer to other government units also includes a total of Kshs.448,473,444 disbursed to two (2) Institutions in which the institutions only acknowledged receipts amounting to Kshs.363,629,885 resulting in an unexplained and unreconciled variance of Kshs.84,843,559. In addition, the transfers included an expenditure of Kshs.11,290,000

in respect of the procurement of motor vehicles whose log books were not provided for audit.

327.2 Unsupported Capital Grants to Government Agencies

The statement of receipts and payments reflects transfers to other Government units of Kshs.85,016,468,678 as disclosed in Note 6 to the financial statements. Included in the transfers is Kshs.3,513,369,663 in respect to capital grants to Government Agencies. Review of the transfers revealed that an amount of Kshs.412,933,116 was disbursed to Kenya Advanced Institute of Science and Technology (KAIST) and Eastern and Southern Africa Higher Education Centres of Excellence (ACE II) projects. However, the Project's financial statements for the year ended 30 June, 2022 reflected receipts of Kshs.97,521,005 and Kshs.313,477,533 respectively totalling to Kshs.410,998,538 resulting to an unexplained and unreconciled variance of Kshs.1,934,578.

Further, the supporting schedule provided indicated that an amount of Kshs.170,594,181 was used by the State Department to purchase a motor vehicle, subsistence allowances, hire of conference facilities, purchase of air tickets, purchase of fuel, and other unrelated expenses and not disbursed to Government agencies. This was contrary to Section 43(1)(b) of the Public Finance Management Act, 2012 which prohibits the reallocation of funds appropriated for capital expenditure.

327.3 Unsupported Transfers to Private Universities

The statement of receipts and payments reflects Kshs.85,016,468,678 in respect of transfers to other Government units which as disclosed in Note 6 to the financial statements includes Kshs.3,374,791,603 in respect of transfers to private universities. However, the following anomalies were noted: -

i. Kshs.265,301,319 was disbursed to five (5) universities. However, no acknowledgment letters and receipts from the universities were provided to confirm receipt of the funds.

ii. An amount of Kshs.198,500,261 was disbursed to three (3) universities which confirmed to have only received a total of Kshs.183,339,074 resulting in an unreconciled and unexplained variance of Kshs.15,161,187;

iii. An amount of Kshs.22,591,680 was disbursed to thirteen (13) universities for 404 students. However, analysis of the supporting schedules revealed that these students had been duplicated in the schedules resulting to an overpayment of Kshs.22,591,680;

iv. A transfer to private universities of Kshs.136,295,811 was made for 3,357 students who had graduated by November, 2021 and, therefore, Management may have disbursed funds for students who had already completed studies and exited the Universities;

v. An amount of Kshs.376,990,032 was disbursed for a total of 8,964 students who were not active in the period July, 2021 to June, 2022 as they had not registered to sit for the scheduled exams in their respective Universities. Management may have disbursed funds for students who had deferred or quit the universities; and,

vi. An amount of Kshs.337,207,284 was disbursed for a total of 7,828 students who had been in the Universities for more than four (4) years which is the normal period undertaken for most undergraduate programs. Management may have paid tuition fees to non-existent students in private universities.

In the circumstances, the accuracy, completeness and regularity of transfers to other Government units of Kshs.85,016,468,678 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

328. Lack of an Audit Committee

The State Department did not have an Audit Committee in place. Further, the internal audit reports were not provided for review. This was contrary to Section 73(5) of the Public Finance Management Act, 2012 which provides that every national government public entity shall establish an audit committee whose composition and functions shall be as prescribed by the regulations.

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

329. Non-Compliance with One-Third Basic Pay Rule

Review of monthly payrolls revealed that fifteen (15) officers had committed their salaries over and above the required two-thirds of the basic pay contrary to the policy on payment of salaries. This was contrary to Section 19(3) of the Employment Act, 2012 which provides that the total amount of all deductions that may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds (2/3) of such wages or such additional or other amount as may be prescribed by the Minister either generally or in relation to a specified employer or employee or class of employers or employees or any trade or industry

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

330. Lack of Fixed Asset Register

Annex 2 on fixed assets schedule reflects historical cost of assets amounting to Kshs.6,305,853,289. However, Management did not provide a detailed asset register to support the balance of Kshs.6,305,853,289 and confirm the existence of the assets. This was contrary to Regulation 143(1) of the Public Finance Management (National Government) Regulations, 2015 which requires that the Accounting Officer be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

331. Non-Conformity to the Staff Establishment

Examination of the State Department`s approved staff establishment revealed that it had a capacity of one hundred and fifteen (115) officers in sixty-one (61) cadres. However, there were variations between the staff in post and the approved establishment. The State Department exceeded the approved staff establishment in various cadres by ninety-eight (98) staff and understaffed other cadres by seventeen (17) staff. No justifiable explanation was provided for the overstaffing and understaffing of staff.

In the circumstances, internal controls on staffing were not effective.

332. Employees in Biodata but not in Payroll

Review of payroll and the biodata revealed that names of forty-five (45) officers appeared in the biodata but were not in the IPPD payroll system. No explanation was provided for the anomaly.

In the circumstances, controls over the complement control are weak and may expose the State Department to fraud and other irregularities.

DONOR FUNDED PROJECTS

SUPPORT TO ENHANCEMENT OF QUALITY AND RELEVANCE IN HIGHER EDUCATION, SCIENCE AND TECHNOLOGY PROJECT (ID NO. P-KE-IAD-001-LOAN AGREEMENT NO.2100150027993)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

333. Inaccuracies in the Financial Statements

Review of statement of receipts and payments for the year ended 30 June, 2022 revealed comparative cumulative to date balances that are at variance with the balances reflected in the audited financial statements for the year ended 30 June, 2021 as here under:

Item	Financial Statements		Variance (Kshs.)
	2021/2022 (Kshs.)	2020/2021 (Kshs.)	
Loan from External Development Partners	3,757,627,736	3,576,020,397	181,607,339
Acquisition of Non-Financial Assets	3,364,346,908	3,182,739,569	181,607,339

Further, review of Note 1.7A of the funding summary under the Project Information and Overall Performance revealed current year's cumulative donor receipts balance of

27,270,803 unit of accounts equivalent to Kshs.3,757,627,740 which is at variance with the respective previous year's balance of 27,270,803 unit of accounts equivalent to Kshs.3,576,020,397 which should otherwise have remained constant since no funding was received during the year under review. Management has not given any explanation for the discrepancies.

In absence of any restatement of balances, the accuracy of the financial statements could not be ascertained.

334. Defects and Delays in Delivery of Equipment to Various Universities

As previously reported, the Project entered into supply contracts with various vendors for supply of specialized science and engineering equipment to selected public universities. Under the terms of the contracts, the vendors were to receive advance payments of 20% of their respective contract values upon submission of bank guarantees of equivalent amounts. A further 60% of the contract sum was to be paid after the equipment was shipped and relevant documents submitted to Management. The remaining 20% was to be paid upon receipt and acceptance of the items supplied.

As at 30 June, 2022, the Project's cumulative expenditure from 2013/2014 financial year on procurement of specialized plant, equipment and machinery totalled Kshs.2,799,042,159. However, records provided for audit revealed that the project was expected to end by 31 December, 2021 and that equipment totalling Kshs.112,598,346 were rejected by the respective inspection and acceptance committees.

The Project Management explained that the State Department finalized the status of delivery and acceptance of equipment and wrote to the Attorney General in July and August, 2021 seeking for an advisory on payment of any outstanding balances due to the suppliers, refund of advance guarantees recovered and levying of liquidated damages from any payments to the suppliers. The State Department is awaiting the final advisory on the mode of recovery of the liquidated damages from the Office of the Attorney General.

In view of the defective and unfulfilled supplies, the validity of the cumulative expenditure of Kshs.2,799,042,159 at Note 4 to the financial statements reported under purchase of specialized plant, equipment and machinery could not be confirmed. Further, value for money has not been realised on the project.

335. Uncorrected Prior Periods Error on Recall of Performance Securities

Review of records revealed that sums of Kshs.138,568,038 for performance bonds for the project were recovered from several suppliers for breach of contract and were deposited at Central Bank of Kenya in an account owned by the State Department for University Education on 17 September, 2019. These transactions have not been disclosed in the statement of financial assets as at 30 June, 2020, 30 June, 2021 and 30 June, 2022. Management did not make any correction in the financial statements for these prior periods' errors. Further, explanation for the errors and their adjustment have not been included in the notes to the financial statements as indicated below;

Contract Date	Contract Number	Supplier	Amount Recovered (Kshs.)
08 January, 2015	ICB/HEST/17/2013-2014	Limited Company	13,985,209
14 October, 2013	ICB/HEST/08/2012-2013	Trading Company	25,164,584
23 October, 2013	ICB/HEST/07/2012-2013	Trading Company	27,002,395
23 October, 2013	ICB/HEST/06/2012-2013	Aviation Company	15,500,422
14 October, 2013	ICB/HEST/17/2012-2013	Services Company	22,896,093
28 November, 2013	ICB/HEST/26/2012-2013	Limited Company	10,315,262
23 October, 2013	ICB/HEST/13/2013-2014	Commercial Agencies	12,425,613
23 October, 2013	ICB/HEST/14/2013-2014	Commercial Agencies	11,278,458
Total			**138,568,037**

In the circumstances, the accuracy and completeness of the annual report and financial statements could not be confirmed.

336. Undisclosed Pending Accounts Payables

During the year under review, the Project Management entered into a contract for consultancy services with two firms at a contract cost of Kshs.15,532,287. However, review of the financial statements submitted for audit revealed that these pending accounts payables had not been disclosed in the financial statements.

In the circumstances, the accuracy and completeness of the annual report and financial statements could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

337. Late Submission of Financial Statements

The financial statements were submitted to the Auditor General on 29 November, 2022. This was contrary to Section 47(1) of the Public Audit Act, 2015 which requires that financial statements should be submitted to the Auditor-General within three months after the end of the fiscal year to which the accounts relate.

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

338. Irregular Signing of Contract

The State Department for University Education entered into a contract for the provision of consultancy services on the conduct of end-of-project evaluation. The validity period for the said tender was 120 days starting from 12 May, 2021. The Project Management entered into a contract on 22 October, 2021 while the validity in respect of this tender lapsed on 9 September, 2021. This was contrary to Clause 12.1 of the Request for Proposal Document and Section 135(3) of the Public Procurement and Asset Disposal Act, 2015. Further, in the absence of a valid contract, disputes arising will not be legally enforceable.

In the circumstances, the regularity of the contract entered into could not be confirmed.

339. Failure to Open and Maintain a Separate Project Bank Account

The Project Management did not maintain a specific project bank account as funds received were credited to the Ministry's development bank account instead of a separate project account. It was therefore not possible to trace the receipts to the cash book and in the bank statement. This is contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which provides for the purpose of disbursement of project funds, there shall be opened and maintained a project account for every project at the Central Bank of Kenya unless it is exempted by the Cabinet Secretary, in writing, into which all funds shall be kept and such an account shall be known by the name of the project for which it is opened and each project shall maintain only one bank account.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

340. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

341. As required by the African Development Fund and financing agreement, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

ESTABLISHMENT OF KENYA ADVANCED INSTITUTE OF SCIENCE AND TECHNOLOGY PROJECT NO KEN-4

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

342. Unsupported and Unaccounted for Expenditure on Fuel and Lubricants for Motor Vehicles

The statement of receipts and payments reflects an amount of Kshs.86,231,005 in respect of purchase of goods and services as disclosed in Note 3 to the financial statements. Included in the amount is Kshs.499,999 in respect of fuel and lubricants for motor vehicles. However, the following anomalies were noted: -

i. The fuel was not recorded in the Project's motor vehicle work tickets;

ii. A number of work tickets for vehicles used by the Project were not provided for audit in support of the expenditure; and,

iii. The contract between the Project Management and the service provider was not provided for audit review.

In the circumstances, the regularity of the expenditure of Kshs.499,999 in respect of fuel and lubricants for motor vehicles could not be confirmed.

343. Payment for Undelivered Goods and Irregular Charge of Unrelated Expenditure

The statement of receipts and payments reflects acquisition of non-financial assets - purchase of vehicles and other transport equipment amounting to Kshs.11,290,000 as disclosed in Note 4 to the financial statements which had not been delivered and could not be physically verified. Further, as previously reported, the Project incurred an expenditure of Kshs.25,030,000 on the purchase of vehicles and other transport equipment which had not been delivered to the Project. However, available information revealed that the vehicles were being used by Ministry officials for non-project activities.

In the circumstances, the regularity of the expenditure of Kshs.36,320,000 on purchase of vehicles and other transport equipment could not be confirmed and value for money may not have been realized.

344. Lack of Fixed Asset Register and Ownership Documents

The statement of receipts and payments reflects the acquisition of non-financial assets cumulative expenditure amounting to Kshs.1,934,423,523 as disclosed in Note 4 to the financial statements. However, the Management did not provide for audit review a fixed asset register and logbooks for the two vehicles owned by the project.

In the circumstances, the existence, ownership, and valuation of assets with a cumulative balance of Kshs.1,934,423,523 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

345. Delayed Construction Works

The Project's financial records indicate that the project has been ongoing for five (5) years since the loan agreement was signed on 28 December, 2017. The project has recorded an accumulated expenditure on the acquisition of non-financial assets amounting to Kshs.1,934,423,523 with the summary of fixed assets register reflecting buildings and structures of Kshs.1,897,510,523 for which the value of work done has not been measured. Further, the project Management ought to have made four (4) semi-annual consecutive repayments of the loan on February, 2020, August, 2020, February, 2021, and August, 2021 in compliance with the provisions of Article 1 Section 1.02 on general terms and conditions of the loan agreement. The project therefore continues to attract interest on the unutilized amounts.

In the circumstances, value for money has not been realised in the implementation of the project. In addition, the project continues to attract interest on the unspent amounts.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

346. Lack of Internal Audit on the Project

Review of internal audit function revealed that no audit was carried out. Further, the Audit Committee did not sit to deliberate on matters relating to the project.

In the circumstances, the project did not benefit from the assurance and advisory services from the internal audit function as well as oversight from the Audit Committee.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

347. As required by Economic Development Cooperation Fund Loan Agreement No.KEN-4 I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the financial statements are in agreement with the accounting records and returns.

EASTERN AND SOUTHERN AFRICA HIGHER EDUCATION CENTRES OF EXCELLENCE (ACE II) PROJECT (CREDIT NO.5798-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

348. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

349. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.360,000,000 and Kshs.313,477,533 respectively, resulting in an underfunding of Kshs.46,522,467 (or 13%) of the budget. Similarly, the Project spent Kshs.313,477,533 against an approved budget of Kshs.360,000,000 resulting in an underperformance of Kshs.46,522,467 (or 13%) of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public for the year ended.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis of Conclusion

350. Failure to Open and Maintain a Separate Project Bank Account

The Project Management did not maintain a specific project bank account as funds received were credited to the Ministry's development bank account instead of a separate project account. It was, therefore, not possible to trace the receipts to the cash book and in the bank statement. This is contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which provides for the purpose of disbursement of project funds, there shall be opened and maintained a project account for every project at the Central Bank of Kenya unless it is exempted by the Cabinet Secretary, in writing, into which all funds shall be kept and such an account shall be known by the name of the project for which it is opened and each project shall maintain only one bank account.

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

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

351. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

352. As required by International Development Association, based on the audit procedures performed, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. In my opinion, adequate accounting records have been kept by the project, so far as appears from the examination of those records and the Project's financial statements are in agreement with the accounting records and returns.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR UNIVERSITY EDUCATION

AFRICA CENTER OF EXCELLENCE IN SUSTAINABLE USE OF INSECTS AS FOOD AND FEEDS PROJECT (IDA CREDIT NO.5798-KE) - JARAMOGI OGINGA ODINGA UNIVERSITY OF SCIENCE AND TECHNOLOGY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

353. Unsupported Adjustments in the Financial Statements

The statement of receipts and payments reflects purchase of goods and services expenditure amounting to Kshs.110,825,981 which, as disclosed in Note 11.5 to the financial statements includes an amount of Kshs.28,628,210 relating to domestic travel and allowances. However, the ledger relating to domestic travel and allowances reflects an amount of Kshs.29,167,834, resulting to a variance of Kshs.539,624, which was explained as a reversal of amounts paid but expenditure recognized fully. Management has not explained why the revised amount was not updated in the ledger.

In the circumstances, the completeness and accuracy of the amount of Kshs.28,628,210 under purchase of goods and services could not be confirmed.

354. Ineligible Expenditure

The statement of receipts and payments reflects an amount of Kshs.110,825,981 under purchase of goods and services and which, as disclosed in Note 11.5 to the financial statements includes amounts of Kshs.28,628,210, Kshs.12,173,652 and Kshs.29,269,897 in respect of domestic travel and subsistence, training expenses and research expenses, respectively. However, examination of records revealed that amounts of Kshs.10,565,694, Kshs.6,832,510 and Kshs.9,783,762 in respect of domestic travel and subsistence, training expenses and research expenses, respectively which did not directly relate to the Project. The relevance of the expenditure to the Project were not demonstrated and no evidence was provided to indicate that the expenditures were in the annual work plan and had been budgeted for.

In the circumstances, the regularity of the expenditure amounting to Kshs.27,553,123 under research expenditure could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

355. Non-Compliance with the Public Finance Management Regulations, 2015 - Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.144,731,861 and Kshs.225,609,176, respectively resulting to an over-funding of Kshs.80,877,315 or 56% of the budget. The Management attributed the increased actual receipts to receipt of Kshs.87,051,520 towards the tail end of the financial year which could not be absorbed and receipt of more foreign grants as a result of MOU'S that had been signed in the previous year but funds remitted in the current year under review.

Similarly, the Fund expended Kshs.136,408,010 against an approved budget of Kshs.231,783,381 resulting to an underexpenditure of Kshs.95,375,371 or 41 % of the budget. The Project therefore had a deficit budget of Kshs.6,174,205. Management has not indicated how it intended to finance the deficit. This is contrary to Regulation 33(c) of the Public Finance Management Regulations, 2015 which stipulates that the budget must be balanced.

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

356. Delays in Project Implementation

The Project was to run for 83 months from 1 February, 2017 to 31 December, 2023. As at 30 June, 2022, the project had been in existence for 65 months or 78.3% of the set timelines. The Project total commitment amounted to Kshs.809,504,563. However, Table B on application of funds reflects total utilization balance of Kshs.399,996,877 implying that the Project had only utilized 49.42% of the committed funds, an indication that it had achieved less than 50% of its intended purpose.

Management indicated that financing is based on target given in form of Deliverable Linked Results (DLR) segregated into DLR1.1 to DLR 4.2, and the Center has received 65.8% withdrawal of the financier's funds and has utilized 92% of the withdrawn amount. Although the Project has achieved some of its deliverables, the Project remains behind schedule. No efforts appear to have been made to ensure that the Project timelines and set objectives are fast tracked.

In the circumstances, the Project is behind schedule and value for money may not be realised.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

357. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

358. As required by Financing Agreement with International Development Association (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

AFRICA CENTRE OF EXCELLENCE (ACE II) IN PHYTOCHEMICALS, TEXTILES AND RENEWABLE ENERGY (PTRE) PROJECT (IDA CREDIT NO.5798-KE) – MOI UNIVERSITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

359. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

360. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.338,676,806 and Kshs.176,046,197 respectively resulting to an underfunding of Kshs.162,630,609 or 48% of the budget. Similarly, the Project expended Kshs.124,306,288 against an approved budget of Kshs.338,676,806 resulting to an underexpenditure of Kshs.214,370,518 or 63% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

361. Acquisition of Non-Financial Assets - Renewable Energy Equipment

The statement of receipts and payments reflects an amount of Kshs.31,180,248 under acquisition of non-financial assets as disclosed in Note 11.5 to the financial statements. Included in this amount is Kshs.30,442,348 for strengthening research capacity excellence which in turn includes Kshs.21,634,514 that was paid to a firm for supply, installation, commissioning and acceptance of renewable energy equipment. However, the asset register and the delivery note did not indicate the serial numbers of the equipment delivered.

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

362. Impresets and Advances

The statement of financial assets reflects imprests and advances balance of Kshs.4,299,583 as disclosed in Note 11.7 to the financial statements. However, a total of Kshs.1,196,970 held by five (5) payees remained unsurrendered or unaccounted for as at the time of audit in October, 2022. No evidence of recovery action or other appropriate disciplinary action taken on the defaulting officers was provided, contrary to Regulation 93(10) of the Public Finance Management (National Government) Regulations, 2015 which requires the Accounting Officer to take such action.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

363. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

364. As required by loan agreements signed between the Republic of Kenya and International Development Association (IDA Credit No.5798 - KE), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Program and the Program's financial statements agree with the accounting records and returns.

STATE DEPARTMENT FOR EARLY LEARNING AND BASIC EDUCATION – VOTE 1066

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

365. Unsupported Revenue from Registration and Re-Registration of Schools

The statement of receipts and payments reflects total receipts of Kshs.100,010,099,685 which includes an amount of Kshs.2,662,400 in respect of revenue from registration and re-registration of schools. However, Management did not provide supporting documents on how many schools were registered and re-registered during the year. Further, the revenue from registration and re-registration of schools was not included in the approved budget for the 2021/2022 financial year.

In circumstances, the accuracy and completeness of the total receipts amount of Kshs.100,010,099,685 for the year ended 30 June, 2022 could not be confirmed.

366. Inaccuracies in Cash and Cash Equivalents - Holding/Suspense Accounts

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.205,020,777 as disclosed in Note 12A and 12B to the financial statements. However, review of the cash and cash equivalents for the year ended 30 June, 2022 revealed that the State Department maintained nine (9) holding/suspense accounts with various commercial banks for disbursements of subsidies, grants and transfers to other government entities. As at 30 June, 2022, the nine (9) holding/suspense accounts had a balance of Kshs.98,176,499 which was not included in the bank balances of Kshs.205,020,777 as at 30 June, 2022.

In the circumstances, the accuracy of the cash and cash equivalents balance of Kshs.205,020,777 as at 30 June, 2022 could not be confirmed.

367. Misclassification and Payment of Rent without Valid Lease Agreements

The statement of receipts and payments reflects an expenditure of Kshs.5,815,120,762 under use of goods and services which, as disclosed in Note 6 to the financial statements, includes an amount of Kshs.147,262,641 in respect of rentals of produced assets. The expenditure includes an amount of Kshs.60,960,113 being rent of office space for various State Department offices in the Counties whose lease agreements had expired.

In addition, analysis of the expenditure reflects that transportation costs amounting to Kshs.16,161,628 was excluded from expenditure on use of goods and services - rentals of produced assets and charged on grants and transfers to other Government entities against the Government budget classification and chart of accounts issued by The National Treasury.

In the circumstances, the accuracy and regularity of the expenditure of Kshs.60,960,113 incurred on rentals of produced assets could not be confirmed.

368. Irregular Disbursements of Free Primary Education Funds

The statement of receipts and payments reflects an expenditure of Kshs.30,546,359,898 under transfers to other Government units which, as disclosed in Note 8 to the financial statements, includes an amount of Kshs.19,971,035,325 in respect of transfers to National Government Entities. The transfers include an amount of Kshs.9,062,694,606 relating to funds disbursed for free primary schools during the year. However, analysis of the Free Primary Education data revealed the following anomalies;

368.1 Disbursements of Free Primary Education Funds to Schools with Duplicate Bank Accounts

Review of the disbursements revealed that thirty-eight (38) schools shared bank accounts and received disbursements totalling Kshs.1,557,119.

368.2 Disbursements of Free Primary Education Funds to Schools Sharing Registration Numbers (TSC Codes)

Review of the Free Primary Education bank disbursements schedule revealed twenty-four thousand one hundred and nineteen (24,119) schools sharing TSC registration numbers. The schools received disbursements amounting to Kshs.737,669,134 during the year under review.

368.3 Disbursements of Free Primary Education Funds to Schools Without TSC Codes

Review of the Free Primary Education bank disbursements schedule provided revealed that four hundred and thirty-six (436) schools did not have TSC registration numbers/Codes. The schools received a total disbursement of Kshs.14,664,414 during the year under review.

368.4 Disbursements of Free Primary Education Funds to Schools with Unknown TSC Codes

Review of the Free Primary Education bank disbursements schedule provided revealed that three thousand four hundred and eighty six (3,486) schools were assigned a TSC code with different code formats from those provided by the State Department. The schools received disbursements amounting to Kshs.102,329,013.

In the circumstances, the accuracy and authenticity of the disbursements of Kshs.9,062,694,606 for free primary education funds for the year ended 30 June, 2022 could not be confirmed.

369. Irregularities in Free Day Secondary School Education Subsidies Disbursements

The statement of receipts and payments reflects an amount of Kshs.62,560,672,721 in respect of subsidies as disclosed in Note 7 to financial statements. Review of the National Education Management Information System (NEMIS) system in relation to the capitation disbursements schedule to secondary schools revealed the following anomalies: -

369.1 Disbursements of Day Secondary Schools Subsidies Through Duplicate Bank Accounts

Review of the schools lists on capitation per quarter reports revealed instances where schools shared bank accounts. An amount Kshs.6,281,741 was disbursed through the shared banks accounts. It was not clear why the duplicate bank accounts continued to recur in subsequent disbursements without being detected and corrected.

369.2 Bank Account used to Receive Operations and Tuition Capitation

Review of the schools lists on capitation per quarter reports revealed six (6) schools that operated one bank account for both operations and tuition funds with total payments of Kshs.40,927,074.

In the circumstances, the accuracy and authenticity of the subsidies totalling Kshs.47,208,815 for free day secondary school education could not be confirmed.

370. Misstatement of Reported Imprests and Advances

The statement of assets and liabilities reflects a balance of Kshs.94,508,522 in respect of accounts receivables which, as disclosed in Note 13 to the financial statements, includes amounts of Kshs.1,814,630, Kshs.220,178 and Kshs.92,473,714 in respect of Government imprests to staff, domestic debtors and advances, and district suspense respectively. However, analysis of imprest register provided indicated that the Management issued imprest totalling Kshs.329,381,044. The payment details of transactions made during the year indicated that the Management paid a total of Kshs.345,309,425 on temporary and standing imprests resulting in an unexplained variance of Kshs.15,928,380.

Further, reported as district expenses are amounts owed by the Sub-County and County Directors of Education totalling Kshs.1,890,168 that related to 2020/2021 financial year but were still outstanding during the year under review.

In the circumstances, the accuracy, completeness, presentation and disclosure of the imprest and advances balance of Kshs.94,508,522 for the year ended 30 June, 2022 could not be confirmed.

371. Unsupported Long Outstanding Accounts Payables

The statement of assets and liabilities reflects an accounts payables balance of Kshs.117,319,416 whose nature and supporting documents were not provided for audit. Further, payables amounts of Kshs.64,881,834 have been outstanding for over eight (8) years. Management did not provide explanations on why they have not been settled.

In the circumstances, the accuracy and completeness of the accounts payables balance of Kshs.117,319,416 could not be confirmed.

372. Unauthorized Reallocation of Funds for Construction of CBC Classrooms

The statement of receipts and payments reflects an expenditure of Kshs.30,546,359,898 in respect of transfers to other government units which, as disclosed in Note 8 to the financial statements, includes an amount of Kshs.19,971,035,325 that relates to transfers to National Government entities. The transfers to other Government entities amount

included an expenditure of Kshs.4,476,068,016 incurred on construction of Competency Based Curriculum (CBC) classrooms against an approved expenditure budget of Kshs.2,692,000,000 resulting in an unapproved over-expenditure of Kshs.1,784,068,016 or (66%) whose approval was not provided for audit.

In the circumstances, the accuracy, completeness, validity and regularity of the expenditure amounting to Kshs.1,784,068,016 could not be confirmed as a proper charge to public funds.

Emphasis of Matter

373. Budgetary Control and Performance

The summary statement of appropriation development reflects final receipts development budget and actual on a comparable basis of Kshs.14,099,945,379 and Kshs.7,528,073,544, respectively resulting in an underfunding of Kshs.6,571,871,835 (or 47%) of the budget. Similarly, the State Department spent Kshs.10,469,124,573 against an approved development budget of Kshs.14,099,945,379 resulting in an underexpenditure of Kshs.3,630,820,806 (or 26%) of the budget.

In the circumstances, the underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

374. Pending Bills

The State Department had pending accounts payable of Kshs.429,299,232 as at 30 June, 2020. Management did not explain why the bills were not settled during the year when they occurred. Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

375. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management had not resolved the issues or given any explanation for failure to implement the recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

376. Irregularities in the Procurement and Construction of Competency Based Curriculum Classrooms

The statement of receipts and payments reflects an expenditure of Kshs.30,546,359,898 in respect of transfers to other Government Units which includes an amount of Kshs.19,971,035,325 in respect of transfers to National Government entities out of which

Kshs.4,476,068,016 was used in the construction of Competency Based Curriculum (CBC) classrooms. However, the following anomalies were observed: -

376.1 Unsupported Procurement Method

The State Department Management did not provide for audit explanations and documentation on the procurement method used on the tenders for the construction of the CBC classrooms and how the various contractors were identified.

376.2 Irregular Pricing of Construction of CBC Classrooms

The State Department Management tendered for the construction of the CBC classrooms at a cost of Kshs.709,398 for each classroom across the country. It was, however, not clear how the amount was arrived at taking into consideration the terrain and topographical layout across the country making it impossible to have a standard rate. Management did not also provide for audit Bills of Quantities, market surveys, and status reports on the construction of the classrooms.

Further, the procurement and payments of the contractors were made outside the e-procurement system. This was contrary to Regulation 49(2) of the Public Procurement and Assets Disposal Regulations, 2020 which provides that the conduct of e-procurement procedures for the supply of goods works and services shall be carried out by a procuring entity using an e-procurement system which is integrated to the State Portal.

In the circumstances, Management was in breach of the law in the procurement and award of the contract for the construction of the CBC classrooms.

377. Unsupported Procurement and Supply of Desktop Computers

Note 20.1 to the financial statements reflects a pending bills amount of Kshs.429,087,117 out of which an amount of Kshs.189,072,000 relates to the supply of two thousand and twenty (2,020) desktop computers to one hundred and ninety six (196) Secondary Schools across the forty-seven (47) Counties. Review of the procurement process reflects the following anomalies: -

i. The computers were delivered on 20 June, 2022, twenty (20) days after the lapse of the contract. The liquidated damage was at the rate of 0.5% per week, which would translate to about Kshs.2,836,080 and which was not charged as per the contract agreement;

ii. The signed contract related to SEQUIP Contract No. MOE/SEQUIP/NCB /04/2021-2022 as titled and not the State Department while the award and professional opinion relates to tender No. MOE/SDELBE/NCB/04/2021-2022 on supply of computers;

iii. There were no appointment letters to the Inspection and Acceptance Committee and there was no report on the inspection attached to the pending bill voucher. It is not clear whether an Inspection and Acceptance Committee had been constituted at the point of delivery despite the computers being delivered in schools;

iv. In addition, the contract for the supply of the desktop computers did not specify what tests were to be carried out to confirm the functioning of the machines;

v. No documentary evidence was provided on negotiations that actually took place and what tests were agreed upon; and,

vi. The procurement inspection and acceptance certificate attached did not give any remarks on the quality of the desktop computers received. It is not clear how the certificate was issued without a complete inspection and acceptance report.

In the circumstances, the validity of the contract as signed and implemented could not be confirmed.

378. Irregularities in the Implementation of the School Feeding Programme

The statement of receipts and payments reflects an amount of Kshs.30,546,359,898 in respect of transfers to other Government Units. The expenditure includes an amount of Kshs.19,971,035,325 in respect of transfers to National Government entities out of which an amount of Kshs.1,196,296,000 was spent on the purchase of various foodstuffs for the school feeding programme. However, the following anomalies were noted: -

378.1 Lack of an Inventory Management System

The State Department had not invested in an Inventory Management System to track and account for the inventory movement. There were no stock sheets or store records to record the movement of stock. The supplies were received and distributed manually which exposes the process to loss, manipulation, and other inaccuracies.

In the circumstances, the tracking and distribution of the foodstuff procured could not be ascertained.

378.2 Irregular Procurement of School Feeding Supplies

Review of the professional opinion dated 9 November, 2021 revealed that the required quantities for the school feeding programme had been pre-determined. The desired quantities are tabulated below:-

Item	Quantity
Rice	107,000 bags (47,000 bags - Ahero Sindano and 60,000 bags of Pishori rice)
Beans	25,749 bags of 90 Kgs
Vegetable Oil	12,780 Jerricans of 20 Litres
Salt	5112 bales of 20 Kgs
Corn Soya Blend	194,421 bags of 25 Kgs

However, the State Department adopted a framework contract from Public Works and requested quotations from only one firm for supply of corn soya from a list of twenty-eight suppliers, three firms for supply of salt and five firms for supply of vegetable oil. This was contrary to provisions of Section 114(1) of the Public Procurement and Asset Disposal Act, 2015 which provides that a procuring entity may enter into a framework

through open tender if the procurement value is within the thresholds prescribed under regulation to this Act; the required quantity of goods, works or non-consultancy services cannot be determined at the time of entering into the agreement; and a minimum of seven alternative vendors are included in each category.

378.3 Failure to Deliver the Required Quantities of Corn Soya and Beans

Included in the expenditure of Kshs.1,196,296,000 is an amount of Kshs.14,462,500 for the purchase of Corn Soya. However, review of the contract revealed that the supplier was to supply 25Kg bags of Corn Soya at a unit cost of Kshs.3,250 whenever required. The supplier was issued with four LPOs which were partly delivered and some cancelled by the State Department as indicated below:-

LPO No.	Date of LPO	Quantity	Amount (Kshs.)	Status
1981	16 November, 2021	39,564	128,583,000	Cancelled
1983	16 November, 2021	39,564	128,583,000	Cancelled
2143	21 February, 2022	39,563	128,579,750	Partly delivered 4,450 Bags
2142	21 February, 2022	39,563	128,579,750	Cancelled
Total			**514,325,500**	

However, the following anomalies were observed: -

i. Through a letter dated 12 May, 2022 from the supplier, the vendor stated that they were unable to process Local Purchase Order No. 1981 and 1983 valued at Kshs.257,165,000 but committed to deliver Local Purchase Orders No.2142 and 2143. However, out of the 79,126 bags that were to be supplied, the supplier managed to deliver only 4,450 bags at Kshs.14,462,500. It was also observed that clause 3.17.1 on liquidated damages was not effected when paying for the part delivery of Local Purchase Order 2143. The contractor communicated one month later after receiving the Local Purchase Orders and it is not clear at what point the cancellation of orders was effected or by whom.

ii. Local Purchase Orders No.1981 and 1983 dated 16 November, 2021 were issued to suppliers on 3 March, 2022 and 1 March, 2022 after the expiry date of the contract. This was contrary to Section 53 of the Public Procurement and Asset Disposal Act, 2015 which provides that the validity period of LPO is thirty (30) days. It is also not clear whether the State Department appointed a Contract Implementation Committee to report on the way forward with regard to the implementation of the contract.

iii. In addition, four (4) firms had been recommended for the supply of beans and had entered into contracts with the State Department but failed to supply. Minutes of a meeting held on 10 January, 2022 stated that the delay had led to undocumented dropout of learners from the arid and semi-arid areas.

iv. The State Department did not take any action against the suppliers after failure to deliver besides cancellation of their Local Purchase Orders as required by circular

dated 20 April, 2021 from the State Department of Public Works which stated that, "complaints with regard to improper fulfillment of contract terms should be made in the first instance with the contractor. In case no satisfactory solution is obtained from the contractor; the Ministry should refer the matter in writing to the Principal Secretary Public Works who will take up the matter." It was noted that the State Department did not escalate the matter to the State Department of Public Works after the contractors failed to perform.

In the circumstances, failure to deliver the required food ration is an indication of inefficiencies in the procurement process within the State Department which negatively impacted on the school feeding programme and thus affected the performance of students in school due to absenteeism.

378.4 Failure to Provide Performance Security on Contract

Included in the expenditure of Kshs.19,971,035,325 in respect of transfers to National Government entities is an amount of Kshs.1,196,296,000 which relates to the school feeding programme. However, the framework contracts signed made provisions for performance security, referring to the special conditions of the contract for specifics of the performance security. Review of the contract documents revealed that the special conditions of the contract had no provisions for performance security. There was no evidence that any of the contracted firms presented the State Department with performance security. Additionally, there was no evidence that the compensation from the performance bonds had been effected for the suppliers who failed to deliver, an indication that due diligence was not undertaken when signing the contracts.

In the circumstances, the State Department Management was in breach of the law in failing to implement the framework contracting process thereby locking out other potential suppliers. Further, value for money may not have been realized in the redistributed foodstuffs as the redistribution affected the nutritional value as planned.

379. Irregular Procurement of Tyres

The statement of receipts and payments reflects an expenditure of Kshs.5,815,120,762 in respect of use of goods and services which, as disclosed in Note 6 to the financial statements, includes an amount of Kshs.50,725,322 for routine maintenance - vehicles and other transport equipment. Review of procurement documents revealed that the State Department incurred an expenditure of Kshs.1,972,672 on the purchase of tyres. However, the cost of the same tyres within framework agreement was Kshs.850,772. The evaluation report did not provide any justification for the selection of the winning companies with higher quotes over the other listed suppliers whose quotes were cheaper. The State Department engaged various Agencies that were not from the prequalified list adopted from the State Department for Public Works.

In the circumstances, value for money was not realized in the expenditure of Kshs.1,972,672 on the purchase of tyres.

380. Use of Suppliers not in the List of Pre-Qualified Suppliers

The statement of receipts and payments reflects an expenditure of Kshs.2,988,658 in respect of the acquisition of assets as disclosed in Note 11 to the financial statements. Review of the sampled payment vouchers amounting to Kshs.2,469,100 revealed that firms invited to bid for the supply of computers, printers, UPS units and related items were not pre-qualified by the State Department. This was contrary to Section 95(3) of the Public Procurement and Asset Disposal Act, 2015 which provides that a procuring entity shall invite tenders from only approved person who have been pre-qualified. Further, there were no documents provided to indicate that the firms were subjected to a procurement process before the invitation to submit quotations.

The absence of pre-qualification process denied fairness, equitability, transparency, cost-effectiveness and competition among those who may wish to submit their applications.

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

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

381. Incomplete Asset Register

The annual consolidated inventory of assets (assets register) provided by the State Department disclosed all movable and immovable assets that the State Department has in its possession. However, it was observed that seventy-five (75) motor vehicles owned by the State Department were not included in the assets register.

In the circumstances, the completeness, existence, ownership and condition of the motor vehicles could not be confirmed.

382. Failure to Hold Minimum Number of Audit Committee Meetings

During the year under review, the Audit Committee met only twice i.e. on 24 March, 2022 and on 28 October, 2021 as per the minutes provided for audit. This was contrary to Regulation 179 of Public Finance Management (National Government) Regulations, 2015 which requires that the Audit Committee meet at least once every three months (quarterly).

In the circumstances, the State Department did not benefit from the assurance and advisory, and oversight services from the Audit Committee.

383. Use of Non-Official Email Addresses in Official Communication

During the year under review, it was observed that the State Department's staff used personal emails especially google email application for official business communication. This was contrary to Public Service Commission circular number SH/ADM/23(1) dated 14 June, 2022 on use of personal email addresses for official Government business. All Ministries, State Departments and Semi-Autonomous Government Agencies were required to have their staff members boarded onto the Government domain email

addresses provided by the ICT Authority. The circular stated that any email communication that is non-compliant will be considered non-official.

In the circumstances, the use of personal emails may compromise the State Department's data and potentially exposes the entity and the Government in matters of National security and National interests.

384. Lack of an IT Steering Committee

The State Department does not have an IT Steering Committee in place. This was contrary to Section 6.2 of the IT Governance Standard by the ICT Authority on ICT Governance direct that all Ministries, County, Departments and Agencies shall establish two ICT Governance Committees namely; an IT Strategy Committee to provide strategic advice on ICT initiatives and investments to the Management and an IT Steering Committee to define the IT mission and goals aligned with the strategic direction of the organization, to authorize and direct the development of the services and operation plans.

Lack of an ICT Steering Committee exposes the State Department to the risk of unclear direction regarding the maintenance of information security and safeguard of ICT Assets across the State Department.

385. Lack of Anti-Fraud Policy

Review of the internal control processes and risk management measures revealed that State Department did not have an Anti-Fraud Policy in place. Further, there was no Risk Register. This was in contravention of Regulation 165(1)(a) and (b) of the Public Finance Management (National Government) Regulations, 2015 which requires the Accounting Officer to ensure that the National Government entity develops risk management strategies, which include fraud prevention mechanism; and the county government entity develops a system of risk management and internal control that builds robust business operations.

Lack of Anti-Fraud Policy exposes the State Department to embezzlement, fraud, loss of assets which may negatively impacted on the financial, material or reputation of the State Department.

DONOR FUNDED PROJECTS

KENYA PRIMARY EDUCATION DEVELOPMENT PROJECT (GRANT NO. TFO18863)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

386. Failure to Maintain an Updated Assets Register

Annex 2 to the financial statements - summary of fixed asset register reflects assets with a cumulative historical cost of Kshs.715,138,466. The balance includes assets valued at

Kshs.475,353,633 brought forward and additional assets acquired at a cost of Kshs.239,784,833. The register provided for audit was compiled on 6 January, 2017 and was not updated, which may lead to loss of assets. Further, the assets had not been identified by any tag and therefore the completeness of the record provided could not be verified.

In the circumstances, the accuracy, completeness, ownership, and existence of assets valued at Kshs.715,138,466 could not be confirmed.

387. Unreconciled Special Account Statement

The statement of receipt and payments reflects proceeds from domestic and foreign grants of Kshs.783,683,539 as disclosed in Note 12.2 to the financial statements. However, the corresponding account balance reflected in the special account statement is Kshs.783,952,872 made up of Kshs.306,180,000 in respect of Disbursement Linked Indicator designated account, Kshs.283,862,621 in respect of withdrawals and Kshs.193,910,251 in respect of direct payments resulting in an unexplained variance of Kshs.269,333.

In the circumstances, the accuracy and completeness of the proceeds from domestic and foreign grants amounting to Kshs.783,683,539 could not be confirmed.

Other Matter

388. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects the final expenditure budget and actual on a comparable basis of Kshs.1,538,783,671 and Kshs.1,121,849,455, respectively resulting in an underexpenditure of Kshs.416,934,416 (or 27%) of the budget.

The underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

389. Irregularities in the Procurement Procedures

The statement of receipts and payments as disclosed in Note 12.4 to the financial statement reflects an amount of Kshs.137,764,077 for purchase of goods and services which includes an amount of Kshs.16,721,142 in respect of hospitality services. However, review of expenditure on hospitality services revealed that Local Purchase Orders (LPOs) were issued after invoicing in the following instances: -

i. The Project Management paid Kshs.1,490,000 through payment voucher No.831. Review of the supporting local purchase order revealed that the LPO is dated 7 December, 2021 while the Invoice No.3324 is dated 3 December, 2021;

ii. The Project Management paid Kshs.618,000 through payment voucher No.321. Review of the supporting local purchase order revealed that the LPO is dated 14 October, 2021 while the Invoice No.2101 is dated 1 October, 2021;

iii. The Project Management paid Kshs.1,233,000 through payment voucher No.834. Review of the supporting local purchase order revealed that the LPO is dated 7 December, 2021 while the Invoice No.3276 is dated 25 November, 2021;

iv. The Project Management paid Kshs.303,000 through payment voucher No.830. However, the Local Purchase Order was dated 22 December, 2021 while Invoice No.2245 of the same amount was dated 15 December, 2021;

v. The Project Management paid Kshs.78,000 through payment voucher No.847 against a Local Purchase Order 1812838 dated 25 December, 2021 while Invoice No. INV190000001577 of the same amount was dated 30 November, 2021;

vi. The Project Management paid Kshs.579,000 through payment voucher No.849 of against Local Purchase Order 1812842 dated 29 December, 2021 while Invoice No. INV190000001615 of the same amount was dated 20 December, 2021;

vii. The Project Management paid Kshs.579,000 through payment voucher No.832 against Local Purchase Order 1812837 dated 22 December, 2021 while Invoice No.2229 of the same amount was dated 2 December, 2021; and,

viii. The Project Management incurred an expenditure of Kshs.576,000 on the procurement of airtime for GPE/PRIEDE Project Coordination Unit (PCU) staff for the month of October to December, 2021. This was made against a Local Purchase Order (LPO) No.3756157 dated 31 December, 2021 while the invoice was dated 30 December, 2021 a day before the LPO was issued.

In the circumstances, the regularity of the expenditure of Kshs.5,456,000 in respect of hospitality services could not be confirmed.

390. Unsurrendered Project Assets

The Project ended on 31 December, 2021. However, the Project Management had not prepared the statement of assets for handing over to the Accounting Officer, ten (10) months after the closure of the Project. This was caused partly by the failure to maintain an updated asset register. This is contrary to Regulation 74(6) of the Public Finance Management (National Government) Regulations, 2015 which stipulates; an Accounting Officer of a National Government entity shall ensure that whenever projects are completed, the project assets including buildings, plant, motor vehicles, furniture, fitting, and equipment are properly recorded and handed over to the accounting officer in accordance with the financing agreement. Further, the Regulation provides that when no time frame is provided for the project, the assets are handed over within three (3) months from the date of closure of the project; and in absence of any instructions to the contrary, any unexpended balance standing in the credit of the projects is paid into the Consolidated Fund.

In the circumstances, the Project Management was in breach of the law and risk loss of assets.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

391. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

392. As required by the Financing Agreement between the International Development Association and the Government of the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

GOK/UNICEF EDUCATION FOR YOUNG PEOPLE PROGRAMME

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

393. Inaccuracies Presentation of the Annual Report and Financial Statements

Review of the annual report and financial statements presented for audit revealed the following inaccuracies: -

i. Details on the program grant/credit number were not indicated on the title page of the financial statements;

ii. The financial statements do not include the Statement of Performance Against the Project's Predetermined Objectives, and the Environmental and Sustainability Reporting;

iii. The Project Funding Summary does not reflect the donor commitment and amount received in donor currency as prescribed by the report template by the Public Sector Accounting Standards Board;

iv. The table of contents included notes to the financial statements however, three (3) reports namely Significant Accounting Policies, Other Important Disclosures, and Annexes were missing from the submitted financial statements;

v. Page v of the financial statement reflects a subtitle (ref 1.6) as Project Governance which contradicts the revised financial reporting template which indicates the same reference as Roles and Responsibilities; and,

vi. The annual report and financial statements do not include the names, title/designation, key qualifications, and responsibilities of the key persons working in the Project.

In the circumstances, the annual report and financial statements do not comply with the requirements of the reporting template as prescribed by the Public Sector Accounting Standards Board in line with the International Public Sector Accounting Standards (IPSAS Cash Basis).

394. Inaccuracies in the Cash and Cash Equivalents

The statement of financial assets reflects cash and cash equivalents balance of Kshs.1,077,215 as disclosed in Note 8.6 to the financial statements. However, the bank reconciliation statement reflects payment in the bank not recorded in the cash book of Kshs.503,350 which occurred in the year 2016. The amount was not recorded in the cash book resulting to an overstatement of the cash and cash equivalents.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.1,077,215 could not be confirmed.

395. Unaccounted for Accumulated Surplus

The statement of receipts and payments reflects accumulated surplus balance of Kshs.325,249,171 which was not included in the fund balance of Kshs.1,077,215 in the statement of financial assets. The Project Management did not provide explanations on how the surplus was treated.

In the circumstances, the accuracy, occurrence and completeness of the accumulated surplus balance of Kshs.325,249,171 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

396. Failure to Transfer Unspent Funds

The statement of financial assets reflects a cash and cash equivalents balance of Kshs.1,077,215 as disclosed in Note 8.6 to the financial statements. The amount was not paid into the Consolidated Fund and remained unspent for three (3) consecutive years. This was contrary to Regulation 74(6)(d) of the Public Finance Management (National Government) Regulations, 2015 which provides that the Accounting Officer of a national government entity shall in the absence of any instructions to the contrary, ensure that any unexpended balance standing in the credit of the project account is paid into the Consolidated Fund.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

397. There were no material issues relating to effectiveness of internal controls, risk management and governance.

SECONDARY EDUCATION QUALITY IMPROVEMENT PROJECT (CREDIT NO.61380-KE)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

398. Non-Itemization of Budget Line Items

Review of the approved budget for the financial year 2021-2022 indicated that the allocations were based on activities, however, there were no budget line items linked with the activities to enable comparison with the format of the financial statements and the Government Chart of Accounts. This was contrary to the International Public Sector Accounting Standards (IPSAS) 24 on the presentation of budget information in financial statements.

In the circumstances, the accuracy of the budget as approved and the allocation to the various line items could not be confirmed.

399. Unreconciled Special Account Statements

The statement of receipts and payments reflects proceeds from external development partners amount of Kshs.971,196,695 as disclosed in Note 1 to the financial statements. However, the corresponding account balance in the special account statement reflected a withdrawal amount of Kshs.972,195,810 resulting in an unreconciled and unexplained variance of Kshs.999,115. Further, the special deposit accounts movement schedule reflects an amount of Kshs.326,452,939 being the total amount withdrawn in respect of the special account which was at variance with the corresponding nil withdrawal in the special account statement as at 30 June, 2022 resulting in an unexplained variance of Kshs.326,452,939.

In the circumstances, the accuracy and completeness of the special deposit account of Kshs.971,196,695 could not be confirmed.

400. Undisclosed Bank Account Balance

The statement of financial assets reflects a bank balance of Kshs.83,308,697. However, review of the Equity Group Foundation bank statements revealed that the account had a balance of Kshs.17,923,635 as at 30 June, 2022 which was not disclosed in the Project's financial statements. Further, the Project Management did not provide information and

documents on the scholarship beneficiaries and a list of those who did not receive the scholarships, or the reasons for the failure to remit the scholarship funds.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.83,308,697 could not be confirmed.

401. Irregularities in the Operation of the Elimu Scholarship Fund

The statement of receipts and payments reflects cumulative other grants and transfers and payments amounting to Kshs.3,009,313,011 as disclosed in Note 6 to the financial statements in respect of SEQIP transfers to Equity Group Foundation. The following anomalies were noted: -

401.1 Unsupported List of Beneficiaries

The Project Management did not provide an approved list of beneficiaries against which the transfers were made. In the absence of the approved list by the Ministry, the audit could not establish whether the Foundation disbursed funds to bona fide students.

401.2 Unapproved Change of Contract Terms

Review of contract documents revealed that the Project Management entered into an agreement the Foundation for Consultancy Services for the Design and Support, Implementation of Scholarship, Mentorship, Gender Sensitization, and Social Support Programme for secondary students under the Secondary Education Quality Improvement Project (SEQIP) through contract-MOE/SEQIP/NCB/07/2017-2018 dated 21 November, 2019. The contract did not provide for the transfer of funds to the Foundation for onward transfer to Schools and the Procurement of School kits. The Project Management did not provide evidence to prove that the transfer of roles by the Ministry to the Foundation was approved by The National Treasury, World Bank, and the Cabinet Secretary for the Ministry of Education.

401.3 Unauthorized Opening and Operation of Project Bank Account

The Project Management transferred an amount of Kshs.2,102,385,727 to the Foundation during the year under review. However, the Project Management did not provide the following for audit verification: -

i. Approval from The National Treasury to open the account in accordance with Section 28(1) of the Public Finance Management Act, 2012;

ii. Details of the signatories to the account;

iii. Monthly reports reconciling payments from the account with the recipient school in the list of approved Elimu Scholarship beneficiaries;

iv. Monthly reports of uncleared amounts detailing the intended recipients which should be verified and approved by the client to ensure funds are allocated to the relevant cost centre;

v. A sample of payments amounting to Kshs.2,347,473,772 analyzed from an extract in the Foundation Account revealed payments for which the Project Management

did not provide supporting documents with details on the payee and bank details to which these payments were made. Further, the Project Management did not provide evidence of interest earned while the funds remained in the account;

vi. Review of the bank statements reflected transfers to other bank accounts. However, the monthly returns indicating the details of the transferee, purpose of the transfers, the intended beneficiary, and acknowledgement by the schools or students were not provided for audit; and,

vii. Bank credit with different particulars such as unutilized transfers and transport, banked cheques, bank transfers were noted. However, the intended recipient/source and reasons for the credit entries were not provided for audit review.

401.4 Unapproved Procurement and Distribution of School Kits

Review of the approved budget revealed that Kshs.938,286,789 was allocated for procurement of school kits for Elimu Scholarship Beneficiaries Cohort 1 and Cohort 2 as per the approved annual work plan. The procurement was made by the Equity Group Foundation without a contract and was based on an addendum made to the original contract. The Project Management did not obtain approval from The National Treasury, The World Bank, and the Cabinet Secretary - Ministry of Education authorising the procurement to be conducted by the Equity Group Foundation. Further, field verification conducted during the month of November, 2022 revealed the following anomalies: -

i. Bank charges for the card management were born by the student which was affecting the transport of some of the students as transport is based on actual charges;

ii. Some students had their approved transport reduced without any explanation, while other students were not provided with sufficient amount to take them to school and back home;

iii. During monitoring and evaluation by the Project Management, it was noted that the school kits had items that were reduced or omitted as follows; books, ream papers, slippers, sugar, blue band, shoe brush, cocoa, and revision books. The reduction of the items had material implications on the contract sum and support to the students. However, no contract variation was made to cater for the reduction in the school kit;

iv. Form three (3) students interviewed raised concerns that there were important materials like set books, geometrical sets, calculators, mathematical tables, and trips not provided for;

v. Most of the schools were sending the students home for Parent Teachers Association (PTA) fees, development fees or other fees not paid for. This was contrary to circular reference No. MOE/HQS/3/10/18 of 12 July, 2022 exempting the students from paying any other fees;

vi. Three (3) students in Makueni Girls Secondary School had visual impairment which was affecting their studies and needed medical attention. However, the

Project had not factored in medical issues affecting the scholars which could have impacted on their studies;

vii. Most of the students in Form three (3) did not receive the second pair of uniforms and Physical Education (PE) kits;

401.5 Students Benefiting from More than One Scholarship Programme

Review of sampled fees statement on students under Elimu Scholarship revealed that some students had fees overpayment amounting to Kshs.1,300,760 as a result of benefiting from more than one scholarship programme. This was especially noted in Kwale County where the County Government of Kwale sponsors students who qualify for National Schools on full scholarship. It was noted that the Elimu Scholarship Programme did not have structures in place to prevent multiple scholarships which may disadvantage other needy students.

401.6 Indiscipline and Poor Performance of Students under Elimu Scholarship Programme

The Project Management did not set the benchmark to be used in appraising compliance with the requirements in the Project Appraisal Document which stipulates that a scholar would continue to enjoy programme benefits until she/he completed Form Four (4), subject to satisfactory school attendance, behavior and academic performance. Interviews with the Teacher Gender Champions of the various sampled schools indicated that the performance of some of the students under the Elimu Scholarship Programme was deemed poor with cases of indiscipline.

401.7 School Fees Arrears for Form One Students

Field verification in sampled schools revealed that school fees had not been paid for Form 1 students for the whole year. This was contrary to the SEQIP Project Appraisal Document which provides that the second intervention, a secondary school scholarship program combined with child-specific mentorship, would support deserving primary school graduates in the targeted sub-counties who did not have the means to continue their education. The children eligible for the scholarship were to be selected from Grade 8 cohorts in the targeted areas in the first and second years of the Project. Scholarship recipients were to have their school fees (including boarding fees) paid for at the beginning of Form 1 at schools to which the students were admitted.

In the circumstances, the accuracy, occurrence, regularity, and validity of the expenditure of Kshs.2,102,385,727 in respect of other grants and transfers and payments for the Elimu Scholarship Fund could not be confirmed. Further, the contract for the disbursement of funds through Equity Group Foundation and procurement of the school kits was irregular.

402. Funding Summary

The Project's information and overall performance and funding summary at Note 1.7 reflects cumulative IDA amount received totalling Kshs.99,578,085, which differs with cumulative to date amount of Kshs.6,741,465,535 shown in the statement of receipts and payments. The difference was not explained or supported.

In the circumstances, the accuracy of the financial statements could not be confirmed.

Emphasis of Matter

403. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects the final receipts budget and actual on a comparable basis of Kshs.3,700,000,000 and Kshs.971,176,695 respectively resulting in an underfunding of Kshs.2,728,823,305 (or 74%) of the budget. Similarly, the Project expended an amount of Kshs.3,304,971,376 against an approved budget of Kshs.3,700,000,000 resulting in an underexpenditure of Kshs.395,028,624 (or 11%) of the budget. Further, the revised budget and annual work plan for the financial year ended 30 June, 2022 reflects an amount of Kshs.4,541,385,469 while the final budget as reported in the statement of comparison of budget and actual amounts reflected a balance of Kshs.3,700,000,000 resulting in an unexplained and unreconciled variance of Kshs.841,385,469.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

404. Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, the Management had not resolved the issues nor given any explanation for the failure to implement the recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

405. Failure to Return Unspent Funds for Re-Voting

The SEQIP implementing Agencies - Kenya National Examination Council (KNEC) and Kenya Institute of Curriculum Development (KICD) had balances of Kshs.150,076,157 and Kshs.247,433,842 respectively. This resulted in cumulative unspent funds of Kshs.397,509,999 as at 30 June, 2022. The funds were not returned to the Project account for re-voting. This was contrary to Regulation 117 of the Public Finance Management (National Government) Regulations, 2015 which stipulates that an A.I.E holder should ensure that the funds are re-voted for the Project in the following financial year.

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

406. Irregular and Highly Priced Consultancy Services

Review of records revealed that the Project had entered into an agreement with Equity Group Foundation for consultancy services for design and support, implementation of

scholarship, mentorship, gender sensitization and social support programme for secondary students through contract-MOE/SEQIP/NCB/07/2017-2018 dated 21 November, 2019 at a sum of Kshs.1,131,568,762. The Project total cost was estimated at Kshs.4,955,050,000 at the time the contract was signed and aimed at enhancing transition and retention of poor and vulnerable learners in secondary education. This is as outlined in subcomponent 2.2: of the SEQIP Project Appraisal Document.

The single contract price is 22.83% of the total cost of the Project. This casts doubt on whether public resources have been applied in an effective, efficient and economical manner while determining the cost of the Equity Group Foundation consultancy services.

In the circumstances, the effectiveness and economy in the use of public resources could not be established.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

407. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA GPE COVID-19 LEARNING CONTINUITY IN BASIC EDUCATION PROJECT (GRANT ID. P174059 AND CREDIT NO. TFB03336)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

408. Irregular Expenditure on Fortified Meals

The statement of receipts and payments reflects cumulative expenditure to date of Kshs.874,718,669 in respect of transfers to other Government entities as disclosed in Note 11.5 to the financial statements. Included in this amount is the expenditure of Kshs.199,998,500 being transfers to the Directorate of Primary Education for purchase of fortified meals under the Covid-19 Learning Continuity Basic Education Project. However, the following anomalies were noted: -

408.1 Inconsistencies in the List of Enrolment for Beneficiary Schools

Examination of documents provided for audit revealed a list of two hundred and eighty thousand, three hundred and thirty-one (280,331) students in the beneficiary schools which was used as a basis for the purchase of the 61,525 bags of corn soya blend. However, the enrolment numbers in the beneficiary schools and the enrolment as per the approved list had material variances. In all the sampled schools, the enrolment was higher than the numbers quoted in the contract. The basis of the enrolment list used to do the procurement could not be confirmed.

408.2 Irregularities in Procurement and Distribution of Fortified Meals

The Project Management made a request for procurement of food commodities on 27 September, 2021. The Principal Secretary approved the purchase of 53,751 bags of 25kg each at a cost of Kshs.3,665 amounting to Kshs.196,997,415 on the procurement of corn soya blend. This was adjusted in the revised budget to 60,615 bags of 25kg each at a cost of Kshs.3,250 per bag amounting to Kshs.196,998,750. The Project Management did not provide justification for the adjustments for audit. The Project Management procured the food commodity through the State Department for Public Works framework contracts. However, the following irregularities were noted:

408.2.1 Inadequacies in the Purchase of Corn-Soya

The following anomalies were noted: -

i. The Project Management invited bids from only one contractor despite having a list of twenty-eight suppliers who had framework contracts with the State Department of Public Works. This was contrary to Section 114(3)(b) of the Public Procurement and Assets Disposal Act, 2015 which provides that a procuring entity should invite mini-competition among persons that have entered into the framework agreement in the respective category;

ii. The procurement for the blended meals was entered into the procurement plan on the same day that the vendor was awarded the contract for supply of the blended corn-soya mealie;

iii. The list of schools identified to benefit from the project was amended to include other schools that were not in the initial list.

iv. Variances were noted in the approved supply list and the actual number of bags supplied;

v. The Project Management did not provide the schools with clear instructions on the usage. This led to some schools issuing the food stuff to parents for use at home instead of having it prepared in schools;

vi. The basis of distribution was not provided. Field verification revealed that some schools were given more than the required amounts leading to the fortified meals expiring before use;

vii. Documentation on deliveries of the fortified meals were not provided in most of the schools;

408.2.2 Irregular Supply of Fortified Meals to Counties

Field inspection conducted in Kajiado, Machakos, Makueni, Kisumu, Homabay, Siaya, Isiolo, Tharaka Nithi, and Meru Counties revealed the following anomalies: -

408.2.2.1 Kajiado and Machakos Counties

The Project Management delivered fortified food amounting to Kshs.2,030,569 and Kshs.1,209,544 to Kajiado and Machakos Counties on 28 and 29 June, 2021 respectively. However, the County Director of Education, Kajiado County was not able to confirm receipt of corn-soya blend received in his County and a visit to sampled schools revealed that no flour was delivered to the primary schools. The delivery to Machakos County Offices vide waybill No.10351 obtained from the CDE office Machakos County was not supported by any distribution list to confirm the distribution of the fortified food. Verification of the identified schools also confirmed the fortified food was not delivered to the schools.

408.2.2.2 Isiolo County

The Project Management delivered 917 bags of fortified food worth Kshs.2,833,266 to Isiolo County. However, data obtained from the County Director of Education at Isiolo County revealed that a total of 845 bags were received resulting in a difference of seventy-two (72) bags.

408.2.2.3 Kisumu County

The Project Management delivered 1,372 bags at a total cost of Kshs.5,028,772 to Kisumu County. However, the deliveries made could not be confirmed since no documentation was provided for review. Further, the Sub County Directors of Education were not aware of the program as the corn-soya blend flour was directly distributed to schools.

408.3 Failure to Provide Performance Security for the Contract

Clause 3.7.1 of the framework agreement between the winning bidder and the State Department required the tenderer to furnish performance security to procuring entity within thirty (30) days of notification of award or as per the special conditions of contract. Further, Section 142 of the Public Procurement and Asset Disposal Act, 2015 requires the tenderer to provide performance security equivalent to not more than ten percent of the contract amount before signing of the contract. However, there was no performance security for this contract to cover the procuring entity in case of any failure of the contract not being fully executed.

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

409. Irregular Expenditure on Purchase of Electronic News Gathering and Field Production Equipment

The statement of receipts and payments reflects an amount of Kshs.100,762,639 in respect of acquisition of non-financial assets as disclosed in Note 11.4 to the financial statements. Included in the amount is the expenditure of Kshs.11,916,880 on purchase of electronic news gathering and field production equipment. However, the contract agreement had not been signed. Further, discrepancies were noted on the local service order, which was dated 25 October, 2021 whilst the delivery notes were dated

16 September, 2021, 23 September, 2021 and 24 September, 2021 respectively, an indication that deliveries were made before issue of local service order.

In the circumstances, regularity, occurrence and validity of the expenditure of Kshs.11,916,880 could not be confirmed.

410. Unreconciled Special Account Statement

The statement of receipt and payments reflects proceeds from domestic and foreign grants of Kshs.238,265,907 as disclosed in Note 11.1 of the financial statements. However, the corresponding account balance reflected in the special account statement reflects an amount of Kshs.238,499,099 resulting in an unexplained variance of Kshs.233,192.

In the circumstances, the accuracy and completeness of the proceeds from domestic and foreign grants amounting to Kshs.238,265,907 could not be confirmed.

Other Matter

411. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects the final expenditure budget and actual on a comparable basis of Kshs.564,661,708 and Kshs.516,064,278 respectively resulting in an underexpenditure of Kshs.48,597,430 (or 9%) of the budget which has not been explained by way of a footnote.

The underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

412. Unsupported Contract Period Extension

The Project Management entered into a contract for consultancy to provide blended online and face-to-face psychosocial support services at a contract price of Kshs.81,545,886 for a period of sixteen (16) weeks. Later the contract was extended by four (4) weeks from the initial sixteen (16) weeks through a request by the Project Coordinator on 28 September, 2021. However, the approvals by the International Development Association (IDA) and the Accounting Officer were not provided for audit. Further, a revised work plan and performance security for the extended period was not provided for audit.

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

413. Alterations of Procurement Records

The Project Management entered into a contract for consultancy to provide blended online and face-to-face psychosocial support services at a contract price of

Kshs.81,545,886. However, it was observed that the evaluation documents provided for audit for the provision of psychosocial consultancy services with a contract sum of Kshs.81,545,886 had score sheets containing arithmetical errors and alterations. The alterations were not countersigned making it difficult to ascertain if they were due to error or fraud. This is contrary to Regulation 102(3) of the Public Finance Management (National Government) Regulations, 2015 which provides that an Accounting Officer shall satisfy himself or herself that, where an alteration of a financial record requires the authorization, approval and, or deletion of any transaction or data whether electronic or manual by any means other than in writing, that there is sufficient audit trail which shall identify the person who approved the transaction.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

414. Lack of Internal Audit on the Project

Review of Internal Audit Unit revealed that no audit was carried out on the Project and was planned for the subsequent year. Further, the Audit Committee of the Ministry did not sit to deliberate on matters relating to the Project in the year under review.

In the circumstances, the Project did not benefit from the assurance and advisory services from the Internal Audit Unit as well as oversight from the Audit Committee.

STATE DEPARTMENT FOR POST TRAINING AND SKILLS DEVELOPMENT – VOTE 1068

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

415. Inaccuracies in the Financial Statements

Review of the financial statements revealed the following unsatisfactory matters: -

i. The bank reconciliation statement in the annexures as at 30 June, 2022 discloses a bank certificate balance of Kshs.4,944,061 but the certificate of bank balance reflects a balance of Kshs.33,641,402 resulting into unexplained variance of Kshs.28,697,341. Further, the reconciliation was not approved by the responsible officer;

ii. The statement of assets and liabilities reflects Nil balance in respect to cash which was at variance with the reported IFMIS balance of Kshs.65,244,093;

iii. The statement of assets and liabilities reflects a balance of Kshs.690,000 in respect to accounts payables - deposits which was at variance with the reported IFMIS balance of Kshs.61,013,031 resulting in an unreconciled and unsupported difference of Kshs.60,323,031, and;

iv. The statement of cash flows reflects net cash flows from operating activities amounting to Kshs.27,773,354 which was at variance with the IFMIS generated statement of cash flows which disclosed Kshs.88,096,386 resulting in unreconciled difference of Kshs.31,505,003.

In the circumstances, the accuracy and completeness of the balances reflected in the statement of assets and liabilities and the statement of cash flows could not be confirmed.

416. Irregular Advance Payments

The statement of receipts and payments reflects acquisition of assets expenditure of Kshs.22,870,170 as disclosed in Note 5 to the financial statements which includes Kshs.8,080,000 in respect to purchase of a motor vehicle. Review of records revealed that the payment for a vehicle was made in advance, but the vehicle could not be physically verified. This was contrary to Section 146 of the Public Procurement and Asset Disposal Act, 2015 which states that no works, goods or services contract shall be paid for before they are executed or delivered and accepted by the Accounting Officer.

In the circumstances, the propriety and value for money on the acquisition of assets expenditure totalling to Kshs.8,080,000 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

417. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

418. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR IMPLEMENTATION OF CURRICULUM REFORMS – VOTE 1069

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

419. There were no material issues noted during the audit of the financial statements of the State Department.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

420. Non-Adherence to Procurement Procedures

During the year under review, the State Department irregularly awarded five (5) tenders worth Kshs.4,452,500 to suppliers who did not have valid tax compliance certificates. This was contrary to Public Procurement Oversight Authority Circular No.1/2011 which requires bidders to submit valid tax compliance certificates.

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

421. Failure to Maintain a Fixed Asset Register

Annex 4 to the financial statements on summary of fixed assets reflects an amount of Kshs.16,515,260. However, a fixed asset register detailing the assets, asset category, asset value and identification number of the assets was not provided for audit. Further, physical verification of the assets revealed that they were not tagged. This was contrary to Regulation 139(1) of the Public Finance Management (National Government) Regulations, 2015 which requires an Accounting Officer of a National Government entity to take full responsibility and ensure that proper control systems exist for assets and that preventative mechanisms are in place to eliminate theft, security threats, losses, wastage, and misuse and that movement and conditions of assets can be tracked.

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

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

422. Lack of Risk Management Policy and Strategy

The State Department Management had not put in place a Risk Management Policy, strategies, and Risk Register to mitigate against risk. It was, therefore, not clear how the risk exposures were managed. This was in contravention of Regulation 165(1)(a) and (b) of the Public Finance Management (National Government) Regulations, 2015 which requires the Accounting Officer to ensure that the National Government entity develops

risk management strategies, which include fraud prevention mechanism; and the County Government entity develops a system of risk management and internal control that builds robust business operations.

In the circumstances, the effectiveness of the internal controls, risk management and overall governance could not be established.

423. Lack of an Audit Committee

The State Department has not established an Internal Audit Unit and an Audit Committee of the Board. This was contrary to Section 73 of the Public Finance Management Act, 2012 which provides for the establishment of an Audit Committee of the Board.

In the circumstances, the State Department did not benefit from the assurance and advisory services from the Audit Committee.

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

424. Misclassification of Expenditure

The financial statements presented for audit contained the following misclassifications;

Item	Classification in Financial Statements	Correct Classification	Amount (Kshs.)
Lease of land intended for construction of a level three (3) hospitals	Transfer to another government entity	Rentals of Produced Assets	16,299,222
Financial support towards the international hybrid conference on harmonization of the curriculum and training of health professional	Facilitation of procurement of family planning commodities	Training	15,000,000
Payment to Kenyatta National Hospital	Social security benefits	Transfer to Other Government agencies	99,999,999
Server to KHPOA	Maintenance of motor vehicles	Purchase of Computers, Printers and other IT Equipment	1,430,000
Conference facilities for KHHRAC	Maintenance of motor vehicles	Hospitality Supplies and Services	285,400
Conference fees	Maintenance of motor vehicles	Hospitality Supplies and Services	340,000
Transfer to KEMRI as expenditure in Research Studies, Project Preparation, Design and Supervision	Asset additions in summary of fixed asset register	Transfer to Other Government Units	151,195,000
Refurbishment of buildings	Asset additions in summary of fixed asset register	Acquisition of Assets	41,044,534
Total			**325,594,155**

In the circumstances, the classification, accuracy and completeness of the above balances included in these financial statements could not be confirmed.

425. Unsupported Other Operating Expenses

The statement of receipts and payments reflects use of goods and services of Kshs.12,183,660,271 as disclosed in Note 7 to the financial statements. The amount includes other operating expenses balance of Kshs.2,070,212,450 out of which an

amount of Kshs.24,200,000 was paid to a Company being 1st installment for consultancy services on public awareness campaigns to reduce Covid-19 vaccine hesitancy. However, Management did not provide for audit the bidders' documents for the eight (8) companies that tendered to offer the services.

In the circumstances, the proprietary, accuracy and completeness of operating expenses balance of Kshs.24,200,000 could not be confirmed.

426. Unsupported Specialized Materials and Services

Note 7 to the financial statements reflects specialized materials and services amount of Kshs.1,733,665,386 which includes Kshs.104,328,000 that was captured as adjustment for items wrongly charged in Governance for Enabling Service Delivery and Public Investment in Kenya (GESDEK). However, no payment vouchers or journal vouchers to support these expenditures were provided for audit. In addition, the supporting schedule reflects credit entries of Kshs.1,750,637 whose respective payment vouchers and other documents were not provided for audit.

In the circumstances, the proprietary, accuracy and completeness of specialized materials and services amount of Kshs.104,328,000 and Kshs.1,750,637 both totalling Kshs.106,078,637 could not be confirmed.

427. Unreleased Deposit Amounts

The statement of assets and liabilities reflects accounts payable – deposits of Kshs.243,197,236 as disclosed in Note 14 of the financial statements. Included in the amount is Kshs.109,105,844 due for payment which had been outstanding for more than six (6) months and after the lapse of defect liability period.

In circumstances, accuracy and completeness of accounts payable – deposits of Kshs.243,197,236 could not be confirmed.

428. Unsupported Credit Entry

The statement of receipts and payments reflects payment of other grants and transfers of Kshs.2,168,422,341 as disclosed in Note 9 to the financial statements. The amount includes Kshs.2,164,269,767 for emergency relief and refugee assistance whose ledger revealed a credit entry of Kshs.106,959,911 which was not supported by journal vouchers.

In the circumstances, the accuracy and completeness of credit entry of Kshs.106,959,911 could not be confirmed.

429. Unsupported Disbursements

The statement of receipts and payments reflects transfers to other Government units of Kshs.77,155,075,338 as disclosed in Note 8 to the financial statements. The amount includes current grants to Government Agencies and other level of government of Kshs.49,519,739,794 out of which Kshs.2,848,630 was disbursed to an International Company for settlement of outstanding amounts for a vector control project and a further Kshs.10,499,556 to the health attaches office in Geneva which were not supported. In

addition, Kshs.37,845,650 was transferred to the same office without detailed explanations on purpose of the funds.

In the circumstances, the proprietary, accuracy and completeness of transfers to other Government units of Kshs.2,848,630; Kshs.10,499,556 and Kshs.37,845,650 all totalling Kshs.51,193,836 could not be confirmed.

430. Unconfirmed Commitments of Goods, Works and Services

The statement of comparison of budget and actual amounts reflects actual expenditure of Kshs.107,345,805,714. Review of the budget revealed negative commitments of Kshs.769,494,918. However, an analysis indicating the description of the goods, works and services and the respective dates of commitments was not provided for audit.

In the circumstances, the accuracy and completeness of negative commitments balance of Kshs.769,494,918 could not be confirmed.

431. Unsupported Contingent Liabilities - Court Awards

Annex 6 to the financial statements reflects contingent liabilities amount of Kshs.39,613,135,462 after partial settlement of court awards amounting to Kshs.934,304,623. However, a breakdown of this settlement indicating details of Court awards, date of award and breakdown of each award were not provided for audit.

In the circumstances, the accuracy and completeness of contingent liabilities settlement amount of Kshs.934,304,623 could not be confirmed.

432. Undisclosed Asset Disposals

The summary of fixed asset register in Annex 3 reflects historical cost amount of Kshs.4,198,764,838 with no disposals during the year under review. However, Note 4 to the financial statements indicates proceeds from sale of assets of Kshs.10,742,319,287. Further, the details of specific items disposed were not provided for audit.

In the circumstances, the accuracy and completeness of assets' historical cost of Kshs.4,198,764,838 could not be confirmed.

433. Delayed Construction of Kisii Cancer Centre

The statement of receipts and payments reflects acquisition of assets amount of Kshs.2,000,223,435 as disclosed in Note 11 to the financial statements. The amount includes construction of buildings of Kshs.1,088,277,999 out which Kshs.6,420,100 was a payment on behalf of the donor by the Ministry of Health but there was no evidence of its refund after renewal of the contract. In addition, a payment of Kshs.3,210,500 for consultancy services was not supported by payment voucher and other supporting documents. Further, the project duration was six (6) years from 10 August, 2016 to 10 August, 2022 but the construction had not commenced by 30 June, 2022.

In the circumstances, the proprietary and value for money of Kshs.6,420,100 and Kshs.3,210,500 both totalling Kshs.9,630,600 could not be confirmed.

434. Unaccounted for Expenditure on Construction of Paediatric Emergency Centre and Burns

The statement of receipts and payments reflects acquisition of assets balance of Kshs.2,000,223,435 as disclosed in Note 11 to the financial statements. The amount includes Kshs.1,088,277,999 for the construction of buildings out of which an amount of Kshs.40,655,752 was paid for construction of paediatric emergency centre and burns management centre. However, payment vouchers, procurement file detailing how the contractor was identified and to show the bills of quantities were not provided for audit. In addition, physical inspection carried out revealed that no works were ongoing at the centre.

In the circumstances, proprietary and value for money of Kshs.40,655,752 could not be confirmed.

Other Matter

435. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.130,469,107,784 and actual on comparable basis of Kshs.107,376,446,249, resulting to underfunding of Kshs.23,092,661,535 or 17% of the budget. Similarly, the Ministry spent an amount of Kshs.107,345,805,714 out of the approved expenditure budget of Kshs.130,469,107,784, resulting in an under expenditure of Kshs.22,123,302,070 or 17% of the budget.

The underfunding and underperformance may have affected the Ministry's key mandate of coordinating health policy, health regulations, National Referral Health Facilities, capacity building and providing technical assistance to the counties.

436. Variances Between Financial Statements and Vote Book

The financial statements presented for audit contained the following variances;

i. The summary statement of appropriation recurrent reflects actual payments of Kshs.65,617,522,427 while the vote book reflects Kshs.65,729,576,464 resulting to a variance of Kshs.112,054,037.

ii. The summary statement of appropriation development reflects final budget amount of Kshs.63,808,568,046 while the vote book reflects Kshs.63,861,568,258 resulting to a variance of Kshs.53,000,212.

iii. The summary statement of appropriation development reflects actual payments of Kshs.41,728,283,288 while the vote book reflects Kshs.42,771,351,525 resulting to a variance of Kshs.1,043,068,237.

In the circumstances, the accuracy and completeness of the above balances included in these financial statements could not be confirmed.

437. Undisclosed Pending Bills

Note 19 to the financial statements reflects pending bills amount of Kshs.106,671,192. However, the Ministry's pending bills report for financial year 2021/2022 dated

26 July, 2022 reflects outstanding amounts of Kshs.45,899,794,836 resulting to an undisclosed pending bills of Kshs.45,793,123,644.

In the circumstances, the accuracy and completeness of pending bills amount of Kshs.106,671,192 could not be confirmed.

438. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

439. Failure to Operationalise Institutions

The following institutions have been created but not fully operationalised as detailed below;

No.	Institution	Breached Law
1	Mathari Teaching and Referral Hospital	Health Act, 2017
2	Kenya Health Human Resource Advisory Council	Health Act, 2017
3	Kenya Health Professions Oversight Authority	Health Act, 2017
4	Tobacco Control Fund	Tobacco Control Act, 2007

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

440. Unremitted National Social Security Fund (NSSF) Contributions

Review of Ministry's Integrated Personnel and Payroll Data base records revealed that Management did not deduct and remit an amount of Kshs.93,359,823 to the National Social Security Fund. This was contrary to Section 19(1) and Section 20(1) (a)(b) of the National Social Security Fund Act, 2013.

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

441. Delayed Closure of Donor Funded Projects

The following donor projects had not been closed despite them not having any transactions or activities during the year under review;

i. Support of the Health Financing Strategy-Output Based Approach Programme (OBA);

ii. Ministry of Health - United Nations Population Fund - (UNFPA);

iii. East Africa Public Health Laboratory Networking Project (KEMSA);

iv. Health Sector Services Fund (HSSF) Grant No.4771-Ke and TF-16027;

v. Health Sector Support Project (KEMSA); and,

vi. Support of the Health Financing Strategy - Output Based Approach - Reproductive Health (OBA-RH) No 20106- 5853

This is contrary to Regulation 74(6)(c) of the Public Finance Management (National Government) Regulations, 2015 which requires an Accounting Officer of a National Government entity to ensure that the assets are handed over within three months from the date of the closure of the project.

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

442. Unremitted Pension Contributions

Review of Integrated Personnel and Payroll Data base records revealed that Management did not deduct Kshs.2,245,580 pension contribution for employees below the age of 45 years who were engaged on permanent and pensionable terms.

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

443. Irregular Use of Low Value Procurement

Note 7 to the financial statements reflects routine maintenance – vehicles and other transport equipment of Kshs.23,319,869 out of which Kshs.8,723,434 relates to repair of vehicles paid through cash advances to employees. This is contrary to second schedule of the Public Procurement and Asset Disposal Regulations, 2020 which sets the maximum low value procurement at Kshs.50,000 per item per financial year.
In the circumstances, Management was in breach of the regulation.

444. Upgrading of Kigumo Sub-County Hospital

The statement of receipts and payments reflects grants and transfers to other Government entities balance of Kshs.77,155,075,338 as disclosed in Note 8 to the financial statements. The amount includes capital grants to government agencies and other level of Government amount of Kshs.15,537,403,394 out of which Kshs.23,375,738 was paid on account of an interim payment certificate No. 2 from contract sum of Kshs.383,242,795. However, procurement records of tender advertisement, bid documents, tender opening, evaluation and comparison minutes, professional opinion, notification and acceptance of the award letters, schedules and summary of the other principal terms and conditions of the tender were not provided for audit. In addition, the Project had a start date of 23 June, 2021 and completion date 21 December, 2022, but the contractor has sought for extension by twenty-four (24) weeks which had not been granted.

In the circumstances, value for money, the procurement process and competitiveness of the award could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

445. Weaknesses on Compensation of Employees

The statement of receipts and payments and reflects compensation of employees amount of Kshs.13,712,918,331 as disclosed in Note 6 to the financial statements. However, one hundred and sixty-eight (168) had their net pay less than a third of their basic pay and eight (8) employees shared bank accounts. In addition, an amount of Kshs.54,253,428 was paid to interns and clinical officers outside the IPPD system as well as salary paid under AFD projects of Kshs.6,544,585. Further, two thousand two hundred and ninety-six (2,296) employees were paid Kshs.93,987,280 as basic pay and Kshs.58,880,866 as special salary which was not explained.

In the circumstances, the controls on compensation of employees could not be confirmed.

446. Failure to Maintain Fixed Assets Register

The Ministry did not maintain a fixed asset register to record the assets indicating their nature, date of purchase, amount, unique identifier, depreciation among other details.

Further, details of assets acquired and those disposed were not recorded.

In the circumstances, the effectiveness of controls on management of Ministry fixed assets could not be confirmed.

DONOR FUNDED PROJECTS

HEALTH SECTOR SUPPORT PROJECT - SWAp SECRETARIAT - IDA CR NO. 4771 - KE AND CR. NO. 5367 - KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

447. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

448. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

449. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

450. As required by Financing Agreements dated 10 February, 2012 and 21 January, 2014, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

EAST AFRICA'S CENTRE OF EXCELLENCE FOR SKILLS AND TERTIARY EDUCATION IN BIOMEDICAL SCIENCES - PHASE 1 (LOAN NO.2100150031997) PROJECT

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

451. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

452. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget of Kshs.1,160,000,000 and actual on comparable basis of Kshs.554,331,070, resulting in an under-funding of Kshs.605,668,930 (or 52%) of the budget. Similarly, the Project spent Kshs.551,755,580 out of the approved expenditure budget of Kshs.1,160,000,000, resulting in an under-absorption of Kshs.608,244,420 (or 52%) of the budget.

The underfunding and under absorption affected the planned activities and may have impacted negatively on service delivery to the public.

453. Unutilized Balance

The project information and overall performance underfunding summary at paragraph 1.7 reflects total commitment of Kshs.3,674,000,000 and amount received to date (30 June, 2022) of Kshs.1,908,278,502 resulting to a difference of Kshs.1,765,721,498 (or 48%). Meaning the Project had attained 52% performance level with project end date indicated as 31 December, 2022.

In the circumstances, the primary objective of focusing on public health problems affecting the country, including infectious diseases, use of scientific evidence for policy formulation and program implementation may not be realized.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

454. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

455. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

456. As required by Financing Agreement dated 17 December, 2014 between African Development Fund and the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

GLOBAL FUND TUBERCULOSIS PROJECT GRANT/CREDIT NO.KEN-T-TNT-1548

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

457. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

458. Long Outstanding Imprests and Advances

As previously reported, the statement of financial assets reflects imprest and advances balance of Kshs.3,238,374 as disclosed under Note 8A to the financial statements. The

amount relates to long outstanding imprest and advances some dating back to financial year 2012/2013. This is contrary to Regulation 93(5) of the Public Finance Management (National Government) Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station. Further, Regulation 93(6) provides that in the event of the imprest holder failing to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank rate.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

459. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

460. As required by Grant Agreement NO.KEN-T-TNT-1548 dated 15 December, 2017, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

SUPPORT OF THE HEALTH CARE FINANCING STRATEGY - REPRODUCTIVE HEALTH - OUTPUT BASED APPROACH PROJECT (CREDIT BMZ NO. KENYA 201065853)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

461. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

462. Lack of Financing Plan for Payables

The statement of financial assets reflects bank balance of Kshs.967,833 as disclosed in Note 11A to the financial statements. However, pending accounts payable balance of Kshs.4,436,435 as disclosed under other important disclosures would not be fully settled by the bank balance. The resulting difference of Kshs.3,468,602 was not explained how it will be financed. In addition, other important disclosures reflect court cases with

estimated contingent liabilities of Kshs.11,775,142 which were not explained how they will be financed if they crystalize.

In the circumstances, the financing of pending accounts payable of Kshs.4,436,435 and estimated claims arising from the court cases of Kshs.11,775,142 could not be confirmed.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

463. Avoidable Bank Charges

The statement of receipts and payments reflects purchase of goods and services of Kshs.59,099 as disclosed in Note 6 to the financial statements. The amount is composed of bank charges of Kshs.31,277 and exchange losses/gains (net) of Kshs.27,822 resulting from failure to close the project bank accounts and which continue to reduce the bank balance.

In the circumstances, value for money on continued operations of the Project could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

464. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

465. As required by the Financing Agreement dated 07 October, 2011, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

TRANSFORMING HEALTH SYSTEMS FOR UNIVERSAL CARE (THS-UC) PROJECT GRANT IDA CREDIT NO.5836 – KE, TFOA2561, TFOA2792, AND CR. P152394

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

466. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

467. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget of Kshs.4,516,799,990 and actual on comparable basis of Kshs.3,549,922,407 resulting to underfunding of Kshs.966,877,583 or 21% of the budget. Similarly, the Project spent an amount of Kshs.3,388,832,347 out of the approved expenditure budget of Kshs.4,516,799,990 resulting to an under expenditure of Kshs.1,127,967,643 or 25% of the budget.

In the circumstances, the primary objective of improving utilisation and quality of primary health care services with focus on reproductive, maternal, new-born, child and adolescent health care may not be realised in light of the budget underperformance.

My opinion is not modified in respect of this matter.

Other Matter

468. Delay in Disbursement of Funds

The statement of receipts and payments reflects transfers to other government entities of Kshs.2,878,953,881 as disclosed in Note 11.6 to the financial statements. Included in the amount is Kshs.1,445,456,881 in respect to transfers to County governments that were disbursed late in June, 2022. In the circumstances, implementation of the county governments annual work plans was delayed which impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

469. Pending Bills

Other important disclosures reflect pending bills of Kshs.1,262,926 that were outstanding at the closure of the financial year. This was contrary to section 53(8) of the Public Procurement and Assets Disposal Act, 2015 which requires an accounting officer not to commence any procurement proceedings until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in approved budget estimates.

In the circumstances, Management was in breach of the law

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

470. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

471. As required by Financing Agreement dated 04 July, 2016, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

GLOBAL FUND HIV AIDS PROGRAM GRANT NO. KEN-H-TNT GA 1547

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

472. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

473. Unresolved Prior Year Matters

In the audit report of 2020/2021 financial year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved all the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

474. Unliquidated Commitments

Other important disclosures reflect pending accounts payables of Kshs.5,818,699. However, the amount was outstanding for more than six months period allowed by Global Fund to liquidate commitments. This was contrary to paragraph 24 of Global Fund guidelines for grant budgeting, 2019 which states six months after the start of the new Implementation Period, Principal Recipients will be required to report the final available cash balance from the previous allocation period (after all financial commitments are fully paid). Any unliquidated commitment remaining at the end of the six-months period will be considered closed by the Global Fund unless otherwise approved in writing by the Global Fund.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

475. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

476. As required by Financing Agreement dated 01 January, 2018, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

COVID-19 HEALTH EMERGENCY RESPONSE PROJECT GRANT/CREDIT NO.6598-KE

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

477. Unsupported Compensation of Employees

The statement of receipts and payments reflects compensation of employees balance of Kshs.241,631,465 as disclosed in Note 11.2 to the financial statements. However, the Project paid consultants varying monthly allowances of between Kshs.75,000 and Kshs.120,000 without stating the basis of arriving at these allowances. Further, contracts for the period January, 2022 to June, 2022 were not provided for audit and payments made were not supported by invoices and reports from consultants.

In the circumstances, the accuracy and completeness of compensation of employees balance of Kshs.241,631,465 could not be confirmed.

478. Undisclosed Retention Fees

The statement of receipts and payments reflects acquisition of non-financial assets balance of Kshs.265,226,611 as disclosed in Note 11.4 to the financial statements. Included in the amount is Kshs.139,860,111 for rehabilitation and renovation of plant, equipment and machinery out of which an amount of Kshs.100,817,680 was spent on gas installation in various hospitals. However, the 10% retention fees balance of Kshs.10,081,768 withheld was not disclosed in the financial statements.

In the circumstances, the accuracy and completeness of acquisition of non-financial assets - retention fees of Kshs.10,081,768 could not be confirmed.

479. Inaccuracy in Cash and Cash Equivalents

The statement of financial assets reflects bank balance of Kshs.62,433,792 as disclosed in Note 11.7A to the financial statements. However, the bank reconciliation statement included unreconciling items of Kshs.1,674,315 and stale cheques of Kshs.967,109 which were not adjusted in the cash book.

In the circumstances, the accuracy and completeness of bank balance of Kshs.62,433,792 could not be confirmed.

480. Undisclosed Imprests and Advances

The statement of financial assets reflects accounts receivables - imprests and advances balance of Kshs.4,668,877 as disclosed in Note 11.8 to the financial statements. However, analysis of the imprest register and supporting schedules revealed un-surrendered imprest amounting to Kshs.43,671,525 resulting to unreconciled variance of Kshs.39,002,648.

In the circumstances, the accuracy and completeness of accounts receivables - imprests and advances of Kshs.4,668,877 could not be confirmed.

Emphasis of Matter

481. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.6,972,534,981 and actual on comparable basis of Kshs.2,074,941,263, resulting to underfunding of Kshs.4,897,593,714 (or 70%) of the budget. Similarly, the Project spent an amount of Kshs.1,922,271,387 out of the approved expenditure budget of Kshs.3,340,840,724, resulting in an under expenditure of Kshs.1,418,569,337 (or 42%) of the budget.

The underfunding and underperformance may have affected the Project's key objective of preventing, detecting and responding to the threat posed by Covid-19 and strengthening national systems for public health preparedness.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

482. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

483. Failure to Update Imprest Register

Note 3 to the financial statements reflects purchase of goods and services of Kshs.986,444,389. The amount includes domestic travel and subsistence of Kshs.293,082,937 out of which Kshs.40,294,650 issued as imprest was not recorded in the imprest register.

In the circumstances, the effectiveness on controls on issuance and recording of imprest could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

484. As required by Financing Agreements dated 03 April, 2020, I report based on my audit, that I have obtained all the information and explanations which, to the best of

my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

GLOBAL FUND TUBERCULOSIS PROJECT GRANT/CREDIT NO. KEN-T-TNT-2067

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

485. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

486. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.775,488,451 and Kshs.694,370,519 respectively, resulting to underfunding of Kshs.81,117,932 or 10% of the budget. Similarly, the Project spent an amount of Kshs.553,841,711 against the approved expenditure budget of Kshs.775,488,451 resulting to an under expenditure of Kshs.221,646,740 or 29% of the budget. The underfunding and underperformance may have affected negatively the planned activities of reducing tuberculosis deaths by 90% and tuberculosis incidence rate by 80%.

487. Unsupported Pending Bills

Annex 3(a) to the financial statements reflects analysis of pending bills of Kshs.30,555,233 out of which Kshs.20,839,853 relates to commitments of goods and services from various suppliers. However, the amounts were not supported with invoices, purchase orders and details on how the suppliers were engaged. In the circumstances, the accuracy and completeness of pending bills of Kshs.30,555,233 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

488. Suboptimal Use of GeneXpert Machines

Records provided for audit indicated that one hundred and eighty six (186) GeneXpert machines were issued across various health facilities in the country. However, physical verification in six (6) counties in September 2022 revealed inadequate supply of cartridges which caused the machines to produce 238,187 tests against optimal capacity of 714,240 tests resulting to underperformance of 476,053 tests (or 67%). In addition, there was shortage of Community Health Volunteers (CHVs) to perform contact tracing and there were minimal referrals which led to inefficient use of GeneXpert machines.

In the circumstances, the effective use of GeneXpert machines could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

489. Unsupported Selection of Drug Resistance Tuberculosis (DRTB) Patients

Note 4 to the financial statements reflects specialized materials and services of Kshs.5,391,000 out of which Kshs.539,000 relates to insurance cover for seventy-seven (77) DRTB patients. However, there are a total of one thousand five hundred and two (1,502) DRTB patients in various health facilities in the country and Management did not explain and provide details of the criteria used to identify and include the seventy-seven (77) patients in the National Hospital Insurance Fund cover. In addition, these patients did not receive services for nine (9) months from July, 2021 to March, 2022.

In the circumstances, the effectiveness of internal controls of identifying DRTB patients and propriety of insurance expenditure of Kshs.539,000 could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

490. As required by Global Fund Tuberculosis Grant Credit No. KEN-T-TNT-2067 dated 14 June, 2021, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

GLOBAL FUND HIV AIDS PROGRAM GRANT NO. KEN-H-TNT GA 2065

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

491. Unsupported Bank Balance

The statement of financial assets reflects bank balance of Kshs.158,324,015 as disclosed in Note 5.A to the financial statements. However, the bank reconciliation statement for the month of June, 2022 reflects payments in bank statements not yet recorded in cash book amounting to Kshs.612,500 which were not supported by payment vouchers.

In the circumstances, the accuracy and completeness of bank balance of Kshs.158,324,015 could not be confirmed.

Emphasis of Matter

492. Failure to Receive Initial Grant

The funding summary Paragraph 1.7 indicates approved budget of USD.19,420,319 equivalent to Kshs.2,101,252,823 for a duration of three (3) years starting from

01 July, 2021 to 30 June, 2024. Included in the amount is USD.4,680,571 equivalent Kshs.506,431,590 for financial year 2021/2022 as disclosed in the statement of comparison of budget and actual amounts but which was not received.

In the circumstances, the Project may not absorb the entire amount of USD.19,420,319 equivalent to Kshs.2,101,252,823 thereby not achieving the objectives of reducing new HIV, STI and viral hepatitis infections, reducing morbidity and mortality due to HIV, scaling up treatment of STIs and HCV and increasing access to ART treatment.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

493. Failure to Include Pending Payables in the Grant's Budget

Other important disclosures reflect pending accounts payables of Kshs.7,451,470. The amount includes opening balance of Kshs.29,842,515 being payables from the closed grant KEN-T-TNT 1547. However, there was no evidence of negotiation to include this amount in the budgeting and programmatic planning in grant KEN-T-TNT 2065 being the next grant as required in Paragraph 23 of Global Fund guidelines for grant budgeting, 2019.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

494. Lack of an Asset Register

During the year under review, Management did not provide a fixed asset register but presented an asset verification report which did not include details of dates of purchase and prices. In addition, fixed assets items were aggregated without giving details of the individual asset name, tag number and location.

In the circumstances, the effectiveness of fixed assets internal controls could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

495. As required by Financing Agreement dated 14 June, 2021, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

RESILIENT SUSTAINABLE SYSTEMS FOR HEALTH (RSSH) KEN-T-TNT 2067 - SUB RECEIPT

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

496. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

497. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.319,584,334 and actual on comparable basis of Kshs.297,231,093, resulting to underfunding of Kshs.22,353,241 (or 7%) of the budget. Similarly, the Project spent an amount of Kshs.76,461,592 out of the approved expenditure budget of Kshs.319,584,334, resulting in an under expenditure of Kshs.243,122,743 (or 76%) of the budget.

The underfunding and underperformance may have affected the Project's key objectives of building resilient and sustainable systems for health and enhancing the fight against new pandemics.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

498. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

499. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

500. As required by Financing Agreement dated 14 June, 2021, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

GLOBAL FUND MALARIA NEW FUNDING MODEL (NFM) KEN-M-TNT-1546

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

501. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

502. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget of Kshs.175,678,920 and actual on comparable basis of Kshs.1,519,678, resulting to underfunding of Kshs.174,159,242 (or 99%) of the budget. Similarly, the Project spent an amount of Kshs.705,685,455 out of the approved expenditure budget of Kshs.175,678,920, resulting in an over expenditure of Kshs.530,006,535 or approximately 302% of the budget. The excess amount was utilized from the opening cash and cash equivalent balance of Kshs.704,165,777.

The budget mismatch was indicative of delay in executing the planned activities and payment to respective suppliers during the grant period.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

503. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

504. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

505. As required by Financing Agreement dated 01 January, 2018, I report based on my audit, that I have obtained all the information and explanation which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

GLOBAL FUND MALARIA NEW FUNDING MODEL (NFM) KEN-M-TNT-2064

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

506. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

507. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget of Kshs.837,474,120 and actual on comparable basis of Kshs.652,243,566, resulting to underfunding of Kshs.185,230,554 (or 22%) of the budget. Similarly, the Project spent an amount of Kshs.592,101,529 out of the approved expenditure budget of Kshs.837,474,120, resulting in an under expenditure of Kshs.245,372,591 (or 29%) of the budget

The underfunding and underperformance affected the planned project's activities and may have impacted negatively on service delivery.
My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

508. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

509. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

510. As required by Financing Agreement dated 14 June, 2021, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

DANIDA PRIMARY HEALTHCARE (PHC) SUPPORT PROGRAM

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

511. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

512. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.433,648,750 and actual on comparable basis of Kshs.325,986,258 resulting to underfunding of Kshs.107,662,492 (or 25%). Similarly, the Project spent an amount of Kshs.324,361,266 out of the approved expenditure budget of Kshs.433,648,750 resulting in an under expenditure of Kshs.109,287,484 (or 25%).

In the circumstances, the Project's key objectives of improving primary health care with focus on reproductive, maternal, new-born, child and adolescent health care may not be achieved.

My opionion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

513. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

514. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

515. As required by Financing Agreement dated 14 December, 2020, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE MINISTRY OF HEALTH

KENYA HEALTH SECTOR PROGRAMME SUPPORT III (DANIDA REF. 104.KENYA.810.300 – GRANT) – COUNTY GOVERNMENT OF KISII

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

516. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

517. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.134,672,861 and Kshs.67,206,909 respectively resulting to an underfunding of Kshs.67,465,952 or 50% of the budget. The shortfall in revenue by Kshs.67,465,952 or 50% implies that the Programme could not undertake all the planned activities. Similarly, the Programme had an approved expenditure budget of Kshs.134,672,861 and actual expenditure of Kshs.49,725,445 resulting in an underexpenditure of Kshs.84,947,416 or 63% of the budget.

In the circumstances, the underfunding and under-absorption may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

518. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

519. There were no material issues relating to effectiveness of internal controls, risk management and governance.

HEALTH SECTOR SUPPORT PROJECT (CREDIT NO.4771-KE) - KENYA MEDICAL SUPPLIES AUTHORITY (KEMSA)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

520. Unaccounted Transfer of Funds

The statement of financial position reflects Kshs. Nil cash and cash equivalents. However, analysis of bank statements for the project bank account revealed that an amount of Kshs.42,299,522 was transferred to another bank account in the same bank on 21 March, 2022. Management has not explained this transfer or provided supporting documents.

In the circumstances, the regularity of transfer of Kshs.42,299,522 could not be confirmed.

521. Unsupported Transfer of Accumulated Surplus and Liabilities

The statement of changes in net assets reflects transfer from accumulated surplus to Kenya Medical Supplies Authority (KEMSA) Kshs.3,996,628 and Note 5 to the financial statements reflects transfer of liability of Kshs.38,474,884. However, both transfers were not explained, supported or acknowledged by KEMSA.

In the circumstances, the accuracy and completeness of the transfers could not be confirmed.

Other Matter

522. Delayed Project Closure

The financing agreement indicated Project's effectiveness date was on 21 January, 2014 with expected end date of 31 December, 2016 but extended to 30 June, 2018. However, Management did not provide any evidence of formal request to the International Development Association (IDA) for Project extension beyond 30 June, 2018 or explain failure to close the project which reported a surplus of Kshs.1,651,961 during the year under review.

In the circumstances, the transactions in the project account are without donor's approval.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

523. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

524. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

525. As required by Financing Agreement dated 21 January, 2014 between the International Development Association and the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

EAST AFRICA PUBLIC HEALTH LABORATORY NETWORKING (EAPHLN) PROJECT CREDIT NO.4732 - KE - KENYA MEDICAL SUPPLIES AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

526. Unpaid Retention Money

The statement of financial position reflects trade and other payables from exchange transaction of Kshs.602,712 which, as disclosed in Note 7 to the financial statements relates to unpaid retention money. However, Management has not explained failure to pay the retention money some of which dates back to financial year 2018/2019 or continued disclosure as payable.

In the circumstances, the ownership and obligation of trade and other payables from exchange transaction of Kshs.602,712 could not be confirmed.

527. Unexplained Reversal of Interest Expense

The statement of changes in net assets reflects accumulated surplus balance of Kshs.18,240,726 which includes reversal of interest expense amounting to Kshs.11,343,918 that was payable to The National Treasury during the financial year 2020/2021. However, the reversal is not in line with International Public Sector Accounting Standard (IPSAS) 3 which requires all prior year adjustments to be effected through the previous period balances.

In the circumstances, the accuracy and completeness of above balances reflected in the financial statements could not be confirmed as at 30 June, 2022.

Other Matter

528. Unresolved Prior Year Matters

In the audit report of 2020/2021 financial year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved all the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

529. Failure to Transfer Bank Balance

The statement of financial position reflects cash and cash equivalent of Kshs.18,843,438 as disclosed in Note 5 to the financial statements. The amount relates to bank balance in relation to a project whose end date was 30 September, 2020 but has not been closed. Failure to close the project contravenes Regulation 74(6)(c) of the Public Finance Management (National Government) Regulations, 2015 which requires an Accounting Officer of a National Government entity to ensure that the assets are handed over within three months from the date of the closure of the project.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

530. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

531. As required by Financing Agreement Credit No.4732 - KE dated 05 July, 2010, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

A CASE STUDY ON INTEGRATED DELIVERY OF SELECTED NON-COMMUNICABLE DISEASES IN KENYA (PHGF GRANT NO. TFOA5636) - MOI TEACHING AND REFERRAL HOSPITAL

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

532. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

533. Budgetary Control Analysis

The statement of comparative budget and actual amounts reflects budget and actual receipts from domestic and foreign grants on comparable basis of Kshs.135,915,138 and Kshs.133,585,330 respectively resulting to an underfunding of Kshs.2,329,808 or 2% of the budget. The Project expenditure was limited to the amount realised.

Based on the approved estimates, underfunding affected the planned activities and may have impacted negatively on service delivery to the public.

534. Physical Verification of Projects

Three (3) projects and twenty-one (21) procurements with a total contract sum of Kshs.10,010,281, were verified in September, 2022. The verification revealed that, the projects which related to renovation works at various pharmacies were complete and in use. Further, the twenty-one (21) procurements related to delivery and installation of ICT and medical equipment to various medical facilities within Busia and Trans Nzoia counties. However, two (2) machines delivered to Busia County Referral Hospital and one (1) machine delivered to Kitale County Referral Hospital were not in use.

In the circumstances, the unutilized machines may not be providing services to the public.

535. Proceeds from Domestic and Foreign Grants

The statement of receipts and payments reflects an amount of Kshs.56,740,000 for the year and cumulative to date totalling to Kshs.265,061,010 under proceeds from domestic and foreign grants as disclosed in Note 2 to the financial statements. Although the World Bank had extended the Project end date of the Grant to 31 January, 2022, a balance of Kshs.2,318,966 as disclosed in Annex 3B to the financial statements had not been disbursed by The National Treasury as at the time of audit in October, 2022. In addition, the Management of the Project had not started the process of project closure.

In the circumstances, delayed disbursement by The National Treasury may have delayed completion of planned Project activities which may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

536. Failure to Report use of Direct Procurement to Public Procurement and Regulatory Authority

The statement of receipts and payments reflects an amount of Kshs.58,940,151 under purchase of goods and services which in turn includes other operating payments amount of Kshs.4,035,207 as disclosed in Note 6 to the financial statements. Included in the amount of Kshs.4,035,207 are payments totalling to Kshs.2,884,000 in respect to consultancy services on how to implement the costing components of the study protocol in order to determine the cost effectiveness of the primary integrated model of the non-communicable diseases.

Examination of the documents provided for audit revealed that the supply chain department requested for approval from the Chief Executive Officer to use direct procurement which was approved and tender awarded at a Contract sum of Kshs.2,884,000.

However, the procuring entity did not report the details of the direct procurement to Public Procurement and Regulatory Authority within fourteen days after the award of the tender contrary to Regulation 90(1)(b) of the Public Procurement and Asset Disposal Regulations, 2020. In addition, there was no evidence of negotiation between the procuring entity and the tenderer for the direct procurement as required by Regulation 90(1)(d) of the Public Procurement and Asset Disposal Regulations, 2020.

In the circumstances, the Project Management breached the law.

537. Failure to Adhere to Executive Order No. 2 of 2018

The statement of receipts and payments reflects total payments amounting to Kshs.133,585,330. The amount includes Kshs.58,940,151 in respect to purchase of goods and services as disclosed in Note 6 to the financial statements. However, review of the procurement records revealed that the Management did not publish a complete information of all tenders awarded, a separate comprehensive list of all registered suppliers, contractors and consultants in the various specific categories of goods, works and services as required by Presidential Executive Order No. 2 of 2018.

In the circumstance, the Project Management was in breach of the Executive Order.

538. Non-Payment of Audit Fees

As reported previously, Annex 3A reflects nil pending payables and therefore excludes external audit fees provided for under parts 3.01 and 3.02 of Article III of the subsidiary grant agreement signed on 27 February, 2018. Although the Management has explained through undated, unsigned Financial Management Implementation Support and Supervision Report – December, 2019 that the item should not be budgeted for since the services will be provided by the Office of the Auditor-General, the validity and legality of this argument could not be confirmed.

In the circumstance, the Project Management is in breach of the financing agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

539. There were no material issues relating to effectiveness of internal controls, risk management and governance.

GLOBAL FUND HIV/AIDS PROJECT GRANT NUMBER KEN-H-TNT-2065 – NATIONAL AIDS CONTROL COUNCIL

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

540. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

541. Budgetary Control and Performance

The statement of comparative budget and actual amount reflects final payment budget of Kshs.304,276,734 against actual expenditure of Kshs.99,370,872 resulting to under expenditure of Kshs.204,905,862 (or 68%).

The underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

542. Irregular tax on Global Funds

The statement of receipts and payments reflects miscellaneous income of Kshs.6,402,480 as disclosed in Note 11.2 to the financial statements out of which an amount of Kshs.249,089 was excise duty charged on Global Funds. However, charging of excise duty is contrary to article 3.5(1) of the Global Fund grant Regulations, 2014 which states that for each program, the Grant funds are made available by the Global Fund for the purposes of implementing respective program activities, and the Grant Agreement and the purchase and/or import of any goods or services using the Grant funds shall be exempt from relevant taxation applicable in the host country, including, but not limited to, (a) customs duties, import duties, taxes or fiscal charges of equal effect levied or otherwise imposed on the health products imported into the host country under the Grant Agreement or any related sub-recipient or supplier contract, and (b) the value-

added tax levied or otherwise imposed on the purchases of goods and services using Grant funds.

In the circumstances, Management was in breach of Global Fund Regulations, 2014.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

543. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

544. As required by Financing Agreement dated 14 June, 2021, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR INFRASTRUCTURE – VOTE 1091

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

545. Unsupported Payments on Use of Goods and Services

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.672,594,265 as disclosed in Note 8 to the financial statements. However, review of records revealed that the following payments did not relate to the expense items where they were accounted for and lacked supporting documents for justification.

(i) Utilities, supplies and services payments of Kshs.23,719,520 include payments totalling Kshs.6,426,032 described as journal import that were not supported.

(ii) Communication, supplies and services payments of Kshs.3,102,724 include an amount of Kshs.350,000 paid to staff.

(iii) Foreign travel and subsistence amount of Kshs.1,171,220 includes payments totalling Kshs.370,000 paid to staff.

(iv) Training payments of Kshs.366,717,384 include transfer of Kshs.16,708,187 described as transfer of revenue funds to Horn of Africa Gateway Development Project deposit account whose justification was not provided.

(v) Insurance costs of Kshs.3,389,760 include unrelated expenditure described as supply of blockboards amounting to Kshs.928,800 and purchase of toners amounting to Kshs.2,460,960.

(vi) Specialized materials and services expenditure of Kshs.31,014,184 include Kshs.879,039 described as journal import whose supporting documents were not provided.

In the circumstances, the accuracy and completeness of the use of goods and services expenditure of Kshs.672,594,265 could not be confirmed.

546. Unsupported Payments on Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets amount of Kshs.12,433,018,607 as disclosed in Note 11 to the financial statements. However, review of records revealed that the following payments did not relate to the expense items where they were accounted for and lacked supporting documents for justification.

(i) Construction of building expenditure of Kshs.186,311,102 includes an amount of Kshs.47,035,513 incurred on purchase of furniture, equipment, stationery and other items not related to this expenditure item.

(ii) Refurbishment of buildings expenditure of Kshs.91,021,541 include amounts totalling Kshs.56,640,147 described as journal import whose supporting documents were not provided for audit.

(iii) Construction of civil works includes an amount of Kshs.21,643,005 transferred to Kenya Wildlife Services which is a self-reporting entity. The amount should have been reflected as transfers to other government entities. Management did not explain the nature of the payment transfer or the service rendered by KWS. No contract and other supporting documents were provided for audit.

(iv) Purchase of specialized plant, equipment and machinery includes an amount of Kshs.8,000,000 described as journal import whose supporting documents were not provided.

(v) Rehabilitation and renovation of plant and machinery includes an amount of Kshs.10,000,000 described as journal import whose support documents were not provided for audit.

In the circumstances, the accuracy and completeness of acquisition of assets amount of Kshs.12,433,018,607 could not be confirmed.

547. Compensation of Employees-Payments Outside IPPD

The statement of receipts and payments and Note 7 to the financial statements reflects compensation of employees' amount of Kshs.1,154,471,942 which includes payment of salaries amounting to Kshs.10,099,678 which were paid outside IPPD system. Management did not justify the payment of salaries and allowances outside the payroll system.

In the circumstances, the validity of amounts paid outside the IPPD system of Kshs.10,099,678 could not be confirmed.

548. Inaccuracies in Outstanding Imprest Balance

The statement of financial position reflects outstanding imprests and advances balance of Kshs.3,855,969. However, a review of the bank reconciliation statements as at 30 June, 2022 indicates that payments totalling to Kshs.44,318,901 were made to staff on 30 June, 2022 but were not reflected as outstanding imprest as at the close of the year. In addition, payments made during the year for both development and recurrent cash books indicated imprests paid to officers totalling to Kshs.95,316,918 in respect of domestic travel and allowance. However, review of the imprest schedules revealed that the officers may have been in the field for more days than the work schedules could accommodate and exceeded the working days available in a year.

In the circumstances, the accuracy and completeness of the outstanding imprest balance of Kshs.3,855,969 could not be confirmed.

549. Unsupported Bank Balances

Note 12A to the financial statements reflects bank balance of Kshs.240,178,204. However, analysis of the three (3) bank reconciliation statements for recurrent, development and deposits balances for June, 2022 revealed receipts in cash book not recorded in the bank statement amounting to Kshs.19,273,304,637 described as PS SDINFRA whose nature and supporting documents were not provided.

In the circumstances, the accuracy of the bank balance of Kshs.240,178,204 could not be confirmed.

Other Matter

550. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.230,588,817,513 and Kshs.200,570,982,073 respectively resulting to an underfunding of Kshs.30,017,835,440 or 13% of the budget. Similarly, the State Department spent Kshs.200,561,818,766 against an approved budget of Kshs.230,588,817,513 resulting to an underexpenditure of Kshs.30,026,998,747 or 13% of the budget.

The underfunding and underexpenditure affected the planned activities of the State Department and impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

551. Failure to Surrender Temporary Imprest

Note 13 to the financial statements reflects imprests and advances balance of Kshs.3,855,969 which includes imprests issued on 5 January, 2022 to two officers totalling to Kshs.3,441,924. The imprest was due for surrender on 1 February, 2022 but had not been accounted for as at the time of the audit in November, 2022 contrary to Section 93 of the Public Finance Management Regulations, 2015.

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

552. Long Outstanding Deposits and Retentions

The statement of assets and liabilities and Note 14 to the financial statements reflects third party deposits and retentions balance of Kshs.233,616,998 with an opening balance of Kshs.208,979,604.

Information provided indicate that the opening balance of Kshs.208,979,602 includes balances totalling Kshs.180,000,000 that remained unclaimed after the transition period from direct implementation of contracts by the State Department to implementation of road contracts by road agencies between 2010 and 2015. It was not clear why these deposits had not been paid into the Consolidated Fund as required by Section 106 of the Public Finance Management Regulations, 2015 which states that unless otherwise exempted by an Act of Parliament, any deposit which has remained unclaimed for 5 years may, with the approval of the Cabinet Secretary, be paid into Consolidated Fund and thereafter the Accountant-General may refund the deposit to any person entitled thereto, if he or she is satisfied that the claim is authentic.

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

553. Earnings Below the Statutory Minimum

Review of the Integrated Payroll and Personnel Database (IPPD) for the State Department, revealed that some employees' net payments were below 1/3 of their basic salary. Analysis for the month of February, 2022 indicated that one hundred and eleven (111) officers received less than one third of their basic salaries. This was contrary to Section C.1 (3) of the Human Resource Policies and Procedures Manual for the Public Service, of May, 2016 which states that public officers shall not over-commit their salaries beyond two thirds (2/3) of their basic salaries.

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

554. Failure to Comply with the Approved Staff Establishment

Review of the human resource records indicated that the State Department had an approved establishment of two hundred and thirty-six (236) staff members across all cadres. However, the actual number of staff was six hundred and fifty-eight (658) leading to an over establishment of four hundred and twenty-four (424) staff. This is contrary to Section A.15 of the Human Resource Policies and Procedures Manual for Public Service, May 2016, which states that the functions of Ministerial Human Resource Management Advisory Committees (MHRMAC) entail making recommendations to the Authorized Officer regarding: - inter alia (viii) establishment and complement control.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

555. Audit Committee and Internal Audit

Review of records revealed that the Audit Committee of the State Department met only twice during the year contrary to Section 179(1) of the Public Finance Management (National Government) Regulations, 2015 which states that the audit committee shall meet at least once in every three months.

In the circumstances, the effectiveness of the audit committee and the internal audit function could not be confirmed.

DONOR FUNDED PROJECTS

EASTERN AFRICA REGIONAL TRANSPORT, TRADE AND DEVELOPMENT FACILITATION PROJECT CR NO. 5638-KE IDA

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

556. Unsupported Prior Year Adjustment

As disclosed under Note 8 to the financial statements, the statement of financial assets reflects prior year adjustments balance of Kshs.2,831,556 made up of adjustment for outstanding imprest receivables balance of Kshs.1,336,335 and retention accounts payables balance of Kshs.4,167,891. Management has however not supported the movement in these balances with relevant documentation. In addition, the prior year adjustment movement schedule on Note 8 of the financial statement shows an adjusted balance brought forward of Kshs.1,780,720 for accounts payables which was not reflected on the statement of financial assets.

In the circumstances, the accuracy of prior year adjustments balance of Kshs.2,831,556 as at 30 June, 2022 could not be confirmed.

557. Unsupported Expenditure

The statement of receipts and payments reflects expenditure totalling to Kshs.49,532,918 comprising of compensation of employees amounting to Kshs.6,137,438, training expenses of Kshs.9,645,480 and purchase of three (3) motor vehicles amounting to Kshs.33,750,000. However, there was no approved workplan and budget provided in support of this expenditure. Further, there was no evidence that the activities undertaken relate to the Project.

In the circumstances, the accuracy and validity of the expenditure totalling to Kshs.49,532,918 for the year ended 30 June, 2022 could not be confirmed.

Other Matter

558. Budgetary Control and Performance

The statement of comparison of budget and actual amounts indicates that the Project had budgeted to receive an amount of Kshs.150,000,000 during the year. The Project however received a total of Kshs.11,279,289 resulting in total underfunding of Kshs.138,720,711 or 92% of the budget. Similarly, the Project had budgeted to spend an amount of Kshs.150,000,000 but only spent Kshs.15,782,918 resulting in total under expenditure of Kshs.134,217,082.

In the circumstances, the underfunding and underexpenditure affected the planned activities and impacted negatively on service delivery to the public.

559. Undrawn Loan Balance

Article II (2.03) of the financing agreement provides for a charge rate payable by the recipient on unwithdrawn financing balance at 0.5% per annum. Further, review of the funding summary at paragraph 1.7 of the annual report indicates that the Project started in June, 2015 and is expected to end by 31 December, 2023. Donor commitment for the Project translates to Kshs.1,652,015,000. However, for the seven years the Project has been implemented, a total of Kshs.760,659,410 has been drawn from the donor commitment, leaving an undrawn balance of Kshs.891,355,590 for the remaining one-year period.

The absorption rate of funds is slow, an indication that the Project may not be completed within the one-year remaining period. Further, and as per Article II (2.03) of the financing agreement, the loan will continue to attract penalty on the undrawn balance.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

560. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

561. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

562. As required by International Development Association, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

EAST AFRICA SKILLS FOR TRANSFORMATION AND REGIONAL INTEGRATION PROJECT - IDA 6334-KE

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

563. Lack of Ownership Documents for Motorable Transport Equipment

Annex 2 to the financial statements in respect to summary of fixed assets register reflects an amount of Kshs.69,064,000 relating to five (5) motorable transport equipment. However, the ownership documents were not provided for audit.

In the circumstances, the ownership of the motorable transport equipment valued at Kshs.69,064,000 could not be confirmed.

Other Matter

564. Budgetary Control and Performance

The statement of comparative of budget and actual amounts reflects final receipts budgets of Kshs.420,000,000 and nil actual receipts on comparable basis resulting in underfunding to Kshs.420,000,000 or 100% of the budget. Similarly, the statement reflects final expenditure budget of Kshs.420,000,000 against actual expenditure on comparable basis amount of Kshs.137,623,274 resulting in an under expenditure of Kshs.283,376,726 or 67% of the budget.

The underfunding and under-expenditure may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

565. Project Implementation - Low Absorption Rate

Section 1.7 of the annual report and financial statements on funding summary indicates that the project duration is 6 years or 72 months from 2018 to 2024, with an approved budget of EUR9,280,000 equivalent to Kshs.1,086,168,320. As at 30 June, 2022, the project had received EUR1,802,658.68, equivalent to Kshs.196,822,567 or 18% of total budgeted funds, with lapsed project duration of 42 months equivalent to 58% of the total project duration, an indication that the project is behind schedule. Management has not demonstrated how the shortfall will be covered with the remaining timeline of thirty months.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

566. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA TRANSPORT SECTOR SUPPORT PROJECT (IDA CREDIT NO. 4926-KE AND NO. 5410-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

567. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

568. Project Closure Report

The Project information and overall performance for the year ended 30 June, 2022 indicates that the Project was started on 24 August, 2011 and was to end on 31 December, 2019. However, a project closure report had not been prepared and submitted for audit three years after the closure period of the project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

569. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

570. There were no material issues relating to effectiveness of internal controls, risk management and governance.

HORN OF AFRICA GATEWAY DEVELOPMENT PROJECT CREDIT NUMBER 6768-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

571. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

572. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual receipts on comparable basis of Kshs.155,000,000 and Kshs.117,251,593 respectively resulting in an underfunding of Kshs.37,748,407 or 24% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.155,000,000 and Kshs.119,947,614 respectively, resulting in an under expenditure of Kshs.35,052,386 or 23% of the budget.

The underfunding and under-performance affected the planned activities of the Project and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

573. Management of Imprest

As disclosed in Note 5 to the financial statements, the statement of financial assets reflects a balance of Kshs.3,441,923 in relation to outstanding imprest due from two officers that ought to have been surrendered by 28 April, 2022. However, the imprest remained outstanding as at the time of the audit in October, 2022 contrary to Regulation 93(5) of the Public Finance Management (National Government) Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station.

In the circustances, the Project Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

574. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

575. As required by International Development Association, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR INFRASTRUCTURE

SUPPORT TO ROADS SECTOR POLICY:10TH EDF RURAL ROADS REHABILITATION PROJECT IN KENYA (AGREEMENT NO.KE/FED/023/-571) - KENYA RURAL ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

576. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

577. Lack of HIV/AIDS Awareness by the Contractor

Project inspection carried out for Lot 5 on 14 October, 2022 revealed that the contractor did not carry out HIV/AIDS awareness as provided for by paragraph 25-50-001(a) of the tender documents. The contractor was required to take steps to make continuous awareness to the workers and the general public about HIV/AIDS via public displays at the project site and on the project vehicles. The contract had a provision of Kshs.720,000 in the Bill of Quantities to cater for the HIV/AIDS awareness.

The Contractor was therefore in breach of the requirements of paragraph 25-50-001(a) of the tender documents.

578. Construction of Kivandini-Kango-Kakalia-Kali Road (Lot 4)

Kenya Rural Roads Authority awarded tender for construction of 15.9 Kilometers of Kivandini-Kango-Kakalia-Kali Road in Machakos County to a contractor at a contract sum of Kshs.301,251,357. Project inspection carried out on 14 October, 2022 revealed that the drifts constructed along the road lacked demarcation points to indicate width and length of the drifts for the safety of the road users. Road markings were partially done for about 5Kms while road furniture were not done.

It was also noted that the entire stretch of the road lacked speed bumps around towns and steep sections of the road prompting locals to erect informal bumps thus risking the lives of the road users. At Ikiwe drift, a section which has experienced fatal accidents in the past, there was a protruded stone that the contractor did not uproot or carry out any specific works on it to avert future accidents. It was further noted that the contractor was not on site thus casting doubt on whether the remaining works would be completed.

In the circumstances, value for money spent in the Project could not be confirmed.

579. Construction of Katuaa-Kee-Nunguni Road (Lot 5)

Kenya Rural Roads Authority awarded tender for construction of 20.5 Kilometers of Katuaa-Kee-Nunguni road in Makueni County to a contractor at a contract sum of Kshs.362,001,255. Project inspection conducted on 13 October, 2022 revealed that only staggered sections of the road had been tarmacked to approximate ten (10) Kilometers. Road markings and furniture works had not been done on the tarmacked sections of the road. It was further noted that the contractor was not on-site casting doubt on the completion of the works before the scheduled Project closing date of 9 September, 2023.

In the circumstances, value for money spent in the Project could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

580. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

581. As required by the European Commission, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

NUNO-MODOGASHE ROAD PROJECT – KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

582. Presentation and Disclosure of the Financial Statements

The financial statements did not include other important project background information and key qualifications for the officials involved in the implementation of the project as required by the Annual Financial Reporting Template for projects (Revised 30 June, 2022). Further, prior year auditor recommendations were not appended to the financial statements under progress on follow-up of prior year auditor's recommendations as required by the Financial Reporting Template.

In the circumstances, the presentation of the financial statements did not comply with the Annual Financial Reporting Template for projects (Revised 30 June, 2022).

583. Cash and Cash Equivalents

The statement of financial assets reflects nil cash and cash equivalents balance. However, Management did not provide bank statements, bank balance certificate and board of survey certificate to support the balance.

In the circumstances, it was not possible to confirm the accuracy of the nil cash and cash equivalents balance.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

584. Outstanding Payment of Approved Land Compensation

Review of the contract agreement and a letter Ref. No. NLC/VAL1534/Vol. (15) dated 14 October, 2019 from the National Land Commission to the Management of Kenya National Highways Authority revealed that the Authority had approved payment of land compensation amounting to Kshs.147,594,798 to Project Affected Persons (PAPs). It was, however, noted that as at 30 June, 2022 a balance of Kshs.135,891,795 was

outstanding as disclosed under Other Important Disclosures at paragraph 12 of the annual reports. The Management did not provide plans put in place to settle the outstanding debt.

In the circumstances, the delay in payment of the compensation dues may lead to loss of public funds in case of litigations instituted by the Project Affected Persons.

585. Interest on Delayed Payments

Review of summarised payment certificates revealed that the Authority paid a contractor an amount of Kshs.604,563,073 as interest charged on delayed payments. Management did not provide reason for the late payment which resulted in payment of huge interest and thus leading to loss of public funds.

In the circumstances, the value for money amounting to Kshs.604,563,073 could not be confirmed.

586. Payment of Value Added Tax

Review of summarised payment certificates revealed that the Authority paid a contractor a cumulative amount of Kshs.7,362,473,084 for the certified works which included an amount of Kshs.918,294,823 charged as Value Added Tax (VAT) by the contractor for works which were not vatable. However, as at 30 June, 2022, the Authority had recovered Kshs.148,474,743 from the retentions account of the contractor leaving outstanding balance of Kshs.769,820,080. Management did not provide details of measures instituted to ensure full recovery of the outstanding balance.

In the circumstances, it was not possible to confirm value for money held by the contractor.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

587. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENOL-SAGANA-MARUA HIGHWAY IMPROVEMENT PROJECT (P-KE-DBO-037) CREDIT NOs.5050200000901 AND 2000200004504 – KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

588. Lack of a Project Bank Account

The statement of receipts and payment reflects transfer from Government entities amount of Kshs.2,168,858,374 and total payments controlled by the entity of Kshs.2,168,858,374. However, review of records revealed that the Project does not have a separate project

bank account with the Central Bank of Kenya as required by the law. Instead, Management utilises a local bank belonging to the Kenya National Highways Authority (KENHA). This makes it difficult to trace transactions (receipts and payments) that relate to the Project.

In the circumstances, the accuracy and completeness of the Project transactions could not be confirmed.

589. Non-Disclosure of Accounts Payable - Retention

The statement of financial assets reflects a nil payables-retentions balance and as disclosed in Note 11.5 to the financial statements. However, Note 12.2, Note 12.3 and Annex 5 to the financial statements indicate that during the year under review, the accounts payables - retentions account had an opening balance of Kshs.49,834,635 brought forward from financial year 2020/2021 and a closing balance of Kshs.424,826,921. No explanation was provided for the failure to disclose the accounts payables – retentions balance of Kshs.424,826,921 in the statement of financial assets. In the circumstances, the accuracy and completeness of the accounts payable - retentions Nil balance could not be confirmed.

Other Matter

590. Pending Bills

Note 12.1 of the financial statements reflects pending accounts payable totalling to Kshs.1,360,045,476, as disclosed in Annex 3 to the financial statements which comprises of Kshs.108,751,146 relating to road construction and Kshs.1,251,294,330 relating to acquisition of land. These bills were not paid during the year under review but were instead carried forward to the financial year 2022/2023.

Failure to clear pending bills in the year to which they relate distorts the budget of the following year as they constitute a first charge on that budget.

591. Lack of an Itemized Project Budget

The statement of comparison of budget and actual amounts reflects a final budgeted expenditure of Kshs.6,810,000,000 and actual expenditure of Kshs.8,277,234,749 comprising of purchase of goods and services expenditure of Kshs.33,463,606 and acquisition of non-financial assets expenditure of Kshs.8,277,234,749. However, Management did not provide an itemized budget showing the detailed budget items for which the expenditure was intended.

In the circumstances, the completeness of the budgeted expenditure amount of Kshs.6,810,000,000 could not be confirmed.

592. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.6,810,000,000 and Kshs.8,310,698,355 respectively resulting to an over-funding of Kshs.1,500,698,355 or 22% of the budget. Similarly, the Project spent Kshs.8,310,698,355 against an approved budget of

Kshs.6,810,000,000 resulting to an over-expenditure of Kshs.1,500,698,355 or 22% of the budget. Management has explained that the over-funding and over-expenditure was as a result of funds budgeted for in the prior year being received and expensed in the current financial year. However, it was not clear why the budgeted receipts and expenditure, although included in the previous year's budget, were not included in the financial year 2021/2022 budget.

In the circumstances, the over-funding and over-expenditure was not budgeted for and thus not supported by way of a budget as required by the Regulations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

593. Irregularities in Project Implementation

593.1 Lot 1-Dualling of Kenol-Sagana (A2) Road – 48 Km

A contract for the dualling of Kenol-Sagana (A2) road (48Km) was awarded to an international contractor at a contract sum of Kshs.8,496,537,833 on 05 August, 2020 vide contract No.KeNHA/CS/D/3023/2020 for a period of thirty-six (36) months. The commencement date of the contract was 07 October, 2020 with an expected completion date 06 October, 2023.

Review of the monthly progress report for October, 2022 revealed that the percentage of weighted overall work completed (physical progress) stood at 64%. Further, the amount works certified for the contract was Kshs.6,429,082,437 while the amount paid to date was Kshs.6,004,418,257 (or 71% of the contract sum).

Audit inspection exercise carried out in the month of November, 2022 revealed that although the unit designs and estimates for twenty-nine (29) No. motorcycle (bodaboda) sheds and five (5) No. modern market sheds were completed in November, 2021 and submitted to the Project Management and the locations for the market and bodaboda sheds identified, no works on the sheds had commenced.

Further, twenty-four (24) No. of access roads totalling to approximately 23.7 Km identified for construction and the contractor furnished with instructions for commencement of works on Mitiini-Santamore, Makuyu Girls and Ciumbu centre access roads had not commenced.

In addition, one (1) No.50 meters long foot bridge at Kenol centre (0+123 Km) had not been completed although the geotechnical survey had been completed and the setting out done. The detailed designs and the bills of quantities for the Sagana trauma centre had been completed but the works on the same were yet to commence.

593.2 Lot 2: Dualling of the Sagana-Marua (A2) Road Section - 36KM

The Government of Kenya awarded a contract for the dualling of Sagana-Marua (A2) road (36km) to an international contractor on 30 July, 2020 at total sum of Kshs.6,115,038,571 vide contract No. KeNHA/RD/D3022/2020 for a period of thirty-six (36) months. The

commencement date was 19 October, 2020 with an expected completion date being 18 October, 2023.

Review of the quarterly progress report for July to September, 2022 revealed the percentage of weighted overall work completed (physical progress) stood at 59% against the programmed or planned physical progress of 61%. Further, the works certified to date amounted to Kshs.4,196,928,957 while the amount paid was Kshs.3,991,067,773 (or 65% of the contract sum). In addition, the time elapsed was 23.36 months or 65% of the completion period.

Included in the Project scope was the construction of one (1) No. interchange at Marua, construction of two (2) No. roundabouts at Karatina, construction of market sheds, construction of access roads and the construction of motor-cycle (boda-boda) sheds. Physical inspection of the Project carried out in the month of November, 2022 revealed that the works had not commenced.

Further, it was noted that there was delayed acquisition of affected land and property on some sections of the road which resulted to the delayed relocation of affected water pipelines and power lines and delay in making payments to the contractor for some Interim Payment Certificates (IPCs) which has caused slow rate of progress of work.

In addition, there were insufficient aggregates especially for construction of Dense Bitumus Macadam (DBM) and Asphalt Concrete (AC) layers and frequent breakdowns of Asphalt Concrete mixing plant, with the most recent one having been from 01 September, 2022 to 27 September, 2022.

In the circumstances, the delay in implementation of the various project works may contribute to overall delay in the delivery of the Project by the two contractors.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

594. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

595. As required by African Development Bank (ADB), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

NAIROBI OUTER RING ROAD IMPROVEMENT PROJECT - KENYA URBAN ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

596. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

597. Failure to Settle Pending Accounts Payable

Annex 3a to the financial statements reflects Kshs.885,199,462 in respect of pending accounts payables. This was an increase of Kshs.469,659,124 from the balance of Kshs.415,540,338 reported in the previous year.

Clauses 14.7.1(b), 14.8.2 and14.8.3 of the Project contract between the Construction Company and Kenya Urban Roads Authority provides specific conditions regarding delayed payment to the contractor. Clause 14.8.1 states that the Contractor shall be entitled to receive financial charges compounded monthly on the amount unpaid during the period of delay. Clause 14.8.2 states that the charge as result of delayed payment shall be calculated at the annual rate of three percentage points above the discount of the central bank in the country of the currency of payment, or if not available, the interbank offered rate, and shall be paid in such currency. Clause 14.8.3 states that the Contractor shall be entitled to this payment without formal notice or certification, and without prejudice to any other right or remedy.

In the circumstances, the Project was at risk of incurring additional cost in form of interest and penalties for failure to settle the pending bills.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

598. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

599. As required by the Financing Agreement Loan No.2100150030144 and Grant No.2100155026117, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

UPGRADING OF KIBWEZI-MUTOMO-KITUI ROAD PROJECT - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

600. Unsupported Expenditure

The statement of receipts and payments and Note 4 to the financial statements reflects an expenditure of Kshs.46,932,465 on acquisition of non-financial assets made by third parties. However, no documentary evidence was provided for audit review to confirm the disbursement of these payments.

In the circumstances, it was not possible to confirm the accuracy, validity and completeness of the Kshs.46,932,465 incurred on acquisition of non-financial assets.

601. Interest on Delayed Payments

Annex 3 to the financial statements reflects pending bills totalling to Kshs.3,566,237,990. Review of interim payment certificates relating to the pending bills revealed that the Company which was awarded the contract charged interest on delayed payments amounting to Kshs.338,775,822.

The interest was levied on the Project after all the committed funds had been received and paid out. This was a cost which could have been avoided had Management made the payments as and when they were due considering that the Project had adequate funding at the time.

In the circumstances, the interest payable charged to the Project is an irregular charge to public funds.

602. Inaccuracy of the Financial Statements

The statement of receipts and payments reflects comparative receipts and payments controlled by the entity amount of Kshs.796,772,220 and Kshs.945,910,929 respectively resulting to a deficit of Kshs.149,138,709. Although Note 7 to the financial statements indicates that Kshs.149,138,709 was used to pay retention monies, it is not clear how the funds were obtained and disbursed.

In the circumstances, it was not possible to confirm the accuracy of the deficit of Kshs.149,138,709.

Other Matter

603. Delayed Payments to Persons Affected by the Project

Annex 3 to the financial statements reflects pending bills balance of Kshs.3,566,237,990 as at 30 June, 2022 which includes a balance of Kshs.1,643,235,886 for acquisition of land from Project Affected Persons (PAPs). Review of the project file revealed complaints by the PAPs and legal cases filed against the Authority due to delayed compensations, as detailed below;

i. A complaint by four (4) PAPs with regard to compensation for four (4) parcels of land at Kisasi/Mosa, which had been gazetted by the National Land Commission (NLC) on 28 August, 2020. It was not clear whether the funds for compensation were transferred to the NLC since the four (4) beneficiaries had not been compensated as at the end of the financial year.

ii. Compensation for compulsory acquisition of parcels of land from residents of Ikutha village in Kitui County. On 12 January, 2018, NLC through the Kenya Gazette Notice No. 177 of 2018 published its intention to acquire fifty (50) parcels of land in Ikutha/Mbitini. Through a letter to KeNHA, the residents complained about delayed payments which had not been paid by the end of 2020/2021 financial year.

iii. A local firm of advocates, acting on behalf of the residents, issued letter to KeNHA and NLC indicating that the parcels of land acquired were valued and awards given to individual proprietors, and that some awards were later revised downwards without any justification. According to the letter, the residents decided to pursue the matter through an advocate since they had not been compensated by the time of this audit.

iv. Five (5) PAPs were to be compensated for their parcels of land. However, due to delays in compensation, the five (5) PAPs issued a 14-days-notice of legal action against the Authority, if the compensation would not have been paid within the 14 days. However, there was no evidence of payment of the compensation, by the time of this audit.

v. Annex 3 on pending bills reflect an amount of Kshs.280,930,790 as compensation to PAPs to date. However, the schedule for beneficiaries was not provided for audit review, therefore it was not possible to confirm the validity of the payment.

In view of disputes between the Authority and PAPs, the Project risks losing funds through award of damages, penalties and interest, which are costs that can be avoided.

604. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis totalling to Kshs.490,000,000 and Kshs.90,650,930 respectively, resulting to an underfunding of Kshs.399,349,070 or 81% of the budget. Similarly, the Project spent Kshs.90,650,930 against an approved budget of Kshs.490,000,000, resulting to an under expenditure of Kshs.399,349,070 or 81% of the budget.

The underfunding and under performance may have affected the implementation of planned activities for the Project and this may have impacted negatively on service delivery to the public.

605. Pending Bills

Annex 3 to the financial statements reflects pending bills of Kshs.3,566,237,990 as at 30 June, 2022 which were not settled during the financial year 2021/2022 but were instead carried forward to 2022/2023 financial year. However, the project information

reflected under the funding summary showed that all the project committed funds by both the financier and Government of Kenya were fully received and paid out. Further, the pending bills of Kshs.3,566,237,990 includes an amount of Kshs.1,915,289,734 which relates to 2020/2021 and earlier years.

Failure to settle bills in the year to which they relate affects the budget for the subsequent year on which they form a first charge. This also affects the efficiency with which the project is implemented.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

606. Variation of Contract without an Approved Budget

Review of sources of funds for the Project revealed that the Bank and the Government of Kenya committed Kshs.15,644,154,921 and Kshs.3,435,361,592 respectively, for the Project. The funds were received and utilized towards the Project. Further review of records provided for audit revealed that the Authority amended the Project's commercial contract by increasing the contract sum payable to the Contractor from Kshs.18,404,888,139 to Kshs.21,545,912,343, an increment of Kshs.3,141,024,204. This amendment of the contract, which was done on 28 April, 2021, was based on an unsigned letter dated 23 April, 2021 from the Permanent Secretary, The National Treasury.

In the circumstances, it was not possible to confirm validity of the variation of the contract sum.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

607. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DUALLING OF MAGONGO ROAD (A109L): PHASE II (FIDIC EPC/TURNKEY BASED) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

608. Inaccurate Comparative Balances

The financial statements reflect a comparative Nil opening fund balance in the current financial year while the closing audited fund balance in the 2020/2021 financial year was Kshs.8,690,882.The movement in the balance has neither been explained nor reconciled.

609. Variance in Disclosed Retention

The interim payment certificate Number 8 issued on 1 July, 2021 and paid on 10 June, 2022 indicates the total retention amount to date as Kshs.93,015,748 while the financial statements reflects an amount of Kshs.72,999,502 resulting to an unreconciled variance of Kshs.20,016,246.

Other Matter

610. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.385,000,000 and Kshs. 95,930,985 respectively, resulting to an underfunding of Kshs.287,069,015 or 75%. Similarly, Kshs.95,930,985 was spent on the Project against an approved budget of Kshs.385,000,000, resulting to an under expenditure of Kshs.289,069,015 or 75%.

Further, review of records provided for audit revealed that the Project had a total approved budget and actual receipts of Kshs.2,697,004,754 and Kshs.1,356,927,820 for acquisition of land which was to be funded by the Government of Kenya resulting to underfunding of Kshs.1,340,076,934. This resulted in limited right of way due to land compensation challenges, which further resulted in delay of the Project completion and attracted prolongation cost claim of Kshs.2,851,043,577. In addition, it was not possible to confirm the completion of the Project within time and without cost overruns, against the initial cost of Kshs.1,100,042,519.

In the circumstances, the underfunding and under performance affected the implementation of planned activities, which may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

611. Failure to Budget for Pending Bills

Note 12 to the financial statements - other important disclosures and the corresponding analysis at Annex 3, reflects pending bills of Kshs.1,810,729,098. These pending bills are made up of consultancy services Kshs.17,715,072, civil works Kshs.447,385,527 and land compensation Kshs.1,356,927,820.

As reported in the previous years, Management liaised with The National Treasury to obtain adequate budgetary allocation to pay the pending bills. However, review of the approved budget for the year 2021 - 2022 revealed that Management did not budget for them, contrary to the provisions of Regulation 31(2) of the Public Finance Management (National Government) Regulations, 2015 which requires the Accounting Officer to budget for and obtain approval for all services which can be foreseen.

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

612. Delay in Completion of the Project

As previously reported, the Project commenced on 1 May, 2018 for a period of twenty-four (24) Months ending 1 May, 2020. The contractor was later granted extension with the expected completion date of 20 August, 2021. According to the project implementation briefs as at August, 2022 the works were still ongoing with an overall progress of approximately 86% and time covered of fifty-two (52) months or 131% of the projected time. However, there was no evidence of any further extension of the contract period. Further, according to the contractor's interim claim No.14 of 30 June, 2022 the delay attracted prolongation claim of Kshs.2,851,043,577, which is approximately 118% of the initial project contract sum of Kshs.2,420,327,630. The claim is yet to be evaluated by the Management who attribute the delay to inadequate budgetary allocation and disruption of the contractor's sequence of work arising from the long time taken by the National Land Commission to compensate the Project Affected Persons (PAPs).

In the circumstances, the underfunding and under performance affected the implementation of planned activities, which may have impacted negatively on service delivery to the public.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

613. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KAPCHORWA-SUAM-KITALE AND ELDORET BYPASS ROADS PROJECT (KENYA) ID NO.P-Z1-DBO-183 – KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

614. Inaccuracies in the Financial Statements

614.1 Transfers from Government Entities

The statement of receipts and payments reflects transfers from Government entities of Kshs.124,011,058 for the year ended 30 June, 2022. However, the statement of comparison of budget and actual amounts reflects an actual transfer from Government entities amount of Kshs.132,973,110 resulting to unexplained and unreconciled variance of Kshs.8,962,052.

In the circumstances, the accuracy of the transfer from Government entities amount of Kshs.124,011,058 could not be confirmed.

614.2 Understated Pending Bills

Note 12.1 to the financial statements reflects pending accounts payable balance of Kshs.536,860,151. The balance includes an amount of Kshs.495,142,419 for construction of civil works. However, Annex 3 to the financial statements is the summary of the fixed assets register. The correct annex to support the pending accounts payable should be Annex 2A to the financial statements.

Further, the status report at page ix of the annual report and financial statements indicates that total amount paid to the contractor under Lot 1 – construction of Eldoret town by-pass road project as at 30 June, 2022 is Kshs.4,340,201,240 against a certified amount of Kshs.4,928,574,206 resulting in pending accounts payable of Kshs.588,372,966. However, review of the analysis of the pending accounts payable provided revealed that pending bills for the Lot 1 contract as at 30 June, 2022 was Kshs.307,597,421 thereby resulting into unexplained variance of Kshs.280,775,545.

In addition, under Lot 2 – upgrading of Kitale-Endebess-Suam (C45), the contractor had been paid a total of Kshs.2,439,470,196 as at 30 June, 2022, against the certified amount of Kshs.1,988,265,262 resulting to pending bills of Kshs.451,204,933. However, review of the analysis of the pending accounts payable provided revealed that pending bills for the Lot 2 contract as at 30 June, 2022 was Kshs.263,659,940 thereby resulting to unexplained variance of Kshs.187,544,993.

This therefore means that the total pending bills amount as per the status report totalled to Kshs.468,320,538 which differs with the balance of pending bills indicated in Note 12.1 to the financial statements of Kshs.495,142,419 by an unexplained variance of Kshs.26,821,881.

In the circumstances, the accuracy and completeness of the pending accounts payable balance of Kshs.536,860,151 could not be confirmed.

614.3 Deficit for the Year

The statement of receipts and payments reflects a deficit for the year of Kshs.8,401,552 while the statement of financial assets indicates a nil deficit amount thereby resulting in an unexplained variance of Kshs.8,401,552 between the two statements.

In the circumstances, the accuracy of the financial statements could not be confirmed.

615. Failure to Maintain a Project Cash book and Account

The statement of receipts and payments indicates an amount of Kshs.124,011,058 received by the Project as transfer from Government entities through the parent Ministry (State Department for Infrastructure). However, the receipts to the Project could not be confirmed to the bank statements and the Project cash book since the Authority does not maintain a project specific bank account and cash book.

In the circumstances, the accuracy and completeness of the transfer from Government entities of Kshs.124,011,058 could not be confirmed.

616. Irregular Re-Allocation of Expenditure

The statement of receipts and payments reflects purchase of goods and services amount of Kshs.33,049,633 as disclosed in Note 3 to the financial statements, which includes a printing, advertising and information supplies amount of Kshs.31,261,083. However, review of the payment schedules provided revealed that the amount included expenditures of Kshs.13,641,672 and Kshs.15,687,361 all totalling Kshs.29,329,033 incurred on domestic travel and subsistence and consultancy respectively and had therefore irregularly been included and disclosed as printing, advertising and information supplies. Management did not provide any authority or approval to support the reallocation from the expenditure item to domestic travel and subsistence and consultancy expenditures.

In the circumstances, the regularity of the use of goods and services expenditure of Kshs.29,329,033 could not be confirmed.

617. Unsupported Bank Balance

Note 5A to the financial statements reflects retention balance held in a local bank of Kshs.3,576,201 as at 30 June, 2022. However, bank reconciliation statement and bank confirmation certificate were not provided for audit verification.

In the circumstances, the accuracy and completeness of retention bank balance of Kshs.3,576,201 could not be confirmed.

Other Matter

618. Pending Bills

Note 12.1 to the financial statements reflects pending accounts payable balance of Kshs.536,860,151 which includes Kshs.495,142,419 for construction of civil works and Kshs.41,717,732 for supply of services. The Note also indicates an opening balance of Kshs.883,093,393 under land compensation and a payment during the year under review of Kshs.883,093,393 and a nil closing balance. However, Management did not provide evidence to support the payment of Kshs.883,093,393. Further, the Project risks incurring additional cost in terms of interest due to non-adherence to the contractual terms and delay in payments.

Failure to clear pending bills in the year to which they relate distorts the budget of the following year as they constitute a first charge on that budget.

619. Lack of Project Detailed Budget

The statement of comparison of budget and actual amounts reflects approved expenditure budget of Kshs.2,835,000,000 and actual total expenditure of Kshs.2,089,417,912. However, Management did not provide an itemized budget showing the detailed budget items for which the expenditure was intended.

In the circumstances, it was not possible to conduct budget performance analysis on budgeted and actual expenditure.

620. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.2,835,000,000 and Kshs.2,081,016,360 respectively resulting to an underfunding of Kshs.753,983,640 or 27% of the budget. Similarly, the project spent Kshs.2,089,417,912 against an approved budget of Kshs.2,835,000,000 resulting to an underexpenditure of Kshs.745,582,088 or 26% of the budget.

The underfunding and underperformance affected the planned activities of the Project and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

621. Delayed Project Implementation - Lot 2: Upgrading of Kitale-Endebess-Suam(C45) Road Project

The contract for the upgrading of Kitale-Endebess-Suam Road was awarded to a contractor on 17 August, 2017 and the commencement date of the contract was 26 February, 2018 with an expected completion date of 25 February, 2021 hence the contract period was forty-eight (48) months. The contract sum was set at Kshs.4,474,991,403 and the amount certified for payment as at 30 June, 2022 was Kshs.2,783,819,290 and actual amount paid was Kshs.2,439,470,196.

Further, review of the June, 2022 progress report provided revealed that the weighted physical progress stood at 80% compared to 52 months or 108% of the contract period elapsed. This implies the contractor is working behind schedule hence the slow progress of the work. Similarly, Management did not provide evidence to confirm whether the contract period for this project has been extended to a further date given that the original contract period was expected to have lapsed on 25 August, 2022 which is an indicator that the contractor might be working without a valid contract.

In addition, review of records revealed that under project risks and constraints, it was indicated that there was slow relocation of utilities within the road corridors, which included delays in relocating sewer and water lines and Kenya Power and Lighting Company Limited electricity poles.

In the circumstances, the delay in the project completion may result in additional costs due to cost escalation as a result of inflationary pressures.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

622. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

623. As required by African Development Fund (ADF) and African Development Bank (AfDB), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

MOMBASA PORT AREA ROAD DEVELOPMENT PROJECT - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

624. Inaccuracy in the Financial Statements

The statement of receipts and payments reflects surplus for the year of Kshs.38,890,330. However, the statement of financial assets reflects a nil fund balance as the surplus has not been recognized as part of the fund balance.

In the circumstances, the accuracy of the financial statements could not be confirmed.

625. Lack of Project Bank Account and Cash book

The statement of receipts and payments relects transfer from Government entities through the parent Ministry of Kshs.158,571,686 which was partly paid out in the year under review. The receipts could however not be confirmed since the Authority did not maintain separate bank account and cash book for the project.

In the circumstances, the accuracy and completeness of the transfer from other Government entities of Kshs.158,571,686 could not be confirmed.

626. Unsupported Expenditure on Purchase of Goods and Services

The statement of receipts and payments reflects purchase of goods and services expenditure of Kshs.12,692,977. As disclosed at Note 3 to the financial statements, the expenditure is mainly in respect to travel and subsistence allowance. However, this expenditure was not supported by a detailed and approved project work plan to confirm whether the activities undertaken were part of the work plan for the year. In addition, the expenditure includes an amount of Kshs.2,343,000 that was paid to persons not employed by the Authority and was not supported by documentation to evidence receipt of the money by the recipients.

In the circumstances, the accuracy and validity of purchase of goods and services expenditure of Kshs.12,692,977 could not be confirmed.

627. Unsupported Expenditure on Acquisition of Non-Financial Assets

The statement of receipts and payments reflects acquisition of non-financial assets expenditure of Kshs.7,142,083,276. This expenditure includes expenditure on construction of roads totalling to Kshs.74,488,379 for which the supporting schedule provided did not have details of the payee and the reason for payment.

In the circumstances, the accuracy and validity of the expenditure totalling to Kshs.74,488,379 could not be confirmed.

628. Nugatory Expenditure

Annex 3 to the financial statements reflects a pending bills balance of Kshs.6,223,468,827 which includes Kshs.866,447,567 relating to interest charged, which arose from delayed payments.

The payment of interest as a result of delayed payments leads to loss of Government funds which could have been avoided.

629. Unsupported Bank Balance

Note 5A to the financial statements reflects cash and cash equivalents balance of Kshs.121,581,544 as at 30 June, 2022. However, since no separate cash book is maintained for the project, the supporting reconciliation statement provided for audit reflected a cash book balance of Kshs.183,962,682 as at 30 June, 2022 which made it difficult to isolate the correct balance for the Project.

In the circumstances, it was not possible to confirm the accuracy of cash and cash equivalents balance of Kshs.121,581,544 as 30 June, 2022.

630. Unsupported Payables – Deposits and Retentions Balance

The statement of financial assets reflects payables - deposits and retentions balance of Kshs.121,581,544 as at 30 June, 2022. However, no supporting schedule indicating details of the contractors owed and the respective amounts retained was not provided to support the balance of Kshs.121,581,544.

In the circumstances, the accuracy of payables – deposits and retentions balance of Kshs.121,581,544 as at 30 June, 2022 could not be confirmed.

Other Matter

631. Delay in Project Completion

Review of progress reports for the contract's packages 2 and 3 revealed that as at 30 June, 2022, package 2 was at 56% completion against 57%-time lapse. Similarly, package 3 was at 93% completion against 138%-time lapse. The delay in completion was attributed to delays in land compensation with Kshs.3,640,011,232 out of the Kshs.6,223,468,827 as captured at Annex 3 to the financial statements on pending bills still outstanding.

In addition, the funding summary at section 1.7 of the annual report reflects an undrawn balance of Kshs.5,101,540,612 as at 30 June, 2022. Considering the outstanding pending bills of Kshs.6,223,468,827 as at 30 June, 2022, it is not clear how the remaining works especially for package 2 will be financed.

Delayed project implementation may lead to additional cost due to inflation and resultant interest payable to beneficiaries.

632. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual receipts on comparable basis of Kshs.9,736,000,000 and Kshs.7,193,666,583 respectively resulting in an underfunding of Kshs.2,542,333,417 or 26% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.9,736,000,000 and Kshs.7,154,776,253 respectively, resulting in an under expenditure of Kshs.2,581,223,747 or 27% of the budget.

The underfunding and under-performance affected the planned activities of the Project and may have impacted negatively on service delivery to the public.

633. Lack of Project Detailed Budget

The statement of comparison of budget and actual amounts reflects a final expenditure budget of Kshs.9,736,000,000. However, Management did not provide an itemized budget showing the detailed budget items for which the expenditure was intended.

It was therefore not clear how the budget figures in the statement of comparison of budget and actual amounts were arrived at.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

634. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

635. There were no material issues relating to effectiveness of internal controls, risk management and governance.

MOMBASA-NAIROBI-ADDIS ABABA ROAD CORRIDOR PROJECT PHASE II (MARSABIT-TURBI ROAD) ID NO. P-Z1-DB0-027 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

636. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

637. Pending Bills

As disclosed under Note 12.1 and Annex 3 to the financial statements, the project had outstanding pending bills balance of Kshs.62,165,683 as at 30 June, 2022. Review of the project's records indicate that no bills were settled during the year under review and the entire balance of Kshs.62,165,683 was brought forward from the previous year. The Project therefore runs the risk of incurring significant unquantified interest costs and penalties with the continued delay in settling invoiced bills.

638. Project Closure Report

The Project information at Section 1.2 of the annual report and financial statements reflects the project end date as 30 November, 2017. However, the project closure report was not provided for audit, being almost five (5) years after the expiry of the closure period.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

639. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

640. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

641. As required by African Development Fund (ADF), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

MOMBASA-NAIROBI-ADDIS ABABA ROAD CORRIDOR PROJECT PHASE III (TURBI-MOYALE) NO.P-ZI-DB0-095 LOAN NO.21001500255546 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

642. Unsupported Cash and Cash Equivalents Balance

The statement of financial assets and as disclosed in Note 5 to the financial statements reflects a bank balance of Kshs.50,627,902 for the retention bank account held at a local bank as at 30 June, 2022. However, bank reconciliation statements in support of this balance were not provided for audit. Further, the certificate of bank balance provided reflects a balance of Kshs.1,042,912,466 as at 30 June, 2022 which is the retention balance for all the projects under the Authority.

In the circumstances, the accuracy of cash and cash equivalents balance of Kshs.50,627,902 could not be confirmed.

Other Matter

643. Project Closure Report

The Project information in the financial statements provided for audit revealed that the project was to end on the 11 October, 2015. However, the project closure report was not provided for audit, being more than seven (7) years after the expiry of the closure period. In the circumstances, Management did not adhere to the Project closure procedures.

644. Pending Bills

Annex 3 to the financial statements reflects pending bills balance of Kshs.17,533,871. However, included in the balance is an amount of Kshs.16,819,558 which relates to a different project. Management has not provided explanation on why the bills have been included in this project. In addition, bills amounting to Kshs.714,313 has been outstanding since the financial year 2016 out of which an amount of Kshs.326,173 relates to interest and penalty incurred.

Failure to clear pending bills in the year to which they relate distorts the budget of the following year as they constitute a first charge on that budget and may result to interest and penalties charges.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

645. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

646. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

647. As required by the African Development Fund (ADF), I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

MOMBASA-MARIAKANI HIGHWAY PROJECT (LOT 1 - MOMBASA - KWA JOMVU) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

648. Lack of a Project Bank Account

The statement of receipts and payments and Note 1 to the financial statements reflect Kshs.100,000,000 in respect to transfers from other Government entities. However, as previously reported, the amount could not be confirmed as the Authority does not maintain a separate bank account for the Project. It was therefore, not clear how the Management determined the receipts attributable to the Project.

In the circumstances, the accuracy and validity of Kshs.100,000,000 in respect to receipts from other Government entities could not be confirmed.

649. Accuracy of the Financial Statements

The statement of financial assets reflects nil amounts under both fund balance brought forward and surplus for the year. However, the statement of receipts and payments reflects Kshs.710,824 and Kshs.15,743,968 as surplus for the year and cumulative surplus respectively which should have also been included in the statement of financial assets.

In the circumstances, the accuracy of the financial statements could not be confirmed.

650. Unsupported Cash and Cash Equivalents

The statement of financial assets and Note 5 to the financial statements reflect a balance of Kshs.15,743,968 for the Retention bank account held at a local bank as at 30 June, 2022. However, the bank reconciliation statement provided in support of this

balance reflects a balance as per the cash book of Kshs.183,962,682 as at the same date resulting in unexplained variance of Kshs.168,218,714.

In the circumstances, the accuracy of cash and cash equivalents balance of Kshs.15,743,968 could not be confirmed.

Other Matter

651. Lack of Project Detailed Budget

The statement of comparison of budget and actual amounts reflects a final expenditure budget of Kshs.1,535,000,000. However, Management did not provide an itemized budget showing the detailed budget items for which the expenditure was intended.

It was therefore not clear how the budget amounts in the statement of comparison of budget and actual amounts were arrived at.

652. Delayed Project Completion

Kenya National Highways Authority entered into a 42 months contract for construction of Mombasa-Mariakani Project with Third Engineering Bureau of China in July, 2016 at a revised contract sum of Ksh.8,538,736,334. The works commenced on 4 February, 2017 with an initial contract period of 30 months and was later extended by 13 months to bring the revised completion date to 3 September, 2022. However, physical verification of the project site, which was carried out in November, 2022 after the lapse of revised completion date, revealed that works were still ongoing with overall progress approximated at 95.10% an indication that little progress was realized in the year under review. Further, there was no evidence that a contract extension period had been approved to warrant the contractor being on site.

In the circumstances, implementation of the Project was behind schedule which may lead to costs escalation and delayed realization of the expected benefits of the Project.

653. Lack of Site Access Due to Legal Disputes

Physical verification of the Project carried out in November, 2022 revealed that, works in a section of the road namely, Kwa - Jomvu interchange had stalled since the year 2016 due to two on-going Court cases. The first Court case No.157 of 2015 was filed by a local company which led to stoppage of construction of interchange reinforced earth wall, ramp, the main road and slip road while another Court case No.106 of 2015 was filed by another Investment Company which stopped demolition of walling structures encroaching on the road reserve.

In the circumstances, completion of road works in the affected sections is doubtful which undermines realization of benefits from the Project and could also lead to additional costs in form of claims by the contractor due to lack of access to the construction site.

654. Pending Bills

Note 12.1 to the financial statements reflects pending bills amounting to Kshs.448,259,325 as at 30 June, 2022 and as analysed in Annex 3 to the financial statements. Although Management has explained that it was liaising with the line Ministry

and The National Treasury to secure adequate budgetary allocation and exchequer releases to enable prompt payments of the pending bills, there is a risk of incurring additional significant costs in terms of interest and penalties due to continued delay in settlements of Project obligations.

Failure to clear pending bills in the year to which they relate distorts the budget of the following year as they constitute a first charge on that budget.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

655. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

656. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

657. As required by the African Development Fund, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

EPC/TURN KEY CONSTRUCTION OF FIVE FOOTBRIDGES AND T-MALL FLYOVER ON MOMBASA AND LANGATA ROAD (PROJECT LOAN CREDIT NO. KEN-01001-19 AND KEN-02001-19) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

658. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

659. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,510,000,000 and Kshs.953,936,126 respectively, resulting to an underfunding of Kshs.556,063,874 or 37%. Similarly,

Kshs.953,936,126 was spent on the Project against an approved budget of Kshs.1,510,000,000, resulting to an under expenditure of Kshs.556,063,874 or 37%.

The underfunding and under performance affected the implementation of planned activities, which may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

660. Failure to Prepare Separate Financial Statements for Each Project

Records provided for audit indicated that the Authority has two (2) Financing Agreements. One of the agreements was No. KEN-01001-19 dated 12 November, 2019 with donor funding commitment of EUR23,250,000 approximately Kshs.2,812,975,650 for the T-Mall Flyover project design, supply and installation of a steel flyover for vehicles in Nairobi. The other Financing Agreement was No. KEN-02001-19 dated 17 January, 2020 with donor funding commitment of EUR12,430,000 approximately Kshs.1,503,883,326, for works referred to as EPC/Turn Key Construction of Five-Foot Bridges along Mombasa and Lang'ata roads. However, the two projects described above were combined and accounted for in one set of financial statements, instead of accounting for each project in separate financial statements. This is contrary to the provisions of Regulation 77 of the Public Finance Management (National Government) Regulations, 2015 which requires the Accounting Officer for a project to maintain a record of all receipts, disbursements and actual expenditure on a monthly basis in respect of every project and sub-project for which he is accountable.

In the circumstances, it was not possible to confirm that the two financing agreements and related projects were accounted for in the manner and format provided for under Regulation 77 of the Public Finance Management (National Government) Regulations, 2015.

661. Lack of Separate Project Bank Accounts

Review of documents provided for audit revealed that Project No. KEN-01001-19 relating to construction of T-Mall Flyover for vehicles and Project No. KEN-02001-19 relating to construction of Five-Foot Bridges have no bank account in Central Bank of Kenya. This was contrary to the provisions of Regulation 76(1) of the Public Finance Management Regulations, 2015 which requires that such a bank account is opened and maintained in the Central Bank of Kenya (CBK), for the purpose of disbursement of project funds. According to the Regulation referred to above, such a bank account must be opened and maintained, unless the Project is exempted by the Cabinet Secretary in writing. In addition, according to the Regulation, all project funds shall be received, kept and transacted through this bank account, which shall bear the name of the project for which it is opened. Further, each project shall maintain only one bank account.

There was no written evidence, that the Project was exempted by the Cabinet Secretary from opening and operating a project bank account.

In the circumstances, Management is breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

662. There were no material issues relating to effectiveness of internal controls, risk management and governance.

IMPROVEMENT OF RURAL ROADS AND MARKET INFRASTRUCTURE IN WESTERN KENYA PROJECT CREDIT NO.BMZ 2007-65 123 (KFW) - KENYA RURAL ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

663. Unconfirmed Cash and Cash Equivalents

The statement of financial assets and as disclosed in Note 6 to the financial statements reflects bank balance of Kshs.131,730,504 as at 30 June, 2022, comprising of balances for nine (9) bank accounts and two (2) short term deposit accounts. However, fixed deposit certificate and bank balance certificate of Kshs.57,000,000 as at 30 June, 2022 were not provided for audit review.

In the circumstance, the accuracy and completeness of bank balance of Kshs.131,730,504 reflected in the statement of financial assets could not be confirmed.

664. Unsupported Accounts Payable

The statement of financial assets reflects accounts payable balance of Kshs.13,043,977 being a decrease of Kshs.9,375,092 from Kshs.22,419,069 as at 30 June, 2021. However, there were no ledgers to support the decreased amount of Kshs.9,375,092.

In the circumstances, the accuracy and completeness of accounts payable balance of Kshs.13,043,977 as at 30 June, 2022 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

665. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

666. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

667. As required by the Kreditanstalt Fur Wiederaufbau (KFW), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

KENYA - SOUTH SUDAN LINK ROAD PROJECT (REF. NO. 2020 62 065 AND BMZ NO.202083939) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

668. Lack of Project Bank Account and Cash book

The statement of receipts and payments reflects transfer from Government entities of Kshs.2,211,600 which was fully expensed in the year under review. However, the Authority did not maintain a separate Project bank account and cash book and as such none of the transactions could be confirmed.

In the circumstances, the accuracy and completeness of receipts from transfers from other Government entities of Kshs.2,211,600 could not be confirmed.

669. Unsupported Expenditure on Domestic Travel and Subsistence

As disclosed in Note 11.3 to the financial statements, the statement of receipts and payments reflects expenditure on domestic travel and subsistence amounting to Kshs.2,211,600. However, this expenditure was not supported with approved detailed workplan for the year under review. In the circumstances, the accuracy and validity of domestic and subsistence expenditure of Kshs.2,211,600 could not be confirmed.

Other Matter

670. Delay in Project Implementation

The project information at Note 1.2 to the financial statements indicates that the Project started in 2017 and is expected to end in 2025. According to the funding summary at Note 1.7, total donor and GOK commitments amount to Kshs.12,609,334,071 out of which Kshs.12,604,345,250 was to be received from KfW Frankfurt am Main ("KfW"). However,

as at 30 June, 2022, only Kshs.82,487,630 had been drawn despite the Project having been in existence for over five years.

Further, review of project information and overall performance indicated that construction work on rehabilitation/upgrading of the seventy-five (75) kilometers road had not started and only the road design and prequalification of bidders had been done.

In the circumstances, the Project is at risk of not being implemented as scheduled due to continued delay in the draw down and in view of Section 3.2 of the Loan Agreement which gives right to the financier to decline disbursements after 31 December, 2021.

671. Pending Bills

Note 12.1 to the financial statements and Annex 3 to the financial statements reflect pending accounts payable balance of Kshs.6,024,205 as at 30 June, 2022. Review of the financial statements indicate that the entire pending bills balance was contracted during the year under review. The Project therefore runs the risk of incurring significant unquantified interest costs and penalties with the continued delay in settling invoiced bills.

Failure to clear pending bills in the year to which they relate distorts the budget of the following year as they constitute a first charge on that budget.

672. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.574,000,000 and Kshs.59,590,874 respectively resulting in an underfunding of Kshs.514,409,126 or 90% of the budget. Similarly, the Project spent Kshs.59,590,874 against an approved budget of Kshs.574,000,000 resulting to an underexpenditure of Kshs.514,409,126 or 90% of the budget.

The underfunding and under expenditure affected the planned activities of the Project and impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

673. Unapproved Variation of Contract Period and Amount

The Management awarded an international contractor for consultancy services for design, finalization of safeguard documents, procurement support, construction supervision and contract administration of the Kenya – South Sudan Road Link (Kitale-Morpus Road) at a total sum of approximately Kshs.562,962,721 (Euro 4,404,560 - exchange rate of Kshs.125 plus Kshs.12,392,721) on 15 October, 2019. This was vide contract No. KENHA/1871/2018 with the original expected completion date of 9 July, 2025.

Review of Addendum No.1 dated 30 July, 2021 on the contract revealed that the original contract sum was varied from Kshs.562,962,721 (Euro 4,404,560 plus Kshs.12,392,721) to Kshs.617,399,617 (Euro 4,786,485 - exchange rate of Kshs.125 plus Kshs.19,088,992)

thus resulting in a variation of Kshs.54,436,896 (Euro 381,925 - exchange rate of Kshs.125 and Kshs.6,696,271) or 10%. Further, the contract expected completion date was also extended by twelve (12) months from 09 July, 2025 to 09 July, 2026.

However, Management did not provide evidence of the approval of the contract period and amount variation by the Authority and the donor (KfW, Frankfurt am Main).

This is contrary to Section 139(1) of the Public Procurement and Asset Disposal Act, 2015 which states that an amendment or a variation to a contract resulting from a procurement proceeding is effective only if - the variation or amendment has been approved in writing by the respective tender awarding authority within a procuring entity; and any contract variations or amendments for goods, works and services shall be as prescribed.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

674. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

675. As required by KfW Frankfurt am Main ("KfW"), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

TIMBOROA-ELDORET ROAD REHABILITATION PROJECT NO. P-KE-DBO-019 (LOAN NO. 2100150023344) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Disclaimer of Opinion

676. Presentation of the Financial Statements

The financial statements did not contain the following information as required in the Annual Financial Reporting Template, (Revised 30 June, 2022) for projects reporting issued by the Public Sector Accounting Standards Board:

i) Key qualifications for the officials involved in the implementation of the project;

ii) Physical progress based on outputs, outcomes, and impacts since project commencement;

iii) The absorption rate for each year since the commencement of the project;

iv) The implementation challenges and recommended way forward;

v) The heading for Annex 2 on page 18 of the financial statements is incorrectly indicated as Reconciliation of Inter-Entity Transfer instead of Summary of Fixed Assets.

In the circumstances, the financial statements are not compliant with the Annual Financial Reporting Framework prescribed by the Public Sector Accounting Standards Board.

677. Inaccuracies in the Financial Statements

The schedule on application of funds under project information and overall performance reflects amount received and cumulative amount paid as at 30 June, 2022 of Kshs.5,415,940,409 and Kshs.5,397,171,964 respectively. The audited financial statements for the year ended 30 June, 2021 reflects amount received and cumulative amount paid of Kshs.5,399,454,880 and Kshs.5,390,782,291 respectively. However, the statements of receipts and payments for the year ended 30 June, 2022 reflects nil amounts received as loan and transfer from Government entities. Similarly, the statement reflects nil expenditure balance for the year. The movement of Kshs.16,485,529 and in the amount received and the movement in the amount paid of Kshs.6,389,623 during the year ended 30 June, 2022 has not been explained or reconciled.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

678. Cash and Cash Equivalents

The statement of assets as disclosed in Note 7 to the financial statements reflects bank balance of Kshs.18,768,445 as at 30 June, 2022. However, the supporting documents including cash book, monthly bank reconciliation statements, bank statements and bank balance certificate as at 30 June, 2022 were not provided for audit review. Further, the Management did not give an explanation for the failure to surrender the unutilized funds to The National Treasury considering that the project ended in July, 2016.

In the circumstance, the accuracy of bank balance of Kshs.18,768,445 as at 30 June, 2022 could not be confirmed.

679. Unsupported Receipts

Note 3 to the financial statements reflects interest income of Kshs.790,172. However, supporting documents including bank statements, cash book and ledgers were not provided for audit.

In the circumstances, it was not possible to confirm the accuracy and completeness of a receipt balance of Kshs.790,172.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

680. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for my audit conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

681. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for my audit conclusion.

NAIROBI - THIKA HIGHWAY IMPROVEMENT PROJECT LOT I AND II (CREDIT NO.2100150015544) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

682. Unsupported and Misstated Bank Balances

The statement of financial assets reflects a bank balance of Kshs.11,333,783 which as disclosed in Note 5A to the financial statements includes a balance of Kshs.4,000,000 held in Central Bank of Kenya for which the bank balance confirmation certificate was not provided for audit. Further, the balance includes retention account bank balance of Kshs.7,333,783 for which the supporting bank reconciliation statement reflected a cash book balance of Kshs.183,962,682 resulting in an unreconciled variance of Kshs.176,628,899.

In the circumstances, the accuracy and completeness of the reported bank balance of Kshs.11,333,783 could not be confirmed.

683. Unsupported Pending Bills

Note 12 to the financial statements reflects a pending bills balance of Kshs.428,623,554 in respect of acquisition of land. However, detailed analysis of the pending bills including the names of the payees and the reasons for non-payment were not provided. Further, the entire balance of Kshs.428,623,554 was brought forward from the prior year and the Project's records indicated that no bill was settled during the financial year 2021/2022. In the circumstances, the accuracy of the reported pending accounts payable could not be confirmed. In addition, the Project runs the risk of incurring significant and unquantified interest costs and penalties associated with delays in settling the invoiced bills.

Other Matter

684. Project Closure Report

As provided under the Project Information and Overall Performance section of the Annual Report and Financial Statements, the Project was to end on 22 July, 2015. However, as previously reported, the Project Closure Report was not provided for audit, being more than seven (7) years after the lapse of the Project period.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

685. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

686. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

687. As required by the African Development Fund (ADF), I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

ROADS 2000 PHASE TWO PROJECT (AFD CREDIT NO. CKE 101201B, CREDIT NO. CKE 104601J AND CREDIT NO. CKE 109401 M) - KENYA RURAL ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

688. Un-supported Accounts Payable-Retention

The statement of financial assets reflects accounts payable balance of Kshs.61,085,161. However, Note 10 to the financial statements reflects accounts payable (retention/contractors owed) balance of Kshs.61,272,662 which differs with the balance of Kshs.61,085,161 by an unexplained variance of Kshs.187,501. Further, the movement from the brought forward accounts payable balance of Kshs.96,981,429 to the carried forward amount of Kshs.61,272,662 has not been supported or reconciled. In addition,

the current retentions have not been matched with the bills payments amounting to Kshs.136,651,094 as reflected at Note 6 to the financial statements.

In the circumstances, the existence and accuracy of the accounts payable balance of Kshs.61,085,161 could not be confirmed.

Other Matter

689. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.421,000,000 and Kshs.15,780,653 respectively resulting in an underfunding of Kshs.405,219,347 or 96% of the budget. Similarly, the Project expended Kshs.190,855,743 against an approved budget of Kshs.421,000,000 resulting to an underexpenditure of Kshs.230,144,257 or 55% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

690. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised. However, although the Management has indicated that all the prior year issues were resolved, no evidence has been provided to support this assertion.

In the circumstances, the matters remain un-resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

691. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

692. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

693. As required by the Agence Francaise De Development (AFD), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

MULTINATIONAL ARUSHA-HOLILI/TAVETA-VOI ROAD CORRIDOR DEVELOPMENT PROJECT PHASE I – LOAN NO.2100150028894 – KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

694. Unsupported Nil Cash and Bank Balances

The statement of financial assets reflects a nil bank balance as at 30 June, 2022. However, the cash and bank balances in respect of several projects were held in one account maintained by the Authority, which had a balance of Kshs.5,305,453,396 as at 30 June, 2022. However, the breakdown of cash book to show cash balances attributable to individual projects were not provided for audit review thus the nil balance held in the account could not be confirmed. In addition, there were no separate cash books maintained to record cash received for the project and payments against the project funds over the project implementation period. As a result, it was not possible to confirm total cash receipts and payments in respect of the Project.

In the circumstances, the accuracy and completeness of the nil bank and cash balances for the Project could not be confirmed.

695. Pending Bills

According to Note 12.1 to the financial statements on other important disclosures, the Project had pending bills amounting to Kshs.25,023,499 as at 30 June, 2022. Review of the pending bills listing and related documents revealed the following anomalies:

695.1 Long Outstanding Payables – Unbudgeted Pending Bills

The pending bills balance included Kshs.13,985,986 in respect of outstanding land compensation to various Project Affected Persons (PAPs). The amount ought to have been settled before the project commencement as per the conditions set out in the Loan Agreement. Further, pending bills amounting to Kshs.11,037,513 relating to consultancy services that were billed in 2018 were still outstanding as at the end of the year. Management explained that the non-payment of the bills was due to the lapse of the Financing Agreement prior to conclusion of all the Project components. Management's explanation for not making budgetary provision to cover the bills over the last four years was not justifiable.

In the circumstances, the Project is at risk of incurring significant interest costs and penalties due to the continued delay in payment.

695.2 Ineligible Pending Bills

The pending bills balance includes Kshs.7,343,038 which was due to Government institutions comprising Kenya Prisons and Deputy Commissioner - Taveta for land compensation under Project Affected Persons (PAPs). However, there was no record of

land acquired or structures moved or demolished in the parcels to pave way for the road construction and instead, a restitution was done.

In the circumstances, the accuracy and authenticity of the pending bills balance of Kshs.25,023,499 could not be confirmed.

Other Matter

696. Absorption of Project Funds

As disclosed under Note 1.2 of the Project information, the Project was earmarked to close on 31 December, 2019. However, Note 1.7 of funding summary indicates that the Donor had made commitment amounting to UA 75,000,000 which is equivalent to Kshs.10,660,050,000 as at 30 June, 2022. However, actual drawdowns during the project life amounted to UA 54,459,635 equivalent to Kshs.7,740,565,739 leaving out Kshs.2,919,484,261 undrawn. The credit thus lapsed without being fully utilized and the Project's planned deliverables earmarked for completion using the funding may not be realized.

In addition, Management did not provide the Project closure report for audit review, being more than three (3) years after the expiry of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

697. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

698. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

699. As required by financier and financing agreement, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

PORT REITZ/MOI INTERNATIONAL AIRPORT ACCESS (C110) ROAD (FIDIC EPC/TURNKEY BASED) PROJECT - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

700. Unsupported Cash and Cash Equivalents

The statement of financial assets reflects nil cash and cash equivalents balance. However, Management did not provide bank statements, bank balance certificate and board of survey certificate to support the balance.

In the circumstances, it was not possible to confirm the accuracy of the nil cash and cash equivalents balance.

Other Matter

701. Unbudgeted For and Unsupported Pending Bills

Note 12 to the financial statements reflects pending accounts payable balance of Kshs.822,548,139 as at 30 June, 2022. The balance is made up of previous year's pending accounts payable of Kshs.29,624,000 and additions of Kshs.792,924,139 during the year under review. However, Management did not provide documents to support the additions of Kshs.792,924,139. In addition, an accounts payable register was not maintained as required by The National Treasury Circular No.5/2020 of 25 February, 2020 which requires accounts payable balances in the financial statements to be supported with accounts payable register as per the format prescribed in the Circular.

Further, Management did not make a provision in the approved budget for settlement of the pending bills.

In the circumstances, the Project is at risk of incurring additional cost in form of interest and penalties for the failure to settle the pending bills.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

702. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

703. There were no material issues relating to effectiveness of internal controls, risk management and governance.

EAST AFRICA TRADE AND TRANSPORT FACILITATION PROJECT (IDA CREDIT NO.4148-KE) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

704. Inaccuracies in the Financial Statements

The statement of receipts and payments reflects a deficit of Kshs.9,826,146 for the year ended 30 June, 2022. However, the statement of financial assets reflects a surplus of Kshs.510,978 for the same period resulting in an unexplained difference of Kshs.10,337,124.

In the circumstances, the accuracy of the financial statements could not be confirmed.

705. Unsupported Cash and Cash Equivalents

The statement of financial assets and Note 8 to the financial statements reflects cash and cash equivalents balance of Kshs.33,149,666 which includes an unsupported retention account balance of Kshs.21,012,749.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.33,149,666 could not be confirmed.

Other Matter

706. Pending Bills

Note 12.1 and Annex 3 to the financial statements reflects pending accounts payable in respect of road contractors totalling to Kshs.43,964,093.

The project's total donor and counterpart funds commitment amounted to Kshs.4,712,287,134 as indicated in the statement of sources of funding. Further, as per the application of funds statement all the committed funds were received and paid out except for an amount of Kshs.33,149,666 which includes Kshs.21,012,749 relating to retention monies leaving a balance of Kshs.12,136,917 for settlement of pending bills. The reported pending bills balance of Kshs.43,964,093 is more than the cash balance of Kshs.12,136,917 available for settlement of pending bills.

Further, the origin of the pending bills was not explained since the project was fully funded.

In the circumstances, the Project therefore runs the risk of incurring significant unquantified interest costs and penalties with the continued delay in settling invoiced bills.

707. Project Closure Report

The Project information at Section 1.2 of the annual report and financial statements indicate that the project ended on 30 October, 2015. However, the project closure report

was not provided for audit, being almost seven (7) years after the expiry of the closure period.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

708. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

709. There were no material issues relating to effectiveness of internal controls, risk management and governance.

SIRARI CORRIDOR ACCESSIBILITY AND ROAD SAFETY IMPROVEMENT PROJECT: ISEBANIA-KISII-AHERO – (A1) ROAD REHABILITATION - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

710. Accuracy of Financial Statements

The statement of receipts and payments reflects an amount of Kshs.24,654,959 in respect of acquisition of non-financial assets payments controlled by the entity. However, there was no commensurate receipts to cover the payment and funding of these payments were explained as the Project appeared to only hold a retention account and no cash book was maintained for the Project.

In the circumstances, the accuracy of the financial statements as at 30 June, 2022 could not be confirmed.

711. Authenticity of Land Payments

Annex 3A to the financial statements reflects analysis of pending bills on land compensation balance of Kshs.537,676,282. However, the compensation schedule issued to the Kenya National Highways Authority (KENHA) by the National Land Commission (NLC) for payments was not supported with official search, land valuation reports and beneficiaries' identification criteria for the Project Affected Persons (PAPs).

In the circumstances, it was not possible to confirm the authenticity, propriety and accuracy of the pending bills of Kshs.537,676,282 reflected in the financial statements.

712. Unsupported Transfer from Government Entities

The statement of receipts and payments reflects transfer from Government entities of Kshs.2,328,376 as analyzed in Note 11.1 to the financial statements. However, no Exchequer notifications or any other support documentations were provided for audit review to confirm the completeness of the receipts.

In the circumstances, it was not possible to confirm the accuracy and completeness of the transfers from Government entities balance of Kshs.2,328,376, reflected in the financial statements.

713. Irregular Payment of Imprest and Air Tickets to Interns

The statement of receipts and payments and Note 4 to the financial statements reflects purchase of goods and services amount of Kshs.609,100, in respect of payment of per-diem which includes per-diem paid to three (3) interns amounting to Kshs.309,000. However, the policy guideline on the rates governing payment of per-diem to interns, was not provided for audit verification. In addition, examination of imprest surrender documents revealed that the interns travelled by air. However, no expenditure for air tickets was disclosed in the financial statements. Further, the approval for use of air transport, to confirm whether the interns qualified for use of air transport, was not provided for audit review.

In the circumstances, it was not possible to confirm the accuracy and validity of the use of goods and services expenditure of Kshs.609,100.

714. Irregularities in Acquisition of Non-Financial Assets

The statement of receipts and payments and Note 5 to the financial statements reflects acquisition of non-financial assets current year and cumulative amount of Kshs.1,917,603,641 and Kshs.20,052,965,638 respectively. Review of Project records revealed that three contractors issued suspension of work notices due to pending payments amounting to Kshs.2,048,366,971. An interview with the Project Engineer and physical verification in the month of November, 2022 revealed that the works had already been suspended. However, there was no evidence provided to confirm the dates when these works were suspended.

In addition, the financing agreement indicated that there were other components to the road construction. However, no contract agreements for these components were provided for audit review.

Further, Note 5 to the financial statements disclose purchase of equipment and machinery of Kshs.62,684,459. However, documents supporting the payments such as contract documents, payment vouchers, delivery notes, store receipt vouchers and store issue vouchers were not provided for audit review. In addition, there was no evidence provided to confirm that staff were trained on the use of the equipment.

Moreover, the contract that was implemented by an engineering company expired on 03 January, 2022. An application requesting for no objection was raised. However, no signed approval for this request was provided for audit review.

In the circumstances, ownership, existence, completeness, validity and value for money could not be confirmed.

715. Accounts Payable - Retention

The statement of financial assets and as disclosed in Note 7 to the financial statements reflects retention monies balance of Kshs.47,380,885. However, the Management did not maintain a deposit register in respect of the project. Further, retentions Kshs.443,798,918 reflected under Note 12(2) to the financial statements had no supporting analysis.

In the circumstances, it was not possible to confirm the accuracy and completeness of the retentions reflected in the financial statements.

716. Fund Balance Brought Forward

The statement of financial assets reflects a Fund balance brought forward of Kshs.27,771,750 which as disclosed in Note 8 to the financial statements has been described as bank accounts. The Management did not explain the purpose for these funds, which were held in a local bank account and not used in any way for a period of over three years. Holding the funds in the bank account may have resulted in avoidable bank charges, and denied the Project interest income which could have been earned had these funds been invested in interest earning financial instruments.

In addition, the fund balance brought and carried forward has remained the same and not taken into account the deficit for the period amounting to Kshs.22,935,683.

In the circumstances, the accuracy of the fund balance of Kshs.27,771,750 could not be confirmed.

Other Matter

717. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.3,100,000,000 and Kshs.1,895,277,058 respectively, resulting to an underfunding of Kshs.1,204,722,942 or 39%. Similarly, Kshs.1,918,212,741 was spent on the Project against an approved budget of Kshs.3,100,000,000, resulting to an under expenditure of Kshs.1,181,787,259 or 38%.

The underfunding and under performance affected the implementation of planned activities, which may have impacted negatively on service delivery to the public.

718. Payment of Pending Bills Not Forming First Charge

Note 12 to the financial statements reflects pending bills of Kshs.2,623,642,869 as at 30 June, 2022 which were not settled during the financial year 2021/2022 but were instead carried forward to 2022/2023. Included in this balance are pending bills of Kshs.1,781,929,830 which relates to 2020/2021 and earlier financial years. Further, interest charges on late payments was Kshs.79,280,825 and Kshs.68,080,610 for Interim Payment Certificate (IPC) 48 and IPC 31 respectively, totalling to Kshs.147,361,435 as at 30 June, 2022.

Management has committed to liaising with the line Ministry and The National Treasury for adequate budgetary allocation and timely Exchequer releases for prompt payment of the pending bills in the subsequent financial year.

The delays in the payment of pending bills may result in significant penalties and interest costs.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

719. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

720. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

721. As required by Africa Development Bank, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

MOMBASA-NAIROBI-ADDIS ABABA ROAD CORRIDOR DEVELOPMENT PROJECT: (ISIOLO/MERILLE/MOYALE ROAD)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

722. Unsupported Cash and Cash Equivalents Balance

As reported in the previous year, the statement of financial assets reflects Kshs.18,682,650 in respect of cash and cash equivalents held in one (1) commercial bank account which was not supported with bank statements confirming transfer of the funds from project bank account to the Kenya National Highways Authority (KeNHA) main account on 16 October, 2014 after completion of the Project.

Consequently, it has not been possible to confirm that the cash and cash equivalents balance of Kshs.18,682,650 as at 30 June, 2022 is fairly stated.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

723. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

724. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

725. As required by ADF and the Financing Agreement, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

NORTHERN CORRIDOR REHABILITATION PROGRAMME PHASE III - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

726. Unsupported Cash and Cash Equivalents

The statement of financial assets reflects nil cash and cash equivalents balance. However, Management did not provide bank statements, bank balance certificate and board of survey certificate to support the balance.

In the circumstances, it was not possible to confirm the accuracy of the nil cash and cash equivalents balance.

Other Matter

727. Budgetary Control and Performance

The statement of comparison of budget and actual amounts revealed that the project did not have any budgetary provisions for both revenue and expenditure despite the outstanding pending bills. Project Management did not explain why there was no provision in the budget to cater for the outstanding pending bills.

Failure to make provision for settlement of pending bills may expose the project to unnecessary costs and delay in closure of the projects.

728. Project Closure Report

As disclosed under paragraph 1.2 of Project Information and Overall Performance, the Project commenced on 26 November, 2010 with a closure date of 31 October, 2015. However, the Project closure report was not provided for audit review. Further, Management did not provide an explanation for the failure to close the project, seven (7) year after the closure date.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

729. Pending Bills

Note 12.1 to the financial statements reflects pending bills balance of Kshs.4,101,454 as at 30 June, 2022. Management attributed the non-payment to the failure by the consultant to pay withholding taxes and provide compliance certificates. However, there was no evidence to prove that the Management requested the consultant for the required information and whether adequate budgetary allocation was sought from The National Treasury for settlement of the bills in the subsequent financial year considering that the Project was expected to end on 13 August, 2015. This was contrary to The National Treasury Circular No.10/2020 of 16 June, 2020 which requires pending bills to be settled during the 1st Quarter of the subsequent year.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

730. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

As required by the Financing Agreement, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

KENYA TRANSPORT SECTOR SUPPORT PROJECT (CREDIT NO.4926 KE AND NO.5410 KE) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

731. Inaccuracies in the Financial Statements

The statement of receipts and payments reflects a deficit of Kshs.184,934,985. However, the statement of financial assets reflects a surplus for the year of Kshs.325,548 resulting in unexplained variance of Kshs.185,260,533.

In the circumstances, the accuracy of the financial statements could not be confirmed.

732. Comingling of Project Funds

The statement of financial assets and Note 7 to the financial statements reflects cash and cash equivalents balance of Kshs.769,681,605. However, two (2) bank confirmation certificates (2) attached in support of the cash and cash equivalents balance relate to the Authority's bank accounts holding balances totalling to Kshs.1,071,589,264. The relationship between the balances held in the Authority's bank accounts and the Project financial statements has not been explained. This situation amounts to comingling of projects funds.

In the circumstances, the accuracy of the cash and cash equivalents balance of Kshs.769,681,605 could not be confirmed.

Other Matter

733. Delay in Project Implementation

As previously reported, the financing agreement indicates that the Project lifespan was from 23 May, 2011 to 31 December, 2018. Paragraph 1.7 of the financial statements on funding summary reflects an approved budget of donor funds of Kshs.29,495,071,705, all of which had been received. In addition, paragraph 1.8 of the financial statements on summary of overall project performance revealed that, as at 30 June, 2022, actual payments totaled to Kshs.2,743,477,906 out of a budget of Kshs.3,312,559,529 or 83% performance. Further, four (4) road projects were not complete while three (3) projects had their contracts terminated.

In the circumstances, the delayed contract execution impacts negatively on the project costs and the attainment of the objectives of the Project.

734. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.3,312,559,529 and Kshs.2,558,542,921

respectively resulting to an underfunding of Kshs.754,016,608 or 23% of the budget. Similarly, the Project spent Kshs.2,743,477,906 against an approved budget of Kshs.3,312,559,529 resulting to an underexpenditure of Kshs.569,081,623 or 17% of the budget. Management did not provide an itemized budget showing the detailed budget items for which the expenditure was intended.

It was therefore not clear how the budget figures in the statement of comparison of budget and actual amounts were arrived at.

The underfunding and under expenditure affected the planned activities of the Project and impacted negatively on service delivery to the public.

735. Pending Bills

Note 12 and Annex 3 to the financial statements reflects pending bills amounting to Kshs.5,924,411,035 as at 30 June, 2022. Review of records revealed several issues as indicated below:

735.1 Unsupported Pending Bills

Included in the pending bills balance are pending payments in respect of supervision services amounting to Kshs.293,026,448 which include unexplained and unsupported negative movements of Kshs.29,227,892. Annex 3 to the financial statements reflects opening balance for supervision services of Kshs.282,934,200 while supporting documents reflect a balance of Kshs.293,026,448 upon taking into account the payments to date. The recomputed amount of the opening balance should have been Kshs.332,633,449 resulting to an unexplained variance of Kshs.49,699,249.

Further, included in the pending bills balance are pending payments of Kshs.876,649,634 due to a contractor arising from the determination of High Court ruling on a case of 2018. Annex 3 to the financial statements reflects an original amount of the pending bill as Kshs.1,276,649,634. However, the accounting records provided for audit indicated that the original balance payable for this bill was Kshs.1,291,376,941 resulting to an unexplained variance of Kshs.14,727,307.

In addition, Annex 3 to the financial statements reflects total original pending bills amount of Kshs.11,042,079,990 which includes an amount of Kshs.3,372,323,314 being the original amount payable to a contractor in respect to awards granted by the Dispute Resolution Board. However, review of records maintained by the legal department of the Authority revealed that the original amount payable to the contractor was Kshs.3,804,526,291 resulting in an un-explained difference of Kshs.432,202,977.

735.2 Unexplained Land Compensation Valuation Differences

Included in the pending bills is a balance of Kshs.823,379,197 in relation to land compensation which reduced by Kshs.345,387,044 from Kshs.1,168,766,241 in the 2020/2021 financial. Review of records provided revealed that the National Land Commission revalued an initial land compensation award to a brokerage firm from Kshs.596,221,387 to Kshs.148,217,710, vide a letter dated 5 January, 2022, thereby reducing the valuation by Kshs.448,003,677. However, this reduction differs with the year-

to-year movement reported in the financial statements of Kshs.345,387,044 by Kshs.102,616,633. Management did not provide an explanation for the difference. The project runs the risk of incurring significant and unquantified interest costs and penalties.

In the circumstances, the accuracy of the pending bills balance of Kshs.5,924,411,035 could not be confirmed.

735.3 Nugatory Expenditure

Included in the pending bills balance of Kshs.5,924,411,035 as disclosed under Annex 3 to the financial statements is Kshs.419,930,283 relating to interest charged, which arose from delayed payments.

The payment of interest on defrayment of delayed payments is a loss of public funds which could have been avoided.

736. Project Closure Report

Review of the financing agreement for the Project revealed that the Project was to end on 31 December, 2018. However, as previously reported, the Project closure report was not provided for audit review, being more than three and a half (3½) years since the Project closing date.

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

737. Irregular Purchase of Goods and Services

The statement of receipts and payments and Note 4 to the financial statements reflects purchase of goods and services balance of Kshs.16,989,450 relating to domestic travel and subsistence. However, a detailed work plan to confirm that the activities paid for related to the project was not provided for audit purposes.

In the circumstances, the validity of the expenditure could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

738. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

739. As required by International Development Association (IDA) and financing agreements, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the

purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

MERILLE – MARSABIT ROAD REHABILITATION PROJECT (KE/001/09) LOAN AGREEMENT NO. KE/FED/2009/021-655 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

740. Unsupported Cash and Bank Balances

The statement of financial assets reflects a Nil bank balance. However, the cash and bank balances in respect of the project was consolidated with other funds in one account maintained by the Authority for all projects, which had a balance of Kshs.5,305,453,396 as at 30 June, 2022. Therefore, cash balances attributable to individual projects held in the account could not be confirmed. In addition, there was no separate cash books maintained to record cash received for the project and payments against the project funds over the project implementation period. As a result, it was not possible to confirm total cash receipts, payments and cash balance in respect of the project.

In the circumstances, the accuracy of the Nil bank and cash balances for the Project could not be confirmed.

741. Pending Bills

The statement of receipts and payments reflects acquisition of non-financial assets of Kshs.200,000,000. Expenditure ledger indicated that payments totalling to Kshs.198,407,500 were paid to a contractor to settle pending bills in respect of civil works. However, the amount paid exceeded Kshs.141,566,761 disclosed as pending bills for the contractor in prior financial years 2019/2020 and 2020/2021. The variance of Kshs.56,840,239 between the amount paid in the year under review and the previously reported amount was not explained.

In addition, the reported pending bills as at 30 June, 2021 and as at 1 July, 2022 as per the certified financial statements amounted to Kshs.141,566,761 while the brought forward balance as on Note 12.1 of the financial statements was Kshs.292,165,074. However, Management did not provide documents in support of additional pending bills amounting to Kshs.150,598,313 and part of which was also paid for in the year under review.

In the circumstances, the accuracy and completeness of acquisition of non-financial assets expenditure of Kshs.200,000,000 could not be confirmed.

NAIROBI SOUTHERN BYPASS ROAD PROJECT – KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

746. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

747. Pending Bills

According to other important disclosures at Note 12.5 to the financial statements, the project had pending bills of Kshs.3,623,386,920. The project end date was 30 June, 2016 and the approved funding was Kshs.21,732,540,110 all of which had been received and spent as at 30 June, 2022. It was not clear how and when these pending bills would be paid, considering that all the budgeted funding for the project had been received and utilized in full, as at 30 June, 2022. As previously reported, the delayed payment of the pending bills amounted to breach of the Public Finance Management Act and Regulations as well as the loan covenants. Further, the delayed payment of the pending bills may result in significant penalties and interest.

Penalties and interest are costs which could have been avoided had Management paid the pending bills without delay.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

748. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

749. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

750. As required by Financier and Financing Agreement, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

742. Inconsistent Project Finance Information

The funding summary for the project during the year 2020/2021 reflected that the total funding commitment by the Donor and the Government of Kenya counterpart amounted to Kshs.14,542,488,241 out of which, an amount of Kshs.14,460,676,495 had been received leaving an outstanding balance of Kshs.63,811,750. However, during the year under review, the total reported donor commitment increased to Kshs.14,742,488,241 and the received amount increased to Kshs.14,510,078,182 resulting to an outstanding balance of Kshs.232,410,060. Management did not provide explanation or documentation to support the increased commitment by the Donor since the project closed on 26 May, 2017.

In addition, the increase in amounts received as per the funding summary was Kshs.49,401,690 compared to Kshs.200,000,000 reported on the statement of receipts and payments. However, no reconciliation or explanation has been provided for the difference in the two figures.

In the circumstances, the accuracy of information reported in the financial statements could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

743. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

744. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

745. As required by financier and financing agreement, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

NAIROBI - THIKA HIGHWAY IMPROVEMENT PROJECT LOT 3 GOVERNMENT CONCESSIONAL LOAN AGREEMENT NO. (2009) 39 TOTAL NO. (290) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

751. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

752. Unsupported Pending Bills

Note 12.1 and Annex 3 to the financial statements reflects pending bills payable in respect of road contractors totalling to Kshs.674,721,327 which was contracted on 22 June, 2022. Management indicated that this relates to interest charged on delayed settlement of the final payment certificates due to low Government of Kenya (GoK) development budget ceilings. However, the final payment certificate on which this interest is based has not been provided for audit verification. Further, the donor commitment and GoK counterpart funding totalling to Kshs.9,469,797,897 was fully received and paid out for this project, which was completed and handed over to the GoK in 2014.

In the circumstances, the authenticity of pending bills amounting to Kshs.674,721,327 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

753. Unsupported Budget

The statement of comparison of budget and actual amounts reflects final budget of Kshs.247,500,000. However, the approved project work plans in support of the budget were not provided for audit verification. Further, the pending bills as at 30 June, 2021 and which was paid fully during the year amounted to Kshs.116,274,109 and the project was completed and handed over in 2014. Consequently, the justification of the budget could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

754. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

755. As required by Financier and Financing Agreement I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

NATIONAL URBAN TRANSPORT IMPROVEMENT PROJECT-IDA CREDIT NO.5140-KE - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

756. Inaccuracies in the Financial Statements

The statement of receipts and payments reflects a deficit for the year of Kshs.776,768,973. However, the statement of financial assets indicates a surplus balance of Kshs.130,396 resulting in an unexplained and unreconciled variance of Kshs.776,899,369. Further, the statement of receipts and payments reflects comparative surplus of Kshs.291,744,934 for the period ended 30 June, 2021 but the audited financial statements for 2020/2021 financial year reflected a surplus of Kshs.291,742,375 resulting in an unexplained variance of Kshs.2,559.

Further, Note 11 to the financial statements discloses opening deposits and retentions balance of Kshs.808,675,675 as at 1 July, 2020 and closing deposits and retentions balance of Kshs.31,776,307 as at 30 June, 2021 instead of 1 July, 2021 and 30 June, 2022 respectively.

In addition, the summary of fixed assets at Annex 4 to the financial statements reflects closing fixed assets cost balance of Kshs.23,631,953,730. However, re-computation of the balance reflects an amount Kshs.26,747,030,989 resulting in unexplained difference of Kshs.3,115,077,259.

Note 12.1 on pending accounts payable reflects an opening balance of Kshs.200,095 under supply of services. However, the previous year's audited financial statements reflect a nil closing balance for the same item.

In the circumstances, the accuracy of the financial statements could not be confirmed.

757. Transfer from Government Entities

The statement of receipts and payments relects transfer from Government entities through the parent Ministry of Kshs.2,338,177,890 which was fully expensed in the year under review. The receipts could however not be confirmed since the Authority did not maintain separate bank account and cash book for the Project.

In the circumstances, the accuracy and completeness of the transfer from Government entities amount of Kshs.2,338,177,890 could not be confirmed.

758. Unsupported Bank Balance

The statement of financial assets reflects a bank balance of Kshs.39,888,522 as at 30 June, 2022. Included in this balance is an amount of Kshs.31,776,307 held at a local bank for which no cash book, bank reconciliation and bank confirmation certificate were provided for audit verification. Further, the bank balance includes Kshs.8,112,215 for another bank account for which the bank confirmation certificate was not provided for verification.

In the circumstances, the accuracy and completeness of bank balance of Kshs.39,888,522 could not be confirmed.

759. Unsupported Retentions

The statement of financial assets and Note 10 to the financial statements reflect retention balance of Kshs.31,776,307 as at 30 June, 2022. However, the balance was not supported by a schedule showing the payees and the retention balance due to each of the payees. Further review of the retention movement during the year indicates that a retention amount of Kshs.867,686,035 was released to a contractor. It is however not clear why this balance was released to the contractor before completion of the works.

In the circumstances, the accuracy and regularity of the payment of Kshs.867,686,035 could not be confirmed.

Other Matter

760. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final expenditure budget of Kshs.2,629,312,384. However, Management did not provide an itemized budget showing the detailed budget items for which the expenditure was intended. Further, the statement reflects a final expenditure budget of Kshs.2,629,312,384 against actual expenditure of Kshs.3,115,107,452 resulting to an overexpenditure of Kshs.485,795,068 for which no authority was provided for audit.

In the circumstances, the budget from which the Project's expenditure was incurred could not be confirmed.

761. Pending Bills

Note 12.1 and Annex 3 to the financial statements reflects pending accounts payables totalling Kshs.5,834,320,191 which comprises of Kshs.3,295,473,099 for construction of civil works, Kshs.2,466,365,853 for land compensation and Kshs.72,481,239 for supply of services that remained unpaid as at 30 June, 2022. Although Management has committed to liaise with the line Ministry and The National Treasury for timely provision of sufficient budgetary allocations to pay the debts in the subsequent financial year, the

Project is at risk of incurring significant unquantified interest costs and penalties resulting from failure to pay invoiced bills when they fall due.

Failure to settle bills during the year in which they relate adversely affects the provisions of the subsequent year to which they have to be the first charge.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

762. Cancellation of Financing Agreement

The project was co-financed by the World Bank (IDA) 80% and the Government of Kenya (GoK) 20% up to 31st December, 2018. The financing agreement was however cancelled in December, 2018 and thus since January, 2019 the project became a 100% Government of Kenya funded project. The funding summary at Note 1.7 of the financial statements indicates that as at the time of cancellation, a total amount of Kshs.23,837,436,577 had been drawn with the International Development Agency (IDA) having contributed Kshs.3,127,882,038 or 16% out of the total donor commitment of Kshs.19,140,160,545. It is not clear the circumstances under which the Bank withdrew from the Project and how the financing agreement was terminated.

In the circumstances, the overall objectives of the Project may not be met therefore denying the public the expected benefits from the Project.

763. Delay in Project Completion

Management entered into a contract agreement dated 02 August, 2016 between Kenya National Highways Authority and a contractor for the rehabilitation and capacity enhancement of James Gichuru Junction - Rironi (A104) at a contract sum of Kshs.16,366,586,563 (inclusive of taxes) for a period of thirty-six (36) months plus twelve (12) months defects liability period.

Through addendum No. 3, the contract sum was varied by Kshs.4,048,208,434 or 24.7% to a new contract sum of Kshs.20,414,794,998 vide a revised bills of quantities arising from additional activities (Gitaru full cloverleaf interchange, reconstruction of major bridges instead of widening, Rironi bridge changed from 1 span to 2 span and introduction of retaining walls in line with urban road design philosophy). In addition, through addendum No.5 upon approval of extension of time request by the contractor, the contract end date was revised to November, 2023 inclusive of the defect liability period. By 30 June, 2022, the overall project progress was at 72% against a planned progress of 82.71% indicating that the project was behind schedule. Overall construction time that had elapsed was at 92.22% against an overall project progress of 72% indicating slow progress of implementation that may call for further extension of time.

Further, physical verification conducted in the month of September, 2022, revealed that no works were ongoing as the contractor had suspended work from March, 2022 citing lack of payments. The funding challenge was further evident by addendum No. 4, clause

14.9 of the contract that was effected to facilitate release of retention money to the contractor against a bank guarantee in a bid to release funds to the project.

Review of records revealed that as at 30 June, 2022, the National Urban Transport Improvement Project had accrued a total of Kshs.230,382,944 as interest due to delayed payment of interim payment certificate No.42 dated 23 May, 2022.

Delay in completion of the road project will lead to increase in avoidable costs of interest and penalties on delayed payments as well as deny the public the benefits that would have accrued from the completion of the project in time.

In the circumstances, value for money could not be established for the expenditure of Kshs.23,797,548,056 spent on the Project to date.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

764. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

765. As required by International Development Association (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

NORTHERN CORRIDOR TRANSPORT IMPROVEMENT PROJECT IDA CREDIT NO.3930-KE & No.4571-KE - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

766. Inaccuracies in the Financial Statements

The statement of receipts and payments reflects a deficit of Kshs.9,702,270 for the year ended 30 June, 2022. However, the statement of financial assets reflects a surplus of Kshs.2,496,331 for the same period resulting in unexplained difference of Kshs.12,198,601.

In the circumstances, the accuracy of the financial statements could not be confirmed.

767. Unsupported Bank Balances

The statement of financial assets reflects bank balance of Kshs.59,353,586 as at 30 June, 2022. However, and as previously reported, the opening balance of Kshs.69,055,856 was not supported with bank reconciliation statement and bank confirmation certificate.

In the circumstances, the accuracy of bank balance of Kshs.59,353,586 as at 30 June, 2022 could not be confirmed.

Other Matter

768. Unsupported Pending Bills

Note 12.1 and Annex 2 to the financial statements reflects pending accounts payable in respect of road contractors totalling Kshs.3,597,877,130 as at 30 June, 2022. Annex 2 of the financial statements shows that pending bills totalling Kshs.3,589,974,572 were contracted on 28 and 30 June, 2022 which was six and a half years after the project timelines. Further the financial statements for the year ended 30 June, 2021 did not disclose any pending bills at that point even though a pending bill of Kshs.7,902,558 is reflected as the opening balance as at 1 July, 2021. No documentation have been provided in support of the above pending bills. Review of the project's records indicate that no bill was settled during the year.

In the circumstances, the project runs the risk of incurring significant unquantified interest costs and penalties with the continued delay in settling invoiced bills.

769. Project Closure Report

The Project information at Section 1.2 of the annual report and financial statements reflects the project end date of 30 December, 2015. However, the project closure report was not provided for audit, being almost seven (7) years after the expiry of the closure period.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

770. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

771. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

772. As required by International Development Association, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

REGIONAL MOMBASA PORT ACCESS ROAD PROJECT (LOAN NO.27459, CREDIT NO.84010 AND GRANT NO.202061919) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

773. Unsupported Budget Amounts

The statement of comparison of budget and actual amounts reflects Kshs.17,000,000 and Kshs.603,870,000 as the budget for purchase of goods and services and acquisition of non-financial assets respectively. However, as previously reported, these two amounts could not be traced in the approved project budget under the budget line items of purchase of goods and services and acquisition of non-financial assets.

It was, therefore, not clear how the budget figures in the statement of comparison of budget and actual amounts for the Project were arrived at.

774. Ineligible Expenditure

The statement of receipts and payments reflects purchase of goods and services amount of Kshs.16,148,099, as disclosed in Note 4 to the financial statements, which includes Kshs.15,609,099 in respect to domestic travel and subsistence. Included under the domestic travel and subsistence expenditure are payments in respect to per diems for tracer studies and shooting of documentary of Kshs.700,696, collection and issue of awards of Kshs.7,236,609, shortlisting of applicants for vocational training of Kshs.361,200, Cabinet Secretary visit to Mombasa of Kshs.386,400 and AfDB Mission of Kshs.229,585 all totalling Kshs.8,914,490. However, Management did not explain how these expenditures are related to the project and why the amounts were charged yet the road construction had not started.

In the circumstances, the authenticity of domestic travel and subsistence expenditure of Kshs.15,609,099 could not be confirmed.

Other Matter

775. Delay in Project Implementation

As previously reported, Note 1.7 to the annual report and financial statements on funding reflects the Project implementation period as 41 months commencing August, 2017 to

December, 2020. The total Project commitment from Development Partners and counterpart funding from the Government of Kenya amount to Kshs.18,112,866,000. However, as at 30 June, 2022 only Kshs.480,201,992 (2.7%) had been drawn leaving a balance of Kshs.17,632,664,008 as undrawn balance.

In the circumstances, there is minimal progress in implementation of the Project, which increases the risk of the Project not realizing the envisaged objectives.

776. Pending Bills

Note 12.1 to the financial statements reflects pending accounts payable in respect to land compensation totalling Kshs.82,589,339 as at 30 June, 2022 out of which bills totalling to Kshs.15,090,600 were carried forward from the previous financial year. The Project, therefore, runs the risk of incurring significant unquantified interest costs and penalties with the continued delay in settling invoiced bills. Failure to settle bills during the year in which they relate adversely affects the provisions of the subsequent year to which they have to be the first charge.

777. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.620,870,000 and Kshs.16,148,099 respectively resulting to an underfunding of Kshs.604,721,901 or 97% of the budget. Similarly, the Project spent Kshs.16,148,099 against an approved budget of Kshs.604,721,901 resulting to an underexpenditure of Kshs.604,721,901 or 97% of the budget.

The underfunding and underperformance affected the planned activities of the Project and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

778. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

779. Non-Maintenance of Project Cash book

The Authority does not maintain a Project cash book which increases the risk of comingling of funds. It is, therefore, not clear how funds earmarked for specific projects are accounted for in the absence of a project cash book.

In the circumstances, the adequacy of controls over cash and bank could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

780. As required by KfW Frankfurt am Main ("KfW"), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

UPGRADING OF "GILGIL MACHINERY" ROAD PROJECT - KENYA RURAL ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

781. Unsupported Bank Balance

The statement of financial assets reflects a bank balance of Kshs.13,984,599 as at 30 June, 2022. Included in this balance is Kshs.11,549,100 being retention monies held at a local commercial bank. However, the bank reconciliation statement for June, 2022 provided for audit review includes a balance of Kshs.2,516,634,138 described as due to other projects. Although Management explained that the Project does not maintain its own retention account and that the bank account used for retention monies is a commingled account with deposits from other projects, the support for Kshs.2,516,634,138 was not provided for audit review.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.13,984,599 could not be confirmed.

Other Matter

782. Delay in the Disbursement of the Government Counterpart Funding

The statement of receipts and payments reflects a loan amount from the Arab Bank for Economic Development in Africa (BADEA) of Kshs.414,210,668 and Kshs.50,000,000 as counterpart funding from the Government of Kenya. The total cumulative counterpart funding from the Government of Kenya as at 30 June, 2022 stood at Kshs.137,500,000. This represents 34% of the total counterpart financing projection of Kshs.400,000,000. With the expected closing date of the project set at 30 July, 2024, it is doubtful that the counterpart financing balance of Kshs.262,500,000 or 66% will be disbursed to the project activities before closure date.

Failure to finance the project activities as planned may affect the operations of the Project resulting to delayed implementation and the likelihood of pending bills.

783. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.800,000,000 and Kshs.464,210,668 respectively resulting to an underfunding of Kshs.335,789,332 or 42% of the budgeted receipts.

Similarly, the Project spent Kshs.463,400,144 against an approved budget of Kshs.800,000,000 resulting to an underexpenditure of Kshs.336,599,856 or 42% of the budget.

The underfunding and underperformance affected the planned activities of the Project and may have impacted negatively on service delivery to the public.

784. Pending Bills

Note 12.1 and Annex 3 to the financial statements reflects pending bills totalling to Kshs.145,613,575 as at 30 June, 2022 which comprise of withholding tax due of Kshs.5,899,717 and balances due for various payment certificates of Kshs.139,713,858. Management has indicated that the non-payment of the pending bills is due to inadequate budgetary provision in the year under review.

Failure to settle bills during the year in which they relate adversely affects the provisions of the subsequent year to which they have to be the first charge.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis of Conclusion

785. Delayed Completion of the Road Project

The contract for upgrading to bitumen standard of Gilgil-Machinery Road, contract No. RWC369 was awarded on 6 February, 2019 and the contract agreement signed on 3 April, 2019 at a contract sum of Kshs.1,476,491,036 and for a contract period of 24 months. Further, the notice of commencement of the works was dated 4 April, 2019 setting the date of commencement to 4 May, 2019 and an initial date of completion of 4 May, 2021. However, due to delays in implementation of the contract, the employer awarded a 14-month extension of time to the contractor, with the revised date of completion set at 12 July, 2022.

Audit inspection carried out in the month of July, 2022 revealed that the road works were still in progress and the estimated overall achieved physical progress for permanent works was at 72% against a projected revised programme of 71% of the expected output. Review of the monthly progress report (MPR No. 39) for August, 2022 indicates that the contractor had applied for a further extension of time as a result of delay in payments of certified works, which is under evaluation.

The delayed implementation of the project works will affect service delivery to the users of the road in Nakuru and Nyandarua Counties.

786. Consultancy Services offered without a Valid Contract

The Project Management entered into a contract reference KeRRA/BADEA/001/16, with a Consultant on 18 January, 2018 for the design review and construction supervision of the Gilgil-Machinery Road project for a contract period of thirty-one (31) months (design

review – three (3) months and construction supervision – twenty-eight (28) months) at a contract sum of US Dollars 1,244,550 exclusive of VAT.

Review of the contract agreement revealed that the contract period for the consultancy had expired on 18 August, 2020 and the contract had not been renewed or extended. Although Management explained that approval for the extension of the consultancy contract was in progress, the approval had not been obtained as at 30 June, 2022 yet consultancies were still ongoing.

This is contrary to Section 139 (2) (a) of the Public Procurement and Asset Disposal Act, 2015. Further, Part III of the contract agreement for the consultancy services for design review and construction supervision with the consultant on special conditions of contract, paragraph 13.1 and 14.1 provides for the commencement of services and expiry of the contract.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

787. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NAIROBI WESTERN BYPASS - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

788. Unverifiable Land Compensation

The statement of receipts and payments, as disclosed in Note 4 to the financial statements reflects acquisition of land expenditure of Kshs.73,983,440 paid to the Commissioner of Lands to cater for land compensation. The payment was made on the strength of schedules attached to payment vouchers. However, no evidence of determination of acreage, boundaries, ownership and value was provided for audit verification. This is contrary to Section 119 of the Land Act, 2012 which provides that compensation shall be made only upon the exercise of due diligence which shall include verification of final survey and the determination of acreage, boundaries, ownership and value. Further, the three parcels of land whose corresponding compensation amounted to Kshs.3,342,490, did not disclose the intended beneficiaries of the payments which were done through the National Land Commission.

In the circumstances, accuracy and propriety of the payments made for land compensation amounting to Kshs.73,983,440 for the year ended 30 June, 2022 could not be confirmed.

789. Unsupported Receipts and Payments

The statement of receipts and payments reflects transfers from Government entities amounting to Kshs.74,973,580, as disclosed in Note 1 to the financial statements, all of which were received during quarter four (4). However, the Project Management did not provide supporting documents indicating the specific dates on which these receipts were received, but instead provided an exchequer confirmation of the entire amount issued to Kenya National Highways Authority (KeNHA) amounting to Kshs.58,719,787,682. This is contrary to Regulation 76 of the Public Finance Management (National Government) Regulations, 2015 which provides that for the purpose of disbursement of project funds, there shall be opened and maintained a project account for every project at Central Bank of Kenya, unless it is exempted by the Cabinet Secretary, in writing, into which all funds shall be kept and such an account shall be known by the name of the project for which it is opened and each project shall maintain only one bank account.

Further, the project cash book was not provided for audit which is contrary to the provisions of Regulation 77 of the Public Finance Management (National Government) Regulations, 2015 which requires that the Accounting Officer of a Project shall compile and maintain a record showing all receipts, disbursements and actual expenditure on a monthly basis in respect of every project and subproject.

In addition, the statement of receipts and payments reflects total receipts and payments of Kshs.5,214,281,167 which includes an amount of Kshs.5,139,307,587 received from external development partners paid directly to the contractors in respect of construction of roads for which no documentation was provided for audit review.

In the circumstances, it was not possible to confirm the accuracy of receipts as reported in the financial statements.

Other Matter

790. Unimplemented Road Interchanges and Service Lanes

Audit review of records provided for audit revealed that the road project commenced in April, 2019 and covers a distance of approximately 16.7Km. The project entailed construction of a dual carriage way, two (2) lanes on each direction measuring seven (7) meters wide. The information further indicated that there were six (6) interchanges to be implemented at six (6) shopping centers along the road, all of which are evidently not done. According to Variation of Contract Ref. KeNHA/RD/EPC/2074/2017, Addendum No.2, dated 14 January, 2022, the Management provided justification for lack of implementation for the interchanges referred to above, as detailed below:

i. Omission of the first interchange was informed by the necessity to contain the cost of the project within the contract sum, and the savings made would be channeled to cover the cost of additional 1.384m of reinforced earth retaining walls and part of the 725m additional gravity retaining walls along the alignment.

ii. Construction of the second interchange ramps and slip roads were to be limited to available space due to difficulty in acquisition of land and need to reduce the cost of the interchange.

iii. The tunnel initially proposed to connect two overpasses at the third interchange was omitted in order to avoid the cost of the project going over the budget and instead an additional crossing at the site was constructed, instead of one (1 No.) of crossing proposed at the preliminary design.

iv. In order to contain the cost of the project within the contract sum, the scope in fourth interchange was scaled down in the interim, so as to free financial resources to cater for additional works including box under-passes and other necessary enhancements. Considering that the land for the interchange was still not available, the construction works were to be done in stages, the first being an at-grade round about to cater for the current traffic.

v. The fifth junction, which was initially meant to be a simple underpass, was now to be completed as a diamond type interchange, due to the high cost of acquiring the land.

However, Management did not explain the circumstances under which the contracting for the project was done before acquiring and securing the rights of way for the construction project. Further, no explanation was provided detailing the circumstances under which the specifications of the project were changed with the aim of not exceeding the contract sum, considering that the contractor bid and won the tender for construction of the project at the contract sum of USD170,998,693.24, which included the cost of all the components which were removed from the scope.

In the circumstances, it was not possible to confirm that the full scope of the project was implemented as envisaged in the original design of the project. Further, it was not possible to confirm that the road was constructed to quality and cost effectiveness, resulting in value for money to the beneficiaries of the project.

791. Pending Bills

Note 12 to the financial statements reflects other important disclosures which includes pending bills totalling to Kshs.3,926,892,951 as at 30 June, 2022. The project end date was 30 June, 2022 and it was not clear how and when these pending bills would be paid. The delays in the payment of pending bills may result in significant penalties and interest costs.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

792. Corporate Social Responsibility Activities Outside the Affected Road Locality

The project environmental and sustainability report section indicate that the international Supplier has been involved in various Community Social Responsibility (CSR) activities geared towards providing residents with water kiosks, improvement of access roads and enhancing learning and playing environment in schools along the project. There was a

total of nine CSR activities carried out by the project which were undertaken outside the locality of the road.

However, correspondences and documents in support of initiation and public participation on the said CSR activities including quantity and amount spent on the activity have not been provided for audit verification. The activities were undertaken far from the locality in which the project was being implemented contrary to the environmental and sustainability reporting sub-paragraph 3.5 which indicate that the activities are geared towards benefiting the local residents.

In the circumstances, it was not possible to confirm the beneficial value of the CSR activities to the local residents.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

793. There were no material issues relating to effectiveness of internal controls, risk management and governance.

ARUSHA-NAMANGA-ATHI RIVER ROAD DEVELOPMENT PROJECT NO. P-Z1-DB0-040 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

794. Unconfirmed Transfer from Government Entities

The statement of receipts and payments reflects transfer from Government entities through the parent Ministry of Kshs.72,258,398 which was fully expensed in the year under review. The receipts could however not be confirmed as the Authority did not maintain a separate bank account and cash book for the Project.

In the circumstances, the accuracy and completeness of the transfer from other Government entities of Kshs.72,258,398 could not be confirmed.

Other Matter

795. Pending Bills

Note12 and Annex 3 to the financial statements reflect pending bills balance in respect of road construction of Kshs.83,344,955 as at 30 June, 2022. Review of the Project's records indicate that the entire balance of Kshs.83,344,955 was brought forward from the previous year. As previously reported, the Project therefore runs the risk of incurring significant interest costs and penalties with the continued delay in settling the bills.

Failure to settle bills during the year in which they relate adversely affects the provisions of the subsequent year to which they have to be first charged.

796. Project Closure Report

The Project information at Section 1.3 of the annual report and financial statements revealed that the project ended on 14 May, 2015. However, the project closure report was not provided for audit, being more than seven (7) years after the expiry of the closure period.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

797. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

798. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

799. As required by the African Development Fund (ADF), I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

EASTERN AFRICA REGIONAL TRANSPORT, TRADE AND DEVELOPMENT FACILITATION PROJECT (IDA CR-5638) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

800. Inaccuracies in the Financial Statements

The statement of financial assets reflects a fund balance brought forward of Kshs.200,585,306 which differs with the prior year audited carried forward balance of Kshs.181,737,287 resulting to an unreconciled and unexplained variance of Kshs.18,848,019. Further, the statement of receipts and payments reflects a deficit of Kshs.155,922,439 in the year under review while the statement of financial assets reflects a deficit of Kshs.22,367,577 resulting to an unreconciled variance of Kshs.133,554,862. In the circumstances, the accuracy and completeness of the financial statements for the year ended 30 June, 2022 could not be confirmed.

801. Unconfirmed Cash and Cash Equivalents Balance

The statement of financial assets and as disclosed in Note 6A to the financial statements reflects cash and cash equivalents balance of Kshs.311,210,876. Included in this balance is an amount of Kshs.178,217,730 held in a local bank account whose bank certificate reflects a closing balance of Kshs.25,634,574 as at 30 June, 2022 resulting to an unexplained and unreconciled variance of Kshs.152,583,156.

Further, the cash and cash equivalents balance includes an amount of Kshs.132,993,147 in respect of retention monies, similarly held in a local bank. However, the cash book, bank reconciliation statements and bank confirmation certificates in respect of the balance were not provided for audit review.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.311,210,876 as at 30 June, 2022 could not be confirmed.

802. Unreconciled Balances on Special Deposit Accounts

The Project's special account statement reflects USD 4,046,000 equivalent to Kshs.460,787,056, which was withdrawn from the special account and transferred to the project bank account during the year under review. However, the statement of receipts and payments reflects transfers from external development partner to the Project amounting to Kshs.460,356,451, resulting to an unexplained and unreconciled difference of Kshs.430,605.

In the absence of reconciliation of the variance of Kshs.430,605, it was not possible to confirm the accuracy of the balance of Kshs.460,356,451 reflected in the financial statements.

803. Presentation and Disclosure of the Financial Statements

Section 1.3 on page v of the financial statements reflects the Project overview which omitted information relating to achievements on strategic goals, current situation of what the Project was formed to intervene and the Project duration. In addition, Section 1.7 on page vii which relates to funding summary omitted information relating to the Project duration.

Further, the summary of overall Project performance section of the report includes incomplete information on the upgrading of Lodwar and the revised contract sum for the bid was not indicated. In addition, detailed information on upgrade of Lokichar - Loichamatak Lot 4, was not included in the summary of overall project performance.

In the circumstances, it was not possible to confirm that the financial statements were presented in the format prescribed by the Public Sector Accounting Standards Board.

Other Matter

804. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis totalling to Kshs.12,504,387,987 and Kshs.9,766,284,766 respectively, resulting to an underfunding of Kshs.2,738,103,221 or

22% of the budget. Similarly, the Project spent Kshs.9,922,207,205 against an approved budget of Kshs.12,504,387,987 resulting to an under expenditure of Kshs.2,582,180,782 or 21% of the budget.

The underfunding and under-performance may have affected implementation of the planned activities and this may have impacted negatively on service delivery to the public.

805. Pending Bills

Other important disclosures under paragraph 1 to the financial statements reflects pending bills totalling Kshs.453,148,451 as at 30 June, 2022 which were not settled during the financial year 2021/2022 but were instead carried forward to 2022/2023. The amount of Kshs.453,148,451 varies with recalculated amount of Kshs.452,413,937 by Kshs.734,514. Further, the pending bills in the year under review of Kshs.453,148,451 were not supported with respective schedule therefore could not be reconciled to the pending bills totalling to Kshs.1,540,700,413 in the financial year 2020/2021.

Failure to settle bills in the year to which they relate affects the budgetary provisions for the subsequent year to which they form a first charge, and also efficiency with which the Project is implemented.

806. Delay in Implementing Part of the Financing Agreement

Review of the Project information and overall performance revealed that one of the objectives of the Project was the provision of a One Stop Boarder Post (OSBP) between Kenya and Sudan to enhance business opportunities. However, audit review of documents provided revealed that an OSBP had not been constructed at Nadapal. No explanation was provided for not implementing the OSBP, considering that the Project Agreement lapses in 2023.

In the circumstances, the Project may not be completed within the scheduled project timelines.

807. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. However, the Management has not indicated how each of the issues raised in the previous year Auditor-General's report, was resolved, including the provision of information required under the prescribed reporting format.

Under the circumstances, it was not possible to confirm that the financial statements disclosed the implementation status of the prior year audit recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

808. Irregularities in Project Implementation

The statement of performance against the project's predetermined objectives reflects projects currently under execution under six (6) contracts. Review of records provided for audit revealed the following;

808.1 Lot 1: Upgrading of Lodwar - Lokitaung Junction Road (80Km)

The Management awarded the contract to an international contractor and an international consultant at a total sum of - Kshs.8,334,773,795 and Kshs.767,598,100 (Kshs.568,958,975 and Euro.1,589,113 - exchange rate Kshs.125) respectively. The commencement date was 15 August, 2017 for a period of thirty-six (36) months to 14 August, 2020, with defects liability period of 12 months. The works contract sum was varied from Kshs.8,334,773,795, with an increment of Kshs.2,126,856,197 or 26%, to Kshs.10,461,629,992. In addition, there was an extension of time to 31 January, 2022 representing 47.2% increase in contract period inclusive of defects notification period.

This contravened Section 139(4)(e) of the Public Procurement and Disposal Act, 2015, which provides that the cumulative value of all contract variations should not result in an increment of more than 25% of original contract price. Further, the contractor was paid the balance of 50% of his retention money against a retention guarantee, despite not having constructed a One Stop Boarder Post (OSBP) between Kenya and Sudan, which was part of the scope provided for under the Construction Agreement. The project was yet to be completed at the time of the audit.

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

808.2 Lot 2: Upgrading of Lokitaung Junction - Kalobeyei River Road (80Km)

The Project was awarded to an international construction corporation (works) and a local consultant at a contract sum of Kshs.8,454,759,874 and Kshs.854,625,389 (Kshs.629,802,599 and USD2,204,145 - exchange rate Kshs.102), respectively.

The Project, commenced on 1 August, 2017, for a period of thirty-six months ending on 31 July, 2020, with twelve-months defects liability period. The work's sum for this project was varied from the initial amount of Kshs.8,454,759,874 to Kshs.9,799,110,192, comprising an increment of Kshs.1,344,350,318 or 16% of the initial contract sum. However, no details were provided in relation to the additional scope of work.

In addition, Kshs.1,599,184 was drawn from the Project's Contingency Fund to compensate five (5) persons affected by the Project (PAPs). However, the compensation was for Lodwar - Lokitaung PAPs and not Lokitaung - Kalobeyei River PAPs. A list from the National Lands Commission in support of this payment was not provided for audit review and no explanation was given for the irregular payment.
Further an amount of Kshs.2,046,690 was incurred on compensation of six (6) new PAPs, who were already compensated. However, the Management did not explain how the PAPs were identified for the second payment and whether it was a case of double payment.

Again, there was modification of scope of consultancy services to include design and supervision of social economic infrastructure in Turkana and West Pokot whose variation was included in addendum No.2 to the consultancy contract. However, this addendum to the contract including the amount of variation and timeline was not provided for audit review.

In the circumstances, it was not possible to confirm the validity and value for money of the expenditure incurred on the project.

808.3 Lot 3: Upgrading of Kalobeiyei River - Nadapal/Nakodok Road Project

A contract for works was awarded to an international engineering group company limited at a contract sum of Kshs.7,865,031,057, which was later revised to Kshs.9,819,160,609. The contract for supervision was awarded to International Consultants in joint venture with another Consultant at a contract sum of Kshs.852,777,212 (Kshs.491,355,410 and USD 3,543,351 at the exchange rate of Kshs.102). The contract commenced on 11 July, 2017 for 36 months ending 10 July, 2020, with a defect liability period of 12 months. An extension of time was granted revising the completion date to 30 September, 2021. However, anomalies were observed in the implementation of the project, as detailed below;

i. The project was at 93% physical progress against 105% of time lapse. There was no evidence that the employer charged liquidated damages to the contractor even though the contractor had not discharged his contractual responsibility.

ii. No valid performance guarantee was provided by the contractor as provided for in the construction contract.

iii. The consultant provided his performance guarantee from an Insurance Company from India. It is not clear the circumstances under which Management exposed the Authority to this risk of having a guarantee which could not be authenticated.

iv. The contractor raised a claim of Kshs.77,988,334 as interest on delayed payment, which the Authority declined to honor and make payment.

v. The Project was revised from 88km to 77km, whereby the distance from Nadapal to Nakodok was truncated. However, there was no proportionate reduction of the contract sum, but on the contrary the contract sum increased from Kshs.7,865,031,057 to Kshs.9,819,160,608.

vi. A total of 141 Project Affected Persons were irregularly compensated at a cost of Kshs.50,895,710. However, this compensation was done by the contractor through instruction from the Authority, contrary to the normal process where the National Land Commission (NLC) is the entity mandated to carry out land compensation. It was not clear, and Management did not explain why the compensation was not carried out by the National Land Commission. No evidence was provided to show that the compensation was approved by NLC.

In view of the anomalies described above, it was not possible to confirm that value for money was realized in the implementation of the Project.

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

808.4 Lot 4: Upgrading of Lokichar - Loichangamatak (40Km)

The works contract for the upgrading of Lokichar - Loichangamatak (A1) road was awarded to an international construction engineering limited on 10 July, 2017 for a period of 30 months ending 9 January, 2020 and later revised to 9 April, 2021. The contract sum was Kshs.5,800,819,125.

The Management approved an irregular payment of Kshs.30,452,484 to be utilized by Resident Engineer to compensate the Project Affected Persons (PAPs), contrary to the normal process where the National Land Commission is the entity mandated to carry out land compensation. There was no documentation to demonstrate that the PAPs compensation was sanctioned by NLC.

In addition, according to the works contract the contractor was to provide seven (7) type II houses for accommodation of the engineer's senior staff, at a cost of Kshs.4,510,000 each. In August, 2020 the Authority instructed the contractor to add 2 more houses that were not provided for in the contract, to accommodate KeNHA staff members. Further, the Authority's staff members were issued with imprest to cater for accommodation and other expenses.

In view of the anomalies described above, it was not possible to confirm the validity of the above funds paid to the PAPs by the resident engineer and the expenditure of Kshs.9,188,000, comprising the cost of two (2) houses together with imprest issued for accommodation.

808.5 Lot 0: Upgrading of Loichangamatak - Lodwar (50km)

The Project was awarded to an international engineering company limited for works and Engineering Company Limited in Joint Venture for consultancy at a contract sum of Kshs.6,782,439,479 and Kshs.724,076,134 (Kshs.421,319,530 and USD 2,968,202 at the exchange rate of Kshs.102) respectively.

Documents provided for audit review revealed that the project was 99.8% complete while the progress reports for the project revealed that the project was at defect and liability period. However, the snag list was not provided for audit review.

Further, the financial statements reflect a donation of 20 trucks of sand material and gravel for renovation of the Governor's office. However, it was not clear the circumstances under which project funds were used to renovate the Governor's office considering that the County's budget has an allocation for such expenses and that Corporate Social Responsibility (CSR) activities are supposed to benefit the local community.

In the circumstances, it was not possible to confirm that value for money was realized in the implementation of the Project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

809. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

810. As required by International Development Association (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have not been kept by the Project and the Project's financial statements are not in agreement with the accounting records and returns.

MOMBASA GATE BRIDGE CONSTRUCTION PROJECT (I) LOAN AGREEMENT NO.KE-P34 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

811. Inaccuracy of the Cumulative Receipts

The statement of receipts and payments and Note 1 to the financial statements, reflects prior year receipts and payments made by third parties balance of Kshs.4,422,361. However, additional information indicates that the quarter three (3) receipts for the 2020/2021 financial year were understated by Kshs.31,500. No prior year adjustment to correct the understatement has been effected.

As a result, the accuracy of the cumulative amount of Kshs.12,246,513 on transfers from Government entities could not be confirmed.

812. Unsupported Transfer from Government Entities

The statement of receipts and payments and Note 1 to the financial statements indicate that transfers from Government entities amounting to Kshs.7,824,152 were made during the year under review.

However, the quarterly exchequer requisitions, exchequer receipts, cash book and bank statements confirming the receipts, were not provided for audit review.

As a result, the completeness and accuracy of receipts from other Government entities totalling to Kshs.7,824,152 could not be confirmed.

813. Failure to Open a Separate Bank Account for the Project

The statement of financial assets reflects a nil balance in respect of cash and cash equivalents. However, the certificate of bank balance reflects a balance of

Kshs.5,305,453,396 for all the projects under implementation by KeNHA. A breakdown of the Project's specific balance for Mombasa Gate Bridge Construction Project (I) included in the above amount was not provided. In addition, the cash book, board of survey report and bank reconciliation statement in respect of this project were not provided for audit review.

Further, a separate bank account for the Project was not maintained contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which requires that a bank account in the name of the project is opened and maintained in the Central Bank of Kenya, unless it is exempted by the Cabinet Secretary, in writing.

As a result, the accuracy and completeness of the cash and cash equivalents balance could not be confirmed.

814. Unsupported Payments on Goods and Services

The statement of receipts and payments reflect purchase of goods and services of Kshs.7,824,152 which relates to domestic travel and subsistence as disclosed in Note 3 to the financial statements. However, payment vouchers to support expenditure of Kshs.412,480 included in this amount were not provided for audit review.

In the circumstances, the propriety of the payments could not be confirmed.

815. Ineligible Expenditure

The statement of receipts and payments reflect purchase of goods and services of Kshs.7,824,152 which relates to domestic travel and subsistence as indicated in Note 3 to the financial statements. A review of records revealed that an amount of Kshs.1,834,850 related to activities of Mombasa Port Area Development Project (MPADP). No explanation was provided for charging this expenditure to the Project.

In the circumstances, the regularity of the expenditure could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

816. Delayed Commencement of Project

The Government of Kenya through the Cabinet Secretary for finance entered into a loan agreement with the Japan International Cooperation Agency (JICA) for construction of Mombasa Gate Bridge on 5 December, 2019. The project agreement states that the final disbursement under the loan agreement shall be made within the period from the effective date of the loan agreement to the same day and month nine (9) years after the effective date of the loan agreement. The Project is expected to be completed by June, 2027. However, at the time of audit some four years (4) later, the implementing agency (KeNHA) had only identified the project consultants through a contract signed on 31 August, 2021. The scope of the consultancy, was to assist on preparation of tender documents, construction supervision, facilitation of implementation of environmental and social

monitoring plan and transfer of technology. A payment of Kshs.938,218,013 was made on 18 March, 2022 being 15% of the contract sum. However, the consultant has not completed the draft detailed design documents and draft bidding documents covered under item 1 of the scope of consultancy services.

Delay in completion of Project milestones may delay completion of Project which may impact negatively on service delivery to the public.

817. Failure to Maintain an Imprest Register

Review of payments records revealed that Management issued out several imprests to project management staff. However, the imprest register was not maintained contrary to the provisions of Regulation 93(4) of Public Finance Management (National Government) Regulations, 2015 on issuance and surrender of imprests, which requires that before issuing temporary imprests the Accounting Officer shall ensure that the applicant has been recorded in the imprest register including the amount applied for.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

818. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

819. As required by Financier and Financing Agreement, I report based on my audit that, I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

BAGAMOYO-HOROHORO LUNGA LUNGA-MALINDI ROAD PROJECT (PHASE I) ID NO: PZI-DBO-129 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

820. Lack of Project Bank Account and Cash book

The statement of receipts and payments relects transfer from Government entities through the parent Ministry of Kshs.51,021,266 which was fully expensed in the year under review. The receipts could however not be confirmed since the Authority did not maintain separate bank accounts and cash books for Projects.

In the circumstances, the accuracy and completeness of the transfer from other Government entities of Kshs.51,021,266 could not be confirmed.

821. Purchase of Goods and Services

The statement of receipts and payments reflects payments totalling to Kshs.58,884,643 under purchase of goods and services. The following anomalies were noted.

821.1 Lack of Project Detailed Budget

The statement of comparison of budget and actual amounts reflects a final expenditure budget of Kshs.1,555,000,000 and actual expenditure of Kshs.1,410,098,820. The statement of receipts and payments indicated that the total expenditure of Kshs.1,410,098,820 comprised of Kshs.58,884,643 relating to purchase of goods and services and Kshs.1,351,214,177 relating to acquisition of non-financial assets. However, Management did not provide an itemized budget showing the detailed budget items for which the expenditure was intended.

821.2 Unsupported Expenditure

The statement of receipts and payments reflects purchase of goods and services expenditure of Kshs.58,884,643 which as disclosed at Note 3 to the financial statements, is mainly in respect to domestic travel and subsistence. However, the expenditure includes an amount of Kshs.51,021,266 which was not supported by a detailed and approved work plan for the financial year ended 30 June, 2022.

821.3 Irregular and Unjustified Payments

During the year under review, the project made payments totalling to Kshs.20,489,359 to the East Africa Community Secretariat being remittance for logistics resources for projects implemented within the East Africa Community. There was no explanation, justification or support to show how this cost was allocated to the Project and the amount was not supported by an approved work plan or budget.

Further, included in the payments of Kshs.20,489,359, is an amount of Kshs.13,946,712 relating to payments of arrears for the financial years 2016/2017, 2017/2018 and 2018/2019 which do not relate to the project since the project financing agreement was signed by the Government of Kenya and the Development Partner on 20 June, 2020. Management did not explain how the payments in arrears arose. Further, the amount paid was not disclosed in the project financial statements for the financial year 2020/2021 as pending bills.

821.4 Domestic Travel and Subsistence – Misclassification of Expenditure

Included under domestic travel and subsistence expenditure of Kshs.43,023,066 as disclosed at Note 3 to the financial statements, is an expenditure of Kshs.7,860,300 paid to a firm in respect of consultancy services for documentary shooting which was however misclassified under domestic travel and subsistence.

In the circumstances, the accuracy and validity of the purchase of goods and services amount of Kshs.58,884,643 could not be confirmed.

822. Accuracy of Accumulated Project Costs

The statement of receipts and payments reflects accumulated payments amounting to Kshs.78,634,198 in respect of purchase of goods and services. However, the amount includes payments amounting to Kshs.19,749,555 in respect of payments made in the financial year 2020/2021 yet the Project contract (Lot 2) was signed on 5 November, 2021.

In the circumstances, the accuracy of the accumulated payments in respect of purchase of goods and services could not be confirmed.

Other Matter

823. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual receipts on comparable basis of Kshs.1,555,000,000 and Kshs.1,410,098,820 respectively resulting in an underfunding of Kshs.144,901,180 or 9% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.1,555,000,000 and Kshs.1,410,098,820 respectively, resulting in an under expenditure of Kshs.144,901,180 or 9% of the budget.

The underfunding and under-performance affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

824. Slow Project Implementation-Lot 1

The contract agreement for Bagamoyo-Horohoro-Lunga Lunga-Malindi Road Project-Lot 1, was signed on 18 March, 2022 for a contract amount of Kshs.7,590,747,593. The contract period was forty-eight (48) months broken down into thirty-six (36) months for construction and twelve (12) months for defect notification period. Further, the loan agreement between the Republic of Kenya and the Africa Development Bank was signed on 10 June, 2020. According to Section 4.07 of the financing agreement, the closing date for the loan is 31 December, 2025.

Review of the project documentation revealed that as at 30 June, 2022, the Contractor had been paid advance payments/mobilization totalling to Kshs.585,332,008. However, and despite the advance payments made, the contractor had not been given commencement instructions to start work.

In the circumstances, the delay in the commencement of the works will adversely affect the completion of the project which will negatively affect service delivery to the public.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

825. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

826. As required by the African Development Bank and African Development Fund, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

MOMBASA SPECIAL ECONOMIC ZONE DEVELOPMENT PROJECT (I) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

827. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

828. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.150,000,000 and Kshs.73,973,910 respectively, resulting to an underfunding of Kshs.76,026,090 or 51%. Similarly, Kshs.73,973,910 was spent on the Project against an approved budget of Kshs.150,000,000, resulting to an under expenditure of Kshs.76,026,090 or 51%.

Further, the funding summary section of the annual report reflects the Project's approved budget of Kshs.33,887,315,590 which differs with the corresponding balance of Kshs.33,887,278,500, reflected under sources of funds section of the report, resulting to an unexplained variance of Kshs.37,090.

The underfunding and under performance affected the implementation of planned activities, which may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

829. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

830. There were no material issues relating to effectiveness of internal controls, risk management and governance.

HORN OF AFRICA GATEWAY DEVELOPMENT PROJECT LOAN NO.6768-KE - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

831. Inaccuracies in the Financial Statements

Review of the Project's financial statements revealed the following inaccuracies;

i. Paragraph 1.7 of the financial statements on funding summary reflects an approved budget of Euro 573,700,000 equivalent to Kshs.73,232,977,110. However, an amount Kshs.55,099,103 appearing in the same paragraph has not been identified to any of the funding sources mentioned. Further, Section A on source of funds reflects donor commitment (approved budget) as USD 573,700,000 thereby misstating the currency denomination for the Project and therefore implying that the donor commitment has been reflected in both Euros and US Dollars.

ii. Note 2 to the financial statements shows loan received from bilateral donors (IDA) of Euro 29,892,254 whereas paragraph 1.7 B of the financial statements on application of funds reflects amounts received to date (30 June, 2022) of USD 31,596,438. This therefore results to a lack of consistency in currency reporting.

iii. The statement of receipts and payments reflects miscellaneous receipts of Kshs.27,134,920. However, the ledger and support schedule provided reflect an amount of Kshs.27,724,596 resulting in an unexplained difference of Kshs.589,676.

iv. The statement of financial assets reflects a fund balance brought forward of Kshs.202,030,967. However, the audited financial statements for 2020/2021 reflected a balance of Kshs.180,875,330. The resultant difference of Kshs.21,155,637 has not been explained.

v. Note 8 to the financial statements on special deposit account disclosure reflects a total amount withdrawn from the special deposit account Kshs.69,044,470 while the statement of receipts and payments reflects receipts from external development partner of Kshs.905,096,500. The resultant variance of Kshs.836,052,030 has not been explained.

Further, review of the special account statement revealed that the special account had an opening balance of Euro 8,450,000, deposits of Euro 556,719, a withdrawal of Euro 7,000,000 (which was deposited in the Project account) and a closing balance of Euro 2,006,719. However, all these amounts have not been disclosed in Note 8 to the financial statements.

vi. Note 12 to the financial statements on other important disclosures reflects project information as paragraph 1 instead of paragraph 4.

vii. Annex 1 to the financial statements on variance explanations reflects Kshs.80,971,344, Kshs.2,761,868,804 and Kshs.27,724,596 as actual receipts under transfers from Government entities, transfer from external development partner and miscellaneous receipts respectively. However, the statement of receipts and payments reflects Kshs.83,724,201, Kshs.3,226,868,804 and Kshs.27,134,920 as actual receipts under transfers from Government entities, transfer from external development partner and miscellaneous receipts respectively. The resultant differences of Kshs.2,752,857, Kshs.465,000,000 and Kshs.589,676 respectively have not been explained.

Further, the annex reflects Kshs.108,181,235, Kshs. nil, and Kshs.2,821,048,211 as actual payments under purchase of goods and services, research studies and design and miscellaneous charges respectively. However, the statement of receipts and payments reflects Kshs.110,934,092, Kshs.2,380,951,711 and Kshs.54,720 for the same item respectively. The resultant differences of Kshs.2,752,857, Kshs.2,380,951,711 and Kshs.2,820,993,491 respectively have not been explained.

viii. The period at Note 12.3(d) to the financial statements on purpose and use of external assistance is reflected as 2021/2021 instead of 2021/2022.

In the circumstances, the accuracy of the financial statements could not be confirmed.

832. Purchase of Goods and Services

The statement of receipts and payments reflects purchase of goods and services of Kshs.110,934,092. As disclosed at Note 4 to the financial statements, the amount comprises of domestic travel expenses of Kshs.79,035,786, printing and advertising of Kshs.2,063,175, hospitality expenses of Kshs.4,029,238, communication supplies of Kshs.9,389,056 and training cost of Kshs.16,416,837. However, a detailed work plan to confirm that the activities paid for related to the Project was not provided for audit review Further, expenditure totalling to Kshs.4,632,411 was described as relating to the previous North Eastern Transport Improvement Project (NETRIP).

Other Matter

833. Lack of an Itemized Expenditure Budget

The statement of comparison of budget and actual amounts indicates that the Project budgeted to receive Kshs.150,000,000 and Kshs.4,656,000,000 as Government of Kenya counterpart funds and loan from external development partners respectively for the

implementation of Horn of Africa Gateway Development (HoAGDP) Project. The statement further indicates that Kshs.110,934,092 and Kshs.2,380,951,711 were spent on purchase of goods and services and acquisition of non-financial assets respectively. However, the project expenditure budget was not provided.

In the circumstances, it was not possible to confirm the regularity of the expenditure was incurred.

834. Budgetary Control and Performance

The statement of underfunding comparison of budget and actual amounts reflects total budgeted receipts of Kshs.4,806,000,000 against actual receipts of Kshs.3,337,727,925 thereby resulting in an under-collection of Kshs. 1,468,272,075 or 30.5% of the budgeted receipts. Further, the statement reflects total budgeted expenditure of Kshs.4,806,000,000 against actual payments of Kshs.2,491,940,523 resulting in an underexpenditure of Kshs.2,314,059,477 or 48% of the budgeted expenditure.

The underfunding of receipts and under expenditure is an indication that the Project may not have achieved the planned objectives.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

835. Delayed Project Milestones

Review of the project information as presented in the financial statements and the project activities implementation status as at 30 June, 2022 revealed that although the project financing agreement was signed in October, 2020, construction works for all the seven (7) road sections had not started. One section was at the design stage while four (4) sections was at procurement stage and two (2) sections had been contracted but not started.

In the circumstances, the Project's objectives may not be timely realized which will impact negatively on service delivery to the public.

836. Lack of a Fixed Assets Register

Annex 3 to the financial statements – summary of fixed assets, reflects a balance of Kshs.2,984,244,300 as the closing cost of the road asset. However, contrary to Regulation 143(1) of the Public Finance Management (National Government) Regulations, 2015, the Project's Management did not maintain a register of assets.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

837. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

838. As required by International Development Agency (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR TRANSPORT – VOTE 1092

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

839. Unsupported Adjustments

Review of the financial statements of the State Department revealed adjustments that were passed comprising of Kshs.3,622,824 under exchequer receipts, Kshs.687,230 under use of goods and services, Kshs.2,935,594 under acquisition of assets, Kshs.4,391,429 under accounts receivables and Kshs.2,671,623. However, Management did not provide evidence to support the adjustments including the authorization and explanation of the nature of the adjustments.

In the circumstances, the validity of the adjustments made and the accuracy of the financial statements could not be confirmed.

840. Unexplained Variances

840.1 Cash and Cash Equivalents Balance

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.54,735,614 as disclosed in Note 9A to the financial statements. However, the bank reconciliation statements for the recurrent, development and deposit bank accounts, for the month of June, 2022, indicated total cash and cash equivalents balance of Kshs.54,755,450 resulting to an unexplained variance of Kshs.19,837.

In the circumstances, the accuracy and completeness of the cash and cash equivalents of Kshs.54,735,614 as at 30 June, 2022 could not be confirmed.

840.2 Transfers to Other Government Entities

The statement of receipts and payments reflects other receipts amount of Kshs.5,568,942,983 as disclosed in Note 3 to the financial statements which includes an amount of Kshs.5,508,942,983 relating to aviation fees and air navigation charges. Further, the statement reflects transfers to other Government entities of Kshs.5,916,442,983 as disclosed in Note 6 to the financial statements, which include an amount of Kshs.5,568,942,983 under recurrent grants and Kshs.347,500,000 development grants to Government agencies. Out of the recurrent grants, an amount of Kshs.5,508,942,983 relates to transfers to Kenya Civil Aviation Authority (KCAA) and represents amounts spent by KCAA from own generated revenues (Appropriation-In-Aid). However, KCAA records indicated a total amount of Kshs.6,935,252,529 as own generated revenue (Appropriation-In-Aid) resulting in an unexplained difference of Kshs.1,426,309,546.

In the circumstances, the accuracy of other receipts amount of Kshs.5,508,942,983 and transfers to other government entities of Kshs.5,508,942,983 could not be confirmed.

841. Expenditure Wrongly Classified as Rentals of Produced Assets

The statement of receipts and payments reflects use of goods and services amount of Kshs.131,220,107 as disclosed in Note 5 to the financial statements which includes an amount of Kshs.6,152,865 in respect of rentals of produced assets. However, review of records revealed that out of the amount of Kshs.6,152,865, an expenditure totalling Kshs.2,969,040, comprising of domestic travel expenses of Kshs.1,905,820, foreign travel of Kshs.715,220 and hire of conference facilities costs of Kshs.348,000, was wrongly charged under the rentals of produced assets expenditure.

In the circumstances, the accuracy and completeness of rentals of produced assets figure of Kshs.6,152,865 for the year ended 30 June, 2022 could not be confirmed.

842. Unexplained IFMIS Payments

Review of the Integrated Financial Management Information System (IFMIS) records revealed that there were payments made on 1 and 2 July, 2021 totalling to Kshs.1,295,607,925 paid to two companies, a State Corporation and the Commissioner of Income Tax, reflected in IFMIS records but which could not be traced to any of the accounts in the financial statements.

Further, payments totalling to Kshs.5,945,292 were made to staff from the State Department's deposit account. However, the basis and reason for these payments to staff from deposit bank account was not clear.

In addition, the recurrent cash book reflects a payment to general suspense of Kshs.17,000,000 on 22 June, 2022. The amount however could not be traced to any expenditure account in the financial statements.

In the circumstances, the accuracy, validity and completeness of the expenses of Kshs.1,318,553,217 could not be confirmed.

843. Unsupported Accounts Payable Balance

The statement of assets and liabilities reflects accounts payables of Kshs.44,281,856 as disclosed in Note 11 to the financial statements. However, the supporting schedule provided reflects a balance of Kshs.42,566,959 resulting in an un-explained variance of Kshs.1,714,897.

Further, the balance of Kshs.42,566,959 comprises of retention monies of Kshs.2,386,014 and deposits of Kshs.40,180,945. However, Management did not provide the supporting documents for the balance of Kshs.Kshs.40,180,945 including the details of the beneficiaries and the payment details of the deposits from Kenya Railways Corporation and State Department for Infrastructure.

In the circumstances, the accuracy and completeness of the accounts payables balance of Kshs.44,281,856 could not be confirmed.

Other Matter

844. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.11,141,815,862 and Kshs.6,301,136,976 respectively resulting to an underfunding of Kshs.4,840,678,886 or 43% of the budget. Similarly, the State Department spent Kshs.6,291,484,512 against an approved budget of Kshs.11,353,315,862 resulting in an underexpenditure of Kshs.5,061,831,350 or 45% of the budget.

Further, Management did not provide an explanation on why the final receipts and expenditure budget amounts of Kshs.11,141,815,862 and Kshs.11,353,315,862 respectively did not balance thus occasioning a difference of Kshs.211,500,000.

The underfunding and underperformance affected the planned activities of the State Department and may have impacted negatively on service delivery to the public.

845. Pending Bills

Note 15.1 to the financial statements reflects pending bills balance of Kshs.23,764,147. However, Management did not explain why the bills were not settled during the year they occurred.

Failure to clear pending bills in the year to which they relate distorts the budget of the following year as they constitute a first charge on that budget.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

846. Non-Compliance with the One Third of Basic Salary Rule

Review of the Integrated Payroll and Personnel Database (IPPD) for the State Department, revealed that during the year ended 30 June, 2022, nine (9) employees earned a net salary of less than a third (1/3) of the basic salary. This as contrary to Section C.1(3) of the Human Resource Policies and Procedures Manual for the Public Service of May, 2016 which states that Public officers shall not over-commit their salaries beyond two thirds (2/3) of their basic salaries and Heads of Human Resource Units should ensure compliance.

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

847. Failure to Deduct Pay As You Earn (PAYE) from Employees

Review of the Integrated Payroll and Personnel Database (IPPD) showed that four (4) officers were not deducted Pay-As-You-Earn (PAYE) for the whole financial year as detailed below: -

Payroll Number	Gross Salary (Kshs.)
1980087189	40,770
1991029071	59,770
2005061289	25,070
2010032465	24,479

This is contrary to Section 37(1) of the Income Tax Act, Cap 470 of the Laws of Kenya which states that an employer paying emoluments to an employee shall deduct therefrom, and account for tax thereon, to such extent and in such manner as may be prescribed.

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

848. Allowances Paid Outside the Integrated Payroll and Personnel Database (IPPD)

Review of payment records revealed that allowances amounting to Kshs.4,054,404 were paid through the IFMIS system but were not captured in the IPPD system. Management did not provide any justification for the anomaly. This was contrary to Section 68(1) of the Public Finance Management Act, 2012 which states that an Accounting Officer for a Government entity, shall be accountable for ensuring that the resources of the respective entity for which he or she is the Accounting Officer are used in a way that is - lawful and authorized; and effective, efficient, economical and transparent.

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

849. Imprest Paid to Officers

Review of the State Department's recurrent cash books revealed that payments totalling to Kshs.58,023,253 were made during the year to twenty-three (23) members of staff for which the officers received imprests covering several days of field travels. However, review of payment records revealed that that the officers were in the field for more days than the work schedule could accommodate and possibly more than the working days available in a year.

In the circumstances, the authenticity of the payments totalling Kshs.58,023,253 could not be confirmed.

850. Non-Submission of Donor Funded Projects' Financial Statements

The State Department did not submit the financial statements for the following three (3) donor funded projects for the year ended 30 June, 2022 for audit contrary to Section 68(2)(k) of the Public Finance Management Act, 2012.

(i). East African Trade and Transport Facilitation Project Cr.No.4148 IDA - MOT

(ii). National Urban Transport Improvement Project Cr No.5140 IDA-MOT

(iii). Northern Corridor Transport Improvement Project Credit No.4571 and No.3930-MOT.

Although information provided indicated that the respective project bank accounts were closed, a detailed project closure report for each project was not provided.

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

851. Delay in Completion of the Transport Data Centre

The State Department through the East Africa Trade and Transport Facilitation Project MOT-IDA Credit NO. 4148-KE and 4977-KE awarded a contract for the supply, installation, testing, commissioning and handover of a Transport Data Centre IT, networking, software and hardware on 30 September, 2014 at a cost of Kshs.130,739,261. Further, the State Department entered into a consultancy contract at a contract sum of Kshs.22,390,000. The consultancy agreement dated 4 July, 2012 was to run for a period of sixty-four (64) weeks with effect from the commencement or agreement date and ending on 25 September, 2013.

Review of the State Department's financial statements revealed that there was no update on the status of the facility, whereas the contract agreements had expired. In addition, the contractor and the consultant had not completed the project to enable issuance of a completion certificate and official hand over of the facility. Available information revealed that the contractor was paid Kshs.120,252,245 (92% of the contract sum) while the consultant was paid Kshs.16,792,500 (75% of the contract sum) as at 30 June, 2022.

Management did not provide any explanation for the delay in the delivery of the Project and the expected date of completion. The delay in completion of the Project has adversely impacted on realization of value for money by the citizens.

DONOR FUNDED PROJECT

HORN OF AFRICA GATEWAY DEVELOPMENT PROJECT GRANT/CREDIT NUMBER 6768 - KE

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

852. Unsupported Payments

The statement of receipts and payments reflects purchase of goods and services total expenditure of Kshs.35,108,015 which as disclosed in Note 11.3 to the financial statements relates to training. However, no approved training needs assessment in support of the expenditure was provided for audit review. Further, included in the expenditure on training is an amount of Kshs.1,301,300 issued as imprest for finalization of the medium-term budget for 2022/2023 financial year for the State Department for Transport. No letter of no objection was provided in respect to the expenditure.

In the circumstances, the regularity on the expenditure amounting to Kshs.1,301,300 could not be confirmed.

Other Matter

853. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total budgeted receipts of Kshs.346,300,000 against actual receipts of Kshs.32,449,945, resulting in an under-collection of Kshs.313,850,055 or 91% of the budget. In addition, the statement reflects total budgeted expenditure of Kshs.346,300,000 against actual payments of Kshs.35,108,015, resulting to an under absorption of Kshs.311,191,985 or 90% of the budget. No reasons were provided for the huge variances.

As a result of the under collection and under expenditure, the Project strategic goals of improving cargo take off from the port, reduction of vehicle operating cost to and from container terminal and Moi International airport and enhancement of social economic development of people around the Project area may not be achieved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

854. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

855. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

856. As required by International Development Agency (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR TRANSPORT

NATIONAL URBAN TRANSPORT IMPROVEMENT PROJECT CREDIT NO. IDA 5140-KE (KRC COMPONENT) - KENYA RAILWAYS CORPORATION

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

857. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

858. Pending Accounts Payables

Note 12 to the financial statements reflects pending bills totalling Kshs.3,900,000 as at 30 June, 2022. Management did not provide an explanation for the non-settlement of the pending bills since the project was closed on 31 December, 2018.

In the circumstances, the Project is at risk of incurring unnecessary additional costs due to the delay in settlement of the bills leading to loss of public funds.

859. Doubtful Achievement of the Project Goals

The statement of receipts and payments reflects cumulative receipts from external development partners of Kshs.117,813,333 as at 30 June, 2022, representing 11% of the total donor commitment of Kshs.1,071,552,600. According to the statement of performance against predetermined objectives, the project was closed on 31 December, 2018. It was therefore not possible to confirm whether the projects' goals highlighted under project information and overall performance were achieved with only 11% donor funds received out of the total donor funding commitment of Kshs.1,071,552,600.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

860. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

861. As required by International Development Association (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

MULTINATIONAL LAKE VICTORIA MARITIME COMMUNICATIONS AND TRANSPORT (MLVMCT) PROJECT (ADF LOAN NO.2100150036247) – KENYA MARITIME AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

862. Undisclosed and Unaccounted for Domestic Travel Expenses

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects purchase of goods and services amount of Kshs.502,750 which includes domestic travel expenses amount of Kshs.493,560. However, examination of payment vouchers revealed domestic travel expenses amounting to Kshs.1,022,760 resulting to an unexplained variance of Kshs.529,200 which was not disclosed in the financial statements.

In the circumstances, the accuracy and completeness of domestic travel and subsistence amount of Kshs.493,560 could not be confirmed.

863. Cash and Cash Equivalents - Unpresented Cheques

The statement of financial assets reflects cash and cash equivalents balance of Kshs.61,408,450. However, the balance includes unresolved prior year audit issue on unsupported unpresented cheques balance of Kshs.1,319,084.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.61,408,450 could not be confirmed.

Other Matter

864. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final total receipts budget and actual on comparable basis of Kshs.7,000,000 and Kshs.7,000,000 respectively or 100% of budget performance rate. However, the Project spent Kshs.502,750 against an approved budget of Kshs.7,000,000 resulting to an underexpenditure of Kshs.6,497,250 or 93% of the budget. Management has explained that the under-utilization of funds was caused by delayed finalization of mid-term review to pave way for purchase of boats and lengthy approval process of land for Safety and Rescue Centre.

In the circumstances, the under expenditure may have affected the capacity of the Project to carry out its programmes and may have impacted negatively on service delivery to the public.

865. Unresolved Prior Year Matters

The prior year audit issues remained unresolved as at 30 June, 2022. Management has not provided reasons for the delay in resolving the prior year audit issues. Further, seven unresolved prior year issues are not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

866. Cancellation of Undisbursed/Undrawn Loan Balance

The statement of receipts and payments reflects Nil loans from external development partners and the cumulative disbursement by African Development Bank is reflected as a cumulative balance of Kshs.2,092,732 while the cumulative disbursement by the Government to Kenya as counterpart funding reflected is Kshs.89,000,000. Further, Project information and overall performance on source of funds as reflected in the financial statements indicate undrawn balance from the Bank as Kshs.527,516,868 as at 30 June, 2022. However, review of records revealed that on 17 May, 2022, the Bank issued a Notice for Cancellation Ref. AfDB/RDGE/LTR/2022/05/059 of the undisbursed loan balance after the disbursement deadline of 30 August, 2022 due to the Project's failure to achieve the strategic goals including establishment of a maritime communications system for safety on Lake Victoria. As at the time of audit on 30 August, 2022, the disbursement and Project implementation status remained the same.

In the circumstances, the loan cancellation may negatively impact the achievement of the projects objectives.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

867. Failure to Channel Funds as per the Project Financing Structure

Based on the agreement between the Republic of Kenya and the African Development Fund, the Government of Kenya has so far disbursed Kshs.107,261,000 as grant to the Project through Kenya Maritime Authority.

However, this was against the Project's financing structure which provided for channeling of funds for jointly implemented activities to Lake Victoria Basin Committee (LVBC).

In the circumstances, Management has not complied with the Project's financing structure.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

868. As required by the African Development Fund (ADF), I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

SAFE ROADS/USALAMA BARABARANI PROGRAMME (EU GRANT NO. KE/FED/037-778) - NATIONAL TRANSPORT AND SAFETY AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

869. Undisclosed Receipts

The statement of receipts and payments reflects an amount of Kshs.190,542,679 which, as disclosed in Note 2 to the financial statements, includes Kshs.185,857,973 relating to proceeds from domestic and foreign grants. However, review of the bank statements for the Programme's bank account reveals that, an amount of Kshs.48,650,000 was credited by State Department of Interior and Citizen services in April, 2022. However, the amount was not included in the statement of receipts and payments for the year ended 30 June, 2022.

In the circumstances, the accuracy and completeness of the receipts amount of Kshs.185,857,973 in respect of proceeds from domestic and foreign grants could not be confirmed.

Other Matter

870. Programme Performance and Sustainability

Article 3 of the signed grant contract for Safe Roads/Usalama Barabarani Programme outlined that, the total eligible costs for the Programme was estimated at EUR5,375,000 (an equivalent of Kshs.676,135,096). The grant was limited to 80% of the total cost of the action. The Government of Kenya (GoK) was required to contribute counterpart funds equivalent to 20% of the action, that is, EUR1,075,000 (equivalent to Kshs.135,227,019). However, as at 30 June, 2022 (twenty-seven months later), the total amount received as GoK counterpart financing was Kshs.10,052,969 equivalent to 7.4% of the expected contribution.

In the circumstances, it was not possible to ascertain whether the Government of Kenya will meet its contractual obligation within the stipulated Programme period.

871. Under-Utilized Funds

The statement of receipts and payments reflects total receipts of Kshs.190,542,679 which, as disclosed in Notes 1 and 2 to the financial statements, includes receipts of Kshs.4,684,706 and Kshs.185,857,973 from Government of Kenya and European Union respectively.

However, the Programme expenditure for the year amounted to Kshs.62,377,536 resulting to unutilized balance of Kshs.128,165,143 or 67% of the funds received during the year under review.

In the circumstances, the slow absorption of the funds may affect the achievement of the intended deliverables and the planned objectives of the programme may not be met in time.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

872. Use of Funds for Unintended Purpose

The statement of receipts and payments reflect a total expenditure of Kshs.62,377,536. Examination of the bank statements for the Programme's bank account revealed two payments of Kshs.34,765,200 and Kshs.18,077,904, all totalling to Kshs.52,843,104, made in favor of Prison Industries Revolving Funds, on 10 March, 2022 and 22 April, 2022 respectively in respect of supply of number plates which is part of the Authority's core-business and hence not related to the Programme.

As stipulated in the grant contract, donor funds are to be utilized for the set Programme objectives. It was thus not possible to ascertain whether payments for supply of materials used in normal business operations of the National Transport and Safety Authority was within the set objectives and conditions for utilization of the grant funds.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

873. Lack of Annual Audit Work Plan and Internal Audit Reports

Examination of records of the Programme revealed that there was no signed written internal audit report for the Financial Year 2021/2022. Further, review of internal audit function revealed that, there was no evidence that an annual audit plan for the Programme was developed and approved by the audit committee. It was therefore, not possible to establish how the internal audit for the Programme was to be carried out in the year under review without an approved internal audit work plan.

Further, it was not possible to ascertain whether the internal audit function reviewed and evaluated the budgetary performance, financial management, transparency and accountability mechanisms so as to give reasonable assurance on state of risk

management, internal control and governance of the Project as required by Regulation 160(1) of the Public Finance Management (National Government) Regulations, 2015.

HORN OF AFRICA GATEWAY DEVELOPMENT PROJECT (IDA CREDIT NO.6768 KE) – NATIONAL TRANSPORT AND SAFETY AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

874. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

875. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

876. Lack of Internal Audit Reports

As reported in the previous year, the Project was not audited by the internal audit department as provided for in the Project's Appraisal Document Annex 1 Paragraph 14 during the year under review. Although Management explained that the internal audit was carried out under Finance Department and Corporate Research, Strategy and Planning Department audits, no Internal Audit reports relating to the projects were provided for verification.

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

877. Unconfirmed Other Receipts

The statement of receipts and payments and Note 2 to the financial statements reflects other receipts amounting to Kshs.1,818,203,216 described as incidental sales by Non-Market Establishments collected as AIA. However, only an amount of Kshs.125,175,885 from Bandari Maritime Academy and Kshs.1,600,261,341 from Kenya Maritime Authority was confirmed from the respective financial statements leaving an unconfirmed balance of Kshs.92,765,990.

In the circumstances, the accuracy and completeness of other receipts amounting to Kshs.92,765,990 could not be confirmed.

878. Inaccuracies in Outstanding Imprest Balance

878.1 Payments to Staff not Captured as Outstanding Imprest

The statement of assets and liabilities reflects imprests and advances balance of Kshs.260,698 as at 30 June, 2022. However, review of the bank reconciliation statements as at 30 June, 2022 indicated that payments totalling to Kshs.4,812,090 were made to staff on 30 June, 2022 but were not reflected as outstanding imprest as at the close of the year.

In the circumstances, the accuracy and completeness of the outstanding imprest balance of Kshs.260,698 could not be confirmed.

878.2 Imprest to Staff

Analysis of payments made during the year for recurrent cash book showed imprests paid to staff totalling to Kshs.28,177,853 in respect of domestic travel and allowances. The amounts paid indicates that officers were in the field for more days than the work schedule could accommodate.

In the circumstances, the authenticity of the imprest payment to officers totalling Kshs.28,177,853 could not be confirmed.

Other Matter

879. Pending Accounts Payables

Note 15.2 to the financial statements reflects pending accounts payable balance of Kshs.5,832,493. Review of the supporting schedule at table 3 attached to the financial statements indicated that bills amounting to Kshs.988,525 were invoiced in 2018/2019, Kshs.226,200 invoiced in 2019/2020, Kshs.39,850 invoiced in 2020/2021 and Kshs.4,577,918 were invoiced in 2021/2022. Management did not provide justification for

non-payment of the long outstanding pending bills which should have formed the first charge in the subsequent years' budget and which exposes the State Department to the risk of incurring interest costs and penalties due to delay in settling invoiced bills.

In the circumstances, failure to settle bills during the year in which they relate adversely affects provisions of the subsequent year to which they have to be settled as a first charge.

880. Long Outstanding Third-Party Deposits and Retentions

The statement of assets and liabilities and Note 10 to the financial statements reflects third party deposits and retentions balance of Kshs.1,311,736. Review of records maintained by Management indicates that, the retention balances were in respect of works undertaken between 18 December, 2018 and 27 June, 2019, for partitioning and refurbishment of the State Department's Office at 8th floor NSSF building and supply, commissioning and installing of internet. Management did not provide an explanation for nonpayment of these long overdue retentions.

In the circumstances, the State Department runs the risk of incurring interest and penalties for continued holding of third-party deposits.

881. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.2,679,528,614 and Kshs.2,309,731,830 respectively resulting to an underfunding of Kshs.369,796,784 or 14% of the budget. Similarly, the State Department expended Kshs.2,308,008,441 against an approved budget of Kshs.2,679,528,614 resulting to an underexpenditure of Kshs.371,520,173 or 14% of the approved budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

882. Non-Compliance with One Third (1/3) Basic Pay Rule

Analysis of the State Department's payroll revealed that during the year, four employees earned a salary below one third of their basic pay, contrary to Section 19(3) of the Employment Act, 2007, which states that total amount of all deductions made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

883. Audit Committee

During the year under review, the State Department had nominated five members to the Audit Committee. However, no evidence was presented to confirm that the Committee met to discuss internal audit reports contrary to Regulation 179(1) of the Public Finance Management (National Government) Regulations, 2015 which states that the Audit Committee shall meet at least once in every three months.

In the circumstances, the effectiveness of the Audit Committee could not be confirmed.

STATE DEPARTMENT FOR HOUSING AND URBAN DEVELOPMENT – VOTE 1094

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

884. Irregular Charge of Expenditure under Acquisition of Assets

As disclosed in Note 8 to the financial statements, the statement of receipts and payments reflects Kshs.5,544,912,688 in respect to acquisition of assets. However, the following expenditure charged to acquisition of assets did not relate to the expense items where they were accounted for and no supporting documents or justification was provided for audit review.

i. Construction and civil works amount of Kshs.4,252,432,575 includes expenditure totalling to Kshs.23,404,486 relating to training and seminars and payments made for routine activities and imprest surrenders for activities not related to construction and civil works.

ii. Refurbishment of buildings expenditure of Kshs.900,000,000 is made up of expenditure relating to security, electricity, cleaning, office operations, refund of rents, tracking and monitoring of AIA usage, inspections and assessment of mental health care among others all not related to refurbishment of buildings.

iii. Research, studies, project preparation, design and supervision expenditure of Kshs.391,778,732 includes unrelated expenditure totalling to Kshs.919,800 and payment to Civil Servants Housing Fund amounting to Kshs.80,705,232 for which no supporting documents were provided for audit review.

In the circumstances, the accuracy and validity of expenditure on acquisition of assets of Kshs.5,544,912,688 for the year ended 30 June, 2022 could not be confirmed.

885. Compensation of Employees-Payroll Items Paid Outside IPPD

The statement of receipts and payments, as disclosed in Note 4 to the financial statements, reflects compensation of employees amount of Kshs.734,778,971. However, analysis of IFMIS reports indicated that expenditure on basic salaries - civil service, house allowance and special duty allowance of Kshs.23,795,085, Kshs.6,986,402 and Kshs.7,974 respectively all totalling to Kshs.30,789,461 were made outside the IPPD system.

The basis and supporting documentation for paying employees outside payroll was not provided for audit review.

In the circumstances, the regularity and validity of compensation of employees expenditure paid outside the IPPD system amounting to Kshs.30,789,461 could not be confirmed.

Other Matter

886. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.15,517,268,853 and Kshs.11,214,195,077 respectively resulting in an underfunding of Kshs.4,303,073,776 or 28% of the budget. Similarly, the State Department expended Kshs.11,344,516,356 against an approved budget of Kshs.15,517,268,853 resulting in an underexpenditure of Kshs.4,172,752,497 or 27% of the budget.

The underfunding and underexpenditure affected the planned activities of the Department and negatively impacted on service delivery to the public.

887. Pending Bills

Note 16.2 to the financial statements reflects pending accounts payable balance of Kshs.1,634,354,560. As disclosed in summary table 3 of detailed schedule of pending bills at Appendix 1 to the financial statements, the pending bills balance includes bills amounting to Kshs.971,976,845 that relates to 2020/2021 and earlier financial years. Although Management explained that the pending bills arose due to lack of budgetary provisions and lack of exchequers, the Management did not explain the reason for procuring goods and services without adequate budgetary allocations. Further, it is not clear why the bills have not been factored as a first charge in subsequent budgets as required by law.

In addition, pending bills totalling to Kshs.265,726,672 incurred between 2008/2009 and 2012/2013 are indicated as being under verification. It is not clear why the exercise of verification had not been concluded by 30 June, 2022.

In the circumstances, the State Department risks incurring avoidable interest and penalties on delayed payments due to failure to pay invoiced bills on time. Further, failure to settle bills in the year to which they relate adversely affects the following year's provision to which they form the first charge.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

888. Contingent Liabilities

As previously reported, Note 16.4 to the financial statements reflects contingent liabilities amount of Kshs.491,768,237 (2021-Kshs.402,494,393) relating to two contractors. The liability arose from arbitral awards on the matter of arbitration between the two contractors and the then Ministry of Local Government. The awards were for two (2) contracts under the Nakuru Town Roads Projects, contract No. PKG/16A of Kshs.338,561,360, No. PKG/16B of Kshs.126,338,431 and a ruling on Miscellaneous Application No.579 of 2014 of Kshs.26,868,445. The awards have been outstanding since 31 October, 2017, 3 June, 2018 and 20 August, 2014 respectively.

Although the State Department had paid Kshs.305,999,999 in relation to Contract No. PKG/16A and PKG/16B as at 30 June, 2022, the awards had accumulated compound interest and other costs of Kshs.176,791,793, Kshs.154,662,724 and Kshs.11,292,367 totalling to Kshs.342,746,884.

In the circumstances, the additional amount of Kshs.342,746,884 represents an avoidable expenditure for which no value for money will be obtained.

889. Uncollected Revenue from Government Houses

As previously reported, the total number of Government houses across the forty-seven (47) Counties stood at fifty-six thousand eight hundred and ninety-two (56,892) with an expected monthly rental income of Kshs.127,048,750 resulting into an annual rent potential of Kshs.1,524,585,000 assuming full occupancy. Rent collections on Government houses for the financial year under review amounted to Kshs.1,018,000,000 leading to an under performance of Kshs.506,585,000 of the full potential.

Further, the State Department expected to receive Kshs.138,232,808 rent income from Government houses occupied by the County Government's staff in forty-seven counties. However, only Kshs.26,580,572 as received resulting to Kshs.111,652,236 unremitted revenue. In addition, the total uncollected rent over the last two years amounted to Kshs.1,157,783,429 while the uncollected amounts for financial year 2019/2020 and earlier years have not been quantified.

In the circumstances, the rent income due the State Department was not collected in accordance with Regulation 43(c) of the Public Finance Management (National Government) Regulations, 2015 which requires an Accounting Officer to ensure that all Appropriations-in-Aid due to a National Government entity are collected and properly accounted for in accordance with the relevant laws, rules and regulations.

890. Lack of Updated Inventory on Boarded Houses

As previously reported, examination of records of boarded houses countrywide revealed that several houses were either encroached, grabbed, condemned, demolished, transferred to other entities, or converted to offices for commercial use. However, the records were not comprehensive as Management did not have an updated inventory of all houses.

In the absence of updated records, the status of the boarded houses, custody of the houses and the extent of unrealized revenue from such boarded houses could not be confirmed.

891. Abandoned Projects

As previously reported, the construction of one hundred (100) housing units at Emali Administration Police Training Camp at a cost of Kshs.136,705,536 was abandoned at 85% completion stage. Management has not provided evidence of efforts towards resumption of the works.

In the circumstances, it has not been possible to confirm whether value for money will be realized from the public funds committed to the project.

892. Gaps in Government Residential Houses Register

As previously reported, according to the inventory of Government houses provided for audit review, the Government had a total of 56,892 houses categorized into institutional, police and pool houses. The houses were further categorized into low, medium and high grades. However, the register maintained by the State Department did not contain key information such as the dates of occupancy and vacancy, occupants' details and reason for non-occupancy.

Failure to maintain a comprehensive register makes it difficult to keep track of Government houses and tenants in relation to occupancy, vacancy of the houses, houses with rent arrears and their respective maintenance costs. This is contrary to Regulation 139(1)(a) of the Public Finance Management (National Government) Regulations, 2015 which states that the Accounting Officer of a national government entity should take full responsibility and ensure that proper control systems exist for assets and that preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse.

893. Non-Compliance with the One Third of Basic Salary Rule

During the year under review, thirty (30) employees earned a net salary of less than one third (1/3) of their basic salaries contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies and Procedures Manual, 2016. Management did not give an explanation for failure to comply with the policy.

In the circumstances, the State Department contravened Section C.1(3) of the PSC Human Resource Policies and Procedures Manual, 2016 and this may expose the staff to pecuniary embarrassment.

894. Unprocedural Extension of Contracts

Review of the State Department's records revealed that Kshs.18,039,162 was paid to three local companies for rendering cleaning services and provision of security services during the year under review. However, the contracts for these service providers were extended for a period of three months as a result of late evaluation of bids for the new contracts. Although Management explained that the late evaluation was as a result of late commencement of the procurement process, this would have been avoided had the head of the procurement function prepared monthly briefs on the expiry of these contracts.

This is contrary to Regulation 140 of the Public Procurement and Asset Disposal Regulation, 2020 which provided that the head of procurement function shall prepare a monthly progress report of all procurement contracts and submit the same to the accounting officer in accordance with section 152 of the Act. The report thereof shall include details like contract description, contract number, value of contract, commencement date, current status, the amount of money paid, and the expected completion date.
In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

895. Digitization of Estate Management

As previously reported, the management of government houses and collection of rent is largely manual as it is yet to be digitized. The benefits that accrue with digitization such as ability to establish expectation on rental income from the individual Ministries, Departments, Agencies or Counties, invoicing, rent collections, booking of revenue, reconciliations and maintenance of houses have not been realized. These gaps in the manual system may lead to undetected loss of revenue.

DONOR FUNDED PROJECTS

KENYA INFORMAL SETTLEMENT IMPROVEMENT PROJECT NO. P113542 CREDIT NO.4873KE

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

896. Unsupported Expenditure on Purchase of Goods and Services

The statement of receipts and payments reflects an amount of Kshs.15,203,347 in respect of purchase of goods and services, as disclosed in Note 6 to the financial statements, which includes domestic travel and subsistence expenditure amounting to Kshs.12,505,486. The domestic travel and subsistence costs further include expenditure for imprest paid to staff on 28 and 30 June, 2022 amounting to Kshs.478,850 which was not supported with the dates when the events took place and the respective surrenders evidencing attendance.

In addition, the domestic travel expenses also include payments amounting to Kshs.1,519,600 paid on 24 December, 2021 as subsistence allowance for unidentified officers for attending infrastructure inspection meetings. No work plan was provided to demonstrate that the inspection meetings were part of the project activities.

In the circumstances, the accuracy and validity of the domestic travel and subsistence expenditures of Kshs.478,850 and Kshs.1,519,600 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

897. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

898. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

899. As required by the International Development Association (IDA), I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

NAIROBI METROPOLITAN SERVICES IMPROVEMENT PROJECT (IDA CREDIT NO.5102-KE)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

900. Unsupported Expenditure on Purchase of goods and Services

The statement of receipts and payments reflects purchase of goods and services expenditure of Kshs.7,372,103 as disclosed at Note 11.4 to the financial statements. The expenditure constitutes of other operating costs, printing advertising, supplies and services and training payments amounting to Kshs.1,876,535, Kshs.1,485,969 and Kshs.4,009,600 respectively. However, a detailed and approved work plan was not provided in support of the expenditure. Further, review of the training expenditure of Kshs.4,009,600 revealed that the expenditure was in respect of per diems and tuition fees paid to eight (8) officers on 29 June, 2022 for attending a security training. Management did not demonstrate how the security training related to the Project. In addition, Management did not provide details on when the respective trainings were undertaken.

In the circumstances, the accuracy and validity of purchase of goods and services expenditure of Kshs.7,372,103 could not be ascertained.

901. Unsupported Deposits and Retentions

Note 11.8 to the financial statements reflects accounts payables - deposits and retentions balance of Kshs.92,319,184 as at 30 June, 2022. However, Management did not maintain a specific deposits and retentions bank account. Further, the amount has not been reported in the statement of financial assets and therefore it is not clear how the settlement will be funded when due.

In the circumstances, the existence and valuation of the accounts payable - deposits and retentions balance of Kshs.92,319,184 could not be ascertained.

Other Matter

902. Pending Accounts Payable

Note 12.1 to the financial statements on pending accounts payable reflects a balance carried forward of Kshs.59,882,484 as at 30 June, 2022. The pending bills balance comprises of Kshs.2,799,224, Kshs.21,927,777 and Kshs.35,155,483 under construction of buildings, construction of civil works and supply of services respectively, which remained unpaid during the year. The Project risks incurring unquantified avoidable costs of interest and penalties due to delay in settling invoiced bills.

Failure to settle bills during the year in which they relate adversely affects the provisions of the subsequent year to which they have to be the first charge.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

903. Supply of Fire Fighting Vehicles

An International firm was contracted by Management, to supply, deliver and commission seven (7) diesel propelled 6x4, 10,000 litres capacity, fire fighting vehicles under Lot 1 at a contract value of Euros.2,581,182 (equivalent to Kshs.327,904,078). The contract was signed on 27 June, 2013 and the vehicles were to be delivered to the benefitting local authorities (City Council of Nairobi, Ruiru Municipal Council, Kikuyu Town Council, Thika Municipal Council, Limuru Municipal Council and Kiambu Municipal Council), on 27 March, 2014 which was nine (9) months after the signing of the contract.

Review of the records provided revealed the following anomalies;

903.1 Delay in Delivery of the Vehicles

The seven (7) fire fighting vehicles were delivered in the financial year 2021/2022 and were distributed to the Nairobi Metropolitan Counties on 3 December, 2021 whereby Nairobi City County received one (1) vehicle, Kiambu County received three (3) vehicles, Murang'a County received one (1) vehicle, Machakos County received one (1) vehicle and Kajiado County received one (1) vehicle.

However, from the foregoing the fire fighting vehicles were delivered seven (7) years and nine (9) months after the original expected delivery date. Although Clause 27.1 on liquidated damages provides that the purchaser may without prejudice to all its other remedies under the contact, deduct from the contract price as liquidated damages a sum equivalent to the percentage specified in the Special Conditions of Contract (SCC) of the delivered price of the delayed goods for each week or part thereof of delay until actual delivery or performance. Management did not lodge any claim as liquidated damages arising from delay in delivery of the vehicles.

903.2 Inspection of the Fire Fighting Vehicles

Audit inspection exercise carried out in the month of September, 2022 on two (2) fire fighting vehicles based in Nairobi City County and in Thika, Kiambu County including verification of information provided by the maintenance Officers-In-Charge revealed some technical challenges: -

(i) The vehicles' brake pads were worn out, an indication that they may have been of low quality.

(ii) The vehicles' body works were disjoining, an indication that they were not well done.

(iii) The vehicles had pump leakage on the discharge points that may be an indication of poor-quality finishes.

(iv) The vehicles' manual hose reels were placed too high which poses a challenge to the fire fighters.

(v) The vehicles' pump bay cabin attachment had started loosening, an additional indication of poor-quality finishes on the vehicles.

(vi) There were compartment partitioning loosening on the fire fighting vehicles.

In the circumstances, it is not clear whether the public obtained value for money from this contract.

904. Delay in Completion of Mitubiri Sanitary Landfill Site Project

The contract for the construction works of Mitubiri sanitary landfill project was awarded to a contractor at a contract sum of Kshs.1,056,478,730. The contract agreement was signed on 30 May, 2017. Notice to take full possession of the site and commencement was given to the contractor on 24 November, 2017. The original contract period was to be three hundred and fifty (350) days or 12 months, and the project was expected to be completed in November, 2018 but the completion date was later revised to 6 April, 2020. However, available records revealed that the project commenced on 23 April, 2020. In addition, during the 2020/2021 financial year, the contractor was issued with a further extension of time up to March, 2021. During the year under review, the contractor was paid Kshs.14,420,024 for interim payment certificate (IPC) No.13 vide payment voucher Number 36.

Further review of records revealed that the contract period had been extended from the original 12 months to 29 months with the new expected date of completion being 30 September, 2022. According to the project status as at August, 2022, 99.5% of the project time had lapsed with 86% of work done. Further, physical verification of the project in September, 2022, indicated that works on the project had almost stalled and the project had already entered into the Defect Liability Period (DLP) which was to lapse on 30 September, 2023.

In the circumstances, the public may not obtain value for money from this contract.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

905. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

906. As required by International Development Agency (IDA) and the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

KENYA URBAN SUPPORT PROGRAM (IDA CREDIT NO.6134 KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

907. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

908. Weaknesses in the Project Implementation Arrangements

According to the Implementation Arrangements at Schedule 2 of the Financing Agreement, the State Department for Housing and Urban Development has the overall responsibility of the operations of the Project. As the Implementing Agency, the State Department has the responsibility of ensuring that the proceeds of the credit are used for the intended purposes with attention paid to the principles of economy, efficiency, effectiveness, transparency and accountability.

Section E.3 of Schedule 2 further provides that the State Department shall enter into a program participation agreement with the participating Counties which are however autonomous Government entities independent of the State Department and which are not recognized as reporting entities in the Financing Agreement.

The operations of the Project entail receipt of donor funds into the Kenya Urban Support Program Secretariat account through the State Department, which are then transferred to the participating County Governments' accounts for the implementation of the agreed projects at the County level.

Given the autonomy of the participating County Governments, it was therefore difficult for the State Department (Implementing Agency) to enforce accountability in the Counties

for funds received and projects implemented through the Project Secretariat. Further, some of the County Projects were implemented long after the disbursement of funds to the Municipalities. In future, the Financier and the Implementing Ministry or State Department should include a clause in the Financing Agreements to cause the participating County Governments to account for the operations separately.

My opinion is not modified in respect of this matter.

Other Matter

909. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis amounting to Kshs.650,000,000 and Kshs.423,607,948 respectively resulting to an underfunding of Kshs.226,392,052 or 35% of the budget. Similarly, Management spent an amount of Kshs.572,457,546 against an approved budget of Kshs.650,000,000 resulting to an underexpenditure amounting to Kshs.77,542,454 or 12% of the budget.

The underfunding and underperformance affected the planned activities and impacted negatively on service delivery to the public.

910. Delayed Counterpart Funding

The statement of receipts and payments reflects a loan from external development partners amount of Kshs.276,210,320 received from International Development Association (IDA) and an amount of Kshs.147,397,628 received as counterpart funding from the Government of Kenya. Paragraph 1.7 of the financial statements on the funding summary reflects total commitment on donor (IDA) funding of Kshs.31,020,000,000 and counterpart funding from the Government of Kenya amount of Kshs.2,068,000,000. Further, the total cumulative donor funding as at 30 June, 2022 amounted to Kshs.29,440,326,528 representing 95% of the total donor financing projection while that of the counterpart funding amounted to Kshs.330,270,916 representing 16% of the total counterpart financing projection. With the closing date of the Project of 31 July, 2023, it is doubtful that the donor (IDA) financing balance of Kshs.1,579,673,472 or 5% and the Government's counterpart financing balance of Kshs.1,737,729,084 or 84% all totalling to Kshs.3,317,402,557 will be disbursed to fund the Project's activities before the Project closure date.

Delays by the Government in releasing counterpart funds impacts negatively on Project implementation and development for the citizens.

911. Pending Bills

Note 12.1 on other important disclosures reflects pending accounts payable of Kshs.7,054,118 and as further disclosed in Annex 3(a) to the financial statements. Included in the pending accounts payable are invoices amounting to Kshs.2,384,600 that have been long outstanding. However, Management has not provided reasons for non-

payment of the bills which exposes the Project to the risk of incurring interest and penalties.

Failure to settle bills during the year to which they relate adversely affects the provisions of the subsequent year as the form a first charge.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

912. Kericho County (Kericho Municipality)

912.1 Delay in Construction of Storm Water Drainage Facilities

The County Government of Kericho entered into a contract for the construction of storm water drainage facilities at Kapsuser, Kapsoit, Nyagacho and Majengo areas at a total contract sum of Kshs.97,700,768. During the year under review, an amount of Kshs.67,888,219 was paid to the contractor. The works were to be completed within 12 months with expected completion date of 21 May, 2022. However, physical inspection in the month of August, 2022 established that the works at Kapsuser on backfilling and installation of french drains were incomplete while backfilling and drainage works at Nyagacho were yet to be completed.

Further, the County Government entered into another contract with a contractor on 23 May, 2019 for construction of storm water facility within Kericho Town for a period of two (2) years at a contract sum of Kshs.138,859,917. During the year under review, the contractor was paid a total of Kshs.42,392,433.

Physical verification in the month of August, 2022, revealed that the works which were to be completed by 23 May, 2021, were yet to completed and was at 92% with very minimal works ongoing and poor workmanship already noted on completed works. The contractor had requested for four (4) extensions of the contract period. However, Management did not provide adequate explanations on why the extensions were done.

In addition, the contractor had not completed road marking and road signage, the drainage works at the County Assembly were incomplete while the French drains and backfilling of the road shoulders were yet to be done.

912.2 Delay in Delivery of Fire Fighting Truck

The County Government of Kericho entered into a contract with a contractor for construction of a fire station and structural improvements at Uhuru Garden for a period of one year at a total contract sum of Kshs.46,942,144 on 23 May, 2019. During the year, the contractor was paid a total of Kshs.13,018,242. Review of the bill of quantities provided for audit indicated that a provisional sum of Kshs.14,500,000 was set aside for the purchase of a fire truck. However, physical inspection in the month of August, 2022 revealed that the fire truck had not been delivered. There was no evidence of extension of the contract and no reason was provided for failure to recover liquidated damages as per the contract terms.

In the circumstances, the Public has not obtained value for money on the above contracts.

913. Homa Bay County (Homa Bay Municipality) - Delay in Completion of Road Works

The County Government of Homa Bay entered into a contract for the upgrading to bitumen standards of junction C-19 to Tom Mboya University Junction Link Road for a period of one year and at a contract sum of Kshs.44,370,899 on 12 May, 2021. During the year, a total amount of Kshs.34,620,952 was paid for the road works. However, physical inspection exercise carried out in the month of July, 2022 revealed that, road furniture works amounting to Kshs.775,000 had not been done yet the contract period lapsed on 12 May, 2022. No reason was provided by Management for the delay in completion of the road works.

In the circumstances, the residents of the County of Homabay have not obtained value for money on the contract.

914. Bomet County (Bomet Municipality) - Improvement of Longisa Town Roads

The County Government of Bomet entered into a contract for the improvement to bitumen standard of Longisa Town roads. The contract sum was of Kshs.49,242,441 with the date of commencement of contract being 3 January, 2022 for a contract period of ten (10) months ending on 3 November, 2022.

Physical verification in the month of July, 2022 revealed that the amount certified as at 30 June, 2022 was Kshs.15,329,416. However, the professional opinion was given after the contract award date. It was also noted that the contract period had contradicting durations with the signed contract indicating six (6) months while the progress reports indicated ten (10) months. This is contrary to Regulation 23 (a) of the Public Procurement and Asset Disposal Regulations, 2020 which requires that an Accounting Officer to ensure that procurement and asset disposal contracts are entered into lawfully and implemented accordingly.

In addition, review of interim payment certificate (IPC) No. 1 revealed that a contingency sum of Kshs.950,000 was paid. However, the supporting documents and the approval of the amount were not provided for audit contrary to Section 139(2) of the Public Procurement and Asset Disposal Act, 2015.
In the circumstances, Management was in breach of the law.

915. Migori County (Migori Municipality)

915.1 Awendo Municipality Phase III

The County Government of Migori entered into a contract for construction of an ultra-modern market, washrooms, cabro paving of paths and landscaping for Awendo Municipality Phase III at a contract sum of Kshs.55,795,422 for a contract period of six (6) months ending on 30 June, 2022. The amount certified as at 30 June, 2022 was Kshs.20,290,012. However, physical verification exercise in July, 2022 revealed the following issues:

(i). No separate procurement and monthly progress report files were maintained contrary to Section 68 of the Public Procurement and Asset Disposal Act, 2015.

(ii). The signed form of tender was missing and there was no evidence that performance bond or bid security were provided by the contractor as required by Regulation 106 (7) of the Public Procurement and Asset Disposal Regulations, 2020.

(iii). The signed bills of quantities and specific conditions of the contract were not provided for audit contrary to Section 70 (6) of the Public Procurement and Asset Disposal Act, 2015.

(iv). The project was about 60% complete against the actual time lapse of 90%, and was therefore behind schedule. The remaining works included installation of worktops, cabro works, landscaping, water tank installation and installation of a high mast. However, no request for extension of works was provided for audit.

915.2 Rongo Municipality Phase II

The County Government of Migori entered into a contract agreement with a contractor for the installation of solar powered street lights in Rongo Municipality Phase III at a contract sum of Kshs.42,843,295. The date of commencement was 17 January, 2022, for a six (6) months period ending on 30 June, 2022. Amount certified as at 30 June, 2022 was Kshs.39,518,244. However, the signed form of tender was not provided for audit and there was no evidence of provision of performance bond or bid security by the contractor as required by Regulation 106(7) of the Public Procurement and Asset Disposal Regulations, 2020.

Further, the signed bills of quantities and specific conditions of the contract were not provided for audit as required by Section 70(6) of the Public Procurement and Asset Disposal Act, 2015 and the branded solar powered street lights were installed in an area where the County Government had previously installed the same leading to duplication of the project.

915.3 Ombo Modern Market Migori Municipality Phase III

The County Government of Migori entered into a contract with a contractor for the construction, fabrication and erection of steel tower and water tank, underground water tank and associated works, flood light and supply of stackable heavy-duty steel skip at Ombo Modern Market Migori Municipality Phase III. The contract sum was Kshs.34,793,828 and commencement date of 17 January, 2022 for a contract period of six (6) months ending on 30 June, 2022. The amount certified as at 30 June, 2022 was Kshs.31,066,159. However, the signed form of tender was not provided for audit and there was no evidence of provision of the performance bond or bid security by the contractor required by Regulation 106 (7) of the Public Procurement and Asset Disposal Regulations, 2020.

Further, the signed bills of quantities and specific conditions of the contract were not provided for audit as required by Section 70(6) of the Public Procurement and Asset Disposal Act, 2015. In addition, despite the completion of this project in June, 2022 and the previous construction of 420 market stalls at Ombo modern market in June, 2020, the

market was not operational. No explanation was provided for delayed operationalization of the markets.

In the circumstances, Management was in breach of the law and value for money on the project may not have been obtained by the public.

916. Nyamira County (Nyamira Municipality)

916.1 Delay in Upgrading of Public Works Offices - CDF Offices - Nyamira Hospital Junction

The contract for the works was awarded at a total contract sum of Kshs.82,859,330. The contract period was 12 months from 30 April, 2021 to 4 April, 2022. Physical verification exercise in the month of July, 2022 revealed that the road was approximately 21% complete with an amount of Kshs.8,869,921 already paid to the contractor. However, the contractor was not on site and no works were ongoing. The contractor requested for an extension of time for six (6) months up to 30 October, 2022 citing several reasons for delay of the works, which was not granted. Therefore, the contract period had lapsed but the works were incomplete.

916.2 Delay in Upgrading of (B5) Borabu Inn - Golan Heights Resort - Juakali - Nyamira Boys - (B5) Nyabite Market Road - Phase I

The contract was awarded on 4 June, 2019 at a total contract sum of Kshs.104,373,213. The contract was for twelve (12) months from on 5 August, 2019 to 4 August, 2020. Physical verification exercise carried out in July, 2022 revealed that the road was approximately 97% complete with an amount of Kshs.100,578,266 already paid to the contractor, translating to 97% of the contract sum. Review of records indicated that the contract had been extended for 26 weeks to 5 February, 2021 and a further 24 weeks to 20 August, 2021. The contractor cited late payment for works done as part of the reasons for the delay in completion of the contract.

916.3 Delay in Transfer of Funds from County Revenue Fund to KUSP Special Purpose Account

Review of records during the audit inspection exercise carried out in the month of July, 2022 revealed that Nyamira County Government had not remitted an amount of Kshs.128,256,457 being the funds that were budgeted for in the annual development plan (ADP) of the Project. The funds were still being held in the County Revenue Fund account. No reason was provided by Management to explain the delay in disbursements of the funds to the project account contrary to the provisions of Regulation 74(5) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, the expected benefits of the project to the public may not be realized.

917. Baringo County - Delay in Kabarnet Municipality Works

The County Government of Baringo entered into a contract agreement for Infrastructure Development - Anyiny-Juakali Road, Municipal Market Phase II, and Recreational Park at Kabarnet Municipality the works on 20 December, 2021 at a contract sum of Kshs.56,596,100. During the year under review, the contractor was paid an amount of

Kshs.12,033,737. According to the half-yearly progress report dated 30 June, 2022, the works were at 40% complete, and the contract expired on 20 July, 2022 and the contractor had requested for an extension which had not been granted.

Further, the performance bond provided of Kshs.2,829,804 expired on 21 June, 2022 and had not been renewed as required. No reason has been provided for failure to complete the project as per the contract agreement.

In addition, review of the progress report on rehabilitation of Kabarnet Municipal Market, Construction of Drainage Works and Cabro Paving of Pedestrian Walkways in Kabarnet Municipality dated 30 June, 2022, indicated that the project was 90% complete and the traders had taken over the municipal market despite the project being incomplete.

Further, according to the grand summary reported in the Interim Payment Certificate (IPC) No.2, there was overpayment of some bill items totalling to Kshs.3,787,510. No explanation was provided for this anomaly.

In the circumstances, the public may not have obtained value for money for the delayed projects.

918. Kisii County (Kisii Municipality) - Delay in Project Implementation

The Construction of Daraja Mbili – Elimu Umoja Road and Augmentation of Huduma Centre – Kisii Hotel Drain and Associated Works contract was awarded on 23 April, 2021 at a contract sum of Kshs.50,594,197. The contract period was twelve (12) months from 28 July, 2021 to 28 July, 2022. However, physical verification in the month of July, 2022 revealed that the road was approximately 56% complete with an amount of Kshs.14,251,270 already paid to the contractor, which translates to 28% of the contract sum.

Further, the contractor requested for extension of time on the contract siting various reasons for the delay in works including obstruction of electrical poles, lack of design both geometric and pavement as well as lack of engineering drawings, changes in sequence and timing of works. The extension was granted for 85 days to 21 October, 2022. However, the delays in the works and the reasons thereof point to poor feasibility studies of the project carried out by the County Government which should have identified these issues at the planning stage of the project.

In the circumstances, the public may not obtain value for money on the contract.

919. Taita Taveta County (Taita Taveta Municipality)

919.1 Irregular Consultancy Services

The tender for the provision of the consultancy services and Environmental and Social Impact Assessment for the Modernization of Mwatate Market was awarded at a contract sum of Kshs.1,750,000 which was fully paid. However, the tender advertisement documents, list of prequalified contractors and service providers were not provided for audit. Therefore, it was not possible to determine how the winning consultant was invited

for the tender/contract contrary to Regulation 33(3) of the Public Procurement and Asset Disposal Regulations, 2020.

Further, a tender for carrying out Environmental Impact Assessment (EIA) for road networks (700M) leading to the Governor's Office Mwatate Sub-County was awarded at a contract sum of Kshs.499,032. However, the tender advertisements, list of prequalified contractors and service providers were not provided for audit. It was not possible to determine how the consultant was invited for the tender contrary to Regulation 33(3) of the Public Procurement and Asset Disposal Regulations, 2020.

919.2 Proposed Modernization of Mwatate Market

The tender for the proposed modernization of Mwatate Market was awarded at a contract sum of Kshs.48,770,254. Review of records indicated that a tender addendum No.1 was issued on 15 September, 2020. The amount paid up to July, 2022 amounted to Kshs.49,896,925 comprising of seven (7) payment certificates totalling to Kshs.48,243,908 and a retention amount of Kshs.1,653,017 thereby leading to an overpayment of Kshs.1,126,671.

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

919.3 Delay in Project Implementation

Tender for the rehabilitation of Mwatate County Administration offices access road, construction of 4-door modern toilets, construction of garbage receptacles, construction of parking and walkway and supply and installation of solar street lighting was awarded at a contract sum of Kshs.48,162,006 on 8 August, 2019. The amount certified for payment at 89% completion of the works was Kshs.40,167,148 which was fully paid by the Municipality of Mwatate.

However, physical verification during the month of July, 2022 revealed that the project had stalled. Management explained that the unpaid amount of Kshs.7,994,858 was not provided by the County Government of Taita Taveta as agreed. However, the agreement or associated documents showing how the funding was to be shared between the Municipality and the County Government were not provided.

In the circumstances, public has not obtained value for money on the contract.

920. Uasin Gishu County (Eldoret Municipality) - Delay in Project Implementation

The County Government of Uasin Gishu entered into a contract for the upgrading of sixty-four (64) Stadium in Eldoret Municipality at a contract sum of Kshs.1,163,563,925. The work commenced on 14 June, 2021 for a contract period of 15 months and expected completion date of 9 August, 2022. According to the progress report of June, 2022, the percentage of works completed was 46% against a lapsed period of twelve (12) months or 80% of the contract period. The project is thus behind schedule.

In the circumstances, the expected benefits of the project to the residents of Uasin Gishu may not be realized.

921. Kitui County (Kitui Municipality) - Stalled Project - Construction of Kithomboani Modern Market

The County Government of Kitui entered into an agreement for the Construction of Kithomboani Modern Market at a contract sum of Kshs.351,585,554. The Project commenced on 25 June, 2019 and was expected to be completed by 6 September, 2021. Audit inspection exercise carried out in the month of July, 2022 revealed that total payments made to the contractor by 30 June, 2022 amounted to Kshs.208,131,131 or 59% of the contract sum, while the progress of works was at 85%. The Project had however stalled and the contractor was no longer on site.

In the circumstances, the expected benefits of the project to the residents of Kitui may not be realized.

922. Machakos County (Machakos Municipality) - Delay Projects Implementation

The County Government of Machakos entered into a contract for the construction of Kathemboni Road in Machakos Municipality at a contract sum of Kshs.117,515,928. The works were to be completed within six (6) months in May, 2022. The Municipality had paid the contractor an amount of Kshs.29,088,148. However, the project was yet to be completed and progress of works was at 37% against time lapse of 133% as at 2 August, 2022. No reason was provided by Management for the delay in completion of works.

In the circumstances, the expected benefits of the projects to the public were not realized.

923. Nyeri County (Nyeri Municipality) - Delay in Operationalization of Nyeri Municipal Bus Terminus

The County Government of Nyeri entered into a contract for the construction of Nyeri Municipal Bus terminus at a contact sum of Kshs.575,688,291 on 27 May, 2019. Physical verification in the month of July, 2022, revealed that, although the market works had been completed, the contractor had not handed over the Project to the County Government.

In the circumstances, the expected benefits of the Project to the public were not realized.

924. Samburu County (Maralal Municipality)

924.1 Unsatisfactory Project Implementation - Trade Market

The County Government of Samburu entered into a contract on 30 June, 2020 for construction of a modern market in Maralal Municipality. The contract duration was one (1) year at a total contract sum of Kshs.53,981,760. The project expected completion date was 30 June, 2021. The total amount paid to the contractor as at 30 June, 2022 was Kshs.51,282,672. Physical verification in the month of July, 2022, revealed that the project was handed over on 30 June, 2022 a delay by one year without approval.

Further, the fire-fighting equipment, external pavements and cabro-paving had not been completed while bitumen had not been applied on the cracks of the joints on the roof top to avoid water leakages. The certificate of substantial completion acknowledging the

completion of the project works and defect liability certificate to the contractor were not provided. No explanation was provided by the Management on how the remaining works were to be completed.

924.2 Unsatisfactory Implementation of Project – Maralal Municipality

Similarly, Management entered into a contract for cabro works and storm water drainage at Maralal Municipality on 26 July, 2021 at a contract sum of Kshs.48,510,769. During the year, the contractor was paid a total of Kshs.32,642,800. However, physical verification in the month of July, 2022 revealed that the cabro works and drainage had not been done between Buffalo area to Wambu Hardware Street quoted at Kshs.7,050,000 as per the bill of quantities but had been reported as completed as per the measurement sheet of the works prepared on 31 March, 2022. Further, no significant work had been done from the Mosque to Tower Street quoted at Kshs.2,950,000 in the bill of quantities, yet these works had also been reported as complete from the measurement sheet.

In the circumstances, the Public did not obtain value for money from the contract.

925. Turkana County (Lodwar Municipality)

925.1 Unsatisfactory Construction of Street Parking Lots and Street Lights

The contract for construction of street parking lots (cabro works) and installation and commissioning of solar street lights and flood lights in Lodwar Municipality was awarded at a contract sum of Kshs.94,428,477 for both cabro works and street lighting as per tender documents provided. However, physical verification in July, 2022 revealed that a total amount of Kshs.41,639,875 had been paid to the contractor in relation to the cabro works done. Further, all the original documentation relating to the contract were not provided for as they were said to have been taken by the Ethics and Anti-Corruption Commission (EACC) for an ongoing investigation. Further, physical count of all the street lightings revealed that only thirty-two (32) No. street lights had been installed against one hundred and thirty-six (136) as per the contract agreement. No explanation was provided for the failure to install the other one hundred and four (104) street lights. No further measurements of works had been made on the contract since the first payment despite the fact that the contract was 100% complete.

925.2 Unsatisfactory Construction of a Fire Station and Street Lights

The contract for construction of a fire station and installation of solar powered street lights and flood lights in Lodwar Town was signed on 11 July, 2019 at a contract sum of Kshs.87,277,623 and a contract period of 52 weeks. The initial completion date was 10 July, 2020. The project comprised of construction of a fire station at a contract sum of Kshs.53,297,623 and installation of solar powered street lights and flood lights in Lodwar at a sum of Kshs.33,980,000. Included in the construction of the fire station was a proposed four hundred (400) meter long masonry walling, gates and gate house at the fire station at a cost of Kshs.13,132,340. This comprised of external walling at Kshs.3,822,740, metal works Kshs.3,995,200, finishes Kshs.914,400 and provisional and PC sums of Kshs.4,400,000.

However, physical verification exercise in the month of July, 2022 revealed that although the contractor had been paid the full amount of the contract sum of Kshs.87,277,623, the percentage of the physical work completion was approximately 90% and the masonry walling had been done half way. The supporting documentation such as structural drawings, designs and specifications approvals and committee minutes in relation to payment of the provisional sums amounting to Kshs.4,400,000 were not provided.

Further, a comparison of the bill of quantities (BQ) and the actual work done in relation to installation of solar powered street lights and flood lights revealed the following discrepancies;

(i). According to the BQ, the contractor was to install 8M high hollow silver galvanized steel but a 6M high hollow silver galvanized steel were installed.

(ii). The contractor installed 120AH solar battery deep cycle instead of the 200AH solar battery deep cycle as specified in the BQ.

(iii). A 100WP 17.5 V high efficiency solar panel was installed instead of 120WP 17.5V high efficiency solar panel specified in the BQ.

(iv). A 400W floodlight LED fitting complete with control gear and tabular lamp 220 -240v, 50HZ, 120 beam angle water proof daylight was installed instead of a 500W floodlight LED fitting as provided in the BQ.

(v). The contractor was to install two (2) high-mast lighting poles 24 meters high mild steel hot- deep galvanized and spray coated treatment, rust proof average radius of 100mm fixed on to concrete columns with steel gussets and rawl bolts and complete with portable winch for lowering and raising the flood lights for servicing purposes. However, 18 meters and 12 meters high masts floodlights were installed. Further, the installed floodlights did not have a portable winch for lowering and raising the flood lights for servicing purposes.

(vi). There was no authority or supporting documentation such as approvals and committee minutes in relation to payment of the contingency sums amounting to Kshs.300,000.

In the circumstances, the County Government of Turkana did not obtain value for money on the contract.

926. Trans Nzoia County (Kitale Municipality) - Delay in Project Implementation

The contract for the construction of Multi-Storey Business Complex for County Government of Trans Nzoia was signed on 25 June, 2018 at a contract sum of Kshs.874,280,383 for a contract period of 728 days. The commencement date for the contract was 10 June, 2019 and the initial completion date was 10 June, 2021. However, the contract period was later revised to 30 November, 2021. The actual amount certified as at 1 June, 2022 was Kshs.569,611,410 while the actual amount paid was Kshs.461,603,521. The percentage of the physical work done as at 1 June, 2022 was 85%. However, audit inspection exercise carried out in the month of July, 2022 revealed that the project was behind schedule and the percentage of time lapsed was 123%

against a physical completion of 85%. Management did not provide explanation for the delay in completion of the Project.

In the circumstances, the public may not have obtained value for money from the contract.

927. Wajir County (Wajir Municipality) - Delay in Project Implementation

The County Government of Wajir awarded two projects through open tender for the construction of non-motorized transport in Wajir Municipality at a contract sum of Kshs.42,935,080 and the construction of Soko Mjinga 2 (Soko County Access) road at a contract sum of Kshs.34,932,942. Review of records revealed that the amounts paid on the two contracts as at 30 June, 2022 were Kshs.11,651,695 and Kshs.6,702,174 respectively. However, physical verification exercise carried out on 27 July, 2022 revealed the following issues:

(i). The payment of Kshs.6,702,174 to one of the contractor was not supported with a summary of work done and bill of quantity extract showing the works paid for.

(ii). The contract agreements for the two projects did not indicate the completion date for the projects.

(iii). The Project Managers did not prepare status reports for the two (2) projects and therefore, it was not possible to confirm whether the payments of Kshs.11,651,695 and Kshs.6,702,173 for non-motorized transport in Wajir Municipality and construction of Soko Mjinga 2 (Soko County access) respectively were commensurate with the works carried out for the projects.

(iv). The contractor was not on site for the Soko Mjinga 2 (Soko County access) project.

In the circumstances, the public may not have obtained value for money on the contract.

928. Garissa County (Garissa Municipality)

928.1 I rregular Construction of Road

The County Government of Garissa awarded the Upgrading to Bitumen Standard of Galbet Township Access Road contract at a contract sum of Kshs.81,825,853 in the financial year 2019/2020. Review of records indicated that the contractor had been paid an amount of Kshs.55,502,069 in 2020/2021 and previous financial years.

Further, the works certified and paid for during the financial year 2021/2022 was Kshs.17,915,040 making a total payment of Kshs.73,417,109 for the project. Included in the total payment is an amount of Kshs.15,043,000 related to culvert and drainage works which was originally tendered at an amount of Kshs.11,404,250 leading to unsupported overpayment of Kshs.3,638,750. This was contrary to Section 139(1) of the Public Procurement and Asset Disposal Act, 2015.

Further, physical verification carried out on 1 August, 2022 revealed that the drainage works were poorly done and some culverts were dysfunctional and not in use.

928.2 Variation of Contract Prices

Review of tender documents, tender committee minutes and other records provided for audit revealed that Management made variation of two (2) contracts for the following projects:

Project Name	Original Contract Price (Kshs.)	Revised Contract Price (Kshs.)	Variation (Kshs.)	Variation (%)
Proposed Storm Water Drainage and Pedestrian Walkways	91,458,775	101,643,235	10,184,460	11%
Proposed Construction of Qorahey Market	74,341,042	83,959,580	9,618,538	13%

Available information revealed that the variation of the contracts was initiated by the Project Managers and approved by Garissa Municipality Board. However, the Board minutes approving the variation were not provided for audit contrary to Section 139(1) of the Public Procurement and Asset Disposal Act, 2015.

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

929. Kilifi County (Kilifi Municipality) - Delay in Completion of Project

The County Government of Kilifi entered into a contract agreement for the construction of a fire station and emergency centre for a period of one year commencing 17 May, 2021 to 17 May, 2022 at a total contract sum of Kshs.120,911,300. During the year, the contractor was paid Kshs.71,666,112. However, physical verification exercise on 28 July, 2022 revealed that the works were at 76% completion. No extension of time had been granted to the contractor after lapse of the contract period. Further, Management did no provide explanations for the delay in delivery of the Project.

In the circumstances, the public may not obtain value for money on the contract.

930. Tana River County (Tana River Municipality) - Delay in Completion of Project

The County Government of Tana River entered into a contract for construction of 2 Km Phase II storm water drainage. The contract period was six (6) months commencing 20 January, 2022 to 20 July, 2022 at a contract price of Kshs.61,834,700. As at 30 June, 2022, total amount certified and paid was Kshs.44,390,597. However, physical inspection carried out on 1 August, 2022, revealed that the Project had not been completed despite the expiry of the contract period. Further, Project status report was not provided for audit and Management did not provide explanation for the non-completion of the Project within the agreed timelines.

In the circumstances, the County Government of Tana River may not obtain value for money on the contract.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

931. Meru County (Meru Municipality) - Non-Maintenance of a Deposits Cash book

Review of the Meru County Municipal Board KUSP payments indicated that, the Board retained 10% being retention money from the various contractors. However, the

Municipality did not maintain a separate deposits cash book and bank account to confirm whether the funds were deducted and are available on demand at the end of defects liability period of the various contracts.

In the circumstances, the effectiveness of internal controls over deposits and retentions could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

932. As required by International Development Agency (IDA) and the Financing agreement, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

SECOND INFORMAL SETTLEMENTS IMPROVEMENT PROJECT NO. P167814 CREDIT NO. 6759KE

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

933. Acquisition of Non-Financial Assets

As disclosed in Note 8 to the financial statements, the statement of receipts and payments reflects acquisition of non-financial assets of Kshs.38,438,339 comprising of purchase of vehicles amounting to Kshs.5,700,000, purchase of office furniture and general equipment amounting to Kshs.7,829,550, and research, studies, project preparation, design and supervision amounting to Kshs.24,908,789. However, no detailed approved workplan and budget were provided to indicate that the expenditure was in respect to the budgeted activities of the Project.

In addition, the purchase of office furniture and general equipment expenditure of Kshs.7,829,000 includes amounts paid on 28 and 30 June, 2022 for supply of desktop computers and network configuration all amounting to Kshs.5,399,050 and whose date of delivery, commissioning and acceptance were not indicated.

In the circumstances, the accuracy and validity of acquisition of non-financial assets expenditure of Kshs.38,438,339 could not be confirmed.

934. Purchase of Goods and Services

As disclosed in Note 6 to the financial statements, the statement of receipts and payments reflects purchase of goods and services amount of Kshs.70,650,376. The expenditure comprised of utilities, supplies and services amounting to Kshs.7,368,845, communication, supplies and services amounting to Kshs.4,486,010, domestic travel and subsistence amounting to Kshs.38,367,608, printing and advertising amounting to

Kshs.12,113,838, training amounting to Kshs.71,000 and routine maintenance amounting to Kshs.8,243,075.

However, review of records revealed that a total of Kshs.1,483,421 issued as standing imprest to cater for office operations and Kshs.4,060,910 for supply of tonners for a project that had been in operation for just one year was excessive. Further, communication expenditures related to calling cards amounting to Kshs.4,486,010 were procured during the year. Although the list of the staff airtime entitlement was provided, the detailed breakdown of project staff who got the airtime and the amount received compared to the entitlement was not provided for audit review.

In addition, domestic travel costs of Kshs.38,367,608 include an unsupported amount of Kshs.14,974,175 transferred to State Department for Housing and Urban Development. No evidence on how the payments related to the project was provided. Further, imprests paid to staff amounting to Kshs.18,424,983 did not however have supporting documentation such as the surrender vouchers to show that the activities undertaken related to the project.

In the circumstances, the accuracy and validity of the purchase of goods and services expenditure of Kshs.70,650,376 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

935. Annual Work Plan and Budget of the Project

Section F(1) of schedule 2 of the financing agreement requires the recipient to prepare for approval the proposed project consolidated annual work plan and budget for the following fiscal year containing all project activities and eligible expenditures proposed for the year. Further, Section F(2) requires the recipient to ensure that the project is implemented in accordance with the annual work plan and budget. However, although Management provided a workplan for the year, the details in the workplan could not be tied to the specific expenditure items in the statement of receipts and payments.

In the circumstances, Management was in breach of the financing agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

936. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

937. As required by the International Development Association (IDA), I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further,

adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR HOUSING AND URBAN DEVELOPMENT

KISUMU URBAN PROJECT (PROJECT ADVANCE ACCOUNT) - CKE 1035.01.G - COUNTY GOVERNMENT OF KISUMU

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

938. Purchase of Goods and Services

As disclosed in Note 2 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.164,895,270 in respect of purchase of goods and services. However, examination of records revealed the following unsatisfactory issues: -

938.1 Unsupported Consultancy Services

The balance includes an amount of Kshs.28,885,708 incurred on consultancy services. The main expenditure was incurred on feasibility study, design and construction of Project. However, it is not clear which new projects were being consulted on as the Project has been in existence for the last three years. Further, no evidence was provided to indicate whether the expenditure was incurred to settle existing obligations or pending bills.

938.2 Misclassification of Non-Financial Assets as Supplies

Further, the balance includes an amount of Kshs.65,376,901 described as supply which includes items of furniture, medical equipment and other equipment with a cumulative value of Kshs.61,663,903 which are non-financial assets in nature and no procurement plan was provided in support of the acquisition of such assets. No explanation was provided for accounting for non-financial assets as supplies.

938.3 Unsupported Administration Costs

In addition, the balance includes an amount of Kshs.56,114,280 under administration costs which includes amounts of Kshs.10,622,116 and Kshs.7,430,324 paid to two (2) auditing firms for the provision of external audit services. Although, Article 3.4.3 (e) of the Credit Agreement provides for semi-annual audits of the Project by an external auditor, it is not clear how the external auditors were hired as there is no evidence on how their fees, scope of work, reporting channels and feedback was to be determined. The balance of Kshs.56,114,280 also includes an amount of Kshs.12,504,483 in respect of taxes paid

to the Commissioner of Domestic Taxes. It is not clear how the taxes arose or the purpose for which it was paid.

Further, an amount of Kshs.10,216,040 was incurred as per diems for workshops, seminars and travel. No reason was provided for failure to have the expenditure recorded under capacity building. No work plans were provided to indicate whether the expenditures had been planned for.

In the circumstances, the accuracy and completeness of expenditure amounting to Kshs.164,895,270 under purchase of goods and services could not be confirmed.

939. Cash and Cash Equivalents

The statement of financial assets reflects cash and cash equivalents balance of Kshs.2,201,557 as at 30 June, 2022. However, during the year under review, Management recorded expenditure of Kshs.299,173,957 out of the opening balance of Kshs.296,972,400 which should have left an overdraft of Kshs.2,201,557. This therefore results to a variance of Kshs.4,403,114 which has not been explained or reconciled. Further, the statement of cashflows for the year ended 2020/2021 reflected cash and cash equivalent at end of the year of Kshs.351,234,781 and a restated balance of Kshs.296,972,400 resulting to a variance of Kshs.54,262,381 which has not been explained or reconciled.

In the circumstances, the accuracy of cash and cash equivalents balance of Kshs.2,201,557 could not be confirmed.

940. Unauthorised Expenditure - Lack of Approved Budget

The statement of receipts and payments reflects payments amounting to Kshs.299,173,957. However, according to the statement of comparison of budget and actual amounts, the expenses were not budgeted for during the year under review and no reason was provided for incurring expenditure without an approved budget and annual work plan as required, as indicated below:

Payments	Final Budget (Kshs.)	Actual Expenditure (Kshs.)	Over (Kshs.)
Purchase of Goods and Services	0	164,895,270	164,895,270
Acquisition of Non-financial Assets	0	134,278,688	134,278,688
Total	**0**	**299,173,957**	**299,173,957**

Although, the Project did not record any receipts during the year under review, no budget adjustment and approval was done to allow utilization of the brought forward cash and cash equivalents balance of Kshs.296,972,400.

In the circumstances, the regularity of expenditure amounting to Kshs.299,173,957 could not be ascertained.

Other Matter

941. Outstanding Pending Bills

The Kisumu Urban Project had pending financial obligations of Kshs.29,537,348 as reflected in Annex 2 to the financial statements after the expiry of the Project period on 30 June, 2022. Although Management has explained that necessary follow ups have been made with the donor, the State Department of Housing and The National Treasury, no documentary evidence was provided in support of this explanation.

In the circumstances, the settlement of these obligations could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

942. Acquisition of Non-Financial Assets

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.134,278,688 in respect of acquisition of non-financial assets. However, review of records revealed the following unsatisfactory issues: -

942.1 Delayed Execution of Contract

The balance of Kshs.134,278,688 includes payments amounting to Kshs.61,260,140 that were paid to a contractor for a contract to upgrade Otonglo Market. Review of records revealed that the contract agreement was dated 30 December, 2020, at a contract sum of Kshs.79,468,296 and a period of forty (40) weeks which was estimated to end on 30 October, 2021. Further, a contract addendum No. 1 on cost and time extension was entered into on 21 February, 2022 for an additional cost of Kshs.19,459,409 and for a further twenty-one (21) weeks, respectively.

Although the original market area was reduced from 2570m² to 2313 m², the project cost went up by Kshs.19,459,409. Management has not given justification for the cost escalation given that the original market area was reduced as part of the land was claimed by Kenya Railways Corporation. The certificate of practical completion and handing-over report were not provided for audit verification. Physical verification conducted at Otonglo Market site in October, 2022 revealed that the market structure was complete, but no electricity connection had been done to the facility and it had not been commissioned for use.

942.2 Failure to Execute Contract on Proposed Completion of Low Volume Access Roads - (Kemri-Otonglo-Tengere-Rota Road)

The acquisition of asset expenditure includes payments amounting to Kshs.17,268,825 paid to a construction company for the construction of low volume access roads at an initial contract sum of Kshs.63,687,970 and a contract period of eight (8) months commencing on 7 December, 2018 and ending on 7 August, 2019. At the time of the audit, the contractor had been paid a total of Kshs.56,015,330 representing 88% of the contract sum.

Physical verification of the Project in October, 2022 revealed that the contractor was not on site and the project was still incomplete due to failure of the concrete beams to meet the tests carried out. Management did not provide explanation on the action being taken to have the project completed. The contractor requested for an extension of the contract period to 31 December, 2019 but there was no evidence that the request was accepted. Further, the performance security bond that the contractor had provided was valid up to 28 July, 2019 and there was no evidence provided on the renewal of the bond.

942.3 Proposed Construction of Perimeter Wall and Installation of Gates at Kenya Wildlife Service (KWS)

The acquisition of asset expenditure further includes payments amounting to Kshs.1,939,788 which was paid to a construction company for the construction of a perimeter wall and installation of two (2) gates and a pedestrian gate at KWS. Physical verification carried out in October, 2022 revealed that the contractor used concrete blocks, installed only one gate and did not install any pedestrian gate against bills of quantities which required natural stone superstructure, installation of two (2) steel gates and a pedestrian gate respectively.

In the circumstances, value for money in respect of Kshs.80,468,753 paid during the year towards the project could not be established.

943. Construction of Impala-Dunga-Nanga-Five Ways Road

The statement of receipts and payments reflects expenditure amounting to Kshs.134,278,688 on acquisition of non-financial assets which as disclosed in Note 3 to the financial statements includes a payment of Kshs.6,384,501 paid to a construction company for installation of street lighting. Review of tender documents revealed that a contract agreement dated 23 March, 2018 was entered into between the County Government of Kisumu, City of Kisumu and the contractor for the construction of Impala-Dunga-Nanga-five ways road at a contract sum of Kshs.301,145,590.

In an Addendum No.1 dated 21 July, 2019, the procuring entity introduced installation of street lights along the entire stretch of the road to the contract and increased the contract sum by Kshs.31,377,727 which represents 10.4% contract variation contrary to Section 75(1) and (2) of the Public Procurement and Asset Disposal Act, 2015 which states that a procuring entity may amend the tender documents at any time before the deadline for submitting tenders by issuing an addendum without materially altering the substance of the original tender and an amendment may be made on the procuring entity's own initiative or in response to an inquiry by a candidate or tenderer.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

944. Non-Registration of Heavy-Duty Refuse Compactor

As previously reported, the Project Management purchased a heavy duty refuse compactor equipment in July, 2020 at an amount of Kshs.48,990,000. However,

ownership documents in respect of the machine were not provided for audit verification. In addition, the equipment did not have a serialised registration code for ease of identification.

In the circumstances, the ownership and tracking of the equipment could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

945. As required by Financing Agreement, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have not been kept by the Project and the Project's financial statements are not in agreement with the accounting records and returns.

KISUMU URBAN PROJECT (CASH EXPENDITURE FUND) - CKE 1035.01.G - COUNTY GOVERNMENT OF KISUMU

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

946. Trial Balance

The financial statements as at 30 June, 2022 were not supported by a trial balance and ledger to indicate the basis of preparation of the financial statements. In addition, there was minimal activities in the project's finances during the year. Further, the previous year's net financial position did not agree with the audited financial statements for the year ended 30 June, 2021, which was not resolved in the year ended 30 June, 2022.

In the circumstances, the accuracy of the financial statements for the year ended 30 June, 2022 could not be confirmed.

947. Statement of Financial Assets

The statement of financial assets for the year ended 30 June, 2022 reflects a comparative balance of Kshs.6,461,695 in respect to fund balance brought forward while the certified financial statements for the year ended 30 June, 2021 reflect a balance of Kshs.6,273,235 resulting to a variance of Kshs.188,460 which was not explained.

In the circumstances, the accuracy of the statement of financial assets could not be confirmed.

948. Statement of Cashflow

The statement of cash flows reflects a closing balance of Kshs.6,772 for the year ended 30 June, 2022. However, the cash and cash equivalents as at 30 June, 2021 after an unsupported restated balance of Kshs.198,032 was a credit balance of Kshs.8,089 resulting to a variance of Kshs.931,207 which was not explained.

In the circumstances, the accuracy of the statement of cashflow for the year ended 30 June, 2022 could not be confirmed.

949. Unsupported Expenditure

The statement of receipts and payments and Note 2 to the financial statements reflects purchase of goods and services expenditure amounting to Kshs.189,817 which includes an amount of Kshs.188,500 in respect to domestic travel and subsistence. However, no detailed surrender documents were provided for audit review.

In the circumstances, the accuracy and completeness of the domestic travel and subsistence expenditure amounting to Kshs.188,500 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

950. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

951. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

952. As required by Financing Agreement, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have not been kept by Management of the Project and the Project's financial statements are not in agreement with the accounting records and returns.

STATE OFFICERS HOUSE MORTGAGE SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

953. Inaccuracy of the Financial Statements

The statement of cash flows reflects loan disbursements paid out during the year of Kshs.259,127,644. However, the loan disbursement schedule as at 30 June, 2022 reflects loans disbursed amounting to Kshs.277,550,363 resulting to unexplained variance of Kshs.18,422,719.

In the circumstances, the accuracy and fair presentation of the cash flows statement could not be confirmed.

954. Non-Performing Loans/Mortgage Arrears

The statement of financial position and as disclosed in Note 18(a) to the financial statements reflect current receivables of Kshs.34,430,239 comprising of 4th quarter mortgage interest of Kshs.15,772,442 and mortgage arrears of Kshs.18,657,797. Further, scrutiny of the non-performing loans/mortgage arrears revealed that, arrears amounting to Kshs.14,035,549 representing 75% of the total mortgage arrears were due from three (3) beneficiaries and had been defaulted for a period of more than one (1) year. The Scheme Management Committee and the Institution administering the loans did not demonstrate measures taken to recover the loans from the defaulters.

In the circumstances, the recoverability of the long outstanding mortgage arrears of Kshs.18,657,797 is doubtful.

955. Unsupported Board/Council Expenses

The statement of financial performance reflects Board expenses amounting to Kshs.2,364,960 which includes travel and accommodation expenditure of Kshs.2,120,960 in respect of travel to Malaysia for Benchmarking by the Scheme Management Committee. However, the expenditure was not supported by an approved annual workplan. Additionally, the benchmarking report provided for the visit to Malaysia was not signed and did not have the addressee. Further, it was noted that two officers who attended the benchmarking were not members of the Scheme Management Committee but staff of the Scheme Fund. The Management did not explain why the expenditure was charged to Council expenses.

In the circumstances, the accuracy and validity of the travel and accommodation expenditure of Kshs.2,120,960 could not be confirmed.

956. Unsupported Expenditure - Travelling and Accommodation

The statement of financial performance reflects use of goods and services amount of Kshs.5,528,280 which includes travelling and accommodation amount of Kshs.2,000,000 whose justification was not provided. Further, some activities on the expenditure were not related to the Fund as they were in respect to inspections of projects under the Civil Servants Scheme Fund which is a separate entity.

In the circumstances, the accuracy and validity of travel and accommodation expenditure amounting to Kshs.2,000,000 could not be confirmed.

957. Mistatement of Trade and Other Payables

The statement of financial position and as disclosed in Note 19 to the financial statements reflect trade and other payables balance of Kshs.306,000. However, the Management explained that the amount related to the National Environmental Management Authority (NEMA) remittances erroneously received in the State Officers Fund. Review of the supporting schedule indicates that the balances dates back to the year 2019. The amount

is not reflected in the financial statements of NEMA and it is not clear why it has taken long to refund the balance.

In the circumstances, the accuracy and validity of the trade and other payables balance of Kshs.306,000 could not be confirmed.

958. Unsupported Loan Balance

The statement of financial position reflects receivables from exchange transactions balance of Kshs.2,724,901,746 comprising of current proportion and long term receivables from exchange transactions of Kshs.34,430,239 and Kshs.2,690,471,507 respectively. The balance represents outstanding loans by State Officers as at 30 June, 2022. However, the Fund Management did not provide movement schedules of individual loans from the opening balance of Kshs.2,978,708,724, additions for the year and repayments and interest to support the closing balance of Kshs.2,724,901,746. In addition, Management did not provide copies of fully charged title deeds for sampled loans totalling to Kshs.615,827,616 issued to nineteen (19) officers.

In the circumstances, the accuracy and validity of receivables from exchange transactions (outstanding loans) balance of Kshs.2,724,901,746 could not be confirmed.

Other Matter

959. Low Uptake of Mortgage Funds

During the year under review, the Fund had a development budget for loans to State Officers of Kshs.1,000,000,000. Review of the loans disbursement schedule as at 30 June, 2022 revealed that loan disbursements during the year amounted to Kshs.277,550,363 or 28% of the budget. Therefore, Kshs.722,449,637 or 72% of the budgeted funds for mortgage were not taken up by the State Officers.

In the circumstances, the slow uptake of loans is an indication that the overall objectives of the Fund was not achieved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

960. Lack of a Substantive Committee to Manage the Fund

The Cabinet Secretary, The National Treasury vide a letter reference No. ZZ/MOF 26/03 "A" (59) dated 15 May, 2015 appointed, on interim basis, the Civil Servants House Mortgage Scheme Fund Committee to facilitate State Officers in the National Government to access house mortgage facility through the State Officers House Mortgage Scheme Fund. However, no substantive Committee has been appointed and there is no evidence that Interim Committee has been confirmed. This is contrary to Regulation 7(1) of the Public Finance Management (State Officers House Mortgage Scheme Fund) Regulations, 2015 which states that notwithstanding Paragraph 6(1), the Cabinet

Secretary may appoint a Committee or Board of an existing House Mortgage Scheme Fund in the public service to manage the State Officers House Mortgage Scheme Fund.

In the circumstances, the Fund was in breach of the regulations.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

961. Maintenance of Manual Records Without Adequate Backup

Review of the Fund's operations revealed that the financial and accounting records are managed and maintained manually. Financial reports, ledgers, trial balance, budgets and financial statements are prepared manually and there was no evidence of backup. Therefore, the Fund's records are prone to errors and loss.

In the circumstances, the Fund's operating environment is exposed to interruptions and loss of critical information in case of disaster.

STATE DEPARTMENT FOR PUBLIC WORKS – VOTE 1095

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

962. Irregular Payments under Use of Goods and Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.320,108,106 as disclosed in Note 4 to the financial statements. However, the following anomalies were noted;

(i) Utilities, supply and services expenditure of Kshs.6,814,371 includes payments to staff for extraneous allowance and travel costs amounting to Kshs.205,630 for doing normal work.

(ii) The expenditure on foreign travel and subsistence of Kshs.4,132,810 includes domestic travel and subsistence expenses amounting to Kshs.147,222.

(iii) Other operating expenses of Kshs.162,980,856 include extraneous allowances of Kshs.2,630,000 paid to officers.

(iv) Other operating expenses also include an amount of Kshs.6,412,700 described as monitoring of footbridges for which no details were provided for audit.

(v) Specialized materials expenditure of Kshs.7,502,394 includes Kshs.780,000 paid as extraneous allowance which is a compensation of employees related expenditure.

In the circumstances, the accuracy and validity of expenditure on use of goods and services amounting to Kshs.320,108,106 could not be confirmed.

963. Irregular Payments under Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets amount of Kshs.703,054,635 as disclosed in Note 7 to the financial statements. However, this amount includes Kshs.26,952,500 paid to staff for undertaking daily routine work.

In the circumstances, the propriety, accuracy and validity of expenditure on acquisition of assets of Kshs.26,952,500 could not be confirmed.

964. Compensation of Employees - Payments Outside Integrated Payroll and Personnel Database (IPPD) System

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation of employees' amount of Kshs.807,129,963 which includes an amount of Kshs.36,317,963 paid outside the IPPD System.

Management did not justify the payment of salaries outside the IPPD system.

In the circumstances, the validity of amounts paid outside the IPPD system of Kshs.36,317,963 could not be confirmed.

965. Unconfirmed Transfers to Other Government Units

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects transfers to other Government units amount of Kshs.1,276,000,000. The amount includes Kshs.16,000,000 indicated to have been transferred to the Ministry of Works Sports Club. However, Management did not provide documentation to support the creation of the club as a Government entity neither were there financial statements of the Sports Club to confirm receipts of Kshs.16,000,000.

In the circumstances, the accuracy and regularity of the transfers to other Government units amount of Kshs.16,000,000 could not be confirmed.

966. Inaccuracies in Outstanding Imprest Balance

966.1 Payments to Staff not Captured as Outstanding Imprest

The statement of assets and liabilities and as disclosed in Note 9 of the financial statements reflects accounts receivables - outstanding imprest and clearance accounts balance of Kshs.637,210. However, review of the recurrent bank reconciliation statement reflects payments totalling to Kshs.1,460,832 relating to imprest to staff paid on 30 June, 2022 resulting to an unreconciled variance of Kshs.823,622.

In the circumstances, the accuracy of the outstanding imprest and clearance accounts balance of Kshs.637,210 could not be confirmed.

966.2 Imprest to Staff

Review of both development and recurrent cash books revealed that Kshs.155,555,931 was paid during the year to twenty-one (21) members of staff relating to imprests for domestic travel and subsistence.

In the circumstances, the officers were in the field for more days than the work schedule can accommodate and possibly more than the working days in a year.

In the circumstances, the regularity and value for money of Kshs.155,555,931 could not be confirmed.

967. Inaccuracies in Pending Bills

Note 16.2 and Annex 5A to the financial statements reflects pending accounts payable balance of Kshs.812,842,132. However, the following anomalies were noted;

967.1 Fuel, Oil and Lubricants Pending Bills

Included in the pending bills balance is an amount of Kshs.18,073,198 due to a local company for the supply of fuel in previous years. However, the debtor's statement from the company provided for audit reflected a balance of Kshs.23,650,178 as outstanding resulting in unexplained variance of Kshs.5,576,980. Further, Management did not explain why the debt has taken a long time to be settled by the State Department.

In the circumstances, the accuracy and completeness of the fuel, oil and lubricants pending bills amount of Kshs.18,073,198 could not be confirmed.

968. Understatement of Pending Bills for Security Services

Included in the pending bills balance is an amount of Kshs.6,761,433 for a security services firm. However, the invoices provided to support the pending bill amount totalled Kshs.9,061,594, resulting in understatement of the pending bills by Kshs.2,300,161.

In the circumstances, the accuracy and completeness of the security services pending bills balance of Kshs.6,761,433 could not be confirmed.

969. Uncollected Rent Income

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects proceeds from sale of assets amount of Kshs.24,381,170 relating rent income from Government Agencies which includes Kshs.4,606,680 for rent received from Kenya National Examination Council (KNEC). However, the lease agreement provided revealed that the Council was to pay rent of Kshs.8,859,000 per annum (Kshs.738,250 per month) thereby resulting into an uncollected rent of Kshs.4,252,320. Further, the Council's financial statements and records did not reflect the State Department as a creditor.

In the circumstances, the recoverability of the uncollected rent amount of Kshs.4,252,320 could not be confirmed.

Other Matter

970. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.4,120,495,638 and Kshs.3,117,591,618 respectively resulting to an underfunding of Kshs.1,002,904,020 or 24% of the budget. Similarly, the State Department spent Kshs.3,115,911,235 against an approved budget of Kshs.4,120,495,638 resulting to an underexpenditure of Kshs.1,004,584,403 or 24% of the budget.

The underfunding and underexpenditure affected the planned activities of the State Department and have impacted negatively on service delivery to the public.

971. Pending bills

Note 16.2 and Annex 5A to the financial statements reflect pending accounts payable balance of Kshs.812,842,132. The State Department therefore runs the risk of incurring significant unquantified interest costs and penalties due to continued delay in settling invoiced bills.

Further, failure to settle bills during the year in which they relate adversely affects the provisions of the subsequent year to which they have to be the first charge.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

972. Staffing Levels Above Approved Staff Establishment

Review of the approved staff establishment for the State Department revealed that total of staff in post was 639 as compared to the approved establishment of 818 staff. However, thirteen (13) cadres of staff had 101 staff in post against an approved establishment of 27 staff resulting to over establishment of 74 in the respective cadres or positions within the various departments of the State Department. No explanation was provided by Management including the approval by the Public Service Commission on the employment of more staff than the approved staff establishment for the various positions in the State Department.

In the circumstances, Management was in breach of the approved staff establishment.

973. Delay in Completion of Projects

973.1 Proposed Headquarters for Nyandarua County at Ol Kalou

The proposed Nyandarua County Headquarters at Olkalou Project was awarded to a contractor at a contract sum of Kshs.617,644,564 for a duration of 104 weeks beginning 16 March, 2017 and ending on 16 March, 2019. The contract was terminated on 16 March, 2019 (Initial completion date) for failure to perform as per the contract terms with contractor having achieved 19% completion status. The contractor went to Court and sought an injunction to the tendering process of a new contract that had been restarted by the County Government of Nyandarua. In June, 2020 the termination was lifted by the employer and the initial contractor agreed to resume works and complete the project by July, 2021 which was not achieved. However, through an arbitration process and an addendum dated 01 July, 2021, the contractor transferred the assigned works to another contractor at agreed amount of Kshs.24,900,855 with no further claims.

During the year under review, the project completion time has been extended to 31 December, 2022 vide letter dated 18 January, 2022.

Further, the State Department paid a total of Kshs.60,996,198 to the various contractors working on or assigned to the project. However, the following anomalies were noted;

(i) As previously reported, there was no evidence that the Project Management team attempted to warn and possibly terminate the services of the contractor earlier than 16 March, 2019, which was the initial project completion date, when 19% of works had been delivered.

(ii) At the time of termination, payments amounting to Kshs.101,623,125 had already been made to the contractor including an amount of Kshs.13,078,306 meant for installation of lifts. However, as previously reported, it was not possible to install lifts given that the project had stalled at the foundation level.

(iii) The Project was significantly behind schedule (40% complete) as a result of engaging a contractor who could not deliver as per the contract engagement terms and this has cost the public in terms of delayed delivery of services.

(iv) It was also noted that there were additional charges related to the Project totalling Kshs.83,497,615 occasioned by fluctuations of builders work and materials, interest on delayed payments and contractual claims which were occasioned by delays in project implementation and which were certified for payment.

In the circumstances, the value for money for amount paid to the contractor could not be confirmed due to delay in project execution and related associated costs.

973.2 Proposed Completion of Voi Pool Housing Project

The Voi Pool Housing project was awarded to a contractor at a contract sum of Kshs.747,290,699 for a contract period of one hundred and four (104) weeks commencing 01 December, 2012. The estimated completion date of 30 November, 2014 was revised to 31 December, 2019 and later to 31 December, 2022. The contract sum was revised to Kshs.1,077,429,595 according to the Project status report of August, 2022. However, the contract variation by Kshs.330,138,896 or 44% of the contract sum was contrary to Section 139(4)(c) and (d) of the Public Procurement and Assets Disposal Act, 2015 which limits the price variation to 20% of the contract sum.

Further, approval for the variation of the price was not provided for audit. In addition, the project status report of August, 2022 indicated that an amount of Kshs.476,299,012 had been certified for payment, with the project being 64% complete. However, the elapsed period of the project was indicated as being four hundred and ninety-four (494) weeks indicating that the project was significantly behind schedule. The total amount paid to the contractor as at 31 August, 2022 was Kshs.445,501,805 or 41% of the revised contract sum.

Review of records, further revealed that the total pending certificates for the project amounted to Kshs.30,797,207 comprising of certificate No.18 of Kshs.16,005,833 and No.19 of Kshs.14,791,374. These certificates have been delayed for payments by 185 days and 100 days respectively.

In the circumstances, the Project is significantly delayed and the likelihood of cost escalations is high resulting to additional charge to public funds.

973.3 Proposed Completion of Migori District Headquarters

As previously reported, the proposed completion of Migori District Headquarters Phase I project, was awarded to a contractor at a contract sum of Kshs.609,471,291 for a duration of 104 weeks starting 31 July, 2009 and was expected to be completed on 29 July, 2011. Available information indicates that there was a variation order of Kshs.92,064,030 to the contract sum resulting to a revised contract sum of Kshs.701,535,321. As at the time of audit, works valued at Kshs.685,283,825 had been certified for payment with Kshs.539,010,127 already paid.

The following observations were made: -

(i) The Project was significantly behind schedule as the percentage of completion as at June, 2022 stood at 80%. The office block had outstanding works, the administration block was only at 35% complete and the refurbishment works had not been done with more than 315% of time elapsed.

(ii) As previously reported, the Project stalled and the main contractor abandoned site and the Project recommended for termination through mutual winding-up. An unreferenced letter dated 29 June, 2020 by the main contractor indicated concurrence to mutual winding-up of the contract. A certificate of partial completion was issued on 15 December, 2020 and the certificate of making good defects dated 10 June, 2021. However, the final account showing contractual costs and expenses and the eventual payment thereof was not provided for audit.

(iii) The Project is thus significantly delayed and the likelihood of cost escalations is high resulting to additional charge to public funds. Further, winding-up the contract would result to additional cost to public funds as a result of costs of tendering, new preliminaries and cost fluctuation due to time value of money.

In the circumstances, the intended users of this project may not get value for money for the funds already paid for this contract.

973.4 Interest on Delayed Payment - Completion of Longisa Sub-District Hospital

Review of records revealed that the State Department paid Kshs.888,562 to a local company for mechanical engineering services rendered on the contract for Longisa sub-district hospital. The amount is a claim of interest due to delay in honoring the fee note for services offered for the period January, 2017 to February, 2020.

In the circumstances, the value for money of Kshs.888,562 paid as interest on delayed payments will not be realized.

973.5 Proposed Completion of Mathare Nyayo Hospital

As previously reported, the proposed completion of Mathare Nyayo Hospital project was awarded to a contractor at a contract sum of Kshs.1,212,414,732 with the anticipated completion date being 26 August, 2015. However, the completion date was revised severally with the latest revised completion date being 31 December, 2020. As at 30 June, 2021 the work progress was at 70% with the elapsed period being more than 275% of the initial completion date indicating that the project was significantly behind schedule resulting to delayed delivery of service.

Further, review of Interim Payment Certificate No.34 revealed that an amount of Kshs.132,321,751 had been certified for payment. The amount includes additional costs of fluctuation in labour and materials amounting to Kshs.46,169,430, interest on delayed payments of Kshs.37,852,236.96 and claims for direct loss and expenses due to changes introduced by the employer of Kshs.48,300,085. The costs are avoidable and could be attributed to the delay in project completion.

In the circumstances, value for money paid to the contractor may not be achieved due delay in project execution and related associated costs.

973.6 Proposed Construction of Isiolo County Headquarters

As previously reported, the proposed construction of Isiolo County headquarters was awarded to a contractor at a revised contract sum of Kshs.556,905,703 from initial contract sum of Kshs.870,706,011 with completion date of 30 August, 2021. Review of progress report as at 30 June, 2021 revealed physical progress of 35% with more than 109% of time having elapsed, an indication of slow progress in project implementation. Further, the contractor raised an extension of time claim from 30 August, 2021 to 30 August, 2022 whose approval was not provided for audit. In addition, at the time of audit, works valued at Kshs.102,300,195 representing 18% of the contract sum had been certified for payment. Included in the amount was Kshs.2,972,179 relating to interest on delayed payments which forms an extra charge to public funds.

In the circumstances, the value for money for amount paid to the contractor could not be confirmed due to delay in project execution and related associated costs.

974. Termination of Contracts and Related Costs

974.1 Rehabilitation of Mtangawanda Jetty

As previously reported, the contract for the rehabilitation of Mtangawanda Jetty was awarded to a contractor at a contract sum of Kshs.72,468,735. The completion date was initially set at 17 February, 2020 and was revised to 16 June, 2020 and further revised to 12 August, 2020. However, the contractor did not execute the contract within the second revised completion date and is reported to have deserted from the site in October, 2020, a clear indication that the contractor had no capacity to deliver the project.

The employer issued a notice of termination on 27 November, 2020 and after it became apparent that the contractor was not willing to resume work, the contract was terminated on 1 March, 2021. As at the time of the audit, Kshs.50,685,400 had been paid to the contractor with Kshs.5,631,711 held as retention amount. The final account had not been prepared to ascertain the costs and all expenses incurred by the employer, the work done, materials on site and inventory/materials in line with the provisions of the contract. Further, the contract was terminated when the project was at 97% completion and the completion cost was estimated to be Kshs.11,000,000. However, if another contract is awarded, the cost is likely to increase due to fluctuations and preliminary costs involved.

In the circumstances, the value for money on the amount already paid may not be achieved since the project has continued to suffer defects and dilapidation.

974.2 Construction of Ndau Sea Wall

As previously reported, the contract for the construction of Ndau Sea wall was awarded to a contractor at a contract sum of Kshs.365,103,794. The contract period was revised three (3) times with the latest revised completion date of 6 July, 2017. The contractor did not complete the construction within the third revised completion date and is reported to have stopped working on the site in June, 2018.

The employer issued a notice of termination on 7 February, 2019 but the contractor promised to complete the project. Another notice to terminate the contract was issued on

25 July, 2019 which the contractor sought a restraining order from the High Court (Case No.189 of 2019). The case was later dismissed by the Court and consequently the contract was terminated on 16 June, 2021. It is however, not clear whether there was subsequent approval of extension of time between the third revised completion date of 6 July, 2017 and date of notice of termination on 7 February, 2019. Further, at the time the contractor stopped working on site, the project was at 87% completion with Kshs.284,504,648 paid to the contractor. However, some of the incomplete sections have since been subjected to aggressive sea wave forces leading to progressive failure.

In addition, with the termination of the contract, the estimated completion cost was Kshs.80,000,000 with Kshs.31,611,627 and Kshs.4,700,000 recoverable from the contractor as retention money and liquidated damages respectively.

In the circumstances, value for money paid to the contractor may not be achieved due to increased costs in terms of reconstruction costs, preliminary costs and fluctuations in price and quantities when a new contract is awarded.

975. Projects Behind Schedule

Review of records revealed that eight (8) other projects being implemented by the State Department had slow progress having exceeded their contractual period and were therefore behind schedule as at 30 June, 2022 as indicated below:

No.	Project Name	Contract Start Date	Contract End Date	Contract Amount (Kshs.)	Amount Certified (Kshs.)	Percentage of Completion
1	New Mokowe Jetty	15 February, 2019	12 August, 2022	599,872,373	495,985,129	92
2	Kapkures Footbridge (36m Span)	12 October, 2020	12 April, 2021	7,737,436	3,999,840	65
3	Kiptabsir – Chebongi Footbridge (36m Span)	06 June, 2020	30 June, 2020	8,172,999	6,020,000	98
4	Kiangonina Footbridge	04 May, 2020	30 March, 2022	7,333,902	Nil	15
5	Tirgamo Ipisikhu Footbridge	10 September, 2021	26 April, 2022	11,219,615	2,500,000	25
6	Kitutu Chache Footbridge	2013	2014	15,439,960	6,965,556	65
7	Proposed Construction of Tharaka Nithi County Headquarters at Kathwana	27 July, 2015	15 January, 2021	458,239,186	297,236,217	75
8	Proposed Construction of Tana River County Headquarters	16 March, 2020	22 September, 2021	495,268,750	259,874,591	51

In the circumstances, delay in completion of projects exposes the public to loss of value for money for the expenditure incurred on the eight (8) projects.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

976. Incomplete Motor Vehicle Register

Review of the systems for the management, safeguarding and maintenance of motor vehicles by the State Department revealed the following anomalies;

(i) The motor vehicle register maintained was not in compliance with the National Treasury template provided vide Circular No.23 of 2020. Important information such as cost of vehicle, engine number, chassis number, engine capacity, year of manufacture, financed by, depreciation etc. is missing.

(ii) Vehicles financed through projects and provided by contractors through projects with a preliminary condition to provide a vehicle are not clearly reported as financed by specific projects.

(iii) The State Department has reported one hundred (100) vehicles, motor cycles and fork lifts in its motor vehicle register bearing GK registration plates. However, only seventeen (17) vehicles had ownership documents inform of log books that were provided for audit.

(iv) In addition, information provided from National Transport and Safety Authority (NTSA) portal shows that eighty-three (83) vehicles and motor cycles are registered under the state department of public works PIN number.

(v) The motor vehicle register includes fifty-six (56) vehicles bearing private registration plates which have been funded by different projects being undertaken by the State Department. However, available information indicates that some projects have been completed but there was no official communication to facilitate change of ownership from the contractor to the State Department.

(vi) The State Department motor vehicle register contains thirty-four (34) vehicles, three (3) motor cycles and four (4) fork lifts that are grounded or unserviceable. The Management has not explained why the vehicles have not been bonded and disposed accordingly.

Failure to maintain an accurate motor vehicle register might result to loss/theft, security threats or misuse of the vehicles. Further, the lack of a complete register is not in compliance with the law. In addition, lack of ownership documents may result to loss of the motor vehicles.

In the circumstances, the systems for the management, safeguarding and maintenance of motor vehicles of the State Department were not working effectively.

977. Incomplete Fixed Asset Register

Review of the fixed asset register provided by the State Department revealed that it was not in compliance with The National Treasury template provided vide Circular No.23 of 2020. Important information such as date acquired, cost of the asset, serial number, tag number, asset condition, current value was not included in the asset register.

In the circumstances, the effectiveness of controls over fixed assets could not be confirmed.

978. Audit Committee and Internal Audit

Review of records revealed that the Audit Committee of the State Department met only twice during the year contrary to Section 179(1) of the Public Finance Management (National Government) Regulations which states that the Audit Committee shall meet at least once in every three months.

Further, no evidence was provided to confirm that Management implemented the internal audit report recommendations on Transport System Audit and Construction of five County Headquarters (Nyandarua, Tharaka Nithi, Tana River, Isiolo and Lamu). In addition, no evidence was provided to confirm that the audit committee deliberated on the financial statements for the year ended 30 June, 2022 prepared by the State Department for Public Works before they were submitted to the Office of the Auditor-General for audit.

In the circumstances, the effectiveness of the Audit Committee and the internal audit function could not be confirmed.

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

979. Unsupported Transfers to Other Government Entities

The statement of receipts and payments, as disclosed in Note 8 to the financial statements, reflects transfers to other Government entities amount of Kshs.11,330,759,914. Included in the amount is other capital transfers grants and subsidies of Kshs.1,720,390,611 which in turn includes an expenditure of Kshs.23,000,000 for the purchase of 44 million tree seedling potting bags for distribution to prisons, schools and other Government Institutions. The deliveries were made to Kenya Forestry Research Institute and Kenya Forest Service Regional Centers across the Country. However, only Ewaso Ngiro South Development Authority confirmed receipt of 1,340,000 bags worth Kshs.1,201,379. The Kenya Forest Service and other beneficiaries had not confirmed receipt of the potting bags.

In the circumstances, the propriety and occurrence of payments amounting to Kshs.21,798,621 on tree seedlings potting bags for the year ended 30 June, 2022 could not be confirmed.

980. Use of Goods and Services - National Tree Planting Campaign

According to the Ministry's approved 2021/2022 financial year annual workplan, Kshs.150 million was allocated to National Tree Planting Campaign to prepare a National Forest Policy, rehabilitate and restore 25 hectares in Nairobi Metropolitan, sensitize 10% tree campaign in 47 counties, rehabilitate and restore 52,415 hectares of degraded public and community forests, afforestation and re-forestation of 40 hectares at Naivasha dry port, formulate import and export rules on forest products and operationalize regulations on guns and resins operation.

However, despite an amount of Kshs.147 million having been spent on the programme, there was no evidence that the Ministry had rehabilitated and restored 25 hectares in Nairobi Metropolitan area and 52,415 hectares of degraded public and community forests respectively. Further, the planned afforestation and reforestation of Naivasha dry port was not done.

In the circumstances, validity and occurrence of the expenditure of Kshs.147,000,000 could not be confirmed.

981. Imprests and Advances

The statement of assets and liabilities reflects imprest and advances balance of Kshs.6,728,190 as disclosed in Note 12 to the financial statements. However, imprest payment vouchers amounting to Kshs.23,343,644 issued to an officer were not provided for review. The Management explained that they had submitted the imprest surrender vouchers to Ethics and Anti-Corruption Commission (EACC) for investigation.

In the circumstances, the accuracy and completeness of the imprest and advances balance of Kshs.6,728,190 could not be confirmed.

982. Irregular Payment of Allowances

The statement of receipts and payments and Note 6 to the financial statements reflects compensation of employees amount of Kshs.1,138,372,651. The balance includes an amount of Kshs.531,601,056 in respect of personal allowances paid as part of salary. Further, review of payroll and IPPD data revealed that the Ministry paid various allowances totalling to Kshs.223,055,889 as detailed below:

Allowance	Amount (Kshs.)
Safety Allowance	80,619,763
Shift Allowance	45,964,083
Adversity Allowance	56,725,458
Aviation Support Allowance	12,794,364
Aviation Allowance	26,952,221
Total	**223,055,889**

However, no evidence was provided for audit review to confirm that these allowances had been approved by the Salaries and Remuneration Commission (SRC).

In the circumstances, the regularity and validity of compensation of employees amount of Kshs.223,055,889 for the year ended 30 June, 2022 could not be confirmed.

Other Matter

983. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects receipts budget and actual on comparable basis of Kshs.14,607,027,165 and Kshs.13,171,939,033 respectively resulting to a receipt shortfall of Kshs.1,435,088,132 or 9.82% of the budget. Similarly, the Ministry expended Kshs.13,197,468,093 against a budget of Kshs.14,606,627,165 resulting to underexpenditure of Kshs.1,409,159,072 or 10% of the budget. The underfunding and underexpenditure affected negatively the planned activities of the Ministry and service delivery to the public.

Further the actual receipts balance of Kshs.13,171,939,033 was less than the actual expenditure balance of Kshs.13,197,468,093 resulting to overexpenditure of Kshs.25,529,060. In the circumstances, it was not possible to confirm whether the overexpenditure of Kshs.25,529,060 was lawful.

984. Unresolved Prior Year Issues

In the audit report of the previous year, several issues were raised in the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board and Paragraph 3.20 of the National Treasury Circular Ref. AG.3/88/Vo.II(20) dated

11 May, 2022 on Guidelines on Year End Closing Procedures for The Financial Year 2021/2022.

In the circumstances, Management has not compiled with the reporting template.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

985. Pending Bills

Annex 1 to the financial statements reflects pending bills totalling to Kshs.670,596,158 as at 30 June, 2022. Analysis of the pending bills indicate that bills amounting to Kshs.613,114,673 or 91% relate to previous years. This is contrary to The National Treasury Circular Ref.ES/03 'R'(R) dated 28 June, 2021 which directed Accounting Officers to prioritize settlement of pending bills by ensuring pending bills form first charge of the 2021/2022 budget.

In the circumstances, the Management was in breach of the National Treasury Circular.

986. Irregular Cash Purchases for Contracted Items

Examination of payment records revealed cash purchases of items such as stationery, toners, printing and photocopying services amounting to Kshs.13,572,608. It was not clear why the goods and services were not procured from the pre-qualified suppliers as the cost exceeded the set threshold of Kshs.50,000 per item per annum. This was contrary to Section 107(b) of the Public Procurement and Asset Disposal Act, 2015 which states that, a procurement entity may use low value procurement procedure if the estimated value of the goods, works or non-consultancy services being procured are less than or equal to the maximum value per financial year for that low value procedure as may be prescribed.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

987. Internal Audit Function

During the year under review, the Ministry's internal audit department had no substantive head which affected the unit's leadership and execution of its functions. In addition, the unit was understaffed and efforts to secure additional staff from The National Treasury had not been successful thus affecting execution of the annual audit plan.

In the circumstances, effectiveness of the system of internal controls, risk management and governance could not be confirmed.

988. Lack of Risk Management Policy

During the year ended 30 June, 2022, the Ministry had a draft Risk Management Policy which had not been approved for use contrary to Regulation 165(1) of the Public Finance Management (National Government) Regulations, 2015. The regulation provides that the Accounting Officer shall ensure that the national government entity develops risk management strategies, which include fraud prevention mechanism and a system of risk management and internal controls that builds robust business operations.

In the absence of an approved Risk Management Policy, it was not clear how the Ministry identified and mitigated emerging risks in its day-to-day operations.

DONOR FUNDED PROJECTS

INTEGRATED HEALTH AND ENVIRONMENT OBSERVATORIES AND LEGAL AND INSTITUTIONAL STRENGTHENING FOR THE SOUND MANAGEMENT OF CHEMICALS IN AFRICA (NO.AFR/CHEMOBS PROJECT/C/07-2017)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

989. Undisclosed Consultancy Payments

The statement of receipts and payments reflects total payments of Kshs.5,194,098 for the year ended 30 June, 2022.The total payments excluded amount of Kshs.534,500 paid for consultancy services being 50% final payment for US$ 10,000 invoice dated 31 March, 2021.

In the circumstances, the accuracy and completeness of the total payments of Kshs.5,194,098 could not be confirmed.

990. Unsupported University Scholarships

The African Institute set aside US $ 50,000 for a scholarship programme. The Project Assistant and other three (3) staff from other implementing agencies benefited from scholarship studies at the University of Cape Town. However, the amount of scholarship and details for the programme have not been provided for review or disclosed in the financial statements.

In the circumstances, the accuracy and completeness of the total payments for the scholarship programme could not be confirmed.

Other Matter

991. Budgetary Control and Performance

The statement of comparison of budget and actual amounts for the year ended 30 June, 2022 reflects final revenue budget and actual on comparable basis of Kshs.12,500,000 and Kshs.3,247,991 respectively, resulting in an underfunding of Kshs.9,252,009 or 74% of the budget. Further, the Board spent an amount of Kshs.5,194,098 out of the approved expenditure budget of Kshs.12,500,000, resulting in underexpenditure of Kshs.7,305,901 or 58% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

992. Special Deposit Account

The special deposit account movement schedule as disclosed in Note 11a reflects nil balances. However, a total of Kshs.8,500,841 was deposited into the account and an amount of Kshs.3,247,991 was withdrawn to finance project activities resulting to a closing balance of Kshs.5,252,850. These amounts were not disclosed in Note 11a as required by the Public Sector Accounting Standards Board reporting template.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

993. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

994. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA INSTITUTIONAL STRENGTHENING PROJECT PHASE XII (NO. UNEP/KEN/SEV/86/INS/64) PROJECT

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

995. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

996. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.15,000,000 and Kshs.8,500,000 respectively resulting to underfunding of Kshs.6.500,000 or 43% of the budget. Similarly, the Project spent Kshs.9,148,353 against an approved budget of Kshs.15,000,000 resulting to underexpenditure of Kshs.5,851,647 or 39% of the budget.

The underfunding and underexpenditure affected the planned activities of the Project which in turn may have impacted negatively on the service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

997. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

998. Lack of Policy on Exchange Rate Used to Pay Salaries

During the financial year under review, the Project converted the salaries of three (3) officers using different prevailing exchange rates from the Central Bank of Kenya (CBK). However, Management did not provide a documented Policy guiding the criteria for determining exchange rate used for conversion of salaries from US Dollars to Kenya Shillings. Further, it is not clear how the Project treated the exchange gain or loss in the financial statements and who authorized the conversion of the exchange rates since none of the rates for the twelve (12) month period agreed with the CBK rates for the whole year under review.

In the circumstances, the efficiency and effectiveness of policy used to guide in payment of compensation of employees could not be confirmed.

KENYA GOLD MERCURY FREE ASGM PROJECT CREDIT NO. GEF/UNDP/GOK - 00108253

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

999. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.150,000,000 and Kshs.90,121,621 respectively resulting to underfunding of Kshs.59,878,379 or 40% of the budget. Similarly, the Project spent Kshs.96,222,505 out of the budgeted amount of Kshs.150,000,000 resulting to an underexpenditure of Kshs.53,777,495 or 36% of the budget.

The underfunding and under-performance affected the planned activities of the Project and may have impacted negatively on service delivery to the public.

1000. Pending Bills

As disclosed in Note 12.1 under other important disclosures, the Project had pending accounts payables totalling to Kshs.692,606 as at 30 June, 2022. This amount remained outstanding as at the time of audit in the month of October, 2022. Management has not explained why the bills were not settled during the year when they occurred.

Failure to settle bills during the year in which they relate, distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge. In addition, the Project may incur interest cost and penalties with the continued delay in payment.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1001. Unfulfilled Project Objectives

According to the statement of performance against Project's predetermined objectives as reflected in the financial statement, the objectives of the Project may not be attained fully for a duration of five (5) as analyzed below: -

i. Objective 2. Establishing financing lending arrangements to provide loans for mercury free processing equipment is at 40%.

ii. Objective 3. Increasing capacity for mercury-free ASGM through provision of technical assistance, technology transfer and support for formalization is at 15%.

iii. Objective 4. Monitoring and Evaluation, awareness raising, capturing and disseminating experiences, lessons-learned and best practices is at 30%.

The project objectives ought to be at least at 50% while three (3) years have already lapsed since inception and two (2) years remaining to achieve 100% project objectives.

In the circumstances, the full realization of the planned Project's predetermined objectives could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1002. There were no material issues relating to effectiveness of internal controls, risk management and governance.

SOUND CHEMICALS MANAGEMENT MAINSTREAMING AND UPOPS REDUCTION IN KENYA PROJECT (GRANT NO.P0099820)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1003. Variances Between the Statement of Receipts and Payments and Statement of Comparison of Budget and Actual Amounts

The following inaccuracies were noted in the statements as shown below:

Item	Statement of Receipts and Payments (Kshs.)	Statement of Comparison of Budget and Actuals (Kshs.)	Variance (Kshs.)
Transfer from Government Entities	4,763,200	-	4,763,200
Compensation of Employees	7,588,275	3,898,276	3,689,999
Purchase of Goods and Services	86,817,409	85,744,208	1,073,201
Total Payments	**94,405,684**	**89,642,484**	**4,763,200**

In addition, the statement of comparison of budget and actual amounts has a casting error of Kshs.6,240,000 on the final expenditure budget column.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Other Matter

1004. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.137,000,000 and Kshs.89,661,416 respectively resulting to underfunding of Kshs.47,338,584 or 35% of the budget. Similarly, the Project spent Kshs.89,642,484 against an approved budget of Kshs.137,000,000 resulting to an under expenditure of Kshs.47,357,516 or 35% of the budget.

The underfunding and under expenditure affected the planned activities of the Project and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1005. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1006. There were no material issues relating to effectiveness of internal controls, risk management and governance.

SYSTEM FOR LAND BASED EMISSIONS AND ESTIMATION IN KENYA (SLEEK) PROJECT

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1007. Presentation and Inaccuracies in the Financial Statements

The financial statements for the year ended 30 June, 2022 contain the following anomalies:

i. The statement of receipts and payments reflects, receipts from Government entities amount of Kshs.711,394 and cumulative to date amount of Kshs.3,133,494. However, the previous years' audited financial statements reflected nil transfers from Government entities and cumulative to date balances resulting to unexplained variance in the cumulative amounts to date of Kshs.2,422,000.

ii. The statement of receipts and payments reflects nil amount of other grants, transfers and payments for the year under review, and prior years' but reflects cumulative to date amount of Kshs.2,422,100 resulting to unexplained cumulative to date other grants amount of Kshs.2,422,100.

iii. Note 5 to the financial statements on compensation of employees reflects Nil balance personal allowances paid as part of salary for the year under review and cumulative to date amount of Kshs.11,645,568. However, the previous year's audited financial statements reflect Kshs.12,325,000, thus resulting to unreconciled and unexplained variance of Kshs.679,431.

iv. Note 5 to the financial statements on compensation of employees reflects Nil balance on other personnel payments for the year under review and cumulative to date amount

of Kshs.3,352,768. However, the previous year audited amount was Kshs.3,360,268, thus resulting to unreconciled and unexplained variance of Kshs.7,500.

In the circumstances, the accuracy and completeness of the financial statements for the year ended 30 June, 2022 could not be confirmed.

1008. Overstatement of Payments

The statement of receipts and payments reflects compensation of employees of Kshs.711,394 as disclosed in Note 5 to the financial statements which includes basic salaries to permanent employees of Kshs.711,394. However, the schedule and payment vouchers provided for audit supports an amount of Kshs.680,071, thus resulting to unreconciled and unexplained variance of Kshs.31,323.

In the circumstances, the accuracy and completeness of compensation of employees amounting to Kshs.711,394 could not be confirmed.

Other Matter

1009. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,500,000 and Kshs.711,394 respectively resulting to an underfunding of Kshs.788,606 or 43% of the budget. Similarly, the Project spent Kshs.711,394 against an approved budget of Kshs.1,500,000, resulting to an underexpenditure of Kshs.788,606 or 53% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

1010. Undrawn External Assistance

Note 12.2 under other important disclosures to the financial statements reflects undrawn external assistance of Kshs.21,705,441. Management indicated that the project is complete. However, it was not clear or explained how the project was completed with an undrawn balance of Kshs.21,705,441 or 37% of the total funding.

In the circumstances, the completion of the project as at 30 June, 2022 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1011. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1012. There were no material issues relating to effectiveness of internal controls, risk management and governance.

LAKE VICTORIA ENVIRONMENTAL MANAGEMENT PROJECT PHASE III (LVEMP) PROJECT PREPARATORY ADVANCE NO. V1570 - KE

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1013. Unauthorised Expenditure and Sustainability of Phase III of the Project

The statement of receipts and payments and Note 6 to the financial statements reflects purchase of goods and services expenditure amounting to Kshs.8,234,418 which includes domestic travel and allowances, printing, advertisement and information supplies and other operating expenses amounting to Kshs.3,240,064, Kshs.1,206,452 and Kshs.1,674,756, respectively. However, the expenditure was not supported by an approved annual work plan.

Further, as reported in the previous year, the Project received Kshs.10,000,000 being the Government of Kenya counterpart funding. The International Development Agency (IDA) through its letter dated 2 October, 2019 addressed to The National Treasury and the Ministry of Environment and Forestry had communicated its decision to stop the Project activities and funding as it reviews its regional integration strategy in Sub-Sahara Africa.

In the circumstances, the validity of the purchase of goods and services expenditure amounting to Kshs.8,234,418 and the ability of the Project to continue to sustain its services is doubtful.

1014. Pending Accounts Payable

Notes 12.1 and 12.2 on other important disclosures to the financial statements reflects pending accounts payables and pending staff payables of Kshs.326,199 and Kshs.13,572,000 due to suppliers and staff respectively all relating to 2019/2020 and earlier years. However, Management did not provide any reason for non-payment of the bills or explain how the bills will be cleared given that the project is no longer funded by the donor.

Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year which they form a first charge.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1015. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1016. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1017. As required by International Development Agency (IDA) and the preparatory advance Credit Number V 1570, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by Management and the Project's financial statements are in agreement with the accounting records and returns.

NATIONAL ACTION PLAN ON ARTISANAL SMALL – SCALE GOLD MINING PROJECT

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1018. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1019. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final budget and actual on comparable basis of Kshs.8,214,520 and Kshs.2,902,786 respectively, resulting to an underfunding of Kshs.5,311,734 of 65% of the budget. Similarly, the Project spent Kshs.2,755,860 out of the budgeted amount of Kshs.8,214,520 resulting to an underexpenditure of Kshs.5,458,660 or 66% of the budget.

The underfunding and underperformance affected the planned activities of the Project and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1020. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1021. There were no material issues relating to effectiveness of internal controls, risk management and governance.

GREEN GROWTH AND EMPLOYMENT THEMATIC PROGRAMME (GGETP) – DANISH EMBASSY FILE NO.2015-39790

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1022. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1023. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1024. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA SPECIAL PROJECT ON BRSM AND SAICM

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1025. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1026. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total revenue budget of Kshs.15,000,000 against actual receipts of Kshs.9,320,883 resulting to underfunding of Kshs.5,679,116 or 38% of the budget. Similarly, the statement reflects approved expenditure budget of Kshs.15,000,000 against actual expenditure of Kshs.10,292,266 resulting to underexpenditure of Kshs.4,707,733 or 31% of the budget.

The underfunding and underexpenditure affected the planned activities of the Project and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1027. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1028. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STRENGTHENING DROUGHT RESILIENCE FOR SMALL HOLDER FARMERS AND PASTORALISTS IN THE IGAD REGION PROJECT NO.03/DRESS-EA/07/OSS-KE/20

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1029. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1030. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted and actual receipts of Kshs.80,000,000 and Kshs.2,306,912 respectively resulting to underfunding of Kshs.77,693,087 or 97% of the budget. Similarly, the statement reflects budgeted expenditure of Kshs.80,000,000 against actual expenditure of Kshs.729,600 resulting to underexpenditure of Kshs.79,270,400 or 99% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

1031. Delayed Release of Project Funds

The statement of receipts and payments and Note 2 to the financial statements reflects receipts amount of Kshs.2,306.912. The amount was transferred by The National Treasury to the Ministry's development bank account on 28 April, 2022. However, the Ministry transferred the amount to the project account on 5 July, 2022 after the close of the financial year. No reason was given for the delay in transferring the funds before the close of the financial year.

Delay in release of Project funds may result in low absorption of the budget and this may affect the development programmes of the Project and provision of services to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1032. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1033. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA ENABLING ACTIVITIES FOR HFC PHASE - DOWN PROJECT (GRANT NO.UNEP/KEN/SEV/81/TAS/01+)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1034. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1035. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final expenditure budget of Kshs.5,500,000 against actual expenditure of Kshs.4,021,800 resulting to underexpenditure of Kshs.1,478,200 or 27% of the budget.

The underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1036. Failure to Maintain Project Bank Account and Cash Book

During the year under review, the project did not maintain a separate bank account and cash book but relied on the Ministry's development cash book for recording its transactions. This is contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which states that for the purpose of disbursement of project funds, there shall be opened and maintained a project account for every project at Central Bank of Kenya unless it is exempted by the Cabinet Secretary, in writing, into which all funds shall be kept and such an account shall be known by the name of the project for which it is opened and each project shall maintain only one bank account.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1037. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE MINISTRY OF ENVIRONMENT AND FORESTRY

GREEN ZONES DEVELOPMENT SUPPORT PROJECT PHASE II (CREDIT NO.P.KE-AAD-005) - KENYA FOREST SERVICE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1038. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1039. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.740,000,000 and Kshs.716,864,384 respectively resulting to an underfunding of Kshs.23,135,616 or 3% of the budget. Similarly, the statement reflects actual total expenditure of Kshs.696,323,527 against a budget of Kshs.740,000,000 resulting in underexpenditure of Kshs.43,676,473 or 6% of the budget.

The underfunding and under performance affected the planned activities of the Project and may have impacted negatively on service delivery to the public.

1040. Unresolved Prior Year Matter

In the audit report of the previous year, a paragraph on over expenditure on Motor Vehicle Insurance was raised under Report on Lawfulness and Effectiveness in Use of Public Resources. However, the Management has not resolved the issue nor given any explanation for failure to adhere to the provisions of The National Treasury year end closing procedures for the financial year 2021/2022.

In the circumstances, Management was in breach of The National Treasury guidelines.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1041. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1042. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1043. As required by African Development Bank and African Development Fund, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

KENYA WATER TOWERS PROJECT (GRANT NO. FED/2016/375-958) - KENYA FOREST SERVICE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1044. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1045. Unresolved Prior Year Issues

In the audit report of the previous year, several issues were raised in the report on the financial statements. However, Management did not resolve the issues or provide the status of progress on follow up of auditor's recommendations as provided by the Public Sector Accounting Standards Board template and The National Treasury Circular Ref.AG.3/88/Vol.III (12) of 11 May, 2022.

In the circumstances, Management was in breach of The National Treasury guidelines.

1046. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total revenue budget of Kshs.5,000,000 against actual receipts of Kshs.2,500,000 resulting to revenue shortfall of Kshs.2,500,000 or 50% of the budget. Similarly, the statement reflects approved expenditure budget of Kshs.5,000,000 against actual expenditure of Kshs.1,351,617 resulting to underexpenditure of Kshs.3,648,384 or 73% of the budget.

The underfunding and the underexpenditure affected the planned activities of the Project and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1047. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1048. There were no material issues relating to effectiveness of internal controls, risk management and governance.

CAPACITY DEVELOPMENT PROJECT FOR SUSTAINABLE FOREST MANAGEMENT IN KENYA (CADEP) (GRANT NO.22) - KENYA FOREST SERVICE

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1049. Unsupported Direct Purchase of Goods and Services

The statement of receipts and payments and as disclosed in Note 7b to the financial statements reflects direct purchase of goods and services of Kshs.116,000,000. However, the documents in support of the direct purchase of goods and services were not provided for audit.

In the circumstances, the accuracy, completeness and validity of the expenditure of Kshs.116,000,000 could not be confirmed.

Other Matter

1050. Unresolved Prior Year Audit Issue

In the audit reports of the previous year, a paragraph on unsupported direct purchase of goods and services was reported. However, Management has not resolved the issue.

In the circumstances, the Management was in breach of The National Treasury guidelines.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1051. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1052. There were no material issues relating to effectiveness of internal controls, risk management and governance.

GREEN GROWTH AND EMPLOYMENT THEMATIC PROGRAMME-NEMA (CR NO: 2015-39789) – NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1053. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1054. Late Submission of Financial Statements

The Management of National Environment Management Authority submitted the financial statements for the Green Growth and Employment Thematic Programme to the Office of Auditor General on 13 October, 2022 which is 13 days after the statutory deadline of 30 September, 2022. This is contrary to Section 47(1) of the Public Audit Act, 2015 which states that the financial statements required under the Constitution, the Public Finance Management Act, 2012 and any other legislation, shall be submitted to the Auditor-General within three months after the end of the fiscal year to which the accounts relate.

In the circumstance, the Project Management was in breach of the law.

1055. Acquisition of Non-Financial Assets

1055.1 Irregularities in Procurement of Laptops

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.7,843,131 in respect to acquisition of non-financial assets which includes Kshs.277,713 relating to purchase of office furniture and general equipment which further includes Kshs.248,345 which was paid to two service providers for supply of laptops. However, the Laptops were delivered on 22 June, 2021 but the inspection and acceptance were carried out on 15 July, 2021 which is twenty-three (23) days after delivery. This is contrary to Section 48(3)(a) of the Public Procurement and Asset Disposal Act, 2015 which states that the inspection and acceptance committee shall immediately after the delivery of the goods, works or services inspect and where necessary, test the goods received.

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

1055.2 Irregularities in Procurement of Refurbishment of Buildings

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.7,843,131 in respect to acquisition of non-financial assets which includes Kshs.7,565,418 relating to refurbishment of buildings. However, the

ad hoc opening committee and evaluation committee were not appointed in writing by the Accounting Officer. This is contrary to Regulations 91(2)(a) and (3) of the Public Procurement and Asset Disposal Regulations, 2020 which states that the Accounting Officer or such other person delegated in writing by that accounting officer shall, and for the purposes of the procurement process, appoint an ad hoc opening committee in accordance with section 78 and the ad hoc evaluation committee shall carry out the evaluation in accordance with the Act and these Regulations.

In the circumstance, the Project Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1056. There were no material issues relating to effectiveness of internal controls, risk management and governance.

INTEGRATED PROGRAMME TO BUILD RESILIENCE TO CLIMATE CHANGE AND ADAPTIVE CAPACITY OF VULNERABLE COMMUNITIES IN KENYA - NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1057. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1058. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total final expenditure budget of Kshs.524,800,990 and actual payments of Kshs.140,326,715 resulting in budget under expenditure of Kshs.384,474,275 or 73%. It was noted that acquisition of non-financial assets reflected the highest budget underutilization of 78% or Kshs.379,169,257.

In the circumstances, the vulnerable communities in Kenya did not receive services equivalent to Kshs.384,474,275 reflected as under expenditure for the year ended 30 June, 2022.

1059. Unresolved Prior Year Audit Matters

There were issues raised in the audit report for 2020/2021 financial year of which no report or recommendations from the Project Management and oversight bodies were submitted for audit verification and clearance. The issues remain unresolved and Management has not given satisfactory explanation for delay in resolving them.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1060. Unsatisfactory Construction of Projects

The statement of receipts and payments Note 6 to the financial statements reflects acquisition of non-financial assets of Kshs.106,731,733 which relate to construction of civil works. The following observations were made:

1060.1 Projects in Laikipia and Kajiado Counties

Physical verification carried out in October, 2022 on various projects revealed some incomplete projects, omissions of items or works and change in bill of quantities specification all totalling to Kshs.1,551,289. This is contrary to Regulations 138(3) and (5) of Public Procurement and Asset Disposal Regulations, 2020.

1060.2 Establishment of Seven (7) Adaptation Villages in Kisumu and Homa Bay Counties

The construction of civil works expenditure includes payments amounting to Kshs.21,727,147. The cumulative amount spent as at 30 June, 2022 amounts to Kshs.34,367,798. The contract price for the construction of seven (7) Adaptation Villages in Kisumu and Homa Bay Counties amounted to Kshs.45,253,901 with each Adaptation Village costing Kshs.6,464,843.

The scope of work per adaptation village included drilling, casting, gravel packing and test pumping of the borehole, equipping of the boreholes, contraction of elevated steel pressed water tank, construction of water kiosk, all related civil and plumbing works, sanitation facility and fencing of the land to secure the borehole, sanitation facility and demonstration site. However, physical verification exercise carried out in October, 2022 revealed some works were not done, some project activities were not labelled and incomplete works. This is contrary to Regulations 138(3) and (5) of Public Procurement and Asset Disposal Regulations, 2020.

1060.3 Construction of Flood Protection Dykes along River Asao

In addition, the construction of civil works expenditure includes an amount of Kshs.11,724,710 paid to a firm for construction of flood protection dykes and installation of flood warning system. The total cost for the contract was Kshs.35,087,664 and the cumulative amount paid as at 30 June, 2022 was Kshs.21,448,375 comprising of Kshs.9,723,664 paid previously and Kshs.11,724,710 paid in 2021/2022 financial year. However, physical verification carried out in October, 2022 revealed some incomplete works and change in specifications.

The following observations were also noted:

i. The dyke was not constructed in accordance with the bill of quantities specifications since it was constructed on an existing road therefore there was no site clearance and excavation works done with estimated cost of Kshs.5,493,376. Further, the dyke length was 3.6 kilometers instead of 4 kilometers.

ii. Slope protection by grassing on both sides of the embankment amounting to Kshs.1,994,040 was not done, while the crest width did not match the bill of quantities specifications of 1.7 meters.

iii. The control room and installation of flood warning system amounting to Kshs.500,000 were not constructed.

iv. One (1) sign board was erected instead of two (2) as indicated in the bill of quantities with each signboard costing Kshs.116,000.

v. Tender documents for other bidders were not provided for audit review hence not possible to ascertain if the procurement process was fair, equitable, transparent, competitive and cost-effective.

This is contrary to Regulations 138(3) and (5) of Public Procurement and Asset Disposal Regulations, 2020.

In the circumstances, value of money of the above projects could not be confirmed.

1061. Lack of Detailed Breakdown of the Annual Procurement Plan

The National Environment Management Authority annual procurement plan for the 2021/2022 financial year reflects procurement of goods and services for the executing entities on the implementation of Adaptation Fund and GCF Projects of Kshs.631,557,600. However, detailed breakdown of goods works and services to be procured and value of each package of goods, works and services under both Projects were however not reflected in the annual procurement plan. This is contrary to Regulations 41(a), (f) and (g) of Public Procurement and Asset Disposal Regulations, 2020.

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

1062. Lack of Approved Budget

The statement of comparison of budget and actual amounts for the year ended 30 June, 2022 reflects original budget of Kshs.453,897,204 and final budget balance of Kshs.524,800,990. However, the Management did not provide an approved budget to support the balances and the Authority's Board approval minutes. This is contrary to the Regulation 31(1) of Public Finance Management (National Government) Regulations, 2015.

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

1063. Incomplete Annual Work Plan

The 2021/2022 annual work plan reflects total cost of Kshs.76,000,000 on procurement of goods, works and service, workshops and reports, meetings and workshops for Adaptation Fund project. However, the annual work plan did not provide details of specific activities and timelines. This is contrary to Section 4.3 of National Environment Management Authority Financial Management and Procurement Manual which states that it is the responsibility of the Authority Management to ensure that detailed annual

work plans and budgets are prepared and Section 7.1.1 of the NEMA Finance Management Manual.

In the circumstances, Management was in breach of the Authority's financial management and procurement manual.

1064. Irregular Expenditure on Management Fees

The statement of receipt and payments and as disclosed in Note 5 to the financial statements reflects cumulative to date expenditure on purchase of goods and services totalling to Kshs.99,835,456. The expenditure exceeds the 8.5% maximum expenditure on management fees allowed by the financing agreement of USD 720,216.65 or Kshs.75,622,748 converted at a rate of Kshs.105, by Kshs.24,212,708. This is contrary to Paragraph 8.0.1 of Financing Agreement between the Adaptation Fund Board and National Environment Management Authority (NEMA), signed on 4 November, 2014.

In the circumstance, Management was in breach of the Financing Agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1065. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NEMA-GCF PROJECT PREPARATION FACILITY: "DEVOLVED CLIMATE CHANGE GOVERNANCE TO STRENGTHEN RESILIENCE OF COMMUNITIES IN TARGET COUNTIES" (PROJECT NO: KEN-PPF-010) - NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1066. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1067. Budgetary Control and Performance

The statement of comparison of budget and actual amounts for the year ended 30 June, 2022 reflects revenue budget and actual revenue of Kshs.31,387,985 and Kshs.4,647,291 respectively resulting to an underfunding of Kshs.26,740,694 or 85% of the budget. Similarly, the Project spent Kshs.4,647,291 against an approved budget of Kshs.31,387,985 resulting to an underexpenditure of Kshs.26,740,694 or 85% of the budget.

The underfunding and under expenditure affected the planned activities and may have impacted negatively on service delivery to the stakeholders of the project.

1068. Delayed Project

The National Environment Management Authority contracted a Company to undertake project feasibility studies in line with GCF requirements at a cost of Kshs.10,300,000 from 6 November, 2020 for a period of four (4) months. The contract period had lapsed on 7 March, 2021 and the Company had not submitted the final report.

This delayed the work of the other three consultants who relied on the feasibility study report to carry out the following assignments:

i. Development of Environmental Social Management Framework, Gender Analysis and Associated Gender Action Plan.

ii. Due Diligence and Capacity Assessment of Potential Implementing Entities; Development of Mechanism for Partnering with Local NGOs, Civil Society, and County Governments.

iii. Development of a Green Climate Funding Proposal.

In addition, the future of Project was not certain since the donor had not provided an extension of the agreement which lapsed on 25 February, 2022 contrary to Clause 2.4 of Amendment No.3 of the Project Cooperation Agreement between United Nations Office for Project Services and NEMA concerning the implementation of NEMA-GCF Project Preparation Facility "Devolved Climate Change Governance to Strengthen Resilience of Communities in Target Counties" which states that the contribution granted to the Government under the agreement shall be provided for the period of thirty two (32) months from 26 June, 2019, the date upon which United Nations Office for Project Services has disbursed the first instalment as specified in clause 3.2 (of the original agreement) until 25 February, 2022.

In the circumstances, the future of the Project could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1069. Failure to Open Project Bank Account

The statement of financial assets reflects a balance of Kshs.26,740,694 in respect to cash and cash equivalents. These project funds were not maintained in a separate Project Account at the Central Bank of Kenya contrary to Section 76(1) of the Public Finance Management (National Government) Regulations, 2015.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1070. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NEMA - GCF READINESS AND PREPARATORY SUPPORT: "NEMA CAPACITY STRENGTHENING PROGRAMME TOWARDS ACCESSING CLIMATE FINANCE FROM GREEN CLIMATE FUND" - (CREDIT NO: KEN-RS-003) – NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1071. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1072. Unresolved Prior Year Issues

In the report of the previous year, several paragraphs were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in use of Public Resources. These prior year audit issues remained unresolved as at 30 June, 2022. Management has not provided reasons for the delay in resolving the prior year audit issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1073. Purchase of Goods and Services - Procurement of Conference Facilities

The statement of receipts and payments under purchase of goods and services reflects an amount of Kshs.18,589,321, which includes Kshs.2,685,648 on hospitality supplies and services which further includes payments amounting to Kshs.2,636,800. Review of the supporting documents revealed the following:

i An Ad-hoc Opening Committee was not constituted as required by Section 78(1) of the Public Procurement and Asset Disposal Act, 2015.

ii An Ad-hoc Evaluation Committee was not constituted as required by Section 46(1) of the Public Procurement and Asset Disposal Act, 2015.

iii A list of registered suppliers for conferencing facilities from which the quotations for the services were sought was not provided for audit review as required by Section 57(1) of the Public Procurement and Asset Disposal Act, 2015.

iv The professional opinion by the head of procurement function had no recommendation based on a market survey.

v The opinion did not include the names of the Ad-hoc Opening Committee Members.

vi The names of the Evaluation Committee members and their appointment letters were also not included in the opinion contrary to the provisions.

vii The opinion did not state whether the award was appropriate for the method of procurement applied citing specific provision of law and quotation document.

viii The opinion did not state whether the recommended price for standard goods were within the indicative market prices.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1074. There were no material issues relating to effectiveness of internal controls, risk management and governance.

AFRICA ENVIRONMENTAL HEALTH AND POLLUTION MANAGEMENT PROJECT (AEHPMP) GEF GRANT NO: TFOB3322 - NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1075. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1076. Slow Absorption of the Project Funds

The Government of Kenya procured and signed a contract on 14 August, 2020 for a grant facility funding from International Bank for Reconstruction and Development under the sponsorship of Global Environment Facility (GEF) valued at US dollars 8,073,395 equivalent to Kshs.861,834,916 for a project titled "Africa Environmental Health and Pollution Management Program Kenya." The project was to last for five years (60 months) up to 31 July, 2025. The National Environment Management Authority (NEMA) was nominated as the Project Implementing Agency under the supervision of the World Bank.

However, review of records revealed that from the date of inception of the Project in 2020, twenty-six (26) months had lapsed, translating to 43% lapse of time allocated while the project implementation expenditure was Kshs.21,497,600 out of Kshs.861,834,916 which translates to 2.5% of funds utilization resulting to huge mismatch between time taken and work done.

Further, the Project had a budgetary allocation of Kshs.97,653,764 to finance its work plan/budget for the year, out of which only Kshs.21,497,600 was utilized which translates to 22% funds absorption.

In the circumstances, the under performance affected the planned activities and might have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1077. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1078. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1079. As required by International Bank for Reconstruction and Development, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

MINISTRY OF WATER, SANITATION AND IRRIGATION – VOTE 1109

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1080. Unreconciled Transfers to Other Government Entities

The statement of receipts and payments and Note 8 to the financial statements reflects transfers to other government units amounting to Kshs.61,516,304,273. The transfers comprised of Kshs.4,903,973,740 capital grants, Kshs.56,492,906,655 current grants, and Kshs.119,423,878 other capital grants. However, the financial statements for the recipients reflected receipts totalling Kshs.54,979,519,755. The resulting variance of Kshs.6,536,784,518 was not reconciled or explained.

In the circumstances, the accuracy and completeness of the transfers to other government entities totalling to Kshs.61,516,304,273 for the year ended 30 June, 2022 could not be confirmed.

Other Matter

1081. Budgetary Control and Performance

The summary statement of appropriation-recurrent and development combined reflects budgeted receipts of Kshs.77,868,904,533 against actual receipts of Kshs.63,288,404,599 resulting to an underfunding of Kshs.14,580,499,934 or approximately 19% of the budget. Similarly, the summary statement also reflects final expenditure budget and actual on comparable basis of Kshs.77,868,904,533 and Kshs.63,287,176,543 respectively, resulting to an underexpenditure of Kshs.14,581,727,990 or approximately 19% of the budget.

Although Management attributed the underfunding to lack of Exchequer releases from The National Treasury and lengthy procurement processes, the Ministry may not have implemented all the planned activities, thereby impacting negatively on delivery of services to the public.

1082. Lack of Ownership Documents for Construction of Partakilat Water Supply Project (Narok County - Kilgoris Sub-County)

Included in the expenditure of Kshs.991,454,179 on acquisition of assets is an amount of Kshs.56,182,293 paid by the Ministry to a Company for construction of a small dam (Partakilat Water Supply Project - Narok County - Kilgoris Sub-County). The Ministry awarded a tender to the contractor at a contract sum of Kshs.374,678,383. The Project scope of works included construction of an 8-meter-high embankment small dam with a storage capacity of 300,000m^3, construction of 3.3Km - 160mm diameter HDPE rising water main from the dam to ground storage tank, construction of 250m^3 ground masonry tank with estimated prices of Kshs.3,145,424, construction of 6.8Km 160/110 mm diameter HDPE water distribution pipeline, land acquisition for dam site and some parts

on a 10m high steel tower, erecting 288m^3 capacity steel tank on a 10m high steel tower with estimated price of Kshs.11,965,388 and constructing a composite filter unit for water treatment whose budget would be sourced from contingencies and savings.

The contract was signed on 7 December, 2020 and the works commenced on 18 December, 2020. The Project was to take twelve (12) months with the expected completion date of 17 December, 2021. However, audit inspection in the month of July, 2022 revealed that the Project was 40% complete and therefore the contractor was behind schedule, although the Ministry had paid a total of Kshs.145,609,534 to the contractor. The projected completion time as per the project plan was 17 December, 2021.

Documents provided for audit revealed that, the Ministry was to acquire the land on which the dam was to be constructed through the contractor at a cost of Kshs.14 million. However, inspection of the Project revealed that, at the time of Project commencement, the land owner(s) had not legally transferred the said parcels of lands to the Ministry and the sale agreements between the Ministry and the vendors were not provided for review. Thus title ownership of the parcels of land on which the dam was to be constructed could not be confirmed

In absence of title deeds for the land on which the dam and the tanks are being constructed, the Ministry is exposed to land disputes which may arise as the Ministry may have built the dam on a private land using public resources.

1083. Delayed Project Implementation

The Ministry entered into a contract for consultancy services to undertake land degradation assessment and model project for degradation scrutiny for upper Kerio Valley and upper Ewaso Nyiro North River water sheds. The effective date of the contract was 28 October, 2020 and the commencement date was 27 November, 2020, being thirty (30) days after the effective date. The Project was scheduled to be completed within 120 working days, tentatively by 31 May, 2021.

However, by 31 May, 2021, the Project was not complete and the consultant requested for an extension to 30 June, 2022. At the time of audit in September, 2022, the extension period had lapsed but the Project was still incomplete, and some deliverables were yet to be executed as per the contract.

The delayed project completion may indicate poor planning, monitoring and implementation of the Project.

1084. Unresolved Prior Years Matters

In the audit report of the previous year, several issues were raised in the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management did not resolve the issues or give any explanation for the failure to adhere to the provisions of the Public Sector Accounting Standards Board and The National Treasury's Circular Ref: AG.3/88/ Vol.VII(21) dated 11 May, 2022 on year end closing procedures for the financial year 2021/2022.

1085. Pending Bills

Note 18.1 to the financial statements reflects pending bills balance of Kshs.58,497,725. However, Annex 1 to the financial statements reflects pending bills totalling to Kshs.64,994,871 resulting to an unexplained variance of Kshs.6,497,146, casting doubt on the accuracy and completeness of pending bills balance of Kshs.58,497,725 as at 30 June, 2022.

Further, failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1086. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1087. Weak Internal Controls in Stores and Inventory Management

Examination of the Ministry's stores and the stock cards revealed that there was no proper custody, care and management of stores as only one officer was in charge of receiving and issuing of stocks and updating the stock cards. As a result, it was not easy to determine the re-order levels because the stock card balances were inaccurate. Further, review of stock cards revealed that additional slow moving/low demand stock were purchased at the close of the financial year. However, Management did not provide explanations for purchasing additional slow-moving stock.

In addition, the stores were not well arranged on the shelves as some stock items were placed on the floor.

In the circumstances, it was not possible to determine the effectiveness of controls implemented in the stores department to guard against losses.

DONOR FUNDED PROJECTS

UPPER TANA CATCHMENT NATURAL RESOURCE MANAGEMENT PROJECT (UTaNRMP) IFAD LOAN NO.1-867-KE; IFAD ADDITIONAL FINANCING LOAN NO.2000002597-KE; AND SPANISH TRUST FUND LOAN NO.1-E-8-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1088. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1089. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts of Kshs.850,000,000 and actual receipts of Kshs.797,656,930 resulting to a revenue shortfall of Kshs.52,343,070 or 6%. In addition, the statement reflects budgeted expenditure of Kshs.850,000,000 and actual expenditure of Kshs.822,651,217 resulting to underexpenditure of Kshs.27,348,783 or 3%.

In the circumstances, the under expenditure of Kshs.27,348,783 and the budgeted but unrealized receipts of Kshs.52,343,070 may have negatively impacted on goods and service delivery to the intended beneficiaries of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1090. There were no material issues relating to lawfulness and effectiveness in use of public resources

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1091. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1092. As required by the International Fund for Agricultural Development (IFAD), I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose

of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

COASTAL REGION WATER SECURITY AND CLIMATE RESILIENCE PROJECT (IDA CREDIT NO.5543-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1093. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1094. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.2,500,000,000 and Kshs.888,273,973 respectively resulting to an underfunding of Kshs.1,611,726,027 or 64% of the budget. Similarly, the Project expended Kshs.1,241,032,696 against an approved budget of Kshs.2,500,000,000 resulting to an underexpenditure of Kshs.1,258,967,304 or 50% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

1095. Delayed Construction of Mwache Multipurpose Dam Project

As reported previously, the Ministry of Water, Sanitation and Irrigation awarded a contract for construction of Mwache Dam on 21 March, 2019, but the commencement of the works delayed pending acquisition of land, compensation, relocation and livelihood restoration process. A review of progress made on the construction revealed that, during the year under review, the contractor was paid an advance payment amounting to Kshs.85,267,787, and a notice given to start construction of permanent dam works. The work was scheduled to commence on 1 November, 2021.

However, a site visit in October, 2022 revealed that the contractor had not completed mobilizing equipment for the construction at the site. Further, compensation of the project-affected persons and acquiring of the necessary land required for the Dam construction had not been finalized.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1096. Unresolved Prior Year Matter

1096.1 Unrecovered Funds on Terminated Contract

As reported in the previous year, the Ministry of Water, Sanitation and Irrigation, through Coastal Region Water Security and Climate Resilience Project entered into a contract for construction of Rain Water Harvesting Facilities and Sanitation blocks, for schools in Kwale County Phase 2. This contract, which was signed on 22 October, 2018 was for a sum of Kshs.55,113,821. However, on 9 June, 2020, the contract was terminated with approximately 90% of the works pending and the contractor was paid an amount of Kshs.20,410,667 as advance and certified work done. A joint inspection team determined that the contractor was to pay the Ministry Kshs.27,752,838 as penalties on value of uncompleted work and unrecovered advances. Review of the progress made on the matter in November, 2022 revealed that the amount was yet to be received by the Ministry.

In the circumstances, the intended objectives may not be achieved and there may be loss of Project funds.

1097. Sustainability of Project's Livelihood Programme

The Project disbursed grants totalling Kshs.22,465,136 to sixty-two (62) community groups in Kwale County under the Livelihood Programme. The programme was to carry out a series of activities aimed at improving sustainable livelihood and sharing the Project's benefits in rural areas of the County.

The activities included establishment of tree nurseries, greenhouses and horticulture, dairy, poultry farming among other economic activities. However, as reported in the previous year, some beneficiary groups diverted funds to activities not stated in the Grant Agreement. A review of Project records in October, 2022 revealed that out of Kshs.22,465,136 of Project grants for livelihoods, an amount of Kshs.19,161,440 had been accounted-for leaving a balance of Kshs.3,303,696. Due to the shortcomings, the livelihood programme activities may not be sustained.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1098. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1099. As required by Financing Agreement Credit No.5543-KE, dated 13 January, 2015 between International Development Association (IDA) and the Republic of Kenya, I report based on my audit, that I have obtained all the

information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

THWAKE MULTI-PURPOSE WATER DEVELOPMENT PROGRAM PHASE 1 (AfDB LOAN NO. 2100150029993, 2000200003351, AGTF NO. 5050200000501 AND AfDB GRANT NO. 2100155025973)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1100. Undisclosed Interest on Delayed Payment to Contractor

The statement of receipts and payments and as disclosed under Note 12.6 to the financial statements reflects acquisition of non-financial assets of Kshs.6,755,136,923 which includes an amount of Kshs.98,580,082 in respect of interest charged on delayed payments to contractor on certified works. Review of the contractor interim payment certificates Nos.4,5,6,7,9,10 and 11 revealed interest claim on the project as a result of delayed payments totalling Kshs.383,405,756, out which an amount of Kshs.199,483,474 in respect of interim certificate number 4, 5 and 6 had been paid as at 30 June, 2022.

The interest charged could have been avoided and is a wastage of public funds. Further, the unpaid interest in respect to interim certificates 7, 9, 10 and 11 amounting to Kshs.183,922,282 was not disclosed and included in the list of pending bills for the Program as at 30 June, 2022.

In the circumstances, the accuracy and completeness of accounts payable as at 30 June, 2022 could not be confirmed.

Other Matter

1101. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates.

1102. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts and actual on comparable basis amounting to Kshs.7,843,000,000 and Kshs.7,241,366,902 respectively resulting a shortfall of Kshs.601,633,098 or 8 % of the budget. Similarly, the Program had an approved total expenditure budget of

Kshs.7,843,000,000 against the actual expenditure of Kshs.7,238,904,429 resulting to an underexpenditure of Kshs.604,095,561 or 8% of the budget.

The underfunding and underexpenditure imply that some of the planned activities were not implemented which could impact negatively on the achievement of the overall Program's goals and objectives.

1103. Pending Bills

Annex 2 to the financial statements reflects pending bills of Kshs.444,026,590 as at 30 June, 2022. However, Management did not provide any explanation why the amount was not settled during the year under review.

In the circumstances, the Program is exposed to unnecessary interest and penalties on delayed or non-payment of claims.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1104. Delayed Completion of Works

Review of the records revealed that the Project contracted a company for the construction of 80.5m high dam-688 cubic meters' storage capacity including associated works at a cost of Kshs.36,971,346,551. The Construction works started on 27 March, 2018 and were expected to be completed by 5 November, 2022 with fifty-six (56) months (1,683 days) implementation period excluding defects liability period of one (1) year. The scope of works entailed, Concrete faced rock fill dam, Main and emergency spillway, Low level outlet, Intake tower, Access roads, Hydro mechanical plant, Electrical and mechanical plant. However, review and analysis of progress reports, latest submitted Interim Payment Certificate 11 and the field verification exercise revealed that the overall physical progress of the works as at 30 June, 2022 was estimated at 70.5% against 92.5% project time lapse, or 1,556 days having elapsed (96%) against the signed contract period of 1,683 days, hence the works are behind the scheduled completion date.

Further, land was still a hindrance to the progress of the works as part of the road and saddle dam remained under private ownership as at the time of audit in October, 2022. No effort appears to have been made by the Project Management team to resolve the matter.

In the circumstances, the Project may not be completed within the contract period.

1105. Incomplete Corporate Social Responsibility Projects

As reported in the previous year, Thwake Multi-Purpose Water Development Program activities included drilling and equipping of six (6) community boreholes at a cost of Kshs.4,500,000 each under Corporate Social Responsibility (CSR) projects in Kitui Rural, Makueni and Mbooni Constituencies. However, an inspection carried out in October, 2022 revealed that, drilling and equipping of five (5) out of the six (6) had not been completed.

Further, construction and renovation of classrooms in five (5) Constituencies were incomplete and poorly done. No measures have been put in place by Management to ensure the contractors adhere to the works specifications and that CSR projects are completed before the expiry of the contract period.

In the circumstances, the community may not benefit from the boreholes as water is a priority to them for household and livestock use.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1106. Lack of Internal Audit Reports on the Program

During the year under review, the Internal Audit Unit did not carry out an audit of internal controls, risk management, financial reports, and the implementation of the Project.

As a result, the effectiveness of the internal controls and risk management put in place by Management, could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1107. As required by loan agreements signed between the Government of Republic of Kenya and African Development Bank Loan No. 2100150029993, No. 2000200003351, AGTF No. 5050200000501 and AfDB Grant No. 2100155025973, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Program and the Program's financial statements agree with the accounting records and returns.

KENYA ITALY DEBT FOR DEVELOPMENT PROGRAMME

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1108. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1109. Budgetary Control and Performance

The statement of comparison of budget and actual amount reflects final receipts budget and actual on comparable basis of Kshs.41,000,000 and Kshs.2,317,112 respectively resulting to underfunding of Kshs.38,682,888 or 94% of the budget. Similarly, the Programme spent Kshs.40,025,892 against budgeted expenditure of Kshs.41,000,000 resulting to underexpenditure of Kshs.974,108 or 2.4% of the budget. The underfunding

and underexpenditure affected the planned activities of the Programme which may have impacted negatively on the service delivery to the stake holders.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1110. Long Outstanding Advance

The financial statements reflect accounts receivables of Kshs.12,991,890 as disclosed in Note 8 to the financial statements. This amount was advanced to the Ministry of Water, Sanitation and Irrigation vide requisition letter reference MEWNR/ACCTS/233 on 17 September, 2014, and was meant to enable the Ministry to pay for an outstanding travel bill due to a service provider. This outstanding amount had not been refunded to the Kenya - Italy Debt for Development Programme by the close of the financial year under review which is more than seven (7) years since the advance was made. This, therefore, means that the advance was not utilised for the intended purpose of the Programme considering that the Programme activities officially ended. Additionally, the Government of Kenya through the National Treasury risks being compelled by the Government of the Italian Republic to make repayments as per provisions of Article II.6 of the funding agreement.

1111. Lack of an Approved Procurement Plan

The financial statements reflect an amount of Kshs.7,204,940 relating to printing, advertising and information supplies expenditure as disclosed in Note 3 to the financial statements. However, the Management failed to provide an approved annual procurement plan contrary to Section 53(2) of the Public Procurement and Asset Disposal Act, 2015 which highlights the expenditure and other details in accordance with third schedule of the Public Procurement and Asset Disposal Regulations, 2020.

Further, prior year financial statements reflect an expenditure Kshs.2,877,190 for printing, advertising, and information supplies against the current year's expenditure of Kshs.7,204,940 leading to unexplained increase in expenditure of Kshs.4,327,750.

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

1112. Delay in Project Implementation - Manooni Water Project

Manooni Water Project being implemented by the Project through Tanathi Water Works Development Agency was to be completed by 30 June, 2021. However, the Project's duration was extended by one year up to 30 June, 2022 vide a letter dated 7 September, 2021. However, at the time of the audit in October, 2022, the Project was yet to be completed despite the expiry of the extension period. Further, Management provided the National Technical Committee Meeting minutes dated 10 May, 2022 indicating that the Project completion was at 97%.

In the circumstances, failure to complete the project on time adversely affect delivery of the objectives of the project despite having invested a substantial amount of money on the project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1113. Inventory Management Control Weakness

Review of the management of inventory revealed unsatisfactory matters as follows:

i. Management did not provide evidence of the existence of a physical store where deliveries are received and issued to the user departments. It was, therefore, not clear where Management stores the procured goods.

ii. There was lack of accountable documents especially S11 which should be used by the user department to requisition toners from the store. It was, therefore, not clear how Management requisitioned for the toners from the store.

iii. There were no store ledger cards which would track the movement and condition of inventories and stock reorder levels.

iv. There was lack of a proper electronic/manual system of managing inventories.

This contravened Regulation 166(4) of the Public Procurement and Asset Disposal Regulations, 2020 that requires an effective, economic, efficient, and transparent use of Government inventory, stores and assets at all levels, and that an Accounting Officer of a procuring entity shall take full responsibility of the management or control of inventory and assets.

KENYA WATER SECURITY AND CLIMATE RESILIENCE PROJECT (IDA CREDIT NO.5268/5674-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1114. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1115. Unresolved Prior Year Audit Matters

There were issues raised in the audit report for 2020/2021 financial year of which no report or recommendations from the Project Management and oversight bodies were submitted for audit verification and clearance. Further, the issues remained unresolved contrary to Section 68(2)(l) of the Public Finance Management Act, 2012 which requires Accounting Officers designated for National Government entities to try to resolve any issues resulting from an audit that remain outstanding.

1116. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.2,880,000,000 and Kshs.2,407,631,630 respectively resulting to an underfunding of Kshs.472,368,370 or 16% of the budget. Similarly, the Project expended Kshs.2,423,853,836 against an approved budget of Kshs.2,880,000,000 resulting to an underexpenditure of Kshs. 456,146,164 or 16% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1117. Failure to Remit Statutory Dues

Review of the Project's human resource records for the year ended 30 June, 2022, revealed that the deductions and remittance of contributions to Compulsory National Social Security Schemes and Compulsory National Health Insurance Schemes for temporary employees of the Project were not withheld contrary to Section 20 of the National Social Security Fund Act No. 45 of 2013 and Section 16 of the National Hospital Insurance Fund (Amendment) Act, 2021 on standard contributions.

As a result, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1118. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1119. As required by Financing Agreement Credit No.5268/5674-KE, dated 7 September, 2015 between International Development Association (IDA) and the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

WATER AND SANITATION DEVELOPMENT PROJECT (IDA CREDIT NO.6029/6030-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1120. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1121. Budget Utilization

The statement of comparative budget and actual amounts reflects actual receipts of Kshs.3,653,862,378 against a budget of Kshs.4,590,000,000 resulting into a receipts shortfall of 20% of budgeted receipts. Further, the statement reflects final expenditure budget and actual on comparable basis of Kshs.4,590,000,000 and Kshs.7,056,925,116 resulting to an over-expenditure of 54% of the budget.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1122. Implementation of Procurement Work Plan

Review of the Project's procurement plans revealed that each of the twelve (12) implementing agencies prepared a procurement plan indicating each activity to be undertaken, with expected start and completion dates during the 2021-2022 financial year, with a combined estimated contract amount of USD 199,564,982. However, no documentary evidence was provided to confirm that each of the agencies had prepared a quarterly report on the implementation of the annual procurement plan and submitted them to the Cabinet Secretary or County Executive Committee Member for finance as required by Regulation 40(6) of the Public Procurement and Asset Disposal Regulations, 2020.

1123. Lack of Register of Bank Accounts

The statement of financial assets and liabilities reflects bank balances of Kshs.1,428,374,239 held by different implementing agencies as detailed in Note 8 to the financial statements. Review of the Project's financial statements, payment records, correspondence files and other records revealed that the project operated eleven (11) bank accounts for implementing agencies and one (1) Central Bank of Kenya account during the year under review.

However, there was no evidence that a register of the bank accounts authorized by the County treasury or The National Treasury indicating the name of the bank, branch, account number, purpose of account, authorization details, opening date, authorized signatories, date of closure among others was kept and maintained by the Project

Management as required by Regulation 87(3) and (4) of Public Finance Management (National Government) Regulations, 2015.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1124. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1125. As required by International Development Association (IDA) Financing Agreement No.6029/6030-KE dated 21 June, 2017, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE MINISTRY OF WATER, SANITATION AND IRRIGATION

LAKE VICTORIA WATER SUPPLY AND SANITATION PROGRAMME PHASE II PROJECT NO. P-Z1-EAO-004(ADF GRANT NO. 2100155019967) - LAKE VICTORIA SOUTH WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1126. Unsupported Transfers and Disposal of Project Assets

Annex 3 to the financial statements reflects a summary of fixed assets balance of Kshs.105,861,430 which includes assets worth Kshs.92,870,770 which had been handed over to other public entities. These included three tractors transferred to Kericho County Government, two tractors each transferred to Nyamira and Migori County Governments all valued at Kshs.27,930,000.The transfers also included motor cycles, sludge exhausters and skip loaders valued at Kshs.2,250,000,Kshs.38,267,770 and Kshs.24,423,000 respectfully which were purportedly transferred to Water Companies under the jurisdiction of Lake Victoria South Water Works Development Agency. However, Management did not provide a signed inventory to support these transfers to other Water Companies. In addition, the ownership documents for a Nissan XTrail were

not provided for audit review. Further, proceeds of Kshs.701,500 from disposal of a double cabin pick-up during the year was not disclosed in these financial statements.

In the circumstances, the authenticity of these transfers and completeness of the revenue received could not be confirmed.

1127. Pending Bills to Contractors

Annex 2 to the financial statements reflects an amount of Kshs.175,943,278 under pending bills. This amount includes amounts of Kshs.59,495,770 and Kshs.92,000,000 described as retention money owed to contractors. However, the reported amounts represented claims and interest due to contractors and not retention money as reported. Further, Management did not provide supporting documents for audit review, on how the claims and interest amounts were arrived at.

In the circumstances, the accuracy and completeness of outstanding pending bills of Kshs.175,943,278 could not be confirmed.

1128. Project Performance and Timelines

The Project was expected to run from 15 April, 2011 to 31 December, 2019. However, the Project had no activities for the last two years except settling of pending bills which had been incurred previously. No reasons were provided for failure to have the Project formally closed and the assets and existing liabilities transferred to the relevant authorities as earlier envisaged.

In the circumstances, the Project may continue to incur additional costs which will not be a proper charge to public funds.

1129. Presentation of the Financial Statements

The financial statements submitted for audit did not indicate the applicable financial reporting framework contrary to the requirements of the reporting template prescribed by the International Public Sector Accounting Standards Board (IPSASB).

In the circumstances, the financial statements were not fairly presented.

1130. Inaccuracy of the Statement of Comparison of Budget and Actual Amounts

The statement of comparison of budget and actual amounts reflects a final budget of Kshs.80,000,000 and actual receipts of Kshs.133,734,544 respectively resulting to a performance difference of Kshs.53,734,544. However, this was attributed to the delay in disbursement of budgeted funds in the year 2020-2021 that were received in July, 2021. The roll over budgeted funds were included as an adjustment in the statement of comparison of budget and actual amounts.

In the circumstances, the accuracy and completeness of the statement of comparison of budget and actual amounts could not confirmed.

Other Matter

1131. Nugatory Costs on the Delayed Settlement of Pending Bills

During the year under review, an amount of Kshs.34,000,000 was paid out to a contractor as interest due to delayed payments. It was further noted from Annex 2 to the financial statements that an amount of Kshs.59,495,770 and Kshs.92,000,000 was still owed to a contractor in form of unpaid claims and interests respectively. This implies that the outstanding pending bills will continue to attract additional interest.

In the circumstances, continued payment of interest may not be a proper charge to public funds.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1132. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1133. There were no material issues relating to effectiveness of internal controls, risk management and governance.

LAKE VICTORIA WATER AND SANITATION PROJECT GRANT NO CKE 1093 02 M, CREDIT NO. CKE1093 01 L AND EIB NO. FI N°83890 Serapis N° 2011-0619 - LAKE VICTORIA SOUTH WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1134. Irregular Expenditure

The statement of receipts and payments reflects an amount of Kshs.10,687,618 under Project management expenses, which as disclosed in Note 6 to the financial statements includes an amount of Kshs.1,654,910 on capacity building and Kshs.609,100 on travelling and accommodation. The travel expenses include cost of air tickets to Nairobi amounting to Kshs.231,500 for staff who attended training on tax management. However, the training expenditure balance of Kshs.1,654,910 includes the cost of the tax training. The two activities do not relate to the Project and are not a proper charge.

In the circumstances, the propriety on the expenditure on the training on tax management and the air tickets could not be confirmed.

1135. Unconfirmed Acquisition of Non-financial Assets

The statement of receipts and payments reflects an amount of Kshs.5,745,285 under acquisition of non-financial assets, leading to an accumulated amount on non-financial assets of Kshs.7,114,460. However, review of the asset documentation and audit verifications conducted during the year revealed that, the assets were not tagged and could not be differentiated from the other assets.

In the circumstances, the existence and ownership of the assets could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1136. Delayed Project Completion and Performance

As disclosed in Note 4 to the financial statements, the statement of receipts and payments and reflects an amount of Kshs.121,020,028 on purchase of goods and services. The amount includes balances of Kshs.87,382,145 and Kshs.33,637,882 incurred on project management consultancy services and technical design and supervision consultancy, respectively. However, review of records revealed that Management entered into a contract for consultancy services for Technical Assistance and Capacity Building at a contract sum of Kshs.223,137,747. The contract commenced on 14 August, 2018 for a period of forty-five (45) months and was expected to be completed by 14 May, 2022. During the year under review, Management paid an amount of Kshs.87,382,145 bringing the cumulative expenditure to Kshs.123,021,963 (55%). The Project was therefore behind schedule.

Further, another contractor was paid an amount of Kshs.33,637,882 to undertake feasibility studies, design and supervision of works under the project packages 1 & 2 in Kisumu City. Review of Interim Certificate No. 8 dated 22 January, 2022 revealed that the cumulative expenditure as at 30 June, 2022 was Kshs.58,721,225 representing 18% of the total contract price of Kshs.311,343,443. The Project commencement date was 25 August, 2017, for a period of fifty-six (56) months with an expected completion date of 25 April, 2022. Verification of the status of the contract revealed that the Projects' planned deliverables earmarked for completion had not been realized. However, no evidence was provided to demonstrate progress of the two consultancies.

Management did not demonstrate the efforts it is making to expedite the implementation of the Project.

In the circumstances, the delayed, commencement and subsequent completion of the project negates the public from deriving services from the Project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1137. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1138. As required by financing agreements, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

WATER AND SANITATION SERVICES IMPROVEMENT PROJECT (IDA CR. NO.5103-KE) - LAKE VICTORIA NORTH WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1139. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1140. Failure to Close the Project

As reported in the previous year's report, the Project, with a budget of US$34,990,184 (equivalent to Kshs.3,252,230,091), commenced on 14 December, 2012, and was to last for seven (7) years up to 31 December, 2019, but was extended to 2020. However, as at the time of audit, in September, 2022, the Project had not formally closed. No explanation was provided for the failure to close the Project at the expiry of its life time.

Further, the statement of receipts and payments reflects Kshs.39,690 in respect to operating costs for the 2022 financial year incurred after the project timelines had expired.

In the circumstances, the validity and propriety of the Kshs.39,690 expenditure could not be ascertained.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1141. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1142. As required by International Development Association Financing Agreement No.5103-KE dated 21 June, 2012, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

KENYA TOWNS SUSTAINABLE WATER SUPPLY AND SANITATION PROGRAM (LOAN NO.2000200000501) - ATHI WATER WORKS DEVELOPMENT AGENCY (AWWDA)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1143. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1144. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts of Kshs.1,896,000,000 and actual receipts of Kshs.1,470,515,653 resulting to a budget shortfall of Kshs.425,484,347 or 22%.

Further, the statement reflects budgeted expenditure of Kshs.1,896,000,000 and actual expenditure of Kshs.1,431,998,611 resulting to under absorption of Kshs.464,001,389 or 24% of the budget.

The underfunding and underexpenditure affected the planned activities of the Project and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1145. Failure to Open and Operate a Separate Project Bank Account

Audit review revealed that Athi Water Works Development Agency (AWWDA) operates one bank account at a local bank for all the projects under its control. Review of the bank

statement revealed that the account had a bank balance of Kshs.595,009,769 as at 30 June, 2022 while the bank reconciliation statement indicated cash book balance of Kshs.537,031,407. These funds were commingled with other projects funds contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015.

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

1146. Stalled Projects

1146.1 Changamwe Re-pooling Sewer Network

The Contract for the works was awarded to a Company at a contract sum of Kshs.204,483,295 while the contract commencement date was 14 December, 2018 and the expected completion date was 14 June, 2020, which was later extended to 14 January, 2021. As at 30 June, 2022, the contractor had been paid Kshs.72,816,261.

However, review of the documents presented for audit revealed that the project had stalled due to a court order issued for an ongoing lawsuit by the contractor against the AWWDA for breach of contractual agreement that restrained the AWWDA from evicting the Contractor from the possession of the construction site and appointing another contractor to proceed with the construction work, pending the hearing and determination of the suit.

Further, audit verification done in October, 2022 revealed that the manholes constructed had been vandalized and filled with litter. This will require removal of the litter for the construction to proceed which will attract further costs. In addition, the piping works were done about 3km out of the expected 15km with overall work completed at only 15%. It is therefore not clear if the works would be completed due to the ongoing lawsuit.

In the circumstances, the value for money for the expenditure of Kshs.72,816,261 may not be realized.

1146.2 Construction of Mwala Cluster Water Supply Project

The Contract for the works was awarded to a Contractor at a contract sum of Kshs.583,332,778 with the commencement date of 1 April, 2019 and expected completion date of June, 2020, which was later extended to 5 August, 2021. However, the contract was terminated on 24 May, 2022 because the contractor executed the works at a very low pace. The works completed as at the time of termination was 3% against time lapse of 180%.

Further, the contractor had been paid an amount of Kshs.133,733,822 which included Kshs.116,666,555 for advance payment and Kshs.17,067,267 for interim payment while the total value of works executed and certified amounted to Kshs.17,537,673. However, the AWWDA had performance security bond of Kshs.58,333,277 which could not guarantee recovery of the paid amounts. At the time of audit in October, 2022, the Project had stalled and no evidence was provided on how the Project was to be completed.

In the circumstances, the value for money for the expenditure of Kshs.133,733,822 may not be realized.

1147. Delayed Project Implementation

1147.1 Slow Implementation of Machakos Water Supply Project

The statement of receipts and payments and as disclosed in Note 11.8.1 to the financial statements reflects an amount of Kshs.510,329,209 in respect to acquisition of non-financial assets - TAWWDA which includes Kshs.471,860,045 for construction of civil works which further includes Kshs.228,008,804 paid to a construction company for the construction of Machakos Water Supply Project.

However, review of the project documents and audit inspection done in October, 2022 revealed that the overall project progress was at 43% and some work components including source works, raw water mains, rising mains, gravity transmission mains and electrical mechanical water supply had not started with the delay being attributed to a law suit filed by the contractor which required all project works to be stopped. The case was set aside on 29 January, 2021 and a resumption order issued to the Contractor on 08 March, 2021 except for the Miwongoni dam site.

In addition, even though the AWWDA is undertaking engagements with project affected persons (PAPs) in a bid to acquire land for the Dam site and that the National Land Commission (NLC) are finalizing on the valuation report after which compensation will begin, the process has taken long, and this may lead to several works not being completed within the contract period which may lead to cost overruns.

In the circumstances, the value for money for the expenditure of Kshs.228,008,804 may not be realized.

1147.2 Slow Implementation of Machakos Sewerage Project

Further, the amount of Kshs.471,860,045 includes Kshs.141,706,921 paid to construction companies for construction of Machakos Sewerage Project.

However, review of the Project documents and audit inspection done in October, 2022 revealed that some work components including sewage treatment plant, consumer connections sewer, electro mechanical sewerage and rehabilitation works had not started due to delays in acquisition of the sewer treatment plant land. The overall progress for the Project was at 31% pending approval of the extension of completion date to 4 June, 2023.

In the circumstances, the value for money for the expenditure of Kshs.141,706,921 may not be realized.

1147.3 Slow Implementation of Kitui Matuu Last Mile Project

Further, the amount of Kshs.471,860,045 includes an amount of Kshs.102,144,319 paid to a construction company for the construction works for Kitui Matuu Last Mile connectivity of water and sanitation works in Tana Athi Water Works Development Agency areas.

However, review of the Project documents revealed that the contract was signed on 18 September, 2019 with a revised completion date of 31 December, 2022. The overall work progress was 36% which was two (2) months to the end of the revised contract period which was evident that several works may not be completed within the contract period which may lead to cost overruns.

The delay was attributed to many factors including delayed submission of contractor's request for specific tax and duty exemptions for various items, lack of possession of site for Wote intake works, lack of access to the Murang'a South intake site and raw water main due to delayed issuance of the permit from Kenya Forest Services (KFS), lack of contractor's key personnel on site, inadequate mobilization of materials meant for the works and inadequate cash flow by the contractor. If amicable solutions to the challenges are not found, the Project may be delayed further denying the beneficiaries the intended services.

In the circumstances, the value for money for the expenditure of Kshs.102,144,319 may not be realized.

1147.4 Slow Implementation for Construction Works for Water Distribution for Malindi/Watamu Project

The statement of receipts and payments and as disclosed in Note 11.8.2 to the financial statements reflects an amount of Kshs.100,403,387 in respect to acquisition of non-financial assets – CWWDA. The payment includes an amount of Kshs.89,893,387 for construction of civil works which further includes Kshs.71,679,511 paid to a construction company for the construction of water distribution line for Malindi/Watamu. The contract sum was Kshs.288,793,278 effective 26 August, 2020. The expected completion date was 26 February, 2022 which was later revised to 25 August, 2022 and later revised to 25 November, 2022.

However, audit verification done in October, 2022 revealed that the pipping works were in progress although the pipping connection for the hundred (100) existing consumers and the three hundred (300) new consumers had not been done. Further, the project progress was at 70% and the time lapse was at 96% which was a clear indication that the project was behind schedule compared with the agreed projects' duration.

In the circumstances, value for money for the expenditure of Kshs.71,679,511 may not be realized.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1148. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1149. As required by the African Development Bank Loan Agreement, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

KENYA TOWNS SUSTAINABLE WATER SUPPLY AND SANITATION PROGRAMME (AfDB LOAN NO.2000200000501) - TANA WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1150. Acquisition of Land - Lack of Ownership Documents

The statement of receipts and payments and as disclosed in Note 4(a) and (b) to the financial statements reflects acquisition of non-financial assets amount of Kshs.96,708,448 which includes Kshs.13,011,998 and Kshs.76,755,500 both totalling Kshs.89,767,498 for acquisition of land. However, although the sale agreements with the vendors for the respective parcels of land were provided for audit, title deeds for fully paid and partly paid land had not been acquired.

In the circumstances, the ownership status of the parcels of land could not be confirmed.

Other Matter

1151. Unresolved Prior Year Matter

As previously reported, ownership status for parcels of land valued at Kshs.186,821,596 could not be confirmed as 30 June, 2021. However, audit verification carried out in the month of September, 2022 revealed that title deeds for parcels of land valued at Kshs.7,325,775 had not yet been acquired, and therefore the matter remains unresolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1152. Delay in Projects Implementation

As previously reported, available information and contract agreements for the current works implemented by both the Tana Water Works Development Agency and the Northern Water Works Development Agency show that various contract agreements for the implementation of the Projects were signed in 2018 and early 2019 with completion dates set for June and July, 2020. However, by 30 June, 2020 the projects were not completed leading to revision of the completion dates to November and December, 2021. The Projects were not completed by 30 June, 2022, and the completion dates were further

extended to between December, 2022 and March, 2023. Review of the project status report dated 31 August, 2022, indicated that five (5) out of sixteen (16) projects were less than 60% complete by 31 August, 2022, three years and six months to March, 2023, the end of the contract period.

Further, during the year under review, ten (10) projects with a contract sum of Kshs.6,368,017,899 were visited for verification in the month of September, 2022. Three projects with a total contract sum of Kshs.2,298,019,476 had satisfactory progress. However, seven (7) projects with a contract sum of Kshs.4,069,998,423 had not been satisfactorily executed and had overall completion levels ranging between 51 % and 76%. There is risk of significant number of works not being completed within the contract period which may result in cost escalations.

Although the Management attributed the delay in implementation of the projects to failure to obtain tax exemption and inadequate counterpart funding, no evidence was provided on measures being taken to forestall the recurrence of a similar situation.

Delay in projects completion continues to deny the key stakeholders including the citizens the benefits that were to arise from the projects.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1153. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1154. As required by African Development Bank Loan Agreement No. 2000200000501 dated 09 January, 2017, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Programme and the Programme's financial statements agree with the accounting records and returns.

KENYA TOWNS SUSTAINABLE WATER SUPPLY AND SANITATION PROGRAMME-CR.NO. P-KE-E00-011 (AFDB LOAN NO.2000200000501) – CENTRAL RIFT VALLEY WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1155. Unsupported Purchase of Goods and Services

The statement of receipts and payments reflects purchase of goods and services expenditure amounting to Kshs.284,508,661. The expenditure includes imprests of Kshs.29,232,551 issued in respect of domestic and subsistence allowances. However,

supporting schedules showing names of persons paid, work done and results obtained in support of the imprest issued were not provided for audit review.

In the circumstances, the accuracy and completeness of purchase of goods and services expenditure amounting to Kshs.29,232,551 for year ended 30 June, 2022 could not be confirmed.

1156. Unexplained Variance in Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets expenditure amounting to Kshs.2,976,134,403. The expenditure includes payments totalling to Kshs.403,580,497 made in respect of two projects. However, the payments differed with development partner disbursement balance of Kshs.387,832,151 resulting to an unexplained variance of Kshs.15,748,345 as detailed below:

Project	Financial Statement (Kshs.)	Schedule Balance (Kshs.)	Variance (Kshs.)
Olkalou Town Sewarage	208,392,987	197,315,201	11,077,786
Narok Town Sewerage	195,187,509	190,516,950	4,670,559
Total	**403,580,496**	**387,832,151**	**15,748,345**

In the circumstances, the accuracy and completeness of acquisition of assets expenditure amounting to Kshs.403,580,496 could not be confirmed.

1157. Unsupported Bank Balance

The statement of financial assets reflects bank balance of Kshs.111,689,296. However, the Programme's cash book, bank reconciliation statements and certificate of bank balance were not provided for audit. Further, as reported in the previous year, the Programme does not maintain a designated bank account and its activities funded by Government of Kenya are undertaken through the implementing Agency (Central Rift Valley Water Works Development Agency) bank account. This was contrary to clause 1.2(j) and (h) of the subsidiary loan agreement between the Government of Kenya and the Agency which provides that a local and foreign currency bank accounts shall be opened for the purpose of receiving the portion of loan from the Government and Development Partners.

In the circumstances, the accuracy, completeness and existence of the bank balance of Kshs.111,689,296 could not be confirmed.

1158. Unsupported Summary of Fixed Assets

The summary of fixed assets in Annex 4 to the financial statements reflects total assets balance of Kshs.6,898,339,599. However, included in the balance are assets valued at Kshs.671,959,175 whose detailed schedules were not provided for audit as detailed below:

Particulars	Amount (Kshs.)
Land	263,422,730
Building and Structures	137,323,611
Transport Equipment	231,739,977
Office Equipment Furniture and Fittings	8,793,542
ICT Equipment	8,311,770
Other Machinery and Equipment	10,213,812
Intangible Assets	12,153,733
Total	671,959,175

Further, the Annex 4 reflects disposal of intangible assets totalling Kshs.118,310,333. However, documentary evidence in support of the disposal, such as disposal committee reports and advertisements for disposal were not provided for audit verification.

In the circumstances, the accuracy and completeness of the summary of fixed assets balance of Kshs.6,898,339,599 could not be confirmed.

Emphasis of Matter

1159. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total receipts final budget of Kshs.3,240,000,000 against actual receipts of Kshs.3,298,531,144 resulting to over collection of Kshs.58,531,144. The statement also reflects a final expenditure budget of Kshs.3,234,573,418 against actual expenditure of Kshs.3,286,854,562 resulting to over expenditure of Kshs.52,281,144.

In the circumstances, the regularity of the over collection and over expenditure of Kshs.58,531,144 and Kshs.52,281,144, respectively could not be confirmed.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1160. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1161. Delayed Projects Implementation

Review of records provided on eight (8) projects revealed the following matters affecting successful implementation of the projects as indicated below:

No.	Particulars	Contract Value (Kshs.)	Payments to Date (Kshs.)	Comments
1.	Keroka Town Water Supply Last Mile Connectivity	114,309,996	22,861,999	Advance payment of Kshs.22,861,999 paid to the contractor was attached by Kenya Revenue Authority leading to project stoppage.
2.	Kabarnet Last Mile Connectivity	113,331,422	46,413,715	Kshs.45,122,857 or 39% of the contract relates to discretionary expenditure
3.	Acquisition of Land	117,021,752		Out of 55.7 acres acquired only 20.8 acres were paid for in full leaving 32.17 acres valued at Kshs.61,784,802 unpaid thereby negatively affecting project implementation.
4.	Kipkarren Dam Treatment Works and Associated Pipeline Water Project	1,185,758,692	767,104,954	Total payments of Kshs.767,104,954 includes advance payment of Kshs.118,572,444 not supported by a valid bank guarantee. The recoverability of the advance is therefore doubtful.
5.	Bomet Mulot Water Supply and Sanitation Project	2,068,582,536	356,652,161	Advance payment of Kshs.356,652,161 issued to contractor does not match certified works.
6.	Oyugis Water Supply and Sanitation Project	608,822,546	361,533,787	Project variation of Kshs.23,811,908 not supported by relevant approvals and with no objection letter from donor.
7.	Chepareireira Sewerage Project	217,096,202	100,882,860	Motor vehicle purchases of Kshs.35,515,550 exceeded the budget of Kshs.22,000,000 leading to unauthorized expenditure of Kshs.13,515,550
8.	Malaba Water Supply Project Lot 1	654,336,922	103,363,574	Lack of access and wayleaves for sections of the project are delaying implementation.

Failure to implement projects as planned may have negatively impacted on delivery of services to the residents of Kenya.

1162. Delay in Programme Funding

The Programme was advanced loans and grants for a duration of five years with effect from 9 January, 2017 to 31 December, 2021 but subsequently extended to 31 December, 2023. However, out of the total donor commitment total loan balance of Kshs.15,953,306,157 only Kshs.7,568,575,920 (or 47%) was disbursed leaving a balance of Kshs.8,384,730,237 undrawn. Equally, out of the total Government of Kenya counterpart funding balance of Kshs.2,073,227,699 only Kshs.487,809,620 (or 24%) was disbursed leaving undrawn balance of Kshs.1,585,418,079.

In the circumstances, the delay in funding may negatively affect the implementation and overall achievement of the Programme's objectives considering the limited period remaining before its closure.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1163. As required by the African Development Bank-Credit Number P-K-E00-011 (AfDB Loan Number 2000200000501), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Programme and the Programme's financial statements are in agreement with the accounting records and returns.

SUPPORT TO WATER AND SANITATION SERVICES IN PERI-URBAN AREA (LOAN NO. BMZ 2013.6543.6) - ATHI WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1164. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1165. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,048,250,401 and Kshs.703,896,989 respectively, resulting to underfunding of Kshs.344,353,412 or 33% of the budget.

Similarly, the Project spent Kshs.629,847,394 against the budgeted amount of Kshs.1,048,250,401 resulting in under expenditure of Kshs.418,403,007 representing 40% of the estimated expenditure.

The underfunding and under expenditure affect the implementation of planned activities and may impact negatively on the expected delivery of the Project to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1166. Failure to Open a Project Bank Account

As reported previously, the Project Management did not open a separate Project bank account, but instead the Project funds were deposited to the Agency's development account. This was contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which provides that for purpose of

disbursement of Project Funds, there shall be opened and maintained a project account for every project.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1167. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1168. As required by the Financing Agreement Number (BMZ No.2013.6543.6) dated 28 September, 2015 between the KfW, Frankfurt am Main and the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

KISII WATER SUPPLY AND SANITATION PROJECT - ORIO11/KE/21 - LAKE VICTORIA SOUTH WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1169. Unsupported Fund Balance

The statement of receipts and payments reflects cumulative project surplus of Kshs.14,190,152 which differs with the nil balance reflected in the statement of financial assets. Further, there was no documented movement between the closing fund balance of Kshs.14,190,152 reflected in the statement of financial assets as at 30 June, 2020 and the reported nil balance as at 30 June, 2022 and 30 June, 2021. Although the Management explained that the balance of Kshs.14,190,152 was available for utilization in the second phase of the project implementation, this was not disclosed in the financial statements or supported by any documentation.

In the circumstances, the accuracy of the nil fund balance as at 30 June, 2022 reflected in the statement of financial assets could not be confirmed.

1170. Unsupported Cash Movement

The statement of financial assets reflects nil cash and cash equivalents balance as at 30 June, 2022 and an equivalent comparative balance. However, as reported in the prior year, the Management did not explain how the balance of Kshs.14,190,152 held as at 30 June, 2020 was expended given that the Project did not record any receipts or

payments in the 2020/2021 and 2021/2022 financial years. Under the circumstances, the accuracy and completeness of the reported cash and cash equivalents nil balance as at 30 June, 2022 could not be confirmed.

Other Matter

1171. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects nil budget and actuals for the year ended 30 June, 2022. Although Management explained that the Project was not funded during the year and that the Project had not progressed to the implementation phase, no further information was provided on what the Project was to achieve during the year under review as no workplans were provided for audit review. In addition, the Management did not indicate how the Project was to be funded after the initial financier declined to fund the Project.

In the circumstances, the Project did not deliver any benefits to the intended beneficiaries.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1172. Absence of Project Cash book and Bank Account

As previously reported, the Management did not maintain a cash book and a separate bank account for the Project as required by Clause 6.11 of the Grant Agreement. Instead, receipts and payments in respect to the Project were recorded and accounted for in the main cash book and bank account of the implementing entity contrary to Section 68(2) of the Public Finance Management Act, 2012 which requires Accounting Officers to maintain proper financial and accounting records.

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

1173. Delay in Project Implementation

As previously reported, a feasibility study report submitted to Infrastructure Development Facility (ORIO) on 29 October, 2018, indicated that the cost of the proposed Bunyunyu Dam Water Project increased to Euro.90,000,000 equivalent to Kshs.10.8 billion from its original cost estimated at Euro.551,475 equivalent to Kshs.66,103,002. The increased cost resulted from change in the Project's scope, mainly caused by addition of works in Nyamira County, and the estimated increase in price indices between 2011 to 2019. After the original financier declined to fund the additional costs, identification of a new financier commenced in February, 2019. However, Management did not confirm whether this was successful. Expenditure records indicated that the Project had as at 30 June, 2022 spent Kshs.86,344,504 on feasibility studies.

In the circumstances, value for money on the expenditure and attainment of the Project's objectives given the Project end date of 28 September, 2023 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1174. There were no material issues relating to effectiveness of internal controls, risk management and governance.

WATER SECTOR DEVELOPMENT PROGRAMME - LAKE VICTORIA SOUTH (KERICHO, KISII, NYAMIRA AND LITEIN) LOAN NO.BMZ 2010 65 861 AND GRANT NO.BMZ 2010 70 457 - LAKE VICTORIA SOUTH WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1175. Failure to Open Bank Account and Maintain a Separate Cash Book

The statement of financial assets reflects a balance of Kshs.11,514,071 in respect to cash and cash equivalents. However, review of the Project's records indicated that the Project Management used the Implementing Agency's bank account and cash book to process receipts and payments relating to the Project. This was contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which provides that, for the purpose of disbursement of Project Funds, there shall be opened and maintained a Project account of every Project at the Central Bank of Kenya unless it is exempted by the Cabinet Secretary in writing, into which all funds shall be kept and such an account shall be known by the name of the Project for which it is opened and each Project shall maintain only one bank account. Further, Section 6.1(d) of the financing agreement states that the recipient of the funds shall maintain separate books and reports showing all costs incurred in connection with the expert services and clearly identifying the services financed from the financial contribution.

In the circumstances, the accuracy of the financial statements could not be confirmed as no cash book was maintained for the project. Management was also in breach of the law and the Financing Agreement.

1176. Inaccuracies in the Financial Statements and Notes to the Financial Statements

The statement of receipts and payments reflects Kshs.3,996,512,560 in respect to cumulative payments since the inception of the project. The statement further reflects a surplus of Kshs.11,514,071 which could not be confirmed as no separate cash book and bank account were maintained for the Project.

In the circumstances, the accuracy of the accumulated payments amounting to Kshs.3,996,512,560 as at 30 June, 2022 could not be confirmed.

1177. Pending Bills Payable by Financiers

Note 12(1) on other important disclosures reflects Kshs.28,387,231 in respect to pending bills. However, this amount excludes pending bills of Kshs.508,541,382 described as payable by the financier which was presented for audit review without any supporting documents and has not been disclosed in the financial statements. Further, the amount of pending bills payable by financier differs with Kshs.468,163,810 reflected as undrawn balances from the financiers, disclosed in Note 1.7 table A under project information and overall performance. Management did not explain how the additional pending bills of Kshs.40,377,572 over and above donor commitments arose and how they will be funded.

In the circumstances, the accuracy and completeness of the pending bills amount of Kshs.28,387,231 disclosed in the financial statements could not be confirmed.

1178. Non-Financial Assets

1178.1 Irregular Expenditure

The statement of receipts and payments reflects Kshs.674,830,036.98 in respect to acquisition of non-financial assets as disclosed in Note 5 to the financial statements. This amount includes Kshs.241,098,830 paid to a contractor for expansion of water supply and sanitation systems for Kisii and Nyamira towns which in turn includes Kshs.17,486,448 and Kshs.117,753,339 in respect to variation orders and extension of time respectively which had not been justified. Review of the contract and other records for the works revealed that the contract which was awarded at a contract sum of Kshs.2,289,840,260 commenced on 31 March, 2017 with the expected completion date of 20 December, 2020. The amount of variation orders included Kshs.1,499,630 as cost of laying 6.4km tertiary pipes supplied to Gusii Water and Sanitation Company (GWASCO). However, the cost of the pipes supplied to the Water Company could not be determined as no values were recorded in the handing over schedule provided for audit review.

Further, review of the project status as at 30 June, 2022 revealed that the Project was complete and handed over to the GWASCO. However, the handover notes excluded the assets which were formerly used by the Project.

In the circumstances, the validity of the amount paid of Kshs.135,239,787 could not be confirmed.

1178.2 Unconfirmed Ownership of Project Motor Vehicles

As reported in the previous year, the fixed assets register, as reflected in Annex 4 to the financial statements, reflects total fixed assets amounting to Kshs.170,529,603 comprising of motor vehicles, motorcycles, water distribution pipes and equipment and laboratory equipment. However, the logbook for a motor vehicle valued at Kshs.6,438,600 was not provided for audit review.

In the circumstances, the ownership of the motor vehicle could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1179. Summary of Fixed Assets Register

As reported in the previous year, Annex 4 to the financial statements reflects summary of fixed assets register with total assets value at Kshs.170,529,603 as at 30 June, 2022. The assets include motor vehicle, Toyota Prado, valued at Kshs.9,355,500 purchased for the project supervision as per the bills of quantities. However, the vehicle was not provided for physical verification during the audit in October, 2022. Information available indicates that the motor vehicle was directly handed over to the Ministry of Water and Sanitation by the Contractor in 2018 but there was no evidence that the same was authorized by the Chief Executive Officer of the implementing agency. No reason was provided for the handing over of the vehicle to the Ministry, which was contrary to Regulation139(1)(a) and (b) of the Public Finance Management (National Government) Regulations, 2015, that requires prudent management of public assets.

1180. Expansion of Water Supply Systems in Kericho

The statement of receipts and payments reflects acquisition of non-financial assets amounting to Kshs.674,830,037 in respect to rehabilitation of civil works as disclosed under Note 5 to the financial statements. This amount includes expenditure totalling Kshs.185,013,883 paid during the year, for the expansion of Kericho Water Supply Systems, awarded to a foreign Engineering Company at a contract sum of Kshs.1,189,805,385. Audit verification of the Project in the month of October, 2022 revealed that the contractor was still on site and the project was ongoing although the revised completion date of 30 June, 2022 had expired. Further, the engineer's progress of work report as at 30 June, 2022 indicated that 93% of works had been executed although the ownership of the parcel of land on which the Project is built had not been confirmed as the title deed was yet to be obtained. Management explained that the County Government of Kericho was in the process of transferring the land ownership of the parcel of land from a private firm to the Project. However, no reason was provided why the process which started in 2017 had not been completed as at the time of audit.

In the circumstances, it could not be confirmed whether the land and development thereon were properly safeguarded.

1181. Expansion of Water Supply and Sanitation Systems in Kisii and Nyamira

The statement of receipts and payments reflects expenditure on acquisition of non-financial assets-works of Kshs.674,830,036 which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.241,098,830 in respect to expansion of Water Supply and Sanitation Systems in Kisii and Nyamira awarded to an International Company at a contract price of Kshs.2,289,840,260. Although both Projects were completed and handed over to Gusii Water and Sanitation Company (GWASCO) Ltd, the Projects continue to draw huge sums of money even after completion and handing over which is a clear indication that they are not self sustaining.

In the circumstances, the citizens did not get value for money in respect to Kshs.2,289,840,260 incurred on the projects.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1182. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1183. As required by the financing grant No. BMZ 2010 65 861, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

TRILATERAL DEVELOPMENT COOPERATION IN KENYA, WATER AND SANITATION SECTOR PROJECT (CREDIT NO. BMZ 201365352) - LAKE VICTORIA SOUTH WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1184. Unsupported Cash and Cash Equivalents

The statement of financial assets reflects cash and cash equivalents balance of Kshs.45,905,344 as at 30 June, 2022 which was not supported by a cash book, bank confirmation certificate and a bank reconciliation statement. In addition, the Management did not maintain a separate bank account or operate a separate cash book for recording transactions in respect to Project funds. This was contrary to Section 6.1 (d) of the Financing Agreement which requires the recipient of funds to maintain books and reports showing all costs incurred in connection with expert services and clearly identify the services financed from the financial contribution. The Management has attributed this to the fact that any receipts and payments for the Project are made out of the project funds which are held in the implementing Agency's bank account and recorded in the Agency's cash book.

In the circumstances, the accuracy of the cash and cash equivalents balance of Kshs.45,905,344 as at 30 June, 2022 could not be confirmed.

Other Matter

1185. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects expenditure of Kshs.94,656 against an approved budget of Kshs.46,000,000 resulting to an underexpenditure of Kshs.45,905,344 or 98% of the budget. The underperformance

affected the planned activities and may have impacted negatively on service delivery to the public.

1186. Unsupported Project Funding

Section 1.7 of the project information and overall performance reflects the funding summary with an approved budget of EUR 700,000 equivalent to Kshs.76,600,000 and counterpart funding by Government of Kenya (GoK) amounting to Kshs.46,000,000. However, the counterpart funding was not supported by the financing agreement dated 28 September, 2015 between KfW Development Bank, Frankfurt am Main and the Republic of Kenya. As a result, GoK funding of Kshs.46,000,000 increased the project budget to Kshs.122,600,000 from Kshs.76,000,000 detailed in the financing agreement but no corresponding amended agreement and approved budget were provided for audit verification.

In the circumstances, the source and justification of additional funding from GOK amounting to Kshs.46,000,000 was not supported.

1187. Sustainability of the Project

The statement of receipts and payments indicates that the project made payments amounting to Kshs.94,656 and did not implement the bulk of the budgeted activities in the year under review. As reported in the previous year, the Project was behind the stipulated completion date of 30 June, 2020 as per the loan agreement. A letter dated 28 October, 2020 by the Ag. Chief Executive Officer of Lake Victoria South Water Works Development Agency to the Principal Secretary, Ministry of Water, Sanitation and Irrigation requested the loan disbursement window to be extended to 30 June, 2022 and the due date for the loan to be extended to June, 2032. Information available indicates that The National Treasury confirmed the extension of the donor disbursement to 30 June, 2022 and an additional donor funding of Kshs.20,000,000 which was to be available during the year under review in addition to counterpart funding received from Government of Kenya amounting to Kshs.46,000,000. The Management did not provide any workplan for completion of the outstanding project activities.

In the circumstances, the adequacy of the funds provided and the roadmap for the Project completion could not be known with certainty.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1188. Lack of Evidence for Project Implementation

Section 1.2 of the financial statements on project information and overall performance indicates that the Project will come to an end on 30 June, 2023. In addition, the statement of performance against projects pre-determined objectives states that the project is awaiting the development phase and therefore could not attain the four (4) strategic objectives of;

i. Conducting feasibility study for the management of liquid sludge and solid waste in Lake Victoria Basin towns of Migori and Homa Bay,

ii. Establishment of an Industrial Waste Management Information System and management toolkit for Homa Bay and Migori towns and their environs,

iii. Feasibility study of supplementary investments in water distribution systems of some areas of Homa Bay, and

iv. Needs assessment and concept for a regional training and research center for holistic approach to waste water management.

However, the strategic objectives which had a budget of EUR 700,000 equivalent to Kshs.76,600,000 and have been funded up to EUR 521,095 (Kshs.66,332,758) which is equivalent to 74.4% of the budget with no tangible details on achievement of any of the strategic goals outlined in the financing agreement.

In the circumstances, the achievements of the Project strategic goals have not been accounted for despite 74.4% of the donor commitment amount having been made from inception of the Project to date.

1189. Failure to Prepare Itemized Budget for the Project

The statement of comparison of budget and actual amounts indicates that the Ministry of Water, Sanitation, and Irrigation allocated an original budget of Kshs.90,000,000 to the project which was scaled down to Kshs.46,000,000 through supplementary estimate. However, the project Management did not give a detailed budget indicating a line-by-line breakdown of the budget items contrary to paragraph 1.7.20 of the International Public Sector Accounting Standards (Cash Basis) which requires budget documents to provide details about particular activities, programs or entities.

In the circumstances, the purpose of the funds budgeted could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1190. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1191. As required by KfW Development Bank, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

NAIROBI WATER DISTRIBUTION NETWORK PROJECT (CREDIT BMZ NO. 2020.82.527/KV 26833) - ATHI WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1192. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1193. Failure to Open a Project Bank Account

The Project Management had not opened a separate Project bank account, but instead the project funds were credited to the Athi Water Works Development Agency's development account. This was contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which provides that for purpose of disbursement of Project Funds, there shall be opened and maintained a project account for every project.

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

1194. Extension of Water and Sewerage Services in Peri-Urban and Informal Settlements - LOT 3

The statement of receipts and payments reflects expenditure on acquisition of non-financial assets of Kshs.778,055,510 which as disclosed in Note 8 to the financial statements, includes Kshs.18,845,666 for Lot 3 Project that was paid to a contractor as retention money after expiry of the defects' notification period and a performance certificate issued on 30 September, 2021. However, audit verification of the project in September, 2022 revealed that though the construction of water pipelines in three (3) informal settlements (Gitari Marigo, Ngando and Kawangware) was complete, the Nairobi City Water and Sewerage Company Ltd (NCWSC), mandated to carry out all the consumer water connection works including metering, had not commenced the consumer connections. As a result, the utilization of the water distribution networks constructed under the Project as well as the use of the sewerage system were delayed due to lack of water.

Consequently, value had not been derived from the expenditure incurred on the extension of water and sewerage services in peri-urban and informal settlements.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1195. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1196. As required by the Financing Agreement Number BMZ No. 2020.82.527/KV26833 between the KfW Frankfurt am Main ("KfW") and the Republic of Kenya for Nairobi Water Distribution Network Project, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

NORTHERN COLLECTOR PHASE 1-ADDITIONAL REHABILITATION AND DEVELOPMENT OF THE NETWORK (CREDIT NO. CKE-1074) - ATHI WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1197. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1198. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,448,570,000 and Kshs.531,960,000 respectively, resulting in underfunding of Kshs.916,610,000 or 63% of the budget. Similarly, the Project utilised Kshs.383,601,469 against the budgeted amount of Kshs.1,448,570,000 resulting into under-expenditure of Kshs.1,064,968,531 or 74% of the estimated expenditure. The underfunding and under-expenditure affect the implementation of planned activities and may impact negatively the delivery of the Project to the public.

1199. Special Account Statement

The special account statement reflects EUR 11,504,237 or Kshs.1,460,604,989 under amounts withdrawn and not yet claimed as at 30 June, 2022. This amount represents cumulative funds transferred to the local project bank account, but whose expenditure returns had not been submitted to The National Treasury by the closure of the financial year.

Consequently, accountability of the Project in The National Treasury records was incomplete.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1200. Delay in Completion of Ngethu - Gigiri Treated Water Pipeline

The statement of receipts and payments reflects acquisition of non-financial assets amount totalling to Kshs.383,370,503 as indicated in Note 8 to the financial statements. Included in this amount are payments in respect to construction of civil works totalling to Kshs.362,759,652, out of which an amount of Kshs.356,019,812 was paid to the contractor for the construction of raw and treated water gravity mains from Thika Dam-Kigoro-Gigiri transmission pipeline. The contract commencement date was 27 October, 2016 with original completion date being 25 April, 2019 (30 months).

Review of the works progress report revealed that, the overall progress of works was at 41% completion level compared to the previous year's level of completion of 36% and 89% of the revised contract period had lapsed. In addition, only 4.16KM or 11% of the total length of 36.94KM of the pipeline from Ngethu treatment works to existing Gigiri Reservoir had been laid, leaving 32.78KM or 89% outstanding. This was in spite of the contractor having less than seven (7) months to the revised completion date timeline of 31 March, 2023. As at the time of audit in September 2022, no works were on-going.

Further, there was no evidence that the Project Management had communicated to AFD of the delay of the project completion contrary to article 12.4 of the Credit Facility Agreement and 7.3 (a) of the Subsidiary Loan Agreement, which require the borrower to inform the lender of any event or incident that has a material adverse effect on the implementation of the Project.

As result of the foregoing, it was not possible to ascertain whether the project would be completed by the revised completion date of 31 March, 2023.

1201. Unutilized Kigoro Water Treatment Plant

The contract works for the construction of the Kigoro Water Treatment Plant was awarded to a construction company at a contract sum of Kshs.1,115,019,524 inclusive of tax. The contract commencement date was 15 May, 2015 with the completion date set to 15 May, 2018.

As at 30 October, 2020, the construction works at the treatment works were substantially complete and the plant was ready for commissioning. However, audit verification of the project conducted on 21 September, 2022 revealed that the plant had remained idle for a period of twenty-three (23) months since its completion date but continues to incur a monthly estimated cost of operation of Kshs.10,500,000 which includes cost of electricity in running and maintenance of the electro mechanical equipment at the plant.

Consequently, it was not possible to confirm whether value for money will be realized on the expenditure incurred on the Kigoro Water Treatment Plant.

1202. Nugatory Cost for Delayed Payment of Value Added Tax (VAT)

Review of documentation for Kigoro Treatment Works to Gigiri tanks showed an outstanding Value Added Tax (VAT) amount of Kshs.130,152,323 that had not been settled as at 30 June, 2022. This amount had subsequently attracted interest and penalties totalling to Kshs.257,191,705, as per a letter from the Kenya Revenue Authority (KRA), compelling the contractor to pay the amount.

The explanation provided for the delay was lack of enough funds to pay the Value Added Tax (VAT) which should have been included in the budget for the Project.

In the circumstances, the Project Management incurred avoidable expenditure of Kshs.257,191,705.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1203. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1204. As required by the Financing Agreement Number CKE-1074 dated 22 October, 2014 between the Agence Francaise Development (AFD) and the Republic of Kenya for Northern Collector Phase 1 and Additional Rehabilitation and Development of the Network Project, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

NAIROBI SANITATION OUTPUT BASED AID (OBA) PROJECT - (IDA GRANT NO.TF014251 AND NO.TF0A5607) - NAIROBI CITY WATER AND SEWERAGE COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1205. Unconfirmed Counter-part Funding Loan Balance

The statement of receipts and payments reflects miscellaneous receipts of Kshs.42,474,690, which relates to co-funding of the Project by the Nairobi City Water and Sewerage Company (NCWSC). The Management of the Company entered into a loan agreement with a local bank via letter dated 4 August, 2016 for a maximum loan facility of Kshs.600,000,000, to finance the Nairobi Sanitation Output Based Aid (OBA) Project. This loan, which formed part of the Company's contribution towards the Project, was

payable by the project beneficiaries through application fee and monthly repayment of the loan, as well as interest on funds collected but not immediately paid on account of the loan.

Information reflected in the summary of overall performance section of the Project financial statements indicates that 17,226 sewer and 6,436 water connections were completed. An upfront connection fee of Kshs.1,648 per household was charged all totalling to Kshs.38,994,976.

In addition, total monthly repayment following the completion of the defect liability period in June, 2019, was Kshs.450 and Kshs.150, for the sewer and water connections, respectively. These monthly repayments were to be made within a period of four years in respect of sewer connection and three years in respect of water connection respectively. Based on the information presented above, the total repayments received during the payment period was Kshs.406,836,000.

Further, review of the bank's working capital loan statements revealed that the Company earned interest on balances in the account totalling Kshs.253,619,568 in the period between January, 2017 and June, 2022.

The three facilities recorded above yielded total receipts of Kshs.699,450,544.

Review of documents provided for audit revealed that as at 30 June, 2022 the Company had repaid the loan totalling to Kshs.483,504,505 which included Kshs.225,178,118 and Kshs.258,326,386 for principal and interests respectively, leaving an outstanding loan balance of Kshs.302,528,009, reflected in the bank statement.

Had the Company used the receipts of Kshs.699,450,544 to pay off the loan as envisaged in the financing agreement, the outstanding balance would have been less than Kshs.88,077,173 and not Kshs.302,528,009 currently reflected as outstanding in the bank statements.

In the circumstances, the accuracy and completeness of the outstanding loan balance of Kshs.302,528,009 could not be confirmed.

1206. Uncollected Miscellaneous Receipts

As disclosed in Note 11.4 to the financial statements, the statement of receipts and payments reflects cumulative miscellaneous receipts co-funding by NCWSC of Kshs.810,624,938. Included in the amount is the Company's own contribution and finance costs of Kshs.281,423,607 which differs with the computed cumulative receipts of Kshs.699,450,544 which should have been received, resulting to unreconciled revenue variance of Kshs.422,733,755, between the two records.

In the absence of reconciliation between the two sets of records, it was not possible to confirm the accuracy of the cumulative Company contribution and interest income of Kshs.281,423,607, reflected in the financial statements.

1207. Unremitted Disbursements

As reported in the previous year, the statement of receipts and payments reflects cumulative proceeds from domestic and foreign grants of Kshs.486,571,479, as disclosed in Note 11.2 to the financial statements. However, according to the Funding Summary in

Section 1.7 of the Project information and overall performance, the Project received cumulative grants of Kshs.497,576,479, resulting to an unreconciled variance of Kshs.11,005,000. According to explanations provided by Management and disclosed in Note 12 to the financial statements, the variance of Kshs.11,005,000 was an amount which was withdrawn from the special account and transferred to the Ministry of Water and Sanitation in 2016/2017 but was not refunded to the project.

In the circumstances, it was not possible to confirm the accuracy of the accumulated grant advanced of Kshs.486,571,479 for the year ending 30 June, 2022.

1208. Unreconciled Donor Receipts

According to the information in the funding summary at Section 1.7 of the financial statements, the funding received to date is USD4,912,725 while the project's special account report for IDA Loan Credit No.TF 014251-KE reflects amount advanced by IDA to the project amounting to USD3,567,380 as at 30 June, 2022, resulting in an unreconciled variance of USD1,298,335.

In the absence of reconciliation between the two sets of records, it was not possible to confirm the accuracy of the cumulative amount received into the project from the special account, as at 30 June, 2022.

1209. Lack of Records

The Project information and overall performance indicates that 17,226 and 6,438 households were connected with sewer and water, respectively. However, Management did not provide the list of beneficiaries of the project for audit verification. In the absence of such documents and related details, it was not possible to confirm the accuracy and completeness of the balances reflected in the financial statements in relation to achievements of the project.

Emphasis of Matter

1210. Slow Absorption of Funds

As reported in the previous year, according to the project information at Paragraph 1.2 of the financial statements, the project's end date was 30 June, 2019. In addition, according to the project funding summary at Paragraph 1.7, IDA had committed USD6,930,000 equivalent to Kshs.693,000,000 as at 30 June, 2019. However, actual drawdowns during the project's life amounted to USD4,912,725 equivalent to Kshs.497,576,479, leaving an undrawn balance of Kshs.201,727,500. Further, there was no evidence of Management initiation of closure process for the Project or any attempt to seek extension of funding from the Donor.

The lapse of the credit facility before drawdown of the funding may have resulted in failure to implement and achieve all project deliverables, and a possibility that the project did not achieve the objective of providing water and sanitation services to the intended beneficiaries.

1211. Project Closure Reports

As reported in the previous year, according to Paragraph 1.2 of the financial statements, the project completion date was 30 June, 2019. Review of special account reports

revealed that the grants were last received in 2018. Further, the certificate of substantial completion dated 26 August, 2019 indicated that the defects liability period of the work would expire on 8 July, 2020. However, the project closure report was not provided for audit review, more than one year after the expiry of the defects liability period.

In the absence of the project closure report, it was not possible to confirm the actual status of the Project.

1212. Contingent Liability

As reported in the previous year, and as disclosed in Note 14.5 to the financial statements, there was a pending arbitration dispute between a contractor and Nairobi City Water and Sewerage Company (NCWSC) in respect of the project. In this dispute, Management had failed to pay the contractor an advance of Kshs.166,224,772 as agreed in the contract terms. The contractor had completed the project as at the time of the audit in September, 2022.

In view of the information recorded above, a contingent liability is likely to arise.

1213. Lack of Social Sustainability Fund

Although the project was handed over to the Company on 30 June, 2019, the legal basis for establishing a social sustainability fund was yet to be passed by the County Government of Nairobi, and there was no evidence of steps taken towards establishing or financing it. This may result in inability to service the project in the long run and subsequent loss of the significant investment in the project.

In the circumstances, it was not possible to confirm the sustainability of the significant investment made in the above project.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1214. Shortfall in Achievement of Targets

The Implementation, Completion and Results (ICR) report with respect to the original and revised indicators and targets, indicates the number of target communities was expanded to twelve (12) informal settlements and two (2) resettlement areas. However, the Project only delivered services to six (6) informal settlements and the two resettlement areas. The restructuring of the initial design resulted in increased targets and costs.

In addition, the ICR report revealed that at the completion of the Project, the number of sanitation and water connections as well as the number of individual beneficiaries were below the revised targets, as detailed below:

Revise Indicators	Original Target in 7 Informal Settlements (Persons)	Revised Target (Persons)	Actual Achievement (Persons)	Not Achieved (Persons)	Not Achieved (%)
People provided with access to improved water sources under the project urban	80,000	131,000	97,855	33,855	26
People provided with connection to sewerage network	80,000	167,000	137,243	29,243	21
Unique project beneficiaries of which women be 50%	80,000	167,000	137,243	29,243	17.5
New Household sewer connections constructed under the project	16,000	13,000	9,843	3,157	24
New Piped household water connections that are resulting from the project intervention	16,000	10,900	7,683	3,217	29.5
People in the informal settlements with access to improved water sources under the project		144,000	84,940	59,060	41

Management has explained that the reasons for not achieving the revised connection targets included, project implementation delays arising from water supply inconsistency, damage of water pipes during construction of the Kayole - Soweto road, and in other areas water supply lines had not been finalized by Water Company, resulting in limited or no water supply. It was not clear why Management commenced the Project without ensuring that other requirements for the success of the project were in place. It was further not clear why Management revised the targets higher without assessing and mitigating the possible risks and challenges.

In the absence of explanation for the gaps in the project recorded above, it was not possible to confirm that the project's objective of providing water to the people in the earmarked informal settlement, was achieved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1215. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NAIROBI RIVERS BASIN REHABILITATION AND RESTORATION PROGRAM: SEWERAGE IMPROVEMENT PROJECT PHASE II (AfDB LOAN NO.2000200003407 AND ADF LOAN NO.2100150040550) - ATHI WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1216. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1217. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,141,104,216 and Kshs.1,021,167,379 respectively, resulting into underfunding of Kshs.119,936,837 or 11% of the budget. Similarly, the Project utilized Kshs.1,017,909,623 against the budgeted amount of Kshs.1,141,104,216 resulting into under expenditure of Kshs.123,194,593 representing 11% of the estimated expenditure.

The underfunding and under expenditure may affect implementation of the planned activities and impact negatively on delivery of the Project to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1218. Slow Progress of Works

As previously reported, review of the Project records and audit verification carried out in September, 2022 revealed that the construction of Kahawa West, Githurai 44 & 45, Kahawa Sukari Reticulation sewer which was awarded at a contract sum of Kshs.2,154,077,998 for a duration of eighteen (18) months from 15 March, 2021 to 14 September, 2022, was still incomplete and that the overall progress of works was only at 27.9% completion level against eighteen (18) months, or 100% time lapsed of the contract period.

Further, the status review carried out on the construction of Mwiki and Clayworks reticulation sewers which was awarded at a contract sum of Kshs.1,794,140,606 revealed overall progress stood at 18% against time lapsed of seventeen (17) months or 98% of the eighteen (18) months contract duration from 22 March, 2021 to 20 October, 2022. No satisfactory explanation has been provided for the delays.

In addition, the status review of Lot 4-Construction of East and West of Nairobi Reticulation sewers which was awarded at a contract sum of Kshs.1,278,465,431 revealed overall progress stood at about 30% against time lapsed of fourteen (14) months

or 78% of the eighteen (18) months contract duration from 29 July, 2021 to February, 2023. No satisfactory explanation has been provided for the delays.

The implementation of the projects is therefore behind schedule, and it is unlikely that the remaining time will be enough to complete the Projects.

Consequently, the Program's objectives may not be realized as envisaged.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1219. Labelling and Tagging of Project Assets in NARSIP II

Included in the statement of receipts and payments is the acquisition of assets amount of Kshs.1,017,500,783 which includes construction of Kahawa West, Githurai 44 & 45 and Kahawa Sukari Reticulation Sewers in Lot 2 (Kshs.324,242,101), Construction of Mwiki & Clayworks Reticulation Sewers in Lot 3 (Kshs.91,239,473) and Construction of East and West of Nairobi Reticulation Sewers in Lot 4 (Kshs.412,778,675) as disclosed in Note 8 to the financial statements. Verification of works and assets on site revealed that the Project's assets were not labelled for ease of identification and proper custody as per the requirement of Regulation 166(4) (a) and (b) of the Public Procurement and Asset Disposal Regulation, 2020.

In the circumstances, effectiveness of the Asset Management System to safeguard assets could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1220. As required by the provision of Loan Agreements Numbers: 2000200003407 and 2100150040550 dated 19 June, 2019 between the African Development Bank, the African Development Fund and the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

BURA REHABILITATION DEVELOPMENT PROJECT (LOAN NOS. BADEA 3530: LA/763, KUWAIT 752, OPEC 1154P) - NATIONAL IRRIGATION AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1221. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1222. Budgetary Control and Performance

Note 1.7 on Funding Summary indicates that the Project duration is for ten (10) years from 2013 to 2023, with an approved budget of $118,893,500 equivalent to Kshs.7,569,733,000. However, out of the total funding, the amount realized from donor commitment amounted to Kshs.2,270,920,000 and GOK counterpart funds of Kshs.5,298,813,000. During the year under review, donor funding of Kshs.1,470,776,000 or 65% and GoK counterpart funding of Kshs.3,736,049,000 or 71% were received. This is an indication of slow release of funds, and yet the project duration is expected to end in less than a year.

Further, the statement of comparison of budget and actual amounts indicates that the Project was expected to receive a total of Kshs.1,550,000,000 in the year under review. However, Kshs.965,617,930 was realized resulting in a deficit of Kshs.584,382,070 or 38%. Similarly, out of the budgeted expenditure of Kshs.1,550,000,000, an amount Kshs.1,038,901,568 was spent hence an underexpenditure of Kshs.511,098,432 or 33% of the budget.

As a result, the Project's goals and activities may not be achieved within the financing period which commenced on 27 May, 2013 and is expected to end on 13 December, 2023.

1223. Pending Bills

Note 12 .1 on Other Important Disclosures and Annex 3a reflects pending accounts payables amount of Kshs.261,712,434. However, Management did not provide any explanation why the amount was not settled during the year under review.

In the circumstances, the Project is exposed to unnecessary interest and penalties on delayed or non-payment of claims.

1224. Unresolved Prior Year Matter

In the audit report of the previous year, an issue on budgetary control and performance was raised on the Project. However, the Management has not resolved the issue or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1225. Failure to Maintain Separate Bank Account

The statement of financial assets and as disclosed in Note 11 to the financial statements reflects an amount of Kshs.1,091,471,356 in respect of cash and cash equivalents. The Management did not maintain a separate cash book or detailed analysis for the Project during the year under review. The Project continued to receive the counterpart funds through the Authority's development bank account. This is contrary to Regulation 76(1)

of the Public Finance Management Regulations (National Government), 2015 which states that, for the purpose of disbursement of Project funds, there shall be opened and maintained a project account for every project at Central Bank of Kenya unless it is exempted by the Cabinet Secretary, in writing, into which all funds shall be kept and such an account shall be known by the name of the Project for which it is opened and each Project shall maintain one bank account.

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

1226. Delay in Project Implementation

The Project Loan Agreement signed in 2013, the project duration was to take 10 years commencing 2013 to 2023. However, records indicate that the construction of a new main canal and associated civil works for the Rehabilitation Project was awarded on 12 February, 2021 to a contractor at a contract sum of Kshs.1,764,278,550. According to the signed contract agreement of 10 March 2021, the agreed contract period was 18 (eighteen) Months (547 days) from 7 April, 2021 to end on 07 October, 2022. However, review of project progress as of 30 June, 2022 revealed the payments totalling Kshs.447,057,535 or 25 % of the contract sum had been made against an overall physical completion level of about 38.5%. This, therefore, indicates delayed implementation of the Project, with only a few months remaining to the end of the Project duration.

In view of the above, the Project is behind schedule and it is unlikely that the set timelines will be achieved which may lead to additional costs.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1227. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1228. As required by loan agreements signed between the Government of Republic of Kenya and OPEC Fund for International Development Loan No. 1154P dated 19 November, 2007, Kuwait Fund for Arab Economic Development Loan Number 752 dated 13 December, 2007 and The Arab Bank for Economic Development in Africa (BADEA) Loan No. 3530:LA/763 dated 28 April, 2008, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

MWEA IRRIGATION DEVELOPMENT PROJECT (LOAN NO. KE-P27) - NATIONAL IRRIGATION AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1229. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1230. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.3,301,000,000 and Kshs.1,839,938,959 respectively resulting to an underfunding of Kshs.1,461,061,041 or 44% of the budget. Further, the Project had an expenditure budget of Kshs.3,301,000,000 whereas the actual total expenditure was Kshs.1,829,578,342 resulting in an underexpenditure of Kshs.1,471,421,658 or 45% of the budgeted amount.

The underfunding and underexpenditure, implies that some activities of the project were not implemented and may have negatively impacted on service delivery to the public.

1231. Unresolved Prior Year Audit Matters

In the report of the previous year, issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources and Other Matter sections of the report. Although the Management has indicated that all the issues have been resolved under progress on follow up of auditor's recommendation section of the financial statements, the matters remained unresolved as at 30 June, 2022.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1232. Delayed Project Completion

Review of the project's documents and physical verification revealed that as of the time of the audit on 12 October, 2022 the progress for the construction of the Mwea Irrigation Thiba dam and appurtenant structures were complete and handed over to the Authority. However, the construction of Phase II of the project comprising construction of the irrigation canals had little progress as follows:

i. The construction work in Phase II is divided into two contracts. Lot 1 for construction and civil works of the irrigation facilities, was awarded to a firm at a contract sum of Kshs.851,961,000. The construction commenced on 22 March, 2021 with a completion date of 22 July, 2022 as per the contract agreement which was revised to 1 February, 2023. Further, according to the progress report of July, 2022, the project was behind schedule at 25.9%

completion level against 16 (sixteen) months or 73% of the time elapsed, indicating that the project may not be completed before the end of the contract period.

ii. Lot 2, which involves civil works of drainage facilities and other works, was awarded to a firm for a contract sum of Kshs.648,789,983. The works commenced on 22 March, 2021 and were, expected to be completed by 22 July, 2022. However, a review of the project status report and physical verification in October, 2022, revealed that the project was at 30 % completion level. No evidence was provided of the contract extension, yet the contract period had lapsed. Although, Management attributed the delay to slow payment processing by the Authority and the Ministry of Water, Sanitation and Irrigation, the Project is at risk of incurring penalties of the Central Bank's prevailing market rate of interest plus 3% for any delayed payments.

In the circumstance, delayed completion of the canal works may lead to cost overruns, delay of expected benefits to the public and the value for money on avoidable penalties.

1233. Avoidable Interest on Delayed Payments

The statements of receipts and payments and as disclosed in Note 8 to the financial statements reflects acquisition of non-financial assets payments controlled by the entity of Kshs.111,941,293. Included in the balance is Kshs.34,947,773 relating to interest charged, which arose from delayed payments to a firm engaged for the construction of Thiba dam. The interest charged were occasioned by failure to pay the contractors within 28 days after raising the Interim Payment Certificates (IPC) and concurrence to pay as indicated in the contract agreement. Although Management attributed the delay in paying the contractor to under-budgeting, the interest charged could have been avoided and is therefore a wasteful use of public funds.

In the circumstances, the Public did not obtain value for money on the nugatory interest.

1234. Failure to Maintain a Separate Bank Account for the Project

The statement of financial assets reflects cash and cash equivalents balance of Kshs.12,719,783. However, as at the time of audit in October, 2022, the Project had not opened the account, but continued to receive the counterpart funds through the Authority's development bank account This is contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 requires the Project to open a separate bank account for the purpose of receiving and accounting counterpart funds.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1235. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1236. As required by Loan Agreement No. KE-P27 between the Japan International Corporation Agency (JICA) and the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

RWABURA IRRIGATION DEVELOPMENT PROJECT - NATIONAL IRRIGATION AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1237. Unsupported Bank Balance

The statement of financial assets and as disclosed under Note 11 to the financial statements reflects a bank balance of Kshs.35,543,747. However, the bank balance was not supported with a cash book, bank statements, and certificate of bank balance, bank reconciliation statements, and board of survey report. Further, the National Irrigation Authority did not open a separate Project bank account for the purpose of receiving and accounting counterpart funds. As at the time of audit in October, 2022, the Project continued to receive the counterpart funds through the Authority's development bank account.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.35,543,747 could not be confirmed.

Other Matter

1238. Pending Accounts Payable

Review of other important disclosures under Annex 3a to the financial statements, revealed pending bills amounting to Kshs.7,736,982 as at 30 June, 2022 out of which Kshs.538,349 was in relation to pending claim by a consultant that has remained outstanding for over two (2) financial years. Management did not provide satisfactory explanations for the failure to settle the claim. This exposes the Project to the risk of incurring interest costs and penalties as provided for under clause D of the contract signed between the consultant and the National Irrigation Authority.

Further, failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

1239. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.706,000,000 and Kshs.335,511,266 respectively resulting in an underfunding of Kshs.370,488,734 or 47% of the approved

budget. Similarly, the Project expended Kshs.365,954,163 against an approved budget of Kshs.706,000,000 resulting in an underexpenditure of Kshs.340,045,837 or 52% of the approved budget.

In the circumstances, the underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

1240. Unresolved Prior Year Audit Issues

The Project's audit report of the previous year highlighted several issues under Report on Lawfulness and Effectiveness in Use of Public Resources. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circulars.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1241. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1242. There were no material issues relating to effectiveness of internal controls, risk management and governance.

IMPROVEMENT OF DRINKING WATER AND SANITATION SYSTEMS IN MOMBASA: MWACHE PROJECT (AFD CREDIT FACILITY NO.CKE 1103 01 C) – COAST WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1243. Unreconciled and Unexplained Variance Between the Project's Financial Statements and Special Account Statement

The Project's statement of receipts and payments reflects an amount of Kshs.243,657,000 as loan from external development partners. However, the special account statement maintained at the Central Bank of Kenya indicates that a total of Kshs.245,923,600 was withdrawn from the special account and transferred to the Project's bank account, resulting in an unreconciled and unexplained difference of Kshs.2,266,600.

In the circumstances, the accuracy and completeness of the loans from external development partners of Kshs.243,657,000 could not be confirmed.

1244. Accounts Receivable - Undisclosed Outstanding Imprests

The statement of financial assets reflects nil accounts receivables (imprests and advances). However, disclosed in Note 6 to the financial statements under other purchase of goods and services are other operating expenses of Kshs.352,960 relating to imprests surrenders for Mwache River water quality monitoring activities. However, imprest warrants reviewed showed that imprests totalling Kshs.2,029,520 remained un-surrendered but have not been disclosed in the statement of financial assets as at 30 June, 2022.

In addition, the Management did not maintain imprests register, contrary to Regulation 93(4)(c) of the Public Finance Management (National Government) Regulations, 2015 which requires the details of the applicant to be recorded in the imprest register including the amount applied for.

In the circumstances, the accuracy and completeness of the nil accounts receivable (imprests and advances) balance could not be confirmed.

Other Matter

1245. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,760,000,000 and Kshs.351,513,176 respectively, resulting to underfunding by Kshs.1,408,486,824 or 80% of the budget. The underfunding was attributed to delays in donor disbursements. Similarly, the Project expended an amount of Kshs.108,215,841 against an approved budget of the same amount.

The underfunding may lead to delays in Project implementation and realization of the intended benefits.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1246. Acquisition of Non-Financial Assets

The statement of receipts and payments reflects expenditure on acquisition of non-financial assets totalling Kshs.107,856,176 as disclosed in Note 8 to the financial statements.

The following observations were made:

1246.1 Construction of Civil Works

Note 8 reflects expenditure on construction of civil works of Kshs.38,130,757, being advance payment for emergency works to increase water availability in Likoni under Contract of 18 August, 2021 at a contract sum of Kshs.319,751,128 and a duration of

eighteen months. The records also show that the site was handed over to the contractor on 27 August, 2021. However, the expenditure of Kshs.38,130,757 excludes 2% withholding tax of Kshs.687,040.68 and 3% VAT of Kshs.1,030,561.02, all amounting to Kshs.1,717,602 which were accounted for under Coast Water Works Development Agency.

In addition, during project verification of 30 September, 2022, the following observations were made:

i. The scope of works required the contractor to drill two new ground water boreholes (A and 9). However, borehole A had not been drilled while borehole 9, although drilled, was not functional after rejection for being developed contrary to the Engineer's instruction on the quality of gravel.

ii. The works on Lines 1-1, 1-2 and 1 connecting boreholes 8, C and A to the main line had not yet commenced.

iii. Installation of electro-mechanical works and pipe works at fifteen (15) borehole sites, extension flow division chamber (Marere Pipeline), construction of DN250-200 HDPE PN 25 parallel Marere Pipeline of 6,368m and chlorine dosing units at Kaya Bombo and Magodzoni had not commenced with only foundation excavations of the two chlorination units done.

iv. No water supply in Likoni as the combined hydraulic - chemical well rehabilitation of eight (8) boreholes were yet to be done and only five (5) boreholes (6.1, 6.2, D2, 8.1 & C) had been cleaned and rehabilitated.

In the circumstances, regularity of the expenditure totalling Kshs.38,130,757 on construction of civil works could not be confirmed.

1246.2 Research, Studies, Project Preparation, Design and Supervision

The financial statements as disclosed in Note 8 reflects an expenditure of Kshs.69,725,419 in respect of research, studies, project preparation, design and supervision. The expenditure includes payments of Kshs.17,703,957 and Kshs.30,246,721 for consultancy services procured for Detailed Design Review and Adoption and Construction Supervision of Water Distribution Pipelines in Mombasa and Sanitation Facilities in Mombasa South Mainland (Likoni) and Long Term Technical Assistance (LTTA) respectively. The following observations were made:

1246.2.1 Payment for Construction Supervision Before Detailed Design Review

The Consultancy Services for Detailed Design Review and Adoption and Construction Supervision of Water Distribution Pipelines in Mombasa and Sanitation Facilities in Mombasa South Mainland (Likoni) contained also in the terms of reference detailed design review and adoption for water distribution in North Mainland (NML), West Mainland (WML) and South Mainland (SML). However, a total of Kshs.13,776,206 was paid for construction supervision of Mombasa Water Distribution Works-North Mainland (Short Term Works) Lot 1A under Phase 2, before completion of Detailed Design Review and Adoption under Phase 1.

1246.2.2 Unsupported Modification of Terms of Reference

According to the terms of reference attached to the Request for Proposal for the Consultancy Services for Detailed Design Review and Adoption and Construction Supervision of Water Distribution Pipelines in Mombasa and Sanitation Facilities in Mombasa South Mainland (Likoni), Task 1.1 under Phase 1 of scope of services, the consultant was to undertake detailed design review and adoption report for South Mainland (Short Term), West Mainland (Short and Medium Term) and North Mainland (Short Term) water supply components. However, audit review of the minutes of negotiation held on 1 April, 2021 revealed agreement on design review and adoption report for South Mainland (Short Term) and West Mainland (Short and Medium Term) only. No explanation was provided for the omission of North Mainland (Short Term) water supply components.

1246.2.3 Lack of No Objection Letters

The Management failed to provide for audit "No Objection" letters issued by AFD before advertising for the Request for Expressions of Interest for the consultancy services.

1246.2.4 Delayed Signing of Contract

Review of Tender on Consultancy Services for Long Term Technical Assistance (LTTA) revealed that the professional opinion issued on 20 September, 2018 recommended award of contract at a cost of Euro 1,537,454(Approx. Kshs.181,419,572) and was signed on 25 June, 2020. However, the contract was signed after the validity period of 120 days from the submission deadline of 21 May, 2018, contrary to Clause ITC 12.1 of the Request for Proposal.

1246.2.5 Irregular Procurement of Consultancy Services

The advertisement for Request for Expression of Interest was done on 13 June, 2017 for the Tender on Consultancy Services for Long Term Technical Assistance (LTTA). However, there was no evidence of an approved budget for the procurement. Additionally, the procurement commenced before the signing of the Credit Financing Agreement and Subsidiary Loan Agreement. No explanation was provided for the irregularities.

In the circumstances, regularity of the expenditure of Kshs.69,725,419 in respect of research, studies, project preparation, design and supervision could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1247. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NAIROBI INCLUSIVE SANITATION IMPROVEMENT PROJECT (GRANT NO:5600155005153) - ATHI WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1248. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1249. Budgetary Control and Performance

The statement of comparison of budget and actual amounts for the year ended 30 June, 2022 reflects total budget receipts of Kshs.120,000,000 and actual receipts of Kshs.71,758,051 resulting to a budget shortfall of Kshs.48,241,949.

Further, the statement reflects total budget expenditure of Kshs.120,000,000 and actual payments of Kshs.21,758,051 resulting to an under expenditure of Kshs.98,241,949.

In addition, the approved budget of the Project for the year under review was not provided for audit review. As a result, the source of the balances reflected in the statement of comparison of budget and actual amounts could not be confirmed.

In the circumstances, the shortfall and under-absorption of the approved budget is an indication of activities not implemented by the Project Management leading to non-provision of services to the stakeholders.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1250. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1251. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1252. Irregular Reallocation of Expenditure

The statement of receipts and payments reflects expenditure on use of goods and services totalling to Kshs.951,340,932 as disclosed in Note 4 to the financial statements. Examination of payment vouchers and expenditure ledgers revealed that payments amounting to Kshs.3,617,809 were irregularly charged to wrong expenditure items without approval for reallocation as detailed below;

Item Charged	Correct Account	Amount (Kshs.)
Specialized Materials and Services	Foreign Travel	2,435,231
Specialized Materials and Services	Subsistence and Domestic Travel	1,108,978
Repair and Maintenance of Motor Vehicle	Subsistence and Domestic Travel	43,600
Repair and Maintenance of Motor Vehicle	Office and General Supplies	30,000
Total		**3,617,809**

In absence of any reallocation of the budget, the accuracy and regularity of the expenditure relating to the above account items could not be confirmed.

1253. Lack of Ownership Documents

Annex 4 to the financial statement reflects the summary of fixed asset register with a historical balance of Kshs.5,223,757,593 as at 30 June, 2022. However, ownership documents of land, buildings and structures and transport equipment with historical cost balances of Kshs.1,297,261,745, Kshs.186,499,088 and Kshs.83,789,020 respectively were not provided for audit review. Further, scrutiny of the physical fixed asset register provided for audit revealed that the register was incomplete as it did not indicate details of the assets owned, the dates of acquisition and the cost of the assets.

In the circumstances, the ownership and valuation of the assets could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1254. Delayed Payment of Legal Claims

Note 15.3 on other important disclosures reflects contingent liabilities amounting to Kshs.19,745,016,189 in respect of various court awards against the Ministry as analysed in Annex 5 to the financial statements. However, individual case files for the court awards totalling to Kshs.760,709,415 of the total contingent liabilities of Kshs.19,745,016,189 were not provided for audit review.

Further, records provided for audit indicated that during the year under review, the Ministry paid a total of Kshs.100,000,000 out of a decretal sum of Kshs.240,000,000 awarded on 25 September, 2015 for Malindi Land Case No. 120 of 2011. In addition, the decretal sum had accumulated additional interests' charges amounting to Kshs.57,565,282 for the period it had been unpaid. This interest was avoidable had Management settled the award in time.

In the circumstances, value for money for the expenditure on interest charges could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1255. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REVENUE STATEMENTS FOR THE MINISTRY OF LANDS AND PHYSICAL PLANNING

REPORT ON THE REVENUE STATEMENTS

Unmodified Opinion

1256. There were no material issues noted during the audit of the revenue statements.

Other Matter

1257. Budgetary Control and Performance

Review of the budgeted and actual revenue collections for the year under review revealed that the Ministry did not realize all the budgeted revenue under the following revenue items:

Revenue Item	Actual Amount (Kshs.)	Budgeted Amount (Kshs.)	Variance (Kshs.)	Unrealized Revenue %
Stamp Duty	5,099,886	13,637,556	(8,537,670)	63
Stand Premia on Town Plots	51,289,316	81,588,614	(30,299,298)	37
Other Revenue	612,035,451	996,457,873	(384,422,422)	39
Land Adjudication and Case Fees	215,628	1,497,084	(1,281,456)	86
Conveyance Fees	6,577,910	8,243,130	(1,665,220)	20
Land Valuation Fee	9,345,611	51,357,671	(42,012,060)	82
Land Registration Fees	8,543,178	18,515,080	(9,971,902)	54

Although the Management explained that the reason for non-realization of the budgeted revenue in full was due to the effects of COVID-19 pandemic and the year 2022 was an

election year, persistent under-collection of revenue could have negative effects on service delivery to the Kenyan citizens.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1258. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1259. Lack of Land Valuation Index

Audit inspection of the Land Valuation Department in nineteen (19) Land Registries revealed that none of the offices had an approved valuation index/valuation zonal rates to guide in the valuation of land. The regional offices uses estimation to value land in order to determine the stamp duty payable. Although the Management explained that the Ministry has undertaken valuation preparation of land value index in twenty-two (22) counties, the remaining twenty-five counties do not have an approved valuation index/valuation zonal rates.

In the circumstances, the Ministry risks losing revenue in some regions in the absence of an approved land valuation index to guide valuation of land for the purpose of stamp duty.

STATE DEPARTMENT FOR INFORMATION COMMUNICATION TECHNOLOGY AND INNOVATION – VOTE 1122

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1260. There were no material issues noted during the audit of the financial statements of the State Department.

Other Matter

1261. Pending Bills

Annex 1 to the financial statements reflects pending accounts payable totalling Kshs.178,918,663 (2021 - Kshs.196,103,992.68) as at 30 June, 2022 which mainly arose during the year. Management has not explained why the bills were not settled during the year when they occurred. The State Department is at risk of incurring significant interest costs and penalties with their continued delay in payment.

Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

1262. Unresolved Prior Year Issues

In the report of the previous year, several paragraphs were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. Although the Management had indicated that some of the issues were responded to, the matters remained unresolved.

1263. Budgetary Control and Performance

The summary statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.20,169,675,559 and Kshs.18,184,086,831 respectively resulting to an underfunding of Kshs.1,985,588,728 or 10% of the budget. Similarly, the State Department expended Kshs.18,182,750,083 against an approved budget of Kshs.20,169,675,559 resulting to an underexpenditure of Kshs.1,986,925,476 or 10% of the budget. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1264. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1265. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR INFORMATION COMMUNICATION TECHNOLOGY AND INNOVATION

EASTERN AFRICA REGIONAL TRANSPORT, TRADE AND DEVELOPMENT FACILITATION PROJECT (IDA CREDIT NO.5638-KE) - INFORMATION AND COMMUNICATION TECHNOLOGY AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1266. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1267. Slow Project Funds Absorption

The Project was started in November, 2015 and was to run for six (6) years to end in December, 2021. However, as reflected under the funding summary, out of the total commitment of Kshs.2,979,795,000 by IDA and the Government of Kenya, an amount of Kshs.482,594,172 or 16.1% had been released to the Project as at 30 June, 2022.

As previously reported, due to continued underfunding, the Project is unlikely to fully achieve the intended objectives.

My opinion is not modified in respect of this matter.

Other Matter

1268. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.900,000,000 and Kshs.482,594,172 respectively, resulting to an underfunding amounting to Kshs.417,405,828 or 46% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.900,000,000 and Kshs.440,024,499 respectively, resulting to an underexpenditure of Kshs.459,975,501 or 51% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1269. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1270. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1271. As required by International Development Association (IDA), Financing Agreement Credit No 5638-KE dated 20 July, 2015, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Eastern Africa Regional Transport, Trade and Development IDA Credit No. 5638-KE and the Project's financial statements agree with the accounting records and returns.

HORN OF AFRICA GATEWAY DEVELOPMENT PROJECT - IDA CREDIT NO. 6768-KE - INFORMATION AND COMMUNICATION TECHNOLOGY AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1272. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1273. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total actual receipts of Kshs.113,748,479 against estimated amounts of Kshs.175,000,000 resulting in a shortfall of Kshs.61,251,521 or 35%. Similarly, the Project had an approved total expenditure budget of Kshs.175,000,000 against the actual expenditure of Kshs.41,037,111 resulting to an under absorption of Kshs.133,962,889 or 77% of the budget.

In the circumstance, the under-absorption may have affected the implementation of the Project's planned programmes and activities.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1274. Outstanding Imprest

The statement of financial assets and as disclosed under Note 6 to the financial statements reflects imprest and advances amounting to Kshs.403,200, which ought to have been accounted for on or before 30 June, 2022. This is contrary to Regulation 93(5) and (6) of the Public Finance Management (National Government), Regulations, 2015.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1275. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1276. As required by International Development Association (IDA), Financing Agreement Credit No. 6768-KE dated 07 October, 2020, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

STATE DEPARTMENT FOR BROADCASTING AND TELECOMMUNICATIONS – VOTE 1123

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1277. There were no material issues noted during the audit of the financial statements of the State Department.

Other Matter

1278. Non-Payment of Pending Bills

As disclosed under Annex 1 to the financial statements, pending bills totalling to Kshs.257,017,835 were not settled during the year but were instead carried forward to financial year 2022/2023. No reasons were provided for not settling the bills within the financial year.

Failure to settle pending bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

1279. Unresolved Prior Year Matters

In the report of the previous year, several paragraphs were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. Although the Management indicated that some of the issues were resolved under progress on follow up of auditor's recommendation section of the financial statements, the matters remained unresolved as at 30 June, 2022.

1280. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.8,043,589,992 and Kshs.7,186,423,848 respectively resulting in receipts shortfall of Kshs.838,109,791 or 10% of the budget. Similarly, the State Department expended Kshs.7,188,905,509 against approved budget of Kshs.8,043,589,992 resulting to an underexpenditure of Kshs.854,684,483 or 11% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1281. Incomplete Fixed Asset Register

Annex 4 to the financial statements reflects fixed assets balance of Kshs.452,462,119. However, the provided fixed asset register omitted details on date of purchase, supplier details, payment voucher number, make or model of the asset, serial number, registration

details for motor vehicles, the location of the asset, officer responsible, status/condition of the asset, cost, date of disposal among other details. In addition, the land and buildings register did not have details such as reference of the conveyance, address, approximate area, dates of acquisition, disposal or major change in use, capital expenditure and leasehold terms. This is contrary to Regulation 143 of the Public Finance Management (National Government) Regulations, 2015. Further, the assets were not tagged with unique identification numbers for ease of traceability and accountability.

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

1282. Irregular Leave Commutation

The statement of receipts and payments reflects compensation of employees amounting to Kshs.470,195,643 as disclosed in Note 5 to the financial statements. The balance includes Kshs.6,702,725 paid as leave commutation for officers who were unable to proceed on leave due to exigencies of service. However, the authority, justification, approval and basis of paying leave commutation was not provided for audit review.

In the circumstances, regularity and value for money on leave commutation of Kshs.6,702,725 for the year ended 30 June, 2022 could not be confirmed.

1283. Non-Compliance with the One Third of Basic Salary Rule

Review of payrolls for the year ended 30 June, 2022 revealed that twenty (20) employees earned a net salary of less than one third (1/3) of their basic salaries contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies and Procedures Manual, 2016. The Management did not give explanation for failure to comply with the policy.

In the circumstances, the State Department contravened Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies and Procedures Manual, 2016 and this may expose the staff to pecuniary embarrassment.

1284. Salaries Paid Outside Integrated Personnel and Payroll Database (IPPD) System

The statement of receipts and payments reflects compensation of employees amounting to Kshs.470,195,643 as disclosed in Note 5 to the financial statements. Records provided for audit review and payment details revealed that expenditure amounting to Kshs.17,861,462 was paid outside the Integrated Personnel and Payroll (IPPD) system. This contravened The National Treasury Circular No. 9/2017 which requires personnel emoluments to be controlled in the public personnel database and supported by IPPD.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1285. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR SPORTS – VOTE 1132

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1286. Unsupported Repairs and Maintenance Expenditure

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects use of goods and services expenditure of Kshs.79,809,368 as at 30 June, 2022. The expenditure includes an amount of Kshs.2,246,588 in respect to routine maintenance of vehicles and other transport equipment which further includes amounts totalling Kshs.596,667 which was issued to an officer to facilitate motor vehicles service and repairs. However, review of records revealed that motor vehicles underwent mechanical repairs without pre and post inspection reports, and details of repairs were not entered in the motor vehicle maintenance logbooks.

In the circumstances, the completeness, accuracy and validity of the expenditure of Kshs.596,667 for the year ended 30 June, 2022 could not be confirmed

1287. Unsupported Fuel, Oil and Lubricants Expenditure

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects use of goods and services expenditure of Kshs.79,809,368. The expenditure includes an amount Kshs.2,711,543 in respect to fuel, oil and lubricants. However, review of the expenditure revealed that the fuel records were not entered in the respective motor vehicle work tickets.

In the circumstances, the completeness, accuracy and validity of the expenditure of Kshs.2,711,543 for the year ended 30 June, 2022 could not be confirmed.

Other Matter

1288. Unresolved Prior Year Matters

Various prior year audit issues, including delayed completion of construction of stadiums, remained unresolved as at 30 June, 2022. Although the issues have since been discussed by the Public Accounts Committee (PAC), they remain unresolved as PAC is yet to give their recommendations for implementation.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1289. Construction of Wang'uru Stadium in Kirinyaga County

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects transfers to other governments units of Kshs.15,512,365,554. The expenditure includes an amount of Kshs.696,473,751 for construction of Wang'uru Stadium in Mwea, Kirinyaga County. However, contract documents, works programs, site meeting minutes and project status reports were not provided for audit review.

Further, audit verification which was done in September, 2022 revealed that the Project was incomplete. No explanation was provided for the delay in completion of the Project.

In the circumstances, the value for money realized from the expenditure of Kshs.696,473,751 incurred on the Project for the year ended 30 June, 2022 could not be confirmed.

1290. Construction of Kiringiti Stadium in Kiambu County

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects transfers to other governments units of Kshs.15,512,365,554. The expenditure includes an amount of Kshs.1,091,031,466 for construction of Kiringiti Stadium in Kiambu County. However, contract documents, works programs, site meeting minutes and project status reports were not provided for audit review.

Further, audit verification done in November, 2022 revealed that the Project was incomplete. No explanation was provided for the delay in completion of the Project.

In the circumstances, the value for money realized from the expenditure of Kshs.1,091,031,466 incurred on the Project for the year ended 30 June, 2022 could not be confirmed.

1291. Posta Sports Ground

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects transfers to other governments units of Kshs.15,512,365,554. The expenditure includes an amount of Kshs.1,190,971,897 for construction of Posta Sports Ground in Nairobi County. However, audit verification of the Project done in November, 2022 revealed that the Project duration had lapsed and works were still ongoing. No explanation was provided for the delay in completion of the Project.

In the circumstances, value for money may not be realized from the delayed Project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1292. Unauthorized Use of Fuel Cards

Review of the Ministerial Human Resource Management Advisory Committee minutes dated 19 January, 2021 revealed deliberations on unauthorized use of fuel card in the Sports registers office totalling to Kshs.1,479,232. The Committee recommended to the Authorized Officer that a Ministerial Human Resource Advisory Sub-Committee comprising two Officers and Internal Auditor be formed to investigate the incident and submit a report of its findings for consideration. However, documents supporting the action taken against the concerned staff were not provided for audit review.

In the circumstances, the effectiveness of the system of internal control on the management of fuel cards could not be confirmed.

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1293. Inaccuracy in the Statement of Cash Flows

The statement of cash flows reflects balances of Kshs.331,578,996 and Kshs.31,314,849 in respect to cash and cash equivalents for the year ended 30 June, 2022 and the comparative balance respectively. However, recasting the accuracy of the statement revealed balances of Kshs.332,050,904 and Kshs.48,470,617 respectively resulting to an unexplained and unreconciled variance of Kshs.471,908 and Kshs.17,155,768. Further, review of the statement revealed that the statement reflects comparative balance of Kshs.10,897,687 in respect to net increase in cash and cash equivalents which differs with the comparative negative balance of Kshs.6,258,081 reflected in the audited financial statements for 2020/2021 financial year resulting to unreconciled and unexplained variance of Kshs.4,639,606.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.331,578,996 could not be confirmed.

1294. Long Outstanding Third-Party Deposits and Retention

As disclosed in Note 11 to the financial statements, the statement of assets and liabilities reflects third-party deposits and retention balance of Kshs.303,169,095 which includes Kshs.4,544,668 and Kshs.14,208,351 in respect to retention and deposits amounts respectively having remained outstanding since November, 2015. No explanation was provided for the delay in settling the obligation.

In the circumstances, the accuracy and completeness of the third-party deposits and retention balance of Kshs.303,169,095 could not be confirmed.

1295. Pending Accounts Payable

Note 17.1 to the financial statements reflects pending accounts payable balance of Kshs.48,170,956 which includes Kshs.36,377,706 for supply of services. However, review of the Annex 1 to the financial statements on the analysis of pending accounts payable revealed that amounts totalling to Kshs.14,596,148 for the supply of various services have been outstanding since 2019/2020 financial year. No explanation was provided for the delay in settling the amount.

In the circumstances, the completeness and accuracy of the balance of Kshs.36,377,706 in respect to pending accounts payable could not be confirmed.

1296. Incomplete Fixed Assets Register

Annex 2 to the financial statements reflects total assets balance of Kshs.300,852,285 as at 30 June, 2022. However, Management provided an assets register which did not include information on date of acquisition, current values and dates of disposal of the

assets. Further, the assets were not tagged, but instead, manufacturers' serial numbers were used for identification purposes. No explanation was provided for the anomaly.

In the circumstances, the accuracy and completeness of the fixed assets balance of Kshs.300,852,285 for year ended 30 June, 2022 could not be confirmed.

Emphasis of Matter

1297. Unutilized Sports Arts and Social Development Funds

The statement of assets and liabilities reflects a balance of Kshs.303,169,095 as third-party deposits and retention as detailed in Note 11 to the financial statements which includes a balance of Kshs.284,416 076 in respect to deposits from Sports Arts and Social Development Fund to cater for various operations and activities. However, the balance remained un-utilized as at the close of the financial year. No explanation was provided for the failure utilize the available funds.

In the circumstances, under-utilization of the funds affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1298. Unresolved Prior Year Matters

In the audit of the previous year, several issues were raised. Management has not resolved the issues or provided reasons for the delay in resolving the prior year audit issues as required by the Public Sector Accounting Standards Board template and The National Treasury's Circular Ref: AG/4/16/3/Vol.3(66) dated 6 July, 2022.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1299. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1300. There were no material issues relating to effectiveness of internal controls, risk management and governance.

MINISTRY OF ENERGY – VOTE 1152

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1301. Unsupported Expenditure on Legal Fees

During the year under review, the Ministry had budgeted to spend an amount of Kshs.50,000,000 on legal fees which was later revised to Kshs.25,000,000 through a supplementary budget. However, although no legal services were procured during the year, an expenditure of Kshs.12,847,512 was incurred under the budget item while commitments amounting to Kshs.4,080,205 were made in the vote book and remained outstanding as at 30 June, 2022. Further, records held at the legal department indicated that all Ministry's legal matters were being handled by the Office of the Attorney General.

In the circumstances, the regularity of the expenditure of Kshs.12,847,512 and commitments of Kshs.4,080,205 could not be confirmed.

Other Matter

1302. Budgetary Control and Performance

The statement of comparison of budget and actual amounts indicates that the Ministry's revenue budget for the year under review amounted to Kshs.65,603,541,425 but actual receipts amounted to Kshs.36,330,679,896 resulting to a revenue shortfall of Kshs.29,272,861,529 or 45% of the approved budget. Similarly, the Ministry's budgeted expenditure amounted to Kshs.65,603,541,425 but actual spending amounted to Kshs.35,754,825,649 resulting to an underexpenditure of Kshs.29,848,715,776 or 45% of the budget.

In the circumstances the underfunding and underexpenditure affected the planned programme outputs for the year and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1303. Non-Compliance with the Approved Establishment

Review of the human resource records revealed that the Ministry's approved establishment was one hundred and fifty-nine (159) members. However, the Ministry had three hundred and ninety-three (393) members of staff, exceeding the approved establishment by two hundred and thirty-four (234) members of staff. Management has explained that the variance was occasioned by a review of the Ministry's organizational structure and staff establishment which was undertaken by the Public Service Commission in 2021 which determined the optimal staff establishment as one hundred and fifty-nine (159) members. The actual officers in post at the date of the review was

more than the defined optimal level. Although, Management has appealed the decision of the Public Service Commission, no response had been received as at the time of audit. In the circumstances, the Ministry is over staffed and expenditure on compensation of employees may not be effective use of public resources.

1304. Non-Compliance with the Executive Order No.2 of 2018

Review of procurement records revealed that the Ministry has not fully adopted the E-procurement platform as required by Part IV of the Executive Order No.2 of 2018. Management has explained that bids for standard goods and services procured through Request for Quotation (RFQ) are shared with bidders in the procurement module of the Integrated Finance Management Information System (IFMIS) using the standard RFQ document issued by Public Procurement Regulatory Authority (PPRA). The bidders would then download the document and submit both the bids through the system or manually as the physical documents are then used in evaluation by the Evaluation Committee, even though manual submissions are not allowed.

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

1305. Framework Agreement on Development of Sustainable Green Industries

The Ministry entered into a Framework Agreement with an Australian Company for development of sustainable green industries in the country on 4 November, 2020. Review of the Agreement revealed the following unsatisfactory matters;

i. No documentations or explanations were provided in support of the sourcing and ultimate procurement of the private company in line with the provisions of the Public Procurement and Asset Disposal Act, 2015.

ii. The basis of identification of the need for the development of green industries was not documented or supported by any policy document.

iii. Due diligence on the company was conducted by members of a taskforce appointed to oversee the implementation of the Agreement from 29 April, 2022 to 16 May, 2022, eighteen (18) months after the Agreement had been signed. This was contrary to the provisions of the Public Procurement and Asset Disposal Act, 2015 which requires that due diligence be conducted prior to award of tender by the Evaluation Committee.

iv. The Agreement was implemented through a taskforce whose appointment was not gazetted and the terms of reference for the appointment of the taskforce members was not documented.

v. Whereas Section 8.4 of the agreement provided that each party must nominate at least 3 representatives to the taskforce within 7 days from the date of the Agreement, the Government appointed its representatives on 17 November, 2020, 13 days after the Agreement.

vi. It was also stated in the appointment letters that the taskforce was to develop its Terms of Reference (TORs) for approval. However, the Taskforce had not

developed the TORs two (2) years after the signing of the Agreement and the implementation of the Framework Agreement had commenced.

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

1306. Failure to Surrender Unspent Balances

Review of the records indicated that the Ministry received back an amount of Kshs.32,000,000 in the development account on 23 June, 2021. The amount was transferred from the account to the deposit account on 30 June, 2021 instead of being surrendered to the National Exchequer as unspent funds. Subsequently, the amount was transferred from the deposit account to the recurrent account as AIA on 11 August, 2021 and formed part of other receipts income for the financial year under review. Further, the Ministry received an amount of Kshs.35,202,551 in the development account on 1 July, 2021, this amount was transferred from the account to the deposit account on 7 July, 2021 instead of being surrendered to the National Exchequer.

In addition, the amount was transferred from the deposit account on 30 November, 2021 to the recurrent account and formed part of the taxes receipts during the year under review. Although Management explained that the funds related to current year and was appropriately accounted for during the year, no evidence was provided to show that the amount was budgeted for and related to the financial year. This was contrary to Section 49 of the Public Finance Management Act, 2012.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1307. Long Outstanding Balance - Third Party Deposits and Retention

The statement of assets and liabilities as at 30 June, 2022 reflects third party deposits and retention balance of Kshs.118,639,252. The third-party deposits and retention balance comprise of retention fees and deposits balances of Kshs.114,705,507 and Kshs.3,933,745, respectively. However, Annex 5 of the financial statements revealed that the bulk of the retention fees have been outstanding for a long period with some dating back to financial year 2017/2018. Management has explained it has requested the relevant technical departments to fast track the refund process and provided a schedule of the progress status but no evidence has been provided to confirm the action taken.

In the circumstances, the existence of an effective procedure to ensure clearance of outstanding obligations could not be ascertained.

DONOR FUNDED PROJECTS

KENYA ELECTRICITY MODERNIZATION PROJECT (IDA CR. NO. 5587 KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1308. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1309. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts of Kshs.90,000,000 and actual receipts of Kshs.378,595,551 resulting to overfunding of Kshs.288,595,551 or 320%. According to Management, the overfunding was as result of the project erroneously receiving funds meant for another entity, which was subsequently refunded to The National Treasury. Similarly, the Project budgeted for Kshs.90,000,000 under purchase of goods and services but incurred an expenditure of Kshs.45,750,188, equivalent of 51% utilization. The Management attributed the under-utilization to the complexity of the procurement procedures for consultancy services set out in the financial agreement, which led to the low absorption.

In the circumstances, the under absorption of the budget may have resulted in non-implementation of the Project's planned activities, thus slowing down achievement of the intended goals and objectives.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1310. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1311. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA OFF-GRID SOLAR ACCESS PROJECT FOR UNDER-SERVED COUNTIES (IDA CR.NO.6135-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1312. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1313. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects receipts budget and actual on comparable basis of Kshs.586,000,000 and Kshs.257,355,767 respectively resulting in underfunding of Kshs.328,644,233 or 56 % of the budget. The underfunding affected the planned activities and may have impacted negatively on service delivery to the public.

1314. Project Implementation Status

According to the Project's monitoring and evaluation progress report and the annual work plan, the project was behind schedule considering that the expected completion date was agreed to be 30 June, 2023 and significant work still remains to be done. According to the Management, the delay was attributable to slow implementation of components 1, 2 and 3 of the projects by Kenya Power and Lighting Company PLC, Rural Electrification and Renewable Energy Corporation and key facility managers which in turn affected the overall performance of the project.

In the circumstances, the Project may not be completed as planned, and may lead to delayed service delivery to the public and cost overruns.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1315. Partial Payment of Tax on Undisclosed Pending Bills

During the year under review, an amount of Kshs.38,022,541 was paid to Kenya Revenue Authority (KRA) as partial settlement of withholding tax due to a consultant, an International Development Organization, following an assessment against the Project of Kshs.88,669,239, in respect to a result based financing and debt facilities management consultancy services.

Review of the contract between the Ministry of Energy and the consultant revealed that the consultant was required to submit for remuneration and reimbursement, an itemized quarterly statement and invoices to the Project Management. However, the consultant did not submit invoices as at 30 June, 2022. A letter from the consultant to the Principal Secretary, Ministry of Energy, in March, 2020 indicated that during negotiation for the

services, it had been disclosed that the consultant was governed by a Host Country Agreement which exempted them from income taxes, a position disputed by The National Treasury.

Further, the consultant sought clarification from the Ministry of Foreign affairs on treatment of Project related taxes, further delaying issuance of invoices. As at the time of KRA's assessment and payment of partial taxes, the matter had not been resolved, and no payment had been made to the consultant. In addition, no pending bills were disclosed in the financial statements.

In the circumstances, the basis of the assessment and the partial payment of the taxes could not be confirmed.

1316. Non-Compliance to Loan Disbursement Guidelines

Review of the Project's operations revealed that the implementation of the project commenced in the year 2019. However, as 30 June, 2022, which was approximately three years after commencement, no subsidiary agreement between the recipient of the funds and the implementation entities had been signed as required by the Financing Agreement.

In the circumstances, Management did not comply with terms of the financing agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1317. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA OFF-GRID SOLAR ACCESS PROJECT FOR UNDERSERVED COUNTIES (IDA CR. NO.6135-KE) - MINISTRY OF ENERGY AND SNV NETHERLANDS DEVELOPMENT ORGANIZATION

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1318. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1319. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflect a receipts budget of Kshs.521,462,008 and actual on comparative basis of Kshs.143,890,765 resulting in underfunding of Kshs.377,571,243 or 73%. Similarly, the Project spent Kshs.69,295,237

against an approved budget of Kshs.521,462,008 resulting to an under absorption of Kshs.452,166,771 or 87% of the approved budget.

The underfunding and under expenditure affected the planned activities which may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1320. Non-Compliance with the Terms for Subsidiary Agreements

The Ministry of Energy entered into a management consultancy contract with an International Development Organization for result-based and debt facilities management on behalf of the Kenya Off-Grid Solar Project. According to the contract, the period to be accorded to the Solar Service Providers (SSPs) was not to exceed the management consultancy services period. However, review of subsidiary financing agreements signed by the consultant in June, 2020 revealed that four (4) SSPs with a total allocation of Kshs.174,223,339 had their contracts extended to 30 April, 2023 which was later than the consultancy period of 31 May, 2022. The extension was attributed to the providers' inability to meet the desired targets under the market survey component.

In addition, the Management signed new subsidiary agreements in the second phase of the component with an implementation date of 31 May, 2023, contrary to the consultancy contact's terms of reference. Further, the Project was expected to end on 30 June, 2023 and therefore, the new contracts did not allow for a one-year monitoring period by the Ministry as required in the financing agreement. The new SSPs may also not be able to absorb the 10% sustainability funding which is to be deployed upon verification of functioning of systems and honor of warranties within one year of deployment.

In the circumstances, the Management did not comply with the terms of the contract.

1321. Non-Compliance the Project's Financing Agreement

The Project financing agreement provides that Ministry of Energy is to implement component 2 of the project which entails Solar Service Providers facility sub-projects, Debt Facility sub-projects, and Clean Cooking Solution Providers (CCSP) facility sub-projects.

According to schedule 2, Section 1.D of the agreement, the recipient is required to prepare and adopt, in form and substance acceptable to the lender, a Project Implementation Manual (PIM) and a Facilities Implementation Manual (FIM), and thereafter ensure that the Project is carried out in accordance with the arrangements and procedures set out in the PIM and the FIM. However, no PIM was provided for audit in respect of the three facilities implemented under part 2 of the project.

In addition, a consultant engaged to implement component 2 of the project on behalf of the Ministry prepared the FIMs. However, no evidence was provided to indicate that the FIMs were adopted by the recipient and that they were in form and of substance acceptable to the lender, the International Development Association (IDA).

In the circumstances, Management did not comply with terms of the financing agreement.

1322. Long Outstanding Receivable

Review of debt facility agreements revealed that one Solar Service Provider with debt facility under the project signed on 29 September, 2020 for a commitment funding of Kshs.50,000,000 at 18% interest per annum was in default. The funds which were to be utilized in developing solar facilities for households in Undeserved Counties were disbursed in two instalments with the first disbursement of Kshs.19,245,512 of the funds released on 11 November, 2020, and had maturity date of 30 March, 2023. However, the provider defaulted on the loan from September, 2021 when the balance was Kshs.8,510,207 comprising Kshs.7,217,067 and Kshs.1,293,140.22 in principal amount and interest respectively.

In the circumstances, the recoverability of the loan was in doubt.

1323. Delay in Implementation of the Project

As disclosed under Paragraph 1.6 of the Project information, the Project was earmarked to close on 30 June, 2023. However, Paragraph 1.10 on funding summary indicates that the Donor had made a commitment amounting to EUR 42,800,000 equivalent to Kshs.4,700,000,000 as at 30 June, 2022. However, actual drawdowns during the project life amounted to EUR 20,000,000 equivalent to Kshs.2,223,466,000 leaving out Kshs.2,476,534,000 or 53% of committed funds undrawn with only 12 months to project closure. Management did not provide for audit review, mitigation measures to absorb the remaining funds or secure an extension of the project from the Donor.

In addition, the Ministry appointed a consultant on 28 November, 2018 to implement on its behalf the results based financing and debt facilities. Review of the contract and implementation status of the contract revealed the following the following anomalies:

i. The contract sum for the consultancy services was set at USD 6,081,947.28, inclusive of taxes. However, as at 30 June, 2022, the amount invoiced by the consultant amounted to USD 1,346,407.62, representing 22.1% of the contract sum, with only 11% of the contract duration remaining.

ii. An Independent Verification Agent (IVA) was contracted by the Ministry on 17 December, 2021 at a cost of USD 1,041,643.35 equivalent to Kshs.98,004,498. The IVA was to review and report on compliance of Solar Service Providers (SSPs) with the terms of results-based financing and debt facility agreements. However, the contract was entered into long after commencement of the project on 17 December, 2021, thereby affecting disbursements by the consultant and monitoring of compliance by the IVA.

iii. As 30 June, 2022, a total of Kshs.111,426,656 had been disbursed out of Kshs.2,223,466,000 drawn under the project comprising Kshs.92,181,144 and Kshs.19,245,512 in respect of results-based financing and debt facility respectively. The amount disbursed translates to 5% of the amount drawn while 78.2% of the project duration had elapsed, and only 2.4% of the total budget under component 2 of project financing having been absorbed.

iv. A joint technical mission of Ministry of Energy and The World Bank which conducted an evaluation of the Project in June, 2022 recommended a stop of further disbursements beyond 31 August, 2022, owing to underperformance of the debt facility. This therefore, casts doubts on the attainment of project objectives and the utilization of Kshs.3,000,000,000 initially earmarked for debt facility.

In the circumstances, the Project's objectives may not be achieved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1324. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE MINISTRY OF ENERGY

BOGORIA SILALI GEOTHERMAL PROJECT (LOAN NO.2013.66.103) - GEOTHERMAL DEVELOPMENT COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1325. Unreconciled Bank Balances

The statement of financial assets reflects cash and cash equivalents balance of Kshs.1,253,215,000. Included in the balance is an amount of Kshs.17,997,000 held in an escrow account in respect of land compensation. However, review of the bank reconciliation statement and the certificate of balance for the account revealed a bank balance of Kshs.96,220 resulting in unreconciled variance of Kshs.17,900,780. Further, Note 10.9 to the financial statements reflects a balance of Kshs.151,819,000 in respect of Co-operative current account (A/c. No.01136160857600) while the bank reconciliation statement reflects a cash book balance of Kshs.46,458,182 resulting in unreconciled variance of Kshs.105,360,818.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.1,253,215,000 could not be confirmed.

Other Matter

1326. Under Absorption of Capital Budget

The statement of comparison of budget and actual amounts reflects an expenditure budget of Kshs.1,442,555,000 for acquisition of non-financial assets against an actual expenditure to Kshs.854,349,000 resulting to an under absorption of Kshs.588,206,000

or 41%. Acquisition of non-financial assets is directly linked to the rate of project implementation and thus some of the planned activities during the year were not implemented, which therefore, impacted negatively on service delivery to citizens.

In the circumstances, the objective of the project may not be achieved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1327. Irregular Investment of Project Funds

Review of banking records provided for audit revealed that an amount of Kshs.17,900,000 was in invested in a Call Account at a local bank on 24 June, 2022. The funds were drawn from the bank's Land Compensation account. The investment was contrary to The National Treasury Circular No.14/2018 which provides that no State Corporation should invest surplus funds in any financial institution/bank without prior approval of The National Treasury other than where the investment is in Treasury bills or bonds. Further, no evidence was provided for audit to confirm that the investments were approved by the Board of Directors of the Company.

In the circumstances, Management was in breach of The National Treasury circular.

1328. Failure to Open and Maintain a Separate Project Bank Account

Review of financial records revealed that the Company operated an account for the Project during the year under review. However, several transactions relating to the Project were made through other Company accounts which is contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015.

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

1329. Stalled Geothermal Development at Silali Prospective Site

As previously reported, the amended Loan Agreement between the German Development Bank (KfW) and the Government of Kenya dated 26 August, 2020 for steam field development at Bogoria-Silali geothermal block provided that the loan would finance drilling exploration and appraisal wells carried out by GDC mobilization and demobilization of drilling rigs for up to 20 wells in the Bogoria-Silali Block.

Paragraph 1.3 of the annual report containing project information and overall performance report indicates that geothermal development under the Project was to be carried out in three prospective areas: Korosi, Paka and Silali. However, review of the Project status revealed that drilling had only been carried out in two (2) of the prospected areas namely Korosi and Paka. The Management indicated that GDC had requested for approval and authorization for geothermal development and associated projects from the County Government of Turkana vide letter dated 27 May, 2015. Despite the Company's follow-up efforts through the Principal Secretary, Ministry of Energy in May, 2021, no response had been received as at the time of audit in October, 2022.

Lack of approval and authorization from the County Government of Turkana has occasioned delay in commencement of drilling activities at the Silali prospected site thus impacting negatively on the Project.

1330. Failure to Prioritize Payments of Pending Bills

As disclosed in Note 11 to the financial statements, the Project had pending bills amounting to Kshs.227,774,000. Examination of documents provided for audit revealed that bills amounting to Kshs.33,938,773 were brought forward from 2020/2021 financial year and ought to have been paid as a first charge in 2021/2022 financial year as required by The National Treasury Circular No.10/2020 dated 16 June, 2020.

The Management indicated that invoices relating to the pending bills for supply of goods and services were received after year end and hence could not be settled in the year. However, the ageing analysis provided indicated that invoices for all the pending bills had been received by the Company by 30 June, 2022.

No explanation was provided for the failure to prioritize prior year pending bills.

In the circumstances, Management was in breach of The National Treasury Circular.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1331. There were no material issues relating to effectiveness of internal controls, risk management and governance.

MULTINATIONAL - KENYA SECTION OF INTERCONNECTION PROJECT OF ELECTRICITY GRIDS OF NILE EQUATORIAL LAKES COUNTRIES (ADF LOAN NO.2100150022643) - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1332. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1333. Expiry of the Loan Agreement

As reported in the previous years, the Loan Agreement between the Republic of Kenya and African Development Bank expired on 31 December, 2017. However, the Project stalled at 61% level of completion after the Company terminated the services of the main contractor for non-performance in April, 2016. Further, no funds have been received from

the Bank since 2016. Analysis of the project cash and pending bills records as at 30 June, 2022 revealed a funding shortfall of Kshs.423,530,240. There was no evidence that the Loan Agreement had been renewed or other sources of funds had been identified.

In the circumstances, it has not been possible to confirm whether or when the project will be completed.

1334. Outstanding Arbitration on Terminated Contract

As reported in the previous years, an arbitration case was filed on 1 April, 2016 between the contractor and the Kenya Electricity Transmission Company Limited in relation to termination of contract for works which had not been finalized. On 20 July, 2020, the tribunal, which was the arbitrator on the matter, issued an award in favor of the contractor for Euro 37,365,690 equivalent Kshs.4.5 billion. However, Management was of the opinion that the decision made by the arbitrator was against public policy and made an appeal to have the award set aside in the High Court. The High Court upheld the tribunal award. The Company has since appealed to the Court of Appeal.

In the circumstances, it is not possible to confirm when the matter will be resolved and how the cost in terms of legal fees that the Company will incur will be reflected in the financial statements.

My opinion is not modified in respect of these matters.

Other Matter

1335. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects actual receipts of Kshs.510,419,583 against the budgeted amount of nil resulting to over collection of Kshs.510,419,583. Similarly, the statement reflects final expenditure budget of Kshs. Nil against the actual expenditure of Kshs.197,540,810 resulting to unauthorized expenditure of Kshs.197,540,810.

In the circumstances, it was not possible to confirm whether the over collection of Kshs.510,419,583 and unauthorized expenditure of Kshs.197,540,810 was lawful.

1336. Pending Bills - Goods and Services

As reported in the previous year, the Project Management contracted works and services amounting to Kshs.2,816,492,044 as disclosed in Annex 2A. The amount certified as payable totaled to Kshs.2,155,196,560 out of which Kshs.2,125,650,186 has cumulatively been paid leaving a balance of Kshs.29,546,374 as pending bills.

In the circumstances, failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions in the subsequent years as they form a first charge.

1337. Long Outstanding Wayleave Compensation

As reported in the previous year, the expected and certified compensation to landowners for wayleaves acquired since inception of the Project amounted to Kshs.1,717,769,975 as disclosed in Annex 2B to the financial statements with an amount of

Kshs.1,717,769,975 having been cumulatively certified at the close of the year under review. Management has cumulatively paid Kshs.1,412,234,562 leaving an unpaid amount of Kshs.305,535,413. Management has attributed failure to pay the amount to lack of budgetary allocation from The National Treasury and lengthy land valuation negotiations due to absentee land owners coupled with various court injunctions on disputed cases.

In the circumstances, it is not clear what measures Management has put in place to obtain funding, identify absentee land owners and finalize court cases to successfully implement the Project and deliver services to Kenyan citizens.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1338. Legal Costs on Termination of Contract and Loan Interest Costs

The Project stalled upon the termination of the main contractor in April, 2016. Since then, the Project has accumulated legal costs amounting to Kshs.293,840,788 on a court case in which the Management lost at the Arbitration and High Court level with the two courts granting compensation to the contractor amounting to Euros 37,365,690. The Management has moved to the Court of Appeal to challenge the judgement. Further, the loan already disbursed to the project continues to attract unquantified amount of interest even though the asset that was to be acquired out of the loan and possibly enable repayments remains incomplete and unused.

In the circumstances, there is potential loss in excess of Kshs.4.5 billion if the judgement is upheld at the next level and it is not possible to confirm if there is value for money obtained from the project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1339. Manual Interventions in the Financial Reporting Process

Review of the financial reporting process revealed significant manual interventions. Although the subledgers and ledgers are extracted from the Intelligence Business Reporting Module of the SAP System, the processing of the trial balance and financial statements is done manually on excel worksheet.

Consequently, the manual interventions may result in errors in the financial statements.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1340. As required by the African Development Fund, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

MULTINATIONAL KENYA-TANZANIA POWER INTERCONNECTION PROJECT (KENYAN COMPONENT) (ADF LOAN NO.2100150032846) - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1341. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1342. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a total income budget of Kshs.803,000,000 against actual receipts of Kshs.1,014,573,409 resulting to over collection of Kshs.211,573,409. The statement also reflects a total expenditure budget balance of Kshs.803,000,000 against actual expenditure of Kshs.1,253,771,158 resulting to unauthorized over expenditure of Kshs.450,771,158.

In the circumstances, it was not possible to confirm whether the overcollection of Kshs.211,573,409 and over expenditure of Kshs.450,771,158 was lawful.

1343. Delay in Project Implementation

The Project started on 14 February, 2017 with an expected completion time of April, 2020 which was later extended to 31 December, 2022. As at 30 June, 2022, the Project was at 93% completion with over 100%-time lapse. Though Management has explained that delays were caused by delay in acquiring wayleaves, long negotiation for land compensation and protracted legal cases, it is clear that delay in project implementation could lead to cost overruns and the Project may not be able to utilize the available loan funding.

1344. Pending Bills - Goods and Services

As reported in the previous year, the total value of the works and services contracted under the Project amounted to Kshs.3,455,587,779 as disclosed on Annex 2A of the financial statements. The amount certified as payable totalled Kshs.2,687,604,960 out of which payments totalling Kshs.2,643,019,770 were made over the years leaving an unpaid balance of Kshs.44,585,190.

Delay in settling pending bills may result to wasteful expenditure on interest, penalties and litigation costs.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1345. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1346. Automation of the Financial Reporting Process

Review of the financial reporting process revealed significant manual interventions. Although the subledgers and ledgers are extracted from the Intelligence Business Reporting Module of the SAP System, the processing of the trial balance and financial statements is done manually on excel worksheets.

Consequently, the manual interventions may result in errors in the financial statements.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1347. As required by African Development Fund (ADF), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

LAST MILE CONNECTIVITY PROJECT I (LOAN NO.2100150032195) – THE KENYA POWER AND LIGHTING COMPANY PLC

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1348. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1349. Pending Bills

Note 11.1 and Annex 2 to the financial statements reflects pending accounts payables totalling Kshs.89,064,000 as at 30 June, 2022. Management indicated that the bills relate to Contracts which were terminated due to non-performance. However, failure to settle bills during the year in which they relate adversely affects the budgetary provisions for the subsequent year as they form a first charge. Further, the Project is at risk of incurring significant interest costs and penalties with the continued delay in payment.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1350. Failure to Open and Operate a Project Bank Account

Review of project receipts and expenditure records revealed that the Management did not open and operate a Project bank accounts and Project's funds were commingled with

Company's Funds. This was contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which provides that, for the purpose of disbursement of Project funds, a Project account for every project should be opened and maintained at the Central Bank of Kenya unless it is exempted by the Cabinet Secretary in writing, into which all funds should be kept and such an account shall be in the name of the Project for which it is opened.

In the circumstances, the Project's Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1351. Delays in Payment Processing

The terms of payments in the signed contracts with suppliers required payments to be processed within sixty (60) days after receiving contractors' invoices. However, review of pending bills as at 30 June, 2022 revealed significant delays in processing of payments. As a result, payments due to suppliers and contractors remained outstanding for more than sixty (60) days, with the pending bills of Kshs.89,063,531 outstanding for more than one year. Late payments to suppliers and contractors exposes the Project to interest charges and penalties on outstanding balances.

1352. Delay in Project Delivery

Despite the Project having connected 209,700 customers, which is 93% of the total targeted customers of 224,952 as reflected in the statement of performance against Project's predetermined objectives, there was slow progress in achieving the set targets under Lot 2 and 4.

The Management attributed the slow progress in achieving set targets to a dispute with the contractor who underperformed on the contract. The Kenya Power and Lighting Company PLC made an attempt to terminate the contract, but the contractor went to court to challenge the termination, a case whose decision was made on 28 November, 2019, allowing the contract to be terminated.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1353. As required by the African Development Bank (AfDB) except for the matter under other matter, I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

LAST MILE CONNECTIVITY PROJECT II LOAN NO.2000200000152 – THE KENYA POWER AND LIGHTING COMPANY PLC

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1354. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1355. Pending Bills

Note 11.1 to the financial statements reflects pending bills of Kshs.263,218,943 as at 30 June, 2022. Management did not provide explanations for non-payment of the bills and the Project is at risk of incurring significant interest costs and penalties with the continued delay in payment of the bills.

Further, failure to settle bills during the year to which they relate adversely affects the budgetary provisions for the subsequent year as they form a first charge.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1356. Meter Tampering and Illegally Bypassed Connections

Field visits to Kirinyaga and Kisii Counties revealed at least eleven (11) instances of meter tampering. The tampering ranged from direct connection from Last Mile Connectivity Project poles to changing of live and neutral wires to distort the flow of electricity. In addition, meter tampering and illegal connections led to loss of revenue to the Company and contributed to supply inefficiency.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1357. Delays in Payment Processing

The terms of payments in the signed contracts with suppliers required payments to be processed within sixty (60) days after receiving contractors' invoices. However, review of pending bills as at 30 June, 2022 revealed significant delays in processing of payments. As a result, payments due to suppliers and contractors remained outstanding for more than sixty (60) days, with some outstanding for more than one year. The delay was attributed to a long payment process involving several stages outside KPLC Control such as management consultant, Project Implementation Team (PIT), Ministry of Energy, The National Treasury, and the Donor.

Late payments to suppliers and contractors exposes the project to interest charges and penalties on outstanding balances.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1358. As required by the African Development Bank (ADB) except for the matter under other matter, I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

EASTERN ELECTRICITY HIGHWAY PROJECT (IDA CREDIT NO. 5148-KE; AFD LOAN NO.CKE 1030 01B AND ADF LOAN NO.2100150027845) - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1359. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1360. Pending Bills

Note 12.1 and 12.2 to the financial statements reflect pending bills and other pending payables balances totalling to Kshs.297,893,743 and Kshs.375,078 respectively. However, Management has not provided explanations for not settling the bills totalling to Kshs.298,268,821.

Failure to settle bills during the year they were incurred distorts the financial statements and adversely affects the budget provision for the subsequent year as they form the first charge. In addition, the Project could incur interest costs and penalties with the continued delay in payment.

1361. Undrawn Fund Balance

As reported previously, the Project had an approved budget of US$ 441,000,000, AU 75,000,000, EUR 54,556,082 and counterpart funding by the Government of Kenya of Kshs.8,585,000,000, all equivalent to Kshs.74,208,027,626. The Project completion date is 31 December, 2022. However, as at 30 June, 2022 there was an undrawn balance of Kshs.25,520,124,033 or approximately 34% of the Project funding with total pending bills of Kshs.298,268,821. It is likely that the undrawn balance may not be absorbed.

In the circumstances, the Project objectives may not be achieved and the benefits accrued to the citizens.

1362. Budgetary Control and Performance

The statement of comparison of budget and actual amounts for the year ended 30 June, 2022 reflects actual receipts of Kshs.2,023.081,508 against final budget of Kshs.5,821,000,000 resulting to a shortfall of Kshs.3,797,918,492. Further, the actual expenditure for the year amounting to Kshs.2,292,766,536 against the final budget expenditure of Kshs.5,728,000,000 resulting to an under absorption of Kshs.3,435,233,464.

The underfunding and underperformance affected the planned activities of the Project and may have impacted negatively on service delivery to the public.

1363. Long Outstanding Wayleave Compensation

As reported in the previous year, the expected compensation to landowners for wayleaves acquired since inception amounted to Kshs.2,615,896,273 out of which an amount of Kshs.2,608,142,520 was certified as payable. The Project Management had so far paid an amount of Kshs.2,607,767,442 leaving a balance of Kshs.375,078 unpaid. The Management has attributed the failure to pay the amount to lack of budgetary allocation from The National Treasury and lengthy land valuation negotiations due to absentee landowners and various court injunctions on disputed cases.

1364. Delay in Project Deliverables

Review of Project deliverables revealed that the Project was behind schedule with respect to the completion of the Lot1 being at 99.5% overall and commissioning phase is at 66% with the Project duration expected to lapse in December, 2022.

Consequently, delays in completion of the Project may result in escalation of projected costs or expiry and withdrawal of funding by Project financiers.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1365. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1366. Non-Automation of the Financial Reporting Process

Review of the financial reporting process revealed significant manual interventions. Although the subledgers and ledgers were extracted from the Intelligence Business reporting module of the SAP system, the processing of the trial balance and financial statements is done manually on excel worksheet.

In the circumstances, the manual interventions may result in errors in the financial statements.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1367. As required by International Development Association (IDA) - Credit No.5148-KE, Agence Francaise De Development (AFD)-Loan No.CKE 1030 01B and African Development Fund (ADF)-Loan No.2100150027845 financing agreements, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

RURAL ELECTRIFICATION IN FIVE REGIONS PROJECT (CR. NO.11/597KE, CR. NO.1407PKE) - RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1368. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1369. Low Absorption of Project Funds

Note 1.7 on funding summary indicates that both the Donor and the Government of the Republic of Kenya had made commitments amounting to Kshs.5,856,180,000 (USD 57,000,000). The actual amount received during the Project's period totalled to Kshs.2,791,482,423 (USD 27,301,255) of the funding, leaving a balance of Kshs.3,064,697,577 (USD 29,698,745) undrawn. The Project has been ongoing for eight years and nine months and only remains with an implementation period of six months. However, with the extended Project's closing date of 31 December, 2022, the credit may lapse without being fully utilized and the objectives and planned deliverables may not be realized.

The Management has not provided any documentary evidence to demonstrate mitigation against credit lapse before implementation of all project activities.

My opinion is not modified in respect of this matter.

Other Matter

1370. Delayed Project Implementation

Financial records provided for audit indicated that the Government of Kenya entered into Financing Agreement with four (4) financiers for implementation of rural electrification projects in five (5) regions at a total cost of Kshs.5,856,180,000.

According to the Agreements, the projects were to commence in September, 2013 with an expected completion date of December, 2022. The statement of receipts and payments indicates that an amount of Kshs.2,791,482,423 had been incurred on the

projects, which amounts to 48% of the total funding. However, out of the project timelines of 111 months, 105 months which is equivalent to 95% of the time, had lapsed. Management did not explain how they intend to fast track the implementation of the projects.

In the circumstances, delay in project implementation has affected the project's planned activities and therefore impacting negatively on service delivery to the public.

1371. Pending Bills

Annex 3A to the financial statements reflects pending bills totalling to Kshs.501,420,076 as at 30 June, 2022. The Management did not explain reasons for non-settlement of the bills and therefore the project is at the risk of incurring significant interest costs and penalties with the continued delay in payment. Further, failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1372. Failure to Open and Maintain a Separate Project Bank Account

The statement of receipts and payments reflects total receipts of Kshs.935,490,440 comprising of Kshs.784,334,227 and Kshs.151,156,213 in respect of payments made by third parties as loans from external development partners and transfers from Government entities respectively. However, no separate bank account was opened and operated by the Project. Project funds were commingled in Corporation's bank accounts where project payments and receipts are recorded. No evidence of exemption by the Cabinet Secretary was provided against opening a project account.

In the circumstances, Management was in breach of the law and did not comply with requirements of the financing agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1373. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OLKARIA-LESSOS-KISUMU TRANSMISSION LINES CONSTRUCTION PROJECT (JICA LOAN NO. KE-P28) - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1374. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1375. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a total income budget of Kshs.1,800,000,000 against actual receipts of Kshs.2,006,536,296 resulting to excess collection of Kshs.206,536,296. The statement also reflects a total expenditure budget balance of Kshs.1,800,000,000 against actual expenditure of Kshs.1,841,137,918 resulting to unauthorized expenditure of Kshs.41,137,918.

In the circumstances, it was not possible to confirm whether the excess collection of Kshs.206,536,296 and unauthorized expenditure of Kshs.41,137,918 was lawful.

1376. Pending Bills

As disclosed in Annex 2 to the financial statements, the Project Management contracted works and services amounting to Kshs.13,654,462,843. The amount certified payable as at 30 June, 2022 amounted to Kshs.10,389,802,034 out of which Kshs.9,257,439,393 was paid leaving a balance of Kshs.1,132,362,641 as pending bills.

In the circumstances, failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions in the subsequent years as they form a first charge.

1377. Long Outstanding Wayleave Compensation

As disclosed in Annex 3 to the financial statements, the expected compensation to landowners amounted to Kshs.5,319,679,198 for wayleave acquired since inception of the Project in February 2016. The amount certified amounted to Kshs.3,203,743,567 and the amount paid to date amounted to Kshs.3,179,516,042 leaving a balance of Kshs.24,227,525. Management attributed failure to pay the amount to lack of budgetary allocation from The National Treasury and lengthy land valuation negotiations due to absentee landlords and various court injunctions.

Management has not put in place appropriate measures to obtain funding, identify absentee landlords and identify alternative dispute resolution mechanism to successfully implement the project and deliver services to Kenyan residents.

In the circumstances, the long outstanding wayleave compensation has negatively affected the Project's planned activities thus impacting negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1378. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1379. Lack of Automation in the Financial Reporting Process

Review of the financial reporting process for the project revealed that there is significant manual intervention in preparation of financial reports. Whereas the sub-ledgers are extracted from SAP System through the Business Intelligent Reporting Module, the processing of trial balance and financial statements is done manually on excel.

Consequently, the manual intervention may result in errors in the Project financial statements.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1380. As required by the state of expenditure procedure for Japan ODA Loans, Guidelines for borrowers, under Japan International Cooperation Agency (JICA), I report based on the audit that:

i. Each expenditure listed under the statement of expenditure (SOE) is appropriate and conforms to the objectives of the project under the loan agreement and complies the provisions of the agreement.

ii. That the Project expenditure does not include non-eligible items.

iii. The Project's statement of expenditure is in agreement with the underlying records and returns.

iv. In my opinion, the statement of expenditure is eligible for JICA financing under the loan agreement and its supported by sufficient and appropriate supporting documents under the loan agreement.

220KV AND 132KV TRANSMISSION LINES AND SUBSTATIONS (EXIM BANK OF INDIA FUNDED) PROJECTS - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1381. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1382. Liquidation of Contractor

As reported in prior years, the contractor of Lot 1A 220KV Turkwel-Ortum-Kitale Substations was contracted on 16 April, 2013 at a contract sum of US$19,972,680 that was later revised to US$18,100,120. As at the time of the contract termination, the contractor had achieved overall completion status of 73%. Liquidation orders were issued against the contractor in July, 2018 by the courts in India resulting in challenges in completing the project due to lack of financing. According to Management, another contractor is in the process of being identified to take over the remaining works.

In the circumstances, the Project may not be completed on time and may also experience cost overruns.

My opinion is not modified in respect of this matter.

Other Matter

1383. Delay in Project Completion

The Lot 1A -220KV Substation at Turkwel, Ortum and Kitale and Lot 3A- 132/33KV Machakos, Konza-Kajiado - Namanga Transmission line reported 78% and 90% completion rates respectively, by 30 June, 2022. Lot 1A of the Project is currently suspended and significant works remain undone. Further, construction works are yet to commence at the main strategic substation in Turkwel and this may result in underutilization of the Project. In addition, Lot 3A was expected to be completed by 30 December, 2019, but as at 30 June, 2022 the completion rate was 90%.

In the circumstances, the Project deliverables may not be realized and hence delay delivery of benefits to the intended beneficiaries.

1384. Pending Accounts Payable

Note 12:1 to the financial statements reflects pending accounts payables totalling to Kshs.147,332,347. Management did not explain why the bills were not paid during the year they were incurred. The Project is therefore at risk of incurring significant interest costs and penalties with the continued delay in payment.

Failure to settle bills during the year they relate to distorts the financial statements and adversely affects the budgetary provision of the subsequent year as they form the first charge.

1385. Other Pending Payables

Note 12.2 to the financial statements reflects other pending payables totalling to Kshs.37,878,102. The amount relates to compensation of land owners for wayleave acquired since inception of the Project. Management attributed failure to pay the amount to lack of budgetary allocation from The National Treasury and lengthy land negotiations between the land owners, the Kenya Electricity Transmission Company and the County Government of Kajiado.

In the circumstances, delayed resolution of compensation, may hinder timely delivery of the Project's objectives.

1386. Budgetary Control and Performance

The statement of comparison of budget and actual amounts for the year ended 30 June, 2022 reflects actual receipts of Kshs.574,848,172 against the budgeted receipts of Kshs.464,000,000 resulting in excess receipts of Kshs.110,848,172 or 24% of the final receipt budget. Further, the actual expenditure for the year amounted to Kshs.430,227,771 against the budgeted expenditure of Kshs.464,000,000 resulting to under expenditure of Kshs.33,772,229 or 7% of the final expenditure budget. Management attributed the underexpenditure to late disbursement of funds from The National Treasury and reduced proceeds from borrowing due to termination of contractual works.

In the circumstances, the regularity of the excess receipts and under expenditure could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1387. Purchase of Goods and Services

The statement of receipts and payments reflects purchase of goods and services totalling to Kshs.8,903,324 as disclosed under Note 11.3 to the financial statements. However, review of records provided for audit revealed that the Project stalled in 2018 after the contractor went under liquidation. The Management has not provided explanations for incurring expenditure on a stalled project.

In the circumstances, the propriety and validity of purchase of goods and services expenditure of Kshs.8,903,324 for the year ended30 June, 2022 could not be confirmed.

1388. Transfers to Olkari – Lessos - Kisumu Transmission Line

As reported in the previous year, Kshs.128,315,126 was transferred to Olkaria Lessos – Kisumu Transmission Construction Project. However, the financial statements for

Olkaria-Lesos – Kisumu Transmission Line Project have not disclosed any receipt from this Project.

Consequently, the accuracy, completeness and validity of the transfers to Olkaria Lessos – Kisumu Transmission Construction Project totalling to Kshs.128,315,126 for the year ended 30 June, 2022 could not be confirmed.

1389. Purchase of Transmission Equipment

Note 11.4 to the financial statements reflects transmission equipment payments amounting to Kshs.314,705,511. However, the contractor stopped working on the project in July, 2018 after they went into liquidation and the contract was terminated. The Management has not provided details of the expenditure on transmission equipment.

Under the circumstances, the propriety and validity of expenditure on transmission equipment totalling Kshs.314,705,511 for the year ended 30 June, 2022 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1390. Manual Intervention in the Financial Reporting Process

As reported in the previous year, a review of the financial reporting process of the Project revealed significant manual interventions. Although the sub-ledgers are extracted from SAP system through the business Intelligence Reporting Module, the compilation of the trial balance and financial statements is done manually on excel worksheet.

Consequently, the manual intervention exposes the project reporting to risk of misstatements.

ETHIOPIA – KENYA ELECTRICITY HIGHWAY PROJECT (ADB LOAN NO. 2000200003502 – MARIAKANI SUBSTATION PROJECT ID NO: P-ZI-FA0-162) - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1391. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1392. Delay in Project Deliverables

Review of project deliverables revealed that the Project was behind schedule with respect to the completion of the engineering works at 99%, procurements at 98%, construction works at 82% and testing and commissioning at 0%.

As at 30 June, 2022 the activities executed were valued at Kshs.1,893,723,322 or 56% to the contract sum of Kshs.3,357,298,517. This was despite having the completion date reviewed to December, 2022.

In the circumstances, delays in completion of the Project may result in escalation of projected costs or expiry and withdrawal of funding by project financiers.

1393. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a total income budget of Kshs.911,765,710 against actual receipts of Kshs.646,168,025 resulting to underfunding of Kshs.265,597,685. The statement also reflects a total expenditure budget of Kshs.650,645,225 which differed with the income budget of Kshs.911,765,710 resulting in unbalanced budget by Kshs.261,120,485.

In the circumstances, the revenue shortfall affected the planned activities and may have impacted negatively on service delivery to the public. Further, the project's budget was not balanced and Management was in breach of the law.

1394. Pending Bills - Goods and Services

The project management contracted works and services amounting to Kshs.3,357,298,517 as disclosed in Annex 2A. The amount certified as payable amounted to Kshs.1,893,723,322 out of which an amount of Kshs.1,399,345,104 had been cumulatively paid leaving a balance of Kshs.494,378,218 as pending bills. The unpaid bills are likely to attract interest and penalties and or litigation and related legal expenses.

In the circumstances, failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions in the subsequent years as they form a first charge.

1395. Low Absorption of Funds

The Project duration of three and half years started in June, 2019 with an expected completion date of December, 2022 and total funding of Euro 26,510,000 equivalent of Kshs.3,199,086,297. As at 30 June, 2022, only Kshs.1,297,514,976 had been drawn leaving a balance of Kshs.1,901,571,321 or 59% undrawn with only six months remaining. The Project may not absorb all its funds with the limited time denying citizens the benefits of the loan.

Further, the amount received as per project information (funding summary) under Note 1:7 of Kshs.1,297,514,976 was at variance with cumulative loans from development

partners balance of Kshs.1,399,345,104 reflected in the statement of receipts and payments resulting to unexplained variance of Kshs.101,830,128.

In the circumstances, the cumulative loan receipts balance of Kshs.1,297,514,976 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1396. Project Commitment Without Funding

According to the Project's work plan attached to the subsidiary agreement, procurement in respect of the Project was done on 25 January, 2016 which was also indicated as the contract commencement date. Further, review of the financing agreement and implementation agreement indicates that they were signed on 19 June, 2019 and 18 August, 2020 respectively. It appears that the procurement for the Project was done way before the financing agreement was signed which was contrary to Section 45(3)(a) of the Public Procurement and Asset Disposal Act, 2015. The section requires that all procurement processes be within the approved budget of the procuring entity and be planned by the procuring entity concerned through an annual procurement plan.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1397. Automation of the Financial Reporting Process

Review of the financial reporting process of the Project revealed significant manual interventions. Although the subledgers are extracted from SAP system through the Business Intelligence Reporting Module, the processing of the trial balance and financial statements was done manually on excel worksheets.

In the circumstances, the manual intervention could result in errors in the preparation of financial statements.

KENYA ELECTRICITY MODERNISATION PROJECT (IDA CREDIT NO.5587-KE) – RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1398. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1399. Delay in Project Implementation

As disclosed in paragraph 1.2 of the Project information and overall performance, the Project was earmarked to close on 30 December, 2022 following a one (1) year extension of the initial end date of 30 December 2021. In addition, Paragraph 1.7 on funding summary indicates that the Donor had made commitment amounting to Kshs.1,013,000,000 equivalent of USD 10,000,000 as at 30 June, 2022. However, the Project had drawn a total of Kshs.218,065,903 equivalent to USD 2,131,523 leaving Kshs.894,934,097 or 80% of Donor commitment undrawn.

In the circumstances, the Project may not fully utilize the credit within the remaining Project duration and the Project's planned objectives may not be achieved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1400. Irregular Payment of Supply of Solar Power Generation Plants

The statement of receipts and payments reflects expenditure of Kshs.19,976,926 in respect of acquisition of non-financial assets. The expenditure includes two payments of Kshs.5,163,253 and Kshs.14,813,673 to an international company as advance payments and invoice settlement for supply of materials for a solar photovoltaic power generation plant respectively.

Review of the payments and other contract documents revealed the following anomalies;

i. The contract between the Corporation and the Supplier provided that the effective date of the contract will be after fulfilment of conditions which included execution of contract by both parties, submission of performance security by the contractor, advance payment to the contractor and submission of documentary credit to the contractor. In addition, the contract provided that if the conditions are not fulfilled within two months from the date of the contract because of reasons not attributable to the Contractor, parties shall discuss and agree on equitable adjustment to the contract. However, the conditions were not fulfilled and an adjustment to the contract in form of an addendum to the Contract was signed on 15 July, 2021, which was over 20 months from the date of the contract, extending the contract period to 31 July, 2022. Further, reasons for non-execution of the contract within two months from the contract date and a notice of extension were not provided for audit review.

ii. Management paid an advance amount of Kshs.5,163,253 on 30 June, 2022, which was 10% of the total contract sum. However, the contract provided for 10% advance payment on total Carriage and Insurance Paid (CIP) amount. According to subsequent invoices from the contractor, only equipment valued at Kshs.14,799,596 had been invoiced as at 30 June, 2022, therefore an advance payment of Kshs.1,479,960 was due to the Contractor. The resultant variance of Kshs.3,683,293 was not supported by invoices and shipping documents.

iii. The contractor was paid full invoice amount of Kshs.14,799,596 in respect of equipment delivered, despite an earlier payment of 10% advance on the total contract sum, and the contract requirement to withhold 10% of the invoice amount until issuance of a completion certificate. Further, no withholding tax was deducted and remitted to the Kenya Revenue Authority (KRA). Consequently, the Contractor was overpaid by an amount of Kshs.2,959,914 in respect of the deliveries invoiced in June, 2022.

In the circumstances, Management was in breach of the contract and the law in respect of withholding tax retention.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1401. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NAIROBI RING TRANSMISSION LINE PROJECT (AFD CREDIT NO. CKE6012.01, AFD CREDIT NO. CKE 1068 01, AFD CREDIT NO. CKE 1030.01B, EIB CREDIT NO.25.367/KE AND GOK) - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1402. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1403. Idle Bank Balances

The statement of financial position reflects bank balance of Kshs.2,105,417,426 as at 30 June, 2022. However, out of the opening bank balance of Kshs.2,712,090,024 only Kshs.606,672,598 was utilized during the year under review to finance project activities. This is an indication that the project secretariat may not have the capacity to utilize loan revenue.

In the circumstances the Government of Kenya incurred commitment fees and loan interest on idle bank balances.

1404. Long Outstanding Wayleave Compensation

As previously reported, the expected compensation to landowners for the wayleave acquired since inception of the project in October, 2012, amounted to Kshs.2,558,971,379 as disclosed in Annex 2B to the financial statements. However, out of the balance, an

amount of Kshs.2,436,063,243 has been paid leaving an outstanding balance of Kshs.122,908,136 remaining unpaid. Management has attributed failure to pay the amount to the lack of budgetary allocation from The National Treasury and lengthy land valuation negotiations due to absentee land owners and various court injunctions on disputed court cases.

In the circumstances, it is not clear when way leave acquisitions shall be completed to facilitate the project implementation to its successful completion.

1405. Delay in Project Implementation

The Project implementation report indicated that the project was behind schedule with respect to the completion of the Kimuka Sub-Station being at 99% and Malaa Sub-Station being at 90%. This was despite having the completion date reviewed three times from May, 2020 to November, 2022.

In the circumstances, the delay in completion of the Project may result in escalation of project costs and withdrawal of funding by financiers.

1406. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects actual final receipts budget of Kshs.1,387,000,000 against actual receipts of Kshs.10,230,537 resulting to financing deficit of Kshs.1,376,769,463 or 99%. The statement also reflects a final expenditure budget of Kshs.1,387,000,000 against actual expenditure of Kshs.616,903,135 resulting to budget under absorption of Kshs.770,096,865 or 56% of the approved budget.

The revenue shortfall and under expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

1407. Pending Bills - Goods and Services

As previously reported, the Project Management contracted works and services amounting to Kshs.8,318,448,742 as disclosed in Annex 2A. The amount certified as payable amounted to Kshs.6,615,149,049 out of which Kshs.6,484,816,499 has been cumulatively paid leaving a balance of Kshs.130,332,550 as pending bills. The unpaid bills are likely to attract interest and penalties and litigation and related legal expenses which are wasteful expenditure.

Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions in the subsequent years as they form a first charge.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1408. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1409. Lack of Automation of the Financial Reporting Process

During the year under review, the Project's financial reporting process continued to have significant manual intervention. Whilst the subledgers and ledgers are extracted from Intelligence Business Reporting Module, the completion of the trial balance and financial statements is done manually on excel spread sheet. The manual intervention exposes the Project reporting to a greater risk of errors.

POWER TRANSMISSION SYSTEM IMPROVEMENT PROJECT (ADF LOAN NO.2100150023752) - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1410. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1411. Delay in Project Implementation

As reported in the previous year, a review of the project status revealed delay in implementation of the Project as detailed below:

Line	Foundations	Erections	Stringing
Olkaria – Narok	100%	78.63%	96%
Lessos – Kabarnet	100%	100%	66%
Nanyuki – Rumuruti	100%	100%	66%
Kitui-Wote	87%	61%	11%

The Project whose completion date was 30 June, 2019 was rescheduled to April, 2020, following the engagement of another contractor for the remaining works on the Project which were significant. Further, it was observed that the Project's funding from the African Development Bank (AfDB) was terminated when the main contractor was declared insolvent in his home country.

In the circumstances, this Project may not be completed within schedule, resulting in delayed provision of expected services to the stakeholders.

1412. Budgetary Control and Performance

The statement of comparative of budget and actual amounts reflects actual receipts totalling to Kshs.136,792,701 against the budgeted receipts of Kshs.90,000,000 resulting in excess funding of Kshs.46,792,701. Further, actual expenditure for the year amounted to Kshs.447,805,244 against the budgeted amount of Kshs.90,000,000 resulting to an over expenditure of Kshs.357,805,244. Management attributed the over expenditure on utilization of brought forward funds from the previous year and slow implementation of the work plan in the previous year. However, no authority for utilization of the brought forward amounts or approval for implementation of the activities from previous year was provided for audit review.

In the circumstances, it was not possible to confirm whether the over-expenditure was lawful.

1413. Pending Accounts Payable

Note 12.1 to the financial statements reflects pending accounts payable totalling Kshs.306,174,079. Management had not explained why the pending bills were not settled during the year in which they occurred. The Project is therefore at the risk of incurring significant interest on unpaid bills together with penalties thereon.

Failure to settle bills during the year they relate to distorts the financial statements and adversely affects the budgetary provision for the subsequent year as they form the first charge.

1414. Other Pending Payables

Note 12.2 to the financial statements reflects other pending payables totalling Kshs.67,256,878 relating to expected compensation to landowners for wayleaves. Management attributed failure to pay the amount to lengthy negotiations due to absentee owners and court injunctions.

In the circumstances, delayed resolution of compensation may hinder delivery of the Project's objectives.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1415. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1416. Manual Intervention in the Financial Reporting Process

Review of financial reporting process revealed significant manual interventions. Although the ledgers and sub-ledgers are extracted from SAP through the Business Intelligence

Reporting Module, the processing of the trial balance and financial statements is done manually on excel spread sheets.

In the circumstances, the manual intervention may result to errors in the Project's financial statements.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1417. As required by African Development Fund (ADF)-Loan No.2100150023752 financing agreements, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

MENENGAI GEOTHERMAL PROJECT AGREEMENT NO.CKE 1038.01K - GEOTHERMAL DEVELOPMENT COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1418. Cash and Cash Equivalents

The statement of financial assets reflects cash and cash equivalents balance of Kshs.336,889,000 comprising of bank balances in one (1) foreign currency account, two (2) local currency accounts and one guarantee deposit (escrow) account all held at a local bank. However, the balance excludes funds held in a deposit account and an escrow account with a balance of Kshs.36,257,453 (USD 305,197.42) and Kshs.1,002,000 (USD 8,434.34) respectively.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.336,889,000 could not be confirmed.

1419. Long Outstanding Imprest

As disclosed in Note 10.13A to the financial statements, the statement of financial assets reflects imprest and advances balance of Kshs.1,176,000. Review of imprest and advances records revealed that imprests amounting to Kshs.469,000 had been outstanding for more than five (5) years making recovery doubtful while the balance had remained unsurrendered for over two years. This is contrary to Regulation 93(5) and (6) of the Public Finance Management (National Government) Regulations, 2015 which requires that a holder of temporary imprests shall account or surrender imprest within seven (7) working days, and in the event the holder fails to account for an imprest on due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer. Management explained that some of the officers have since separated with the Company and hence legal action for recovery was being considered. However, Management did not provide evidence on commencement of legal action.

In the circumstances, the accuracy and valuation of the debts amounting to Kshs.1,176,000 could not be confirmed.

1420. Unsupported Expenditure

The statement of receipts and payments and as disclosed in Note 10.8 to the financial statements reflect purchase of goods and services amounting to Kshs.657,006,000. Included in the amount is Kshs.34,123,000 incurred in respect of insurance expenses. However, the terms and conditions of the insurance policy cover provided for audit verification was for the Company and not specific to the Project. In addition, Management did not provide the approved work plan to confirm whether the expenses related to the Project.

Further, the balance includes a balance of Kshs.488,106,777 in respect of operating expenses, out of which an amount of Kshs.105,316,316 was incurred on medical expenses. However, Management did not provide an approved project workplan to confirm whether the expenditure related to the Project. Further, an amount of Kshs.12,470,258 paid to a supplier was not supported by contract agreements, invoices, goods received notes and inspection and acceptance committee report.

In the circumstances, the accuracy and regularity of expenditure amounting to Kshs.151,129,000 could not be confirmed.

1421. Unsupported Expenditure on Acquisition of Non-Financial Assets

The statement of receipts and payments reflects expenditure on acquisition of non-financial assets of Kshs.450,493,000 which as reflected in Note 10.10 to the financial statements, includes expenditure on purchase of specialized plants and equipment's and exploration and evaluation activities amounting to Kshs.168,289,000 and Kshs.189,986,000, respectively. According to Management, the expenditure on exploration and evaluation activities related to land lease, rent and rates, security expenses and Geothermal Advisory Board consultancies. However, supporting documents for the expenditure, such as lease agreements and contracts, were not provided for audit review. Similarly, the expenditure on purchase of specialized plants and equipment was not supported with contract agreements, invoices and inspection and acceptance committee reports.

In the circumstances, the accuracy and propriety of expenditure amounting to Kshs.450,493,000 on acquisition of non-financial assets could not be confirmed.

1422. Unauthorised Expenditure

Review of the statement of comparative budget and actual amounts revealed that an amount of Kshs.657,006,000 was incurred on purchase of goods and services against a budget of Kshs.591,915,000 resulting in unapproved over-expenditure of Kshs.65,091,000 or 9% of the budget. Further, an amount of Kshs.450,493,000 was incurred on acquisition of non-financial assets against a budget of Kshs.273,365,000, resulting to an over-expenditure of Kshs.177,128,000 or 65% of the budget. Management explained that the over-expenditure was as result of payment of invoices which had been

budgeted for and accrued in the previous year. The expenditure were not budgeted for in the year under review.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1423. Delay in Power Plants Development Under Menengai Phase I Project

As previously reported, a Project Implementation and Steam Supply Agreements (PISSA) signed with three (3) Independent Power Producers (IPPs) on 1 November, 2014 for development of a 35 MW geothermal power generating plant in Menengai Geothermal Project area provided that GDC would complete, test and commission the steam gathering system while the three IPPs upon getting partial risk guarantee would finalize the signing of the power purchase agreement and get a letter of support from the Government. The finalization of the IPPs conditions would oblige the lenders to provide the required funds for the Project.

Review of implementation status of the IPPs and GDC deliverables as at 30 June, 2022 revealed the following:

i. Quantum Power East Africa (QPEA) was yet to obtain a partial risk guarantee from The National Treasury. A request made on 9 October, 2019 was yet to be responded to as at 30 June, 2022.

ii. Sosian Menengai Geothermal Power Limited (SMGPL) was awaiting the Kenya Power and Lighting Company PLC to finalize the signing of the Power Purchase Agreement (PPA), with the same still pending as at 30 June, 2022.

iii. Orpower Twenty-Two Limited was to yet get a letter of support from the Government of Kenya as an application made on 24 April, 2019 had not been responded to.

iv. The Company had sunk 52 wells, out of which 21 are productive after being completed, tested, and commissioned but the IPPs were yet to fulfil any of their obligations.

Failure by the parties to fulfil their contractual obligations has led to delay in the Project implementation by over eight (8) years, risking the investment made by GDC of Kshs.69,055,342,000 on steam wells and associated infrastructure. Further, it was not certain when the Project would be completed since the effective start date was indicated to be the date the IPPs take-over the sites. In addition, the amount spent continues to attract significant interest charges with no income generation.

Management indicated that M/s Sosian Menengai Geothermal Power Limited's Power Purchase Agreement became effective on 23 September, 2021 and that it was mobilizing funds to start construction. However, no works had commenced while the status of the other two IPPs remained the same.

In the circumstances, the public did not obtain value for money on expenditure of Kshs.69,055,342,000 on development of steam wells and associated infrastructure.

1424. Long Outstanding Pending Bills

Annexes 2A and 2B to the financial statements reflects pending bills totalling to Kshs.480,653,000 which were outstanding as at the end of the financial year. According to the pending bills ageing analysis provided for audit, bills totalling to Kshs.151,628,000 were outstanding from 2019/2020 and earlier years. However, review of expenditure records revealed payments made for current year's supplies before settlement of pending bills, implying that Management did not treat pending bills as a first charge during the financial year 2021/2022, contrary to The National Treasury in Circular No.10/2020 issued on 16 June, 2020. No explanation was provided for the failure prioritize payment of pending bills during the year under review.

In the circumstances, Management was in breach of regulations.

1425. Commingling of Funds

Review of bank records and cash books for the Project revealed that funds for Bogoria Silali Geothermal Project and the Company amounting to Kshs.251,767,495 and Kshs.1,102,744,123 respectively were held in Menengai Geothermal Project account, contrary to Regulation 76(1) of the Public Finance Management (National Government), 2015 which requires a project account to be opened, maintained and operated solely for the purpose for which it was opened.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1426. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1427. As required by African Development Bank and Agence Francaise De Development (AFD), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

KENYA DEVELOPMENT OF SOLAR POWER PLANT IN GARISSA PROJECT (GCL NO.2015(10) – RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1428. Disputed Ownership of Land for the Solar Power Plant

Review of financial records for the Project revealed that Kshs.13,385,625,939 was incurred in the construction of a 50 MW Solar Power Plant during the financial year 2019/2020. However, the land on which the power plant is located was claimed by a Community Trust Group. Further, the group had instituted a legal suit against Rural Electrification and Renewable Energy Corporation (REREC) seeking to be compensated for the 220 acres of land.

According to Management, compensation of the affected community was to be done through the County Government of Garissa. However, the payment from the County Government was rejected by the Trust Group who sought to be compensated directly by REREC. In addition, the amount claimed by the Trust Group was not quantified.

In the circumstances, the ownership of land where the Solar Power Plant currently valued at Kshs.13,385,625,939 is constructed could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1429. Failure to Pay Pending Bills

Note 1 of other important disclosures reflects pending bills balance due to a contractor of Kshs.15,570,404 which has been brought forward from the financial year 2020/2021. Management did not explain why the pending bills were not budgeted for or paid during the year in compliance with the Treasury Circular No. 10-2020 of 16 June, 2020 requiring prioritization of pending bills by State Corporations and Semi-Autonomous Government Agencies, and Section 42(1)(b) of the Public Finance Management Act, 2012 which requires debt service payments to form first charge.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1430. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA OFF-GRID SOLAR ACCESS PROJECT FOR UNDERSERVED COUNTIES (IDA CR.NO.6135-KE) - RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1431. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1432. Project Performance

Review of the Project Financing Agreement and the Project supporting documentation revealed that Kenya Off-Grid Solar Access Project for the Underserved Counties had a total funding of Kshs.3,500,000,000 and was to be implemented within six (6) years from July, 2017 to 30 June, 2022. As at the end of the financial year 2021/2022, the total amount drawn was Kshs.110,868,972 which remained unspent. The amount drawn as at 30 June, 2022 represents 3.17% of the total funds committed for the project under the financing agreement while the project period lapsed on 30 June, 2022. Management did not provide evidence of extension of the Project period. Further, the Management did not provide an approved work plan for audit review.

In the circumstances, the Project may not be completed as planned and the Project objectives may not be achieved against the work plan could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1433. Non-Implementation of Project Activities

The Project received a loan totalling Kshs.110,868,972 in the financial year 2020/2021 which has been in the bank since then without being utilised for Project activities. Further, the amount has not earned any interest to date yet the financier continues to change interest on the drawn amount.

In the circumstances, the continued accrual of interest against the loan and the non-utilisation of the Project funds is inefficient utilisation of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1434. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA ELECTRICITY EXPANSION PROJECT (OFID CR NO.1487P) - RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1435. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1436. Low Budget Absorption

As disclosed in paragraph 1.7 of the funding summary, the Donor had made commitment of USD 15,000,000 equivalent to Kshs.1,500,000,000. However, with the Project targeted completion date set for 31 December, 2022, actual drawdowns amounted to USD 5,459,208 equivalent to Kshs.643,271,589 leaving Kshs.856,728,411 or 57% of Donor commitment undrawn. With over 95% of the Project duration passed, the credit is set to lapse without being fully utilized and the Project's planned deliverables earmarked for completion using the funding may not be realized.

Management did not provide documentary evidence for audit review to indicate whether any mitigation measures were taken to secure an extension of the Project from the Donor.

In the circumstances, the Project objectives may not be achieved.

1437. Delay in Implementation of the Project

The statement of receipts and payments reflects cumulative payments amounting to Kshs.643,271,589 in respect of acquisition of non-financial assets, representing approximately 49% of the total contracted value of works totalling Kshs.1,304,225,859 for the three (3) lots under the Project. The contracts were signed in June, 2020 and were expected to be completed by June, 2022. In addition, the Project was set to close on 31 December, 2022 with over 52% of the contract not executed despite contract period having lapsed.

In the circumstances, it could not be confirmed whether the Project objectives would be achieved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1438. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1439. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR LIVESTOCK – VOTE 1162

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1440. Failure to Account for Revenue from Institutes

The statement of receipts and payments reflects total receipts of Kshs.4,272,464,652 which excludes Kshs.96,356,604 collected from four (4) training institutes. However, these receipts were spent at source. In addition, the institutes do not have the requisite governance structures in the form of a board or management teams which are necessary for the establishment of controls on budget and actual collections and respective expenditures.

In the circumstances, the accuracy and completeness of receipts of Kshs.96,356,604 could not be confirmed.

1441. Unsupported Prior Year Adjustments

The statement of assets and liabilities reflects prior year adjustments amounting to Kshs.11,422,646 as disclosed in Note 13 to the financial statements. However, the nature and details of the adjustment were not provided for audit. Whereas significant accounting policy No.4(j) states that prior period adjustments are disclosed in Note 26 to the financial statements explaining the nature and amounts of the adjustment, the Note is non-existent.

In the circumstances, the accuracy of the prior year adjustments of Kshs.11,422,646 could not be confirmed.

1442. Unsupported Accounts Payables - Retentions

The statement of assets and liabilities reflects accounts payables-retentions balance of Kshs.39,879,975 as disclosed in Note 11 to the financial statements. Review of the retentions schedule revealed that amounts totalling to Kshs.21,922,067 have been long outstanding with some dating as far back as the year 2015. Management did not explain why these retention monies were not released to the respective contractors.

In the circumstances, the accuracy and completeness of the accounts' payables (Retentions) balance of Kshs.39,879,975 could not be confirmed.

1443. Unaccounted for Long Outstanding Imprests

The statement of assets and liabilities reflects imprests and advances of Kshs.15,494,070 which, as disclosed in Note 10 to the financial statements includes an amount of Kshs.2,112,100 relating to imprest advanced to an officer on 26 February, 2020 who deserted without surrendering the imprest.

In the circumstances, the recovery of the amount of Kshs.2,112,100 could not be confirmed.

Other Matter

1444. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects approved receipts budget and actual on comparable basis of Kshs.7,728,149,669 and Kshs.4,272,464,652 resulting in an underfunding of Kshs.3,455,685,017 or 45% of the budget.

The underfunding of the budget affected planned activities and may have negatively impacted on service delivery to the public.

1445. Delay in Payment of Court Awards

Annex 7 to the financial statements reflects contingent liabilities amounting to Kshs.4,030,406,440 relating to three cases that have been awarded to plaintiffs and which Management has not settled the amounts. Management explained that the matter had been forwarded to The National Treasury for guidance.

In the circumstances, the State Department risks being charged interest for non-payment.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1446. Irregular Engagement of Temporary Employees

The statement of receipts and payments reflects compensation of employees' expenditure of Kshs.1,515,199,973 out of which an amount of Kshs.319,892,661 relates to payments to temporary employees. However, examination of documents provided for audit revealed that the State Department has been engaging casuals labourers for more than three months on renewable terms contrary to Section 37 of the Employment Act, 2007 (Revised 2012) which requires conversion of the casual employment to term contract.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1447. Failure to provide Adequate Resources to the Eldoret Butterfat Station

Audit inspection conducted at Eldoret Butterfat Station revealed inadequate funding as only Kshs.238,538 was disbursed during the year under review. It was also noted that the staffing level was low thus hindering the operations of the Station.

In the circumstances, the Station may not achieve its mandate.

1448. Asset Management

1448.1 Fixed Assets Registers not Updated

As disclosed at Annex 4 to the financial statements, the summary of fixed assets register reflects a balance of Kshs.5,765,141,436. However, the asset registers provided for audit

reflected a balance of Kshs.419,418,842 resulting in a variance of Kshs.5,345,722,594. Further, the asset registers include ICT equipment with a balance of Kshs.44,547,692, but the summary of fixed assets register in the financial statements reflects a Nil balance for the same item.

In addition, the Management did not disclose the values of land owned by the State Department and other details of the assets such as purchase/ original cost, tag, asset codes for specific assets and motor vehicle registration numbers. The registers also had a total of three hundred and two (302) assets that were either obsolete/expired, unserviceable and grounded motor vehicles but had not been disposed.

In the circumstances, the completeness of the assets register could not be confirmed.

1448.2 Incomplete Biological Asset Register

The assets register provided for audit disclosed biological assets with a historical cost of Kshs.26,994,050. However, the assets comprised of different farm animals from six (6) stations compared to fifteen (15) stations disclosed as at 30 June, 2022 leaving undisclosed assets from nine (9) stations.

Further, review of the annual report for Bachuma Sheep and Goats Station revealed that the Station did not maintain biological assets register and individual animal records as required under Appendix K of The National Treasury Guidelines on Asset and Liability Management in the Public Sector.

In the circumstances, the completeness of the State Department's assets could not be confirmed.

1448.3 Failure to Maintain Works in Progress Register

Review of the expenses on acquisition of assets indicated that the State Department incurred expenses on acquisition of assets totalling Kshs.985,473,121 in the year under review. However, a report on the statuses of the contracts in the year under review was not provided for audit verification. Further, field verification of sampled projects indicated that a number of projects were in progress as at 30 June, 2022. This was contrary to the National Treasury Guidelines on Assets and Liability Management in the Public Sector of March 2020, paragraph 67(8) and Appendix 6(I) which requires the public entities to prepare works in progress register for each category of assets

In the circumstances, the existence of an effective internal controls mechanism on assets management could not be established.

1449. Weakness in Control on Fuel Oil and Lubricants

The statement of receipts and payments reflects expenditure on use of goods and services expenditure of Kshs.1,247,799,677 which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.39,354,390 relating to fuel, oil and lubricants. Review of documents maintained revealed that no reconciliations between supplier fuel statements and fuel registers were done. Further, the supplier fuel statements did not include registration details of the vehicles that drew fuel.

In the circumstances, the existence of an elaborate system on fuel management could not be confirmed.

DONOR FUNDED PROJECTS

REGIONAL PASTORAL LIVELIHOOD RESILIENCE PROJECT (IDA CR. NO KE 53880)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1450. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1451. Unpaid Insurance Claim for Project Vehicles

As reported in the previous year, an insurance company was paid an amount of Kshs.18,549,675 as premium for the insurance cover of all the project vehicles. However, two (2) project vehicles; GKB O38R and GKB 412R belonging to West Pokot County Project Implementation Office Unit got burnt by fire suspected to have originated from one of the food kiosks adjacent to the offices. Although compensation lodged was certified payable on 30 July, 2020 by the insurance company, the claims had not been settled or paid as at October, 2022 yet the project ended in December, 2021.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1452. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1453. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1454. As required by International Development Association (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

KENYA LIVESTOCK COMMERCIALIZATION PROJECT LOAN NUMBER 2000003565 AND 2000003566

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1455. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1456. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1457. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1458. As required by Financing Agreement Loan Number 2000003565 and 2000003566 between International Fund for Agricultural Development and the Republic of Kenya dated 16 February, 2021, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

TOWARDS ENDING DROUGHT EMERGENCIES: ECOSYSTEM BASED ADAPTATION IN KENYA'S ARID AND SEMI-ARID RANGELANDS (IUCN GRANT NO. P02886)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1459. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1460. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.178,000,000 and Kshs.123,539,557 respectively resulting to an underfunding of Kshs.54,460,443 or 31% of the budget. Similarly, the project spent an amount of Kshs.110,380,958 against an approved budget of Kshs.178,000,000 resulting to an underexpenditure of Kshs.67,619,042 or 38% of the budget.

The underfunding and underperformance affected the planned activities and might impact negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1461. Irregular Reallocation of Expenditure

The statement of receipts and payments reflects expenditure on purchase of goods and services totalling Kshs.104,163,216 which as disclosed in Note 4 to the financial statements includes consultancies costs amounting to Kshs.85,736,591. Review of the expenditure against approved budget revealed that contracted technical services and contracted professional services sub-items had a combined approved budget of Kshs.12,680,000 resulting to an over expenditure of Kshs.73,056,591 or 557% of the budget. Management did not provide an explanation for incurring the expenditure over and above the budgetary provision. In addition, no approval for the reallocation was provided for audit review.

In the circumstances, Management was in breach of law.

1462. Unsupported Pending Accounts Payables

As disclosed in Note 12 to the financial statements on other important disclosures under Annex 3, the Project had pending accounts payable amounting to Kshs.23,550,345 as at 30 June, 2022 comprising payables for supply of goods of Kshs.14,054,888, supply of services of Kshs.7,095,457 and civil works of Kshs.2,400,000. However, these payables were not supported with the relevant documents including contracts, invoices, delivery note, stores received notes (S13), inspection and acceptance committee reports and contractor's certificates for work completed.

In the circumstances, the regularity and validity of the pending bills totalling Kshs.23,550,345 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1463. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1464. As required by International Union for Conservation of Nature and Natural Resources, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR FISHERIES, AQUACULTURE AND THE BLUE ECONOMY – VOTE 1166

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1465. Variances Between Financial Statements and Supporting Schedules

Review of the financial statements provided for audit revealed unexplained variances with supporting schedules as detailed below:

Component	Note	Financial Statements Amount (Kshs.)	Supporting Schedules Amount (Kshs.)	Variance (Kshs.)
Account Payables - Deposits	10	125,446,639	23,064,091	102,382,548
Transfers to other Government Units - Kenya Fisheries Advisory Council (KFAC)	5b	4,981,711	5,036,311	(54,600)

In the circumstances, the accuracy and completeness of the account payables and transfers to other government units - KFAC of Kshs.125,446,639 and Kshs.4,981,711, respectively could not be confirmed.

1466. Misclassification of Expenditure

The statement of receipts and payments reflects expenditure on use of goods and services of Kshs.844,611,256 and acquisition of assets of Kshs.1,453,902,755. However, review of the ledger accounts revealed misclassified expenditure totalling Kshs.153,187,487 and Kshs.34,076,557 on use of goods and service and acquisition of assets, respectively. Further, disclosed in the ledgers were payments in respect of construction and civil works reversal transactions totalling Ksh.34,307,200 whose journal vouchers and other supporting documents were not provided for audit verification.

In the circumstances, the accuracy and completeness of the expenditure on use of goods and services of Kshs.844,611,256 and acquisition of assets of Kshs.1,453,902,755 could not be confirmed.

1467. Inaccurate Retention and Withholding Tax Amounts

Review of payment documents at the Kisumu regional office revealed that, an amount of Kshs.248,300,722 was paid to contractors during the year under review. However, amounts withheld as retention and withholding tax differed with the prescribed rates of 10% and 3% respectively. The actual amounts withheld were Kshs.20,763,078 and Kshs.6,421,523 instead of the recalculated amounts of Kshs.24,830,072 and Kshs.7,449,021 resulting to unexplained variances Kshs.4,066,994 and Kshs.1,027,448 respectively.

In the circumstances, the accuracy and regularity of the retention and withholding tax amounts totalling to Kshs.27,184,601 could not be confirmed.

1468. Inaccuracy of Expenditure on Purchase of Certified Seeds, Breeding Stock and Live Animals

The statement of receipts and payments and Note 7 to the financial statements reflects expenditure on acquisition of assets amounting to Kshs.1,453,902,755. The expenditure includes payments relating to purchase of certified seeds, breeding stock and live animals amounting to Kshs.23,649,998. However, the payment excludes an amount of Kshs.1,739,034 for the supply of fingerlings. In addition, the ledger provided for audit included an unexplained reversal of wrongly charged expenditure journal of Kshs.6,000,000 which was not supported.

In the circumstances, the accuracy of the expenditure of Kshs.23,649,998 on certified seeds, breeding stock and live animals could not be confirmed.

1469. Unsupported Payments Outside Integrated Personnel and Payroll Database (IPPD)

The statement of receipts and payments and Note 3 to the financial statements reflects expenditure on compensation of employees amounting to Kshs.164,489,606. However, review of the payroll data indicated expenditure on compensation of employees amount of Kshs.153,850,231, resulting to a variance of Kshs.10,639,375 which relates to amounts paid outside the IPPD system. Management did not provide details of these payments.

In the circumstances, the accuracy and completeness of the compensation to employees' expenditure of Kshs.10,639,374 could not be confirmed.

1470. Unsupported Expenditure

The statement of receipts and payments reflects expenditure on use of goods and services of Kshs.844,611,256 and social security benefits of Kshs.5,481,210. However, included in these amounts are sampled expenditures of Kshs.121,831,349 and Kshs.5,031,738, respectively which were not supported with verifiable documentary evidence.

In the circumstances, the accuracy and completeness of the sampled expenditure totalling Kshs.126,863,087 could not be confirmed.

1471. Unsupported Prior Year Adjustments

The statement of assets and liabilities reflects prior year adjustments of Kshs.30,974,377. However, these adjustments were not supported with verifiable documentary evidence.

In the circumstances, the accuracy and completeness of the prior year adjustments of Kshs.30,974,377 could not be confirmed.

Other Matter

1472. Unsupported Pending Bills

Included in Note 16 to the financial statements on other important disclosures are pending accounts payable amounting to Kshs.112,169,309 all relating to the year under review.

However, only pending bills amounting to Kshs.10,757,339 were verified while supporting documents for the balance of Kshs.101,411,970 were not provided for audit.

Further, the reporting template issued by the Public Sector Accounting Standards Board requires the State Department to disclose in Annex 1 analysis of pending accounts payables, the original contract amount, date contracted, amount paid to-date, outstanding balances and any comments on the same. However, Management did not provide this information making it difficult to establish the ageing information of these payables.

Failure to settle bills in the year to which they relate adversely affects the subsequent year's budget to which they have to be charged.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1473. Delay in Operationalization of Two Agencies

The statement of receipts and payments and Note 5 to the financial statements reflects transfers to other government units of Kshs.4,222,602,040 which included transfers to Kenya Fishing Industries Corporation (KFIC) of Kshs.9,977,600 and Kenya Fisheries Advisory Council (KFAC) of Kshs.4,981,711 all totalling Kshs.14,959,311. However, the entities continue to account and report expenditure under the State Department from their respective dates of establishment instead of preparing their own financial statements for audit. In addition, the Management did not provide supporting documentation for the transfers to these entities.

In the circumstances, the regularity of the transfers of Kshs.14,959,311 could not be confirmed.

1474. Irregular Expenditure on Initiation and Construction of Ultra-Modern Tuna Fish Hub at Liwatoni Complex

The statement of receipts and payments and Note 7 to the financial statements reflects expenditure on acquisition of assets totalling Kshs.1,453,902,755. The amount includes an expenditure on construction and civil works of Kshs.1,160,919,983 out of which Kshs.500,000,000 relates to AIEs sent to Kenya Fishing Industries Corporation (KFIC) for construction of Liwatoni Ultra-Modern Tuna Fish Hub. The State Department did not provide for audit user requisition for the project, feasibility study report, bill of quantities, technical drawings or architectural designs, environmental and social impact assessment reports and approvals from statutory bodies such as National Construction Authority (NCA), National Environmental Management Authority (NEMA) and County Government of Mombasa. Consequently, it could not be confirmed whether the project cost was realistic and based on up-to-date information on economic and market conditions and if the project was compliant with requirements of the users and the other statutory bodies. In addition, the contract period for the project was twenty-six (26) weeks and which lapsed on 10 October, 2022.

Further, physical verification exercise undertaken in October, 2022, revealed that the Project was not complete and the contractor was demolishing works that had been

undertaken in the sections of fresh and frozen rooms as well as cold rooms leading to wastage of resources and losses.

In the circumstances, the value for money on the expenditure of Kshs.500,000,000 on construction of the Ultra-Modern Tuna Fish Hub could not be confirmed.

1475. Stocking of Unspecified Dams, Ponds and Aquaponics Units with Fingerlings

The statement of receipts and payments and Note 7 to the financial statements reflects an expenditure on acquisition of assets of Kshs.1,453,902,755 which included an amount of Kshs.23,649,998 relating to purchase of certified seeds, breeding stock and live animals. In the year under review, a contract for supply of fingerlings to various unspecified dams, ponds and aquaponics units was awarded to a firm at a contract price of Kshs.1,738,500. The procurement was done through request for quotations and two payments of Kshs.796,800 and Kshs.996,000 were made towards the purchase of 16,000 and 20,000 catfish fingerlings, respectively. These two payments were not however supported with the opening and evaluation minutes of the quotations and there was no indication of where the catfish fingerlings were delivered.

In the circumstances, the value for money for on the payment of fingerlings worth Kshs.1,738,500 could not be confirmed.

1476. Irregular Stocking of Fingerlings in Kisumu Region

Examination of expenditure returns of the Kisumu regional office for the year under review revealed that expenditure totalling Kshs.1,099,996 was incurred on stocking of fingerlings at Kamura and Sironga Girls' Schools dams. The criteria used to select the dams or the schools for this activity could not be verified because there was no documentation to support the selection exercise.

In addition, records provided indicated that Kamura Dam was stocked with 17,000 tilapia and 13,491 catfish fingerlings in November, 2021 and March, 2022, respectively. During field verification exercise in October, 2022, it was observed that Kamura Dam sits on a private land and is not fenced or protected with predator nets. Those in charge could not provide documentation to support that the stocking was actually done. It was also observed that the local community uses the water in the dam for other activities like feeding livestock and washing which is likely to lead to pollution and thus endangering the survival of the fish.

Further, Sironga Girls' School received a total of 6,000 fingerlings stocked in four different dams out of which 3,000 fingerlings died due to drying of two (2) dams into which the fish was stocked. The school did not have a record of delivery of the fingerlings and thus confirmation for the same was not possible.

In the circumstances, the value for money on the expenditure of Kshs.1,099,996 incurred on the fingerlings stocking could not be confirmed.

1477. Irregular Procurement for Supply and Delivery of Fingerlings

Review of procurement records revealed that tender No. NG/KW/FISH/21/2021/2022 for supply and delivery of 2,040,000 fingerlings to twenty-four (24) dams in various counties was awarded to a firm at Kshs.101,592,000. Each dam was to receive 85,000 fingerlings. However, the capacity of each dam had not been assessed and mentioned in any report to confirm if each of the said dams had the capacity for 85,000 each for fingerlings. There was also no contract with the firm detailing the modalities of supplying and delivery of the fingerlings. During the year under review, the amount paid for this tender was Kshs.15,200,254. In addition, tender No. NG/KW/FISH/24/2021/2022 for supply and delivery of 255,000 fingerlings to three dams in various counties was awarded to another firm at Kshs.12,367,500. A payment of Kshs.2,449,978 for the delivery of 50,515 fingerlings to the three (3) dams was made during the year under review. The capacity of each dam had not been assessed to confirm if each of the said dams had the capacity for 85,000 fingerlings. There was also no contract with the firm detailing the modalities of supplying and delivery of the fingerlings.

In the circumstances, the value for money on the expenditure of Kshs.17,650,232 for supply and delivery of fish fingerlings could not be confirmed.

1478. Unsupported Over-Expenditure

The statement of receipts and payments and Note 4 to the financial statements reflects a total expenditure of Kshs.844,611,256 on use of goods and services. Included in this expenditure is training expenses of Kshs.496,568,171 out of which an Authority to Incur Expenditure (AIE) of Kshs.408,000,000 was issued Kenya Marine and Fisheries Research Institute (KMFRI) for hire of training facilities and equipment. However, a payment of Kshs.144,000,000 was made on 29 October, 2021 towards leasing of vessel for training of fish crews but the available balance of the AIE at the time of the payment was Kshs.142,889,701. It was not explained how the difference of Kshs.1,110,299 was funded. In addition, the Institute issued imprest amounting to Kshs.414,400 for flagship of the vessels in Mombasa, which was not budgeted for under the vote.

In the circumstances, the State Department was in the breach of the law.

1479. Failure to Account for all the Fishermen Trained Under a Presidential Directive

During the year under review, there was a Presidential directive to train one thousand (1000) fishermen to be able to fish using deep sea vessels. The training was done in two (2) stages, the first part of the training was undertaken at Bandari Maritime Academy where eight hundred and fourteen (814) fishermen were trained according to 2020/2021 reports by Kenya Fisheries Services (KeFS) but the list provided of fishermen who were accredited in the seaman's book reflected only 412 fishermen. The second part of training involved a contract signed on 1 March, 2021 for facilitating hire of vessels to be used in training the fishermen in the deep sea undertaken by KMFRI where a total of four hundred and thirty-seven (437) persons were to be trained under the contract. However, it is not clear how many fishermen were trained at Bandari Maritime Academy and further went for the deep-sea training since the numbers quoted in the two training components differ

by three hundred and seventy-seven (377) and also differ with Presidential directive numbers of one thousand (1000) fishermen.

In the circumstances, Management was in breach of the Presidential directives and value for money on the training expenses of Kshs.408,000,000 could not be confirmed.

1480. Construction and Civil Works

The statement of receipts and payments and Note 7 to the financial statements reflects expenditure on acquisition of assets amounting to Kshs.1,453,902,755. Included in this expenditure is an amount of Kshs.1,160,919,983 relating to construction and civil works. However, review of records revealed several issues as detailed below:

1480.1 Construction of Lwanda K'Otieno Fish Landing Site in Siaya

During the year under review, an amount of Kshs.121,510,101 was paid for construction of Lwanda K'Otieno landing sites. The following observations were made upon examination of related records and physical verification at the project sites:

i. Technical drawings for the landing sites were not provided for audit review. In addition, during the procurement process, amendments were made on the initial Bills of Quantities (BOQ) that had been approved. However, it was not clear what necessitated the revision of initial bills of quantities. Further, the Bills of Quantities included an amount of Kshs.9,282,000 relating to payment for particular preliminaries that was not supported.

ii. The payment vouchers included certificate No.2 which included Utility Block -, Gate House and Provisional Sum costing Kshs.5,219,570, Kshs.756,760 and Kshs.59,300,000 that were not supported by the Bills of Quantities.

iii. There were no ramps on the paths leading to the washrooms for persons with disability, the pavements from the jetties had cracks, the gate houses were yet to be done and there was no electricity making the landing sites not to be used.

iv. Luanda K'Otieno was commissioned on 4 August, 2022 yet the works were not complete.

1480.2 Construction of Fish Landing Site at Sori Beach in Migori County

During the year under review, an amount of Kshs.126,790,621 was paid for construction of Sori landing sites. However, examination of related records and physical verification at the project sites revealed the following:

i. Technical drawing for the landing site were not provided for audit. During the procurement process, amendments were made on the initial BOQ that had been approved. It was however not clear what necessitated the revision of initial bill of quantity. In addition, included in the bills of quantities was an amount of Kshs.9,790,000 relating to payment for particular preliminaries that was not supported with relevant documentation.

ii. The provisional sum stated in the bills of quantities was Kshs.61,300,000 and included mechanical works, electrical works, generator and solar platform that formed part of the payment certificate No.3. However, detailed analysis and specifications of the items were not provided for audit.

iii. Quoted in the bills of quantities were seven stainless steel handrails for the assisted washroom valued at Kshs.56,000. However, the washroom had five handrails that were of different material other than the quoted one. Further, there was only one washroom facility for people with disability and the entrance did not have a ramp.

iv. An amount of Kshs.115,200 was quoted in the bills of quantities for provision of thick steel casement double leaf double swinging door sizes for the utility block. However, the external door put were made of wood and not steel.

v. The BOQ specifications included gutters and rainwater drainage pipes at the gate house. However, the same had not been installed.

vi. Sori fish landing site was commissioned on 4 August, 2022 yet the works were not complete. There was no electricity making the landing site not to be used.

1480.3 Renovations and Rehabilitation Works at Fish Quality Control Laboratory Kisumu

During the year under review, an amount of Kshs.9,020,466 was paid for the proposed renovation and rehabilitation works at the Kisumu Fish Quality Control Laboratory. The works paid for included CCTV installation and electrical works. Examination of related records and physical verification at the project site in October, 2020, revealed the following unsatisfactory matters:

i. The handover by the contractor was done in July, 2022. However, the power connection and lighting system were faulty and power would go off when some of the machines were switched on. In addition, electrical works were also incomplete with switches not fixed on the wall.

ii. Waste pipe to the sentry had not been done and the septic tank was yet to be completed. The door knobs were of poor quality and the CCTV cameras were also not functional as the control room which should be situated at the gate was not complete.

iii. A freezer that was to be used in the laboratory had not been relocated to the appropriate room and the generator in the laboratory was not working. The laboratory also lacked reagents hence hampering analysis.

iv. The air extraction system was producing foul smell in the whole laboratory and the ventilation system in the laboratory was not functional.

v. Most of the equipment in the laboratory were not operational as some were yet to be fully installed.

vi. There were two generators belonging to Ogal and Nyandiwa landing sites in Kisumu Regional Office compound that had been poorly stored.

1480.4 Renovations and Rehabilitation Works at the Gazi Fish Landing Site, Kwale County

Included in the expenditure on construction and civil works for the year under review is a payment of Kshs.40,126,027 for works at the Gazi Fish Landing Site. However, field verification carried out in October, 2022 indicated that the area floods during high tides, which may cause destruction of materials as well as mechanical and electrical works. There was no sea wall constructed to prevent flooding of the site. Although the electrical works and CCTV installations were complete, the site was not in use since there was no power source or connection.

1480.5 Renovation and Rehabilitation Works at Ngomeni Fish Landing Site, Kilifi County

A payment of Kshs.12,699,332 was made for rehabilitation works at the Ngomeni Fish Landing Site during the year under review. However, works done including; working tables/tops, generator house, ice flake section and installation of water tank were not in the original contract. It was not clear who instructed the contractor to execute the extra works. Further, there was no access of the fish landing site from the ocean and it was not clear how the fishermen would be offloading fish.

1480.6 Rehabilitation at the Kichwa Cha Kati Fish Landing Site, Kilifi County

An amount of Kshs.10,070,046 was paid for rehabilitation works at Kichwa Cha Kati Fish Landing Site in the year under review. However, review of the project progress report revealed the works to be at 75% completion despite the fact that the contract period had lapsed as of October, 2022. In addition, although the contractor was given extra works of cutting off sand around the fish landing site. There was no evidence that a quantity surveyor visited the site to quantify the amount of work to be done by the contractor. Also, Management did not provide the instruction for extra works for audit verification. Further, the landing site did not have power supply/connection and may not be in use once completed.

1480.7 Proposed Construction of National Mariculture Resource Centre at Shimoni, Kwale

During the year under review, a firm was awarded a contract for proposed construction of National Mariculture Resource Centre at Shimoni, Kwale at contract sum of Kshs.734,002,095. As detailed in the engineer's report, the certified amount was Kshs.378,893,781 and that the works were 60% complete as of 30 June, 2022. However, the contractor was granted extension of contract to 4 June, 2022 but there was no evidence that performance bond which expired on 30 November, 2020 was renewed to cover the extended project period.

Further, the following observation were made during audit verification in October, 2022:

i. Although the contractor did not have pending certificates, the contractor had abandoned the site and no works were ongoing.

ii. According to payment certificates, the engineers had certified walling works as 50%. However, during the physical verification it was noted that walling works was below the certified percentage.

iii. The subcontractor for installation of CCTV had delivered material to the site despite the fact that the main works was still in progress exposing the materials to damage or theft.

iv. The subcontractor for air conditioning installation works had delivered materials to the site but the works could not continue since the main contractor had pending works. The materials could be damaged or stolen.

v. Expenditures under preliminaries in bills of quantities totalling Kshs.26,890,000 could not be confirmed as no evidence was provided for audit verification.

In the circumstances, value for money on expenditure of Kshs.1,160,919,983 relating to construction and civil works could not be confirmed.

1481. Irregularities in Procurement of Supplies

The statement of receipts and payments and Note 4 to the financial statements reflects expenditure on use of goods and services amounting to Kshs.844,611,256. Included in this expenditure is an amount of Kshs.173,150,741 incurred for specialized materials and services, out of which Kshs.59,099,986 relates to AIEs sent to Kirinyaga West. However, review of the payment vouchers totalling Kshs.20,312,750 and procurement correspondences revealed that firms that were not in the list of registered suppliers were awarded contracts and there were no requisitions and correspondences on how firms were invited to bid. Further, LPOs were issued to firms before user requisitions were made.

In the circumstances, Management was in breach of Section 71(4) of the Public Procurement and Asset Disposal Act, 2015.

1482. Issuance of Overlapping Imprest

The statement of receipts and payments and Note 4 to the financial statements reflects expenditure on use of goods and services amounting to Kshs.844,611,256. Included in this expenditure is travelling and subsistence allowance expenditure of Kshs.186,906,488. Analysis of the imprests register revealed that officers with overlapping imprests had received a total of Kshs.174,736,904 before surrender of the previous imprests contrary to Regulation 93(4) of the Public Finance Management (National Government) Regulations, 2015.

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

1483. Unsupported Contract Termination at Liwatoni Complex

In the year under review, the State Department terminated all the contracts that were running at Liwatoni Complex. However, the Management did not provide information or

documentation stating reasons for termination, contractual grounds and the cost of termination details.

In the circumstances, contracts terminated without following due process may lead to litigation.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1484. Non-Compliance with the One-Third of Basic Salary Rule

Analysis of the payroll for the year ended 30 June, 2022 revealed that fifteen (15) employees had overcommitted their salaries and were earning less than a third of their basic salary. This was contrary to Section C.1.(3) of the Human Resource Policies and Procedures Manual for the Public Service, 2016.

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

1485. Lack of Assets Ownership Documents

Annex 1 to the financial statements on summary of fixed assets register reflects historical cost balance of Kshs.7,158,878,844 as at 30 June, 2022. However, review of the fixed asset register for audit revealed that ownership documents for all parcels of land acquired over the years were not provided for audit review. In addition, the asset register indicated that State Department owned a total of 114 motor vehicles and but 30 logbooks were provided for audit. Further, asset register lacked key details like the acquisition cost, location of the asset, depreciation rate and the date of acquisition. Most of the land details did not indicate the acreage and vehicles registration number, chasis number and engine number were also not indicated.

In the circumstances, the effectiveness of controls relating to management of fixed assets could not be confirmed.

REVENUE STATEMENTS OF THE STATE DEPARTMENT FOR FISHERIES, AQUACULTURE AND THE BLUE ECONOMY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1486. There were no material issues noted during the audit of the revenue statements.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1487. Revenue Management

1487.1 Delay in Banking of Revenue

The statement of receipts and disbursements reflects other receipts of Kshs.125,504,664 which includes revenue amounting to Kshs.1,392,925 collected by the National Aquaculture Technology Development and Innovation Transfers Centre (NADC). However, review of revenue records held by the training department of NADC in Sagana revealed that revenue amounting to Kshs.51,400 was banked at least three days after the date of collection. In addition, the records revealed that total revenue collected during the year under review was Kshs.543,550 while total revenue banked was Kshs.584,040 resulting to unexplained over banking of Kshs.40,490.

The late banking and overbanking of revenue may be an indication of teaming and lading.

1487.2 Delay in Remitting Revenue to the Receiver of Revenue

Kenya Fishing Industries Corporation (KFIC) collected revenue on behalf of the State Department from security and electricity charges at Liwatoni fishing port. Audit of Liwatoni fishing port revealed that an amount of USD.6,321 was credited directly to KFIC's USD bank account for electricity charges on 17 June, 2022 by a shipping agent. The amount had, however, not been surrendered to the State Department as at 30 June, 2022.

This was contrary to Section 76(2) of the Public Finance Management Act, 2012 which states that any public officer, other than a receiver or collector of revenue for the National Government, who collects revenue for that National Government shall, not later than three days after receiving it, deliver the revenue to a receiver or collector of revenue for the National Government.

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

1488. Lack of a Tenancy Agreement

Audit of the fisheries projects in Kisumu County in October, 2022 revealed that a private company dealing in manufacture of water buses was hosted on land belonging to the State Department for Fisheries, adjacent to the fisheries offices in Kisumu. Although the Management explained that the company had leased the land since the year 2014 at a monthly rent of Kshs.30,000 no documentary evidence including a signed contract or lease agreement and valuation report was provided for audit.

In the circumstances, the basis and validity of revenue received from the company could not be confirmed.

Basis for Conclusion

1489. Controls Over Collection of Revenue

1489.1 Under-Collection of Revenue in Kenya Fishing Industry Corporation

During the year under review, Kenya Fishing Industry Corporation collected revenue amounting to Kshs.2,358,014 and remitted the same to the revenue account of the State Department. The revenue collected by the Corporation included fish offloading charges and security charges in Liwatoni, Mombasa. However, there were seventy-seven fish landing sites along the coast line of Kenya where the Corporation did not collect revenue from the fishermen.

The Management explained that the revenue was not being collected from the seventy-seven sites due to lack of adequate resources to enforce the collection. In addition, the Corporation invoiced the clients using the rates approved in dollar rate but during payment, some clients remitted their charges in Kenya Shillings with a standard conversion rate of USD.100, while the daily conversion rate during the period under review ranged from Kshs.107.7 to Kshs.115.87, resulting to loss of revenue.

In the circumstances, it was not possible to confirm the effectiveness of internal controls on revenue collection.

1489.2 Delay in Collection of Revenue

Audit review and a physical inspection in October, 2022 revealed that the Kenya Fishing Industry Corporation had outstanding revenue debtors amounting to USD.119,282 (approximately Kshs.13,932,138 at an exchange rate of 116.80), relating to security and electricity charges for various vessels that had docked at the Liwatoni fishing port. One of the clients had outstanding amounts since 7 August, 2020 and 19 October, 2020 of USD.34,150 and USD.44,982, respectively all totalling to USD.79,132 (approximately Kshs.9,242,618). Although the Management had written demand letters, the client did not respond and the client's ship was still docked at Liwatoni and accumulating more charges.

In the circumstances, it was not possible to confirm the effectiveness of internal controls on revenue collection.

DONOR FUNDED PROJECTS

KENYA MARINE FISHERIES AND SOCIO-ECONOMIC DEVELOPMENT PROJECT (IDA CREDIT NO.65400-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1490. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1491. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual amounts on comparable basis of Kshs.1,347,000,000 and Kshs.575,146,858 respectively resulting to an underfunding of Kshs.771,853,142 or 57% of the budget. Similarly, the Project expended an amount of Kshs.734,024,414 against an approved budget of Kshs.1,347,000,000 resulting to an underexpenditure of Kshs.612,975,586 or 46% of the budget. The underfunding and underperformance affected the planned activities and may impact negatively on delivery of goods and services to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1492. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1493. There were no material issues relating to effectiveness of internal controls, risk management and governance.

AQUACULTURE BUSINESS DEVELOPMENT PROGRAMME (IFAD LOAN NO.2000002052 & 2000002614)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1494. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1495. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.3,858,365,836 and Kshs.2,317,418,805, respectively resulting to an underfunding of Kshs.1,540,947,031 or 39.94% of the budget. Similarly, the Programme spent an amount of Kshs.2,297,639,602 against a final budget of Kshs.3,858,365,836 resulting to an underexpenditure of Kshs.1,560,726,234 or 40.45% of the actual receipts.

The underfunding and underexpenditure affected the planned activities and might have impacted negatively on the delivery of goods and services to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1496. Irregular Recruitment of Monitoring and Evaluation and Knowledge Management Officer

The Programme advertised for the position of a programme coordination unit staff on 28 September, 2021 in the Daily Nation with stated minimum requirements. However, the shortlisting scorecard had the following inconsistencies from the shortlisting team:

i. The panel prepared a shortlisting criterion in which all the advert requirements were included. However, the report of the shortlisting panel for the recruitment dated 17 February, 2022 differed from the advert requirements such that, there were no marks assigned for a Master's Degree in Economics, Statistics or in a related field in the shortlisting report.

ii. The shortlisting scorecard was not well prepared and the total marks assigned were 105 marks instead of 100 marks.

iii. The shortlisting team members did not append their signatures in each scorecard to the process.

iv. There were a lot of cancelations which were not countersigned by the person shortlisting.

v. Original marks assigned for certificate of good conduct, clearance certificate from the Higher Education Loans Board, tax compliance certificate, clearance from the Ethics and Anti-Corruption Commission and report from an approved Credit reference bureau were 5 marks each. However, the shortlisting panel changed the weighting to 2 marks each. No explanation was provided on what necessitated the change.

vi. The shortlisting team members in their scorecards left some cells blank without filling a mark.

vii. Further, the successful candidate's application did not have a valid certificate of good conduct and clearance certificate from the Higher Education Loans Board as both documents had expired on 31 January, 2021 eight (8) months prior to the job advertisement. Valid tax compliance certificate and report from an approved credit reference bureau were not attached. However, all 5 members of the shortlisting team awarded the candidate with full marks for the above.

The above shortcomings were in in contravention of Section B.5 of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which states that recruitment will be undertaken on the basis of fair competition and merit, representation of Kenya's diverse communities, adequate and equal opportunities to all gender, youth, members of all ethnic groups, persons with disabilities and minorities.

In the circumstances, Management was in breach of the Human Resource Policies and Procedures Manual for the Public Service, 2016.

1497. Irregular Evaluation and Award of Tender for Pond Materials

The statement of receipts and payments reflects an expenditure on purchase of goods and service of Kshs.1,573,098,494 and which as disclosed in Note 6 to the financial statements includes payments for specialized materials and services - pond materials amounting to Kshs.863,487,130. Review of procurement documents provided for audit revealed that individual scoresheets had inconsistencies, where some evaluators would give a negative score in certain criteria while others would give a positive on the same. In addition, changes in preliminary evaluation and other changes were being made in the scoresheets without counter-signing for the same, hence adherence to evaluation criteria stipulated in the bid documents could not be verified.

Further, Management did not provide for audit, evidence of appointment and report of inspection and acceptance committee. This is contrary to Section 48.(1) of the Public Procurement and Assets Disposal Act, 2015 which requires an Accounting Officer of a procuring entity to establish an ad-hoc committee known as the inspection and acceptance committee to ensure that the correct quantity of the goods have been received.

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

1498. Purchase of Motorcycles

1498.1 Lack of Individual Scoresheets for the Members of Procurement Evaluation Committee

The statement of receipts and payments reflects an expenditure on acquisition of non-financial assets of Kshs.46,953,392 which as disclosed in Note 8 to the financial statements includes purchase of vehicles and other transport equipment - 124 motorcycles at a cost of Kshs.33,137,931. Review of procurement documents revealed that the Accounting Officer appointed evaluation committee team that issued an evaluation report, however, the individual member scoresheets were not provided for audit verification. Hence, it was not possible to confirm if the evaluation was done in line

with Regulation 31.(1) and (2) of Public Procurement and Assets Disposal Regulations, 2020 which states that each member of the evaluation committee shall evaluate independently from the other members prior to sharing his or her analysis questions and evaluation including his or her rating with the other members of the technical evaluation committee and the individual score sheets shall be kept as records of a procurement proceeding.

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

1498.2 Delay in Delivery of Motorcycles

Review of contract records revealed that the supplier was to deliver the 124 motorcycles within three (3) months upon signing the contract on 12 May, 2021. However, sixty-five (65) motorcycles were delivered on 17 February, 2022 five (5) months after the contract lapsed on 13 August, 2021 and expiry of performance guarantee. Management did not provide an explanation for the delays in delivery and it could not be confirmed whether there were changes to the contract, hence part deliveries were made without a valid contract in place.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1499. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1500. As required by International Fund for Agricultural Development (IFAD), except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I report based on my audit, that:

i. Proper accounting records have been kept;

ii. The financial statements agree with the accounting records;

iii. IFAD funds and Government of Kenya Counterpart funds have been used in accordance with the financing agreement, with due attention to economy, efficiency, effectiveness and only for the purposes of the Programme;

iv. Services financed during the year were procured in accordance with the terms and conditions of financing agreement;

v. All supporting documentation, records and accounts have been maintained in respect of all Programme activities;

vi. National laws have been complied with and financial and accounting procedures approved for the Programme were followed and used; and

vii. Special account has been properly maintained for the Programme in accordance with the provisions of Loan Agreement.

STATE DEPARTMENT FOR CROP DEVELOPMENT AND AGRICULTURAL RESEARCH – VOTE 1169

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1501. Irregularities in Use of Goods and Services

The statement of receipts and payments reflects an expenditure on use of goods and services amounting to Kshs.5,243,881,007 as disclosed in Note 6 to the financial statements. However, the following unsatisfactory matters were observed:

1501.1 Payment for Incomplete Works at Kilimo House

The balance includes an amount of Kshs.348,490,555 in respect of routine maintenance - other assets out of which an amount of Kshs.4,833,700 was paid in respect of a contract awarded to a local contractor for the refurbishment of the main reception at Kilimo House. According to the Bill of Quantities (BQs), the works included the installation of a gypsum ceiling at the entire reception area at a cost of Kshs.3,183,700. However, physical verification of the works confirmed that no gypsum works were carried out as specified in the contract yet the contractor was paid for the works.

1501.2 Domestic Travel and Subsistence

Further, the balance includes an expenditure of Kshs.1,169,614,130 in respect of domestic travel and subsistence out of which an amount of Kshs.50,985,229 was issued as Authority to Incur Expenditure (AIEs) to various institutions. However, review of records revealed that the AIEs were expensed immediately at the point of payment before any funds were spent by the respective institutions. This was a departure from the normal Government treatment of AIEs whereby the State Department should have held them in a suspense account and expensed them as the beneficiary institutions provided the expenditure returns of the funds sent to them. Any balance not accounted for should then have been treated as a receivable balance from the institutions in the books of the State Department.

1501.3 Unsupported Expenditure on Specialized Materials and Services

In addition, the balance includes an amount of Kshs.512,860,946 in respect to specialized materials and services out of which an amount of Kshs.16,576,411 was in form of Authority to Incur Expenditure (AIEs) for which corresponding expenditure returns were not provided for audit review.

1501.4 Variances between State Department's Expenditure and Projects' Expenditure

Included in the expenditure for domestic travel and subsistence of Kshs.1,169,614,130 is an amount of Kshs.183,504,669 relating to four (4) donor funded Projects. However, review of the Projects' financial records revealed that seven (7) donor funded Projects

under the State Department had a total domestic travel and subsistence expenditure of Kshs.292,164,530 as detailed in the table below:

Donor Funded Project	State Department Financial Statements (Kshs.)	Donor Funded Projects' Records (Kshs.)	Variance (Kshs.)
ELRP	149,704,439	169,772,450	(20,068,011)
AGRA	-	40,015,780	(40,015,780)
SIVAP	-	1,486,405	(1,486,405)
ASDSP II	830,000	256,320	573,680
NARIG	25,764,399	49,454,617	(23,690,218)
CADREP	7,205,831	9,956,263	(2,780,432)
EYKP	-	21,222,695	(21,222,695)
Total	**183,504,669**	**292,164,530**	

In the circumstances, the accuracy and completeness of the expenditure on use of goods and services amounting to Kshs.5,243,881,007 could not be confirmed.

Other Matter

1502. Pending Bills

Note 19.2 to the financial statements reflects pending bills amounting to Kshs.9,396,775,821 as at 30 June, 2022 which were not settled in the year under review but were carried forward to the 2022/2023 financial year. Further, as disclosed in Annex 1 to the financial statements, the balance includes bills amounting to Kshs.7,109,099,006 and Kshs.14,626,689 in respect to fertilizer subsidy and supply of goods and services, respectively. However, the bills were not supported with relevant documents and authority as required under Regulation 104 of the Public Finance Management (National Government) Regulations, 2015.

Review of the previous year's pending bills closing balances revealed that the State Department had reported pending bills of Kshs.8,536,661,169 payable to National Cereals and Produce Board for fertilizer subsidy. However, Annex 1 to the financial statements reflects the debt owed to the National Cereals and Produce Board (NCPB) of Kshs.5,352,575,015 resulting to an unsupported and unexplained variance of Kshs.3,184,086,154.

Further, the unaudited financial statements of NCPB for the year ended 30 June, 2022 reflected Government debtors – Ministry of Agriculture fertilizer account balance of Kshs.4,735,666,409 in respect of the amount receivable from the State Department for fertilizer subsidy. The resultant variance of Kshs.616,908,606 was not explained.

In addition, review of Annex 1 to the financial statements revealed that pending bills relating to the recurrent vote of Kshs.1,959,118,454 and development vote of Kshs.7,109,099,006 all totalling Kshs.9,068,217,460 had been outstanding from the

financial year 2018/2019 and earlier years. Management did not provide an explanation why the long outstanding pending bills had not been settled.

Failure to settle bills in the year to which they relate adversely affects the subsequent year`s provisions to which they have to be charged.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1503. Construction of Buildings

The statement of receipts and payments reflects expenditure on acquisition of assets of Kshs.2,816,490,955 which as disclosed in Note 10 to the financial statements includes an amount of Kshs.130,965,575 relating to construction of buildings. However, the following unsatisfactory matters were observed:

1503.1 Delayed Erection and Completion of Administration Offices/Hostels Block

The State Department awarded the contract for erection and completion of administration offices/hostels block at the proposed School of Agriculture in Ainabkoi, Uasin Gishu County at a contract sum of Kshs.239,428,873. The project commenced on 17 October, 2015 for a contract period of 52 weeks with an expected completion date of 17 October, 2016. However, the Project was not completed on time and the contractor was awarded several extensions of time revising the expected completion date to 23 December, 2020.

Further, as a result of fundamental breach of the contract by the contractor, the contract was terminated on 22 October, 2022. At the time of contract termination, physical progress of works was at 75% and the contractor had been paid a total amount of Kshs.164,792,291 including Kshs.25,411,132 paid during the year under review. However, the State Department does not seem to have a recourse since the performance guarantee submitted by the contractor has already expired.

1503.2 Stalled Construction of Laare Miraa Markerting Shed

The contract for construction of Laare miraa marketing shed was awarded to a local contractor at a cost of Kshs.23,502,066. The contract was for twelve (12) months (48 weeks) with the completion date being 3 October, 2021 which was later revised to 19 February, 2022.

An audit inspection of the Project carried out on 26 July, 2022 revealed that the contractor had abandoned site and the Project had stalled at 60% completion, with the contractor having been paid an amount of Kshs.11,683,432.

In the circumstances, the value for money on the Kshs.176,475,723 incurred on the two (2) projects could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1504. Failure to Maintain an Updated Asset Register

Annex 2 to the financial statements reflects a summary of fixed assets register with a historical cost balance of Kshs.20,329,209,971 as at 30 June, 2022 (2021-Kshs.17,512,719,015). However, the State Department did not maintain an updated fixed assets register which could have indicated details such as type of assets, code for identification, name tags, cost of acquisition and location among others relevant details.

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

DONOR FUNDED PROJECTS

KENYA CEREAL ENHANCEMENT PROGRAMME - CLIMATE RESILIENT AGRICULTURAL LIVELIHOOD WINDOW (EU GRANT NO.2000000623, GRANT NO.2000001522, GRANT NO.2000003493, GRANT NO.2000001122 AND IFAD LOAN NO.2000001121)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1505. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1506. Non-Compliance with the One-Third of Basic Salary Rule

Analysis of the staff payroll summaries revealed that for the twelve (12) months in the year under review, five (5) members of staff were paid net salaries that fell below a third of their basic salary. This is contrary to Section 19(e) of the Employment Act, 2007 which states that, "without prejudice to any right of recovery of any debt due and notwithstanding the provisions of any other written law, the total amount of all deductions which under the provisions of sub-section (1) may be made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages or such additional or other amount as maybe prescribed by the Minister either generally or in relation to a specified employer or employee or class of employers or employee or any trade or industry".

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1507. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1508. As required by the International Fund for Agricultural Development (IFAD) and the financing agreement, I report based on the audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Programme and the Programme's financial statements are in agreement with the accounting records and returns.

MULTI-NATIONAL DROUGHT RESILIENCE AND SUSTAINABLE LIVELIHOODS PROGRAMME IN THE HORN OF AFRICA (ADF LOAN NO. 2100150028345)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1509. Unreconciled Expenditure Figures

The statement of receipts and payments reflects total expenditure of Kshs.684,828,256 while the corresponding IFMIS ledgers reflects total expenditure of Kshs.725,118,957 resulting to unreconciled variance of Kshs.40,290,701.

In the circumstances, the accuracy and completeness of the expenditure figures included in these financial statements could not be confirmed.

1510. Unsupported Government Counterpart Funding

The statement of receipts and payments reflects purchase of goods and services amount of Kshs.118,664,693 out of which an expenditure totalling to Kshs.40,879,238 was incurred by the Parent Ministry on behalf of the project as Government counterpart funding. However, ledgers and payment vouchers to support the expenditure were not provided for audit review.

In the circumstances, the accuracy and completeness of the Government counterpart funding and related expenditure of Kshs.40,879,238 on purchase of goods and services could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1511. Unapproved Reallocation of Expenditure

The statement of receipts and payments reflects acquisition of assets amount of Kshs.548,663,563 and which as disclosed in Note 8 to the financial statements includes an expenditure of Kshs.64,844,756 relating to research, feasibility studies, project preparation and design, project supervision. Review of the expenditure against the budgeted expenditure by item revealed unapproved over expenditure of Kshs.36,094,756 or 126% of the budgeted amount of Kshs.28,750,000.

No evidence of approval for the reallocations of the expenditure as required by Section 43(2) of the Public Finance Management Act, 2012 has been provided.

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

1512. Stalled Projects

The project status report provided indicates that sixteen (16) contracts with a cumulative contract sum of Kshs.713,929,357 had been terminated for varying reasons after having paid Kshs.145,863,129. Further, review of records revealed that three (3) of the contractors whose contracts were terminated had been awarded more than one contract all of which failed to perform as detailed in the table below:

Contract No.	Description of Works	Contractor No.	Total Contract Value (Kshs.)	Amount Disbursed (Kshs.)
MOALF/DRSLP/T04 1/2019-2020	Construction of Lol Kunyani Livestock Sale Yard in Samburu County	1	11,393,136.84	6,291,710.30
MOALF/DRSLP/T04 0/2019-2020	Construction of Kurungu Livestock Sale Yard in Samburu County	1	9,899,921.05	7,482,192.13
MOALF/DRSLP/T00 7/2017-2018	Drilling and Equipping of Kalikwon Shallow Well in West Pokot County	2	5,517,327.60	3,923,099.91
MOALF/DRSLP/T00 6/2017-2018	Drilling and Equipping of Chiloi Shallow Well in West Pokot County	2	5,594,811.00	3,190,396.03

Contract No.	Description of Works	Contractor No.	Total Contract Value (Kshs.)	Amount Disbursed (Kshs.)
MOALF/DRSLP/T002/2017-2018	Drilling and Equipping of Kasirma Borehole in Baringo County	3	8,230,544.00	2,498,275.86
MOALF/DRSLP/T004/2017-2018	Drilling and Equipping of Chepel Borehole in West Pokot County	3	8,118,914.65	2,640,755.95
Total			**48,754,655.14**	**26,026,430.18**

No reason was provided for failure by Management to surcharge the contractors for non-performance as provided for in the contracts.

In the circumstances, value for money on the expenditure of Kshs.26,026,430.18 incurred on the projects could not be ascertained.

1513. Unsupported Procurement of Contracts

The Project Management awarded a contract for construction of the Sinende Hayshed in Baringo County on 29 June, 2021 effective from 23 September, 2021 with a completion date of 4 March, 2022 at a contract sum of Kshs.12,545,148. As at 30 June, 2022 an amount of Kshs.9,288,538 had been paid for the works.

However, Management did not provide for audit review procurement records including the tender registers, bids submitted and evaluation reports and individual scoring sheets by the tender evaluators.

In the circumstances, it was not possible to determine if the contract had been awarded in accordance with the applicable law and regulations and if stakeholders obtained value for money in the procurement of the contract.

1514. Poor Workmanship in the Construction of Hay Shed at Koiket in West Pokot County

The Project Management awarded a contract for proposed Construction of Hay Shed in West Pokot County on 8 October, 2020 at a contract sum of Kshs.8,516,180 commencing on 02 February, 2021 and a revised completion date of 9 September, 2021.

Review of records revealed that the project was complete and an amount of Kshs.4,620,247 had been paid to the contractor as at 30 June, 2022. However, audit inspection of the project in the month of September, 2022 revealed that the hayshed had never been utilized by the community. Further, the concrete base holding the two 10,000 litre tanks and the plastered corners of the super structure had cracked and had began to chip off. The wooden racks upon which the harvested hay would be laid while in storage were poorly made with low quality joints which caused disintegration and with wide

spaces through which the hay bales would fall through. No explanation was provided by Management of the failure by the contractor to rectify the defects.

In the circumstances, the stakeholders may not obtain value for money on the project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1515. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1516. As required by the African Development Fund, I report based on my audit, that the Programme's funds have been used in accordance with the conditions of the Loan Agreement. Further, counterpart funds provided have been used in accordance with the conditions of the Loan Agreement and goods and services financed have been procured in accordance with the Loan Agreement and the Fund's rules and procedures. In addition, necessary supporting documents, records and accounts have been kept in respect of all Programme's activities and internal controls to monitor expenditure and other financial transactions and ensure safe custody of assets exists; and ledgers and fixed assets register for the Programme's assets are maintained.

SMALL-SCALE IRRIGATION AND VALUE ADDITION PROJECT - (ADF LOAN NO. 2000130014530 AND GRANT NO.557015000751)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1517. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1518. Slow Rate of Funds Absorption

The financing agreement and other project information accompanying the financial statements reflects donor commitment of USD 24,000,000 and USD 39,546,000 in respect of grant and loan respectively, totalling USD 63,546,000 or approximately Kshs.6,053,387,712 and a project closure date of 30 June, 2022. However, review of the project report status as at 30 June, 2022 revealed that grant and loan amounting to Kshs.873,235,436 (USD 9,032,944) and Kshs. 2,005,108,943 (USD 20,740,454) only being 38% and 52% of the donor commitment respectively had been absorbed.

The slow rate of absorption of funds implies that some activities in the project will not be implemented and this will negatively impact on achievement of the goals of the project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1519. Stalled and Delayed Completion of Projects

Examination of contract records and documents revealed that Management had awarded various contracts for the construction of irrigation schemes and dams in various targeted Counties. Review of project status report and Project Coordination Unit minutes revealed delayed completion of projects with contract sums totalling Kshs.803,675,951 out of which an amount of Kshs.395,191,410 or 49% had been paid as at 30 June, 2022. An audit inspection exercise of the construction of earth sub surface dams and boreholes carried out in the month of September, 2022 in seven (7) sampled counties revealed that the dams were incomplete, did not have compactions reports as required in the bill of quantities and siltation had occurred in some dams while some had been vandalised.

In the circumstances, stakeholders may not obtain value for money for the resources already spent on these projects and the objectives of the projects may not be achieved.

1520. Abandoned Projects

Examination of contracts and payment records revealed that the Project Management awarded six (6) contracts for drilling of boreholes in various Counties to various contractors at combined contract sums totalling Kshs.51,063,955 out of which an amount of Kshs.16,715,286 had been paid as at 30 June, 2022. Review of the project status report and physical inspection of the works in the month of September, 2022 revealed that the projects had been abandoned. Further, three (3) boreholes with total contract sum of Kshs.25,187,904 had dried up, two (2) boreholes with contract sums amounting to Kshs.15,412,102 were found to have water unsuitable for consumption and one (1) borehole with a contract sum of Kshs.10,463,949 had yielded insignificant amount of water. Although, the Project Management had incurred costs on feasibility studies and hydro-geological studies and reports done recommending drilling of the boreholes, the costs incurred did not translate to benefits to the public. It is also not clear how Management intends to resolve the need to provide water to the targeted beneficiaries as initially envisaged where these boreholes, dams and surface dams have been abandoned.

In the circumstances, the public did not obtain value for money on the projects.

1521. Stalled Construction of Kabason Irrigation Scheme in Bomet County

A contract for the construction of Kabason Irrigation Scheme in Bomet County was awarded to a firm at a contract sum of Kshs.257,092,132 for a contract period of twelve (12) months with the expected completion date of October, 2018. Review of the project records revealed that an amount of Kshs.173,740,365 or 68% of the contract sum had been paid while certified works amounted to Kshs.155,538,430 or 60% of the contract sum. Management has not provided an explanation on why payments were made beyond the certified works. Further, an audit inspection in the month of September, 2022 revealed that the construction works had stalled and the contractor was not on site.

In the circumstances, stakeholders may not obtain value for money already spent on the project and further delays in completion may lead to cost escalation.

1522. Omitted Works in Makanyanga Irrigation Scheme Access Roads Project

The Project Management awarded a contract for the construction of Makanyanga Irrigation Scheme access roads in Tharaka Nthi County to a firm at a contract sum of Kshs.34,144,484. Review of the bill of quantities revealed that it provided for construction of seven (7) roads totalling to twenty-two (22.1) Km connecting the areas within the scheme at a contract sum of Kshs.3,234,000. Further, the bill of quantities provided for construction of two (2) sign boards for each of the seven (7) roads at a cost of Kshs.50,000 per sign board totalling Kshs.700,000 to show the location of irrigation project.

However, physical inspection of the irrigation scheme in the month of September, 2022 revealed that culverts were not in place, erosion was visible on the roads, and no signboards had been erected.

In the circumstances, stakeholders may not obtain value for money if the omitted works are not completed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1523. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1524. As required by African Development Bank and African Development Fund, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I report based on my audit, that:

i. The Project funds have been used in accordance with the conditions of Loan Agreement and Protocol of Grant Agreement with due attention to economy, efficiency and effectiveness for the purposes for which they were provided;

ii. Counterpart funds have been provided and used in accordance with the conditions of the Loan Agreement and Protocol of Grant Agreement;

iii. Goods and services financed have been procured in accordance with the Loan Agreement and Protocol of Grant Agreement, and the Bank`s rules and procedures;

iv. Necessary supporting documents, records and accounts have been kept in respect of all Project activities;

v. Adequate internal control to monitor expenditure and other financial transactions and ensure safe custody of assets exist; and

vi. Ledgers and fixed assets register for the Project's assets are maintained as required.

CAPACITY DEVELOPMENT PROJECT FOR ENHANCEMENT OF RICE PRODUCTION IN IRRIGATION SCHEMES IN KENYA (PROJECT GRANT/CREDIT NUMBER 1161001009)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1525. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1526. Budgetary Control and Performance

The statement of comparison of budget and actual amounts for the year ended 30 June, 2022 reflects final revenue budget and actual amounts on comparable basis of Kshs.54,600,000 and Kshs.27,622,897 respectively, resulting in an underfunding of Kshs.26,977,103 or 49% of the budget. Further, the project spent an amount of Kshs.27,622,897 out of the approved expenditure budget of Kshs.54,600,000, resulting in under expenditure of Kshs.26,622,103 or 49% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1527. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1528. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NATIONAL AGRICULTURAL AND RURAL INCLUSIVE GROWTH PROJECT (IDA CREDIT NO. 5900-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1529. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1530. Non-Remittance of Counterpart Funds

The statement of receipts and payments as disclosed in Note 11.1 to the financial statements reflects transfer from Government entities - Counties and National Government amount of Kshs.330,979,258. However, review of the transfers schedules and other supporting documents revealed that the National and County Governments had not remitted counterpart funds amounting to Kshs.159,606,369 and Kshs.157,634,404 respectively. This is contrary to schedule 2 of the Project's Financing Agreement which states that IDA and the Government of Kenya (GoK) will Fund 91% and 9% of every year`s activities or expenditure of the Project respectively.

In the circumstances, the non-remittance of the GoK portion of the funding may have impacted negatively on the implementation and development of the programmes hence affecting delivery of goods and services to the public.

1531. Delay in Implementation of Component Three of the Project

Review of project documents and County project implementation status reports in six sampled counties revealed delays in implementation of twelve (12) projects under component three of the project with a total budgeted cost of Kshs.731,370,592 despite availability of funds.

As at the date of audit inspection in October, 2022 these projects were either still ongoing or not started with no clear indication by the Management on when the projects will be completed.

Consequently, the value for money from the above projects could not be ascertained.

1532. Anomalies in the Counties Bank Accounts

Review of County bank balances documents revealed that the County Government of Migori Management had frozen the projects bank accounts from 24 June, 2022. In addition, scrutiny of signatories to the account for County Government of Homa bay revealed that there were five (5) signatories to the account contrary to Section 2.3.2 Paragraph 5 of NARIGP Finance Manual which states that County level signatories to the

accounts will be the County project coordinator, County project accountant, and either the Accounting Officer for Finance or Agriculture.

In the circumstances, the delivery of goods and services and project implementation may be inhibited by the inability to access funds for projects. In addition, the Management was in breach of the project's finance manual.

1533. Delayed Transfer of Funds from County Revenue Fund

The statement of receipts and payments reflects transfers to County Governments of Kshs.4,310,864,684 as disclosed under Note 11.6 to the financial statements. Examination of County project coordinating units bank accounts and county revenue fund account revealed that as of October, 2022, the County Governments of Kilifi, Homabay and Kiambu had not transferred amounts of Kshs.136,732,417, Kshs.104,639,790 and Kshs.110,216,401 respectively received during the financial year 2021/2022 from the County revenue fund to the projects special purpose accounts.

In the circumstances, the intended beneficiaries did not benefit from the scheduled programmes and projects due to failure by the County Management to release the Project funds promptly.

1534. Idle Assets

The statement of receipts and payments and as disclosed in Note 11.6 to the financial statements reflects transfers to other Government entities of Kshs.4,310,864,684 out of which Kshs.2,423,394,921 was spent by various Counties under the programme. Included in this amount was expenditure for County Government of Meru of Kshs.5,366,600 for the supply of twenty (20) motor cycles. However, physical verification of the stores in the month of October, 2022 revealed that the motor cycles had not been dispatched to the various wards in the County. No satisfactory explanation was provided as to why these motorcycles have not been distributed since the date they were received. In the circumstances, stakeholders may not obtain value for their resources if the motor cycles are not put to their intended use.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1535. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA CLIMATE SMART AGRICULTURE PROJECT (IDA CREDIT NO.5945-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1536. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1537. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects Project's expenditure of Kshs.6,023,898,736 against an actual receipt of Kshs.7,552,013,430 resulting to an under absorption of Kshs.1,528,114,694 or 20% of the available funds.

The under absorption of the funds released could have affected the planned activities and negatively impacted on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1538. Irregular Procurement of Assorted Furniture

The statement of receipts and payments reflects an expenditure of Kshs.217,411,414 in respect of acquisition of non-financial assets and which as disclosed in Note 4 to the financial statements includes an amount of Kshs.67,727,389 relating to purchase of office furniture and general equipment. The latter further includes an amount of Kshs.8,743,960 paid for supply and delivery of assorted office furniture at Livestock Training Institute - Wajir. However, the firm was not in the list of registered suppliers contrary to the provisions of Section 106 (2)(a) of Public Procurement and Asset Disposal Act, 2015 which provides that, an Accounting Officer of a procuring entity shall give the request for quotations to such persons as are registered by the procuring entity.

In addition, although the LPO was dated 23 February, 2021 the supplier delivered the goods on 06 May, 2021. This disregards Regulation 53 of Public Finance Management (National Government) Regulations, 2015 which stipulates that a local purchase order or local service order shall be valid for a period of thirty days from the date of issue.

Further, the goods were inspected on 19 August, 2021 by the Ag. School Principal and Project Manager although there was no documented evidence of appointment of the two as members of inspection and acceptance committee by Accounting Officer in accordance with provisions of Section 48 of Public Procurement and Asset Disposal Act, 2015 which states that an accounting officer of a procuring entity may establish an ad hoc committee known as the inspection and acceptance committee.

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

1539. Rehabilitation and Upgrading of Wajir Livestock Institute

The Project awarded Contract No. MOALF&C/SDCDAR/KCSAP/WAJIR/003/2019 for mechanical works, borehole drilling and electrical works to a local contractor on 25 August, 2020 at a total contract sum of Kshs.28,358,800.

However, review of contract records and documents revealed the following unsatisfactory matters:

i. The notification of award of the contract was signed by an officer other than the Accounting Officer and no written delegation of authority was provided for audit.

ii. The contract period had expired and consequently the contractor was implementing the project without a valid contract.

iii. The performance bond had expired and had not been renewed.

iv. There is a low-level tank made of different plates which were bulging outwards, an indication of stress. Evidence of testing of the tank at the factory was not provided for audit review.

In the circumstances, Management was in breach of conditions of the contract and continued delay in the completion of the Project may lead to cost escalations.

1540. Irregular Signatories to the Operation Bank Account in Lamu County

Examination of financial records maintained at Lamu County Project Office revealed that the County Chief Officers for Finance and Agriculture were mandatory signatories to the operations account. This is contrary to provisions of Paragraph 42 of Project Finance Manual 2018 which states that each County shall open a County Project bank account in a commercial bank where Government has an interest. Further, that the signatories shall be the County Project Coordinator as the mandatory signatory, the County Project Accountant and the Head of Accounts/Finance.

In the circumstances, the County Management was in breach of the Financing Agreement.

1541. Construction of Inaya Irrigation System on Private Land

The County Government of Kakamega awarded a Contract No. CGK/KCSAP/003/2019-2020 for Construction of Inaya Irrigation System at Inaya Water Pan to a Contractor at a contract sum of Kshs.8,492,680. However, review of documents relating to the contract revealed that the project which is awaiting handover to the local community is constructed on private land. This is contrary to Part 1.2.4 of the National Treasury Guidelines for Management of Specific Categories of Assets and Liabilities, 2020 which provides that no public funds shall be invested on land acquired, through donation or otherwise, where title has not passed to the receiving public sector entity.

In the circumstances, the County Management was in breach of The National Treasury Guidelines.

1542. Failure to Open a Special Purpose Account in Wajir County

Paragraph 2(2) of the Project Implementation Manual on obligation of County Governments required that participating Counties to open a Special Purpose Account (SPA) for payment of project expenditures through the IFMIS system where signatories to the accounts are the Chief Officer (CO) Finance and Chief Officer Agriculture. However, the County Government of Wajir had by 30 June, 2022 not complied with the requirement.

In the circumstances, the County Management is in breach of the Financing Agreement.

1543. Failure to Remit Counterpart Funds by Selected Counties

Review of project documents and records maintained at sampled County Project Offices revealed that five (5) counties, namely Wajir County, Lamu County, Baringo County, West Pokot County and Kakamega County had not remitted counterpart funds amounting to Kshs.15,000,000, 38,811,790, Kshs.5,904,488, Kshs.14,122,076 and Kshs.51,870,018 respectively, all totalling Kshs.125,708,372. These balances relates to accumulated 20% counterpart funds on sub-project implemented and Counties contribution for office utilities and overheads in accordance with Paragraph 34 of Project Appraisal Document which requires that County Governments to contribute at least 20 percent of the total cost of the sub-projects.

In the circumstances, Management of the affected counties were in breach of the Financing Agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1544. There were no material issues relating to effectiveness of internal controls, risk management and governance.

ENABLE YOUTH KENYA PROGRAM (ADF LOAN NO.2100150038895)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1545. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1546. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipt budget and actual on comparable basis of Kshs.947,000,000 and Kshs.118,988,860 respectively resulting in an underfunding of Kshs.828,011,140 or 87% of the budget. Similarly, the Program spent an amount of Kshs.110,731,840 against an approved budget of Kshs.947,000,000 resulting to an under expenditure of Kshs.836,268,160 or 88% of the budget. The underfunding and underexpenditure might have affected the planned activities and negatively impacted on delivery of goods and services to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1547. Unsupported Transfers to Other Government Entities

The statement of receipts and payments reflects transfers to other government entities of Kshs.20,000,000, as disclosed in Note 9 to the financial statements, that was disbursed to Agricultural Information Resource Centre in form of Authority to Incur Expenditure (AIEs). However, no documentary evidence was provided to confirm that the expenditure was incurred on activities of the Program. Further, the amount was not budgeted for.

In the circumstances, the regularity of the transfers to other government entities of Kshs.20,000,000 could not be confirmed.

1548. Slow Absorption of Project Funds

As disclosed under Note 1.2 of the Project information, the Program is expected to close on 30 June, 2023. Further, Note 1.7 on funding summary indicates commitment made towards the Program amounting to Kshs.3,751,072,500 (USD 36,330,000). However, actual drawdowns as at 30 June, 2022 amounted to Kshs.254,041,538 (USD 2,352,796) leaving a balance of Kshs.3,497,030,962 (USD 33,977,204) undrawn with one (1) year to the project end date.

Consequently, the Program's slow absorption of the funds may affect the planned activities.

1549. Delayed Implementation of Projects

1549.1 Review of projects progress reports and contract agreements for ongoing works being implemented by the Program at a total cost of Kshs.69,300,538 revealed overall slow project implementation of seven (7) projects. The contracts were for proposed renovations and rehabilitation of incubation centres for Enable Youth Program at Dairy Training Institute in Naivasha, Eldoret University, Ramogi Institute of Advanced Technology, Kisii University, Regional Pastoral Training Centre in Narok, Kenya School of Agriculture in Nyeri and Pwani University in Kilifi at a contract sum of Kshs.8,977,773, Kshs.8,619,844, Kshs.9,392,601, Kshs.7,946,939, Kshs8,318,517, Kshs.2,786,206 and Kshs.15,297,348

respectively. All the projects were scheduled to begin in November, 2021 and expected to take 12 weeks to completion by end of February 2022. However, it was noted that projects were behind schedule by 43 weeks at 60%, 40%, 95%, 30%, 30%, 10% and 70% completion respectively. Further, actual physical inspection of the sampled projects in the month of October, 2022 revealed the following unsatisfacory matters:

1549.2 Ramogi Institute for Advanced Technology - Kisumu

Site visit to the project revealed the overall percentage of works completed stood at 95%. The scope of works undertaken by the contractor included renovation of classrooms, proposed resource center, a poultry unit and a slaughter slab. In addition, review of the project engineers report disclosed that the resource center and poultry units require additional provisions for construction of drainage works before they can be put to use. The works had not been provided for in the original Bill of Quantities when the works were tendered.

1549.3 Regional Pastoral Center - Narok

At the time of the audit inspection, renovation works for classrooms had not yet commenced while the resource center building was done to roofing level only and the internal finishing, electrical works, plumbing works and painting had not been done. In addition, the contract included installation of ground level and elevated water tanks which had not been done and the contractor was not on site at the time of audit inspection.

1549.4 Dairy Training Institute - Naivasha

A visit to the project revealed the overall percentage of works completed stood at 60%. The scope of works undertaken by the contractor included; feed formulation unit, zero grazing unit, goat houses, poultry units and slaughter slab. Whereas, renovation and refurbishment work to the classrooms, office and resource center and washrooms had not yet commenced the contractor was not on site at the time of audit.

In the circumstances, the Program risks non-achievement of set objectives due to failure to execute and complete scheduled projects within the set timeframes.

1550. Delays in Delivery of Goods by Suppliers

Review of procurement contracts entered between the Program and various suppliers revealed delays in delivery of goods by the suppliers with orders totalling Kshs.107,656,475 as indicated below:

i. Three (3) contracts for the supply, delivery, installation and training for pig and beef equipment, for fisheries equipment and for mushroom and vegetables equipment at a contract sum of Kshs.3,965,480, Kshs.16,636,225 and Kshs.31,977,170, respectively whose expected date of delivery was 20 November, 2021 had been delayed by eleven (11) months as of October, 2022.

ii. Two (2) contracts for the supply, delivery, installation and training for dairy value chain equipment and for poultry equipment at a contract sum of Kshs.41,599,600

and Kshs.13,478,000, respectively with an expected delivery date of 20 February, 2022 had been delayed by eight (8) months as of October, 2022.

No explanation was provided for the non-compliance with the contract agreements.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1551. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

As required by African Development Fund (ADF), I report based on my audit, that:

i. The Program's funds have been used in accordance with the conditions of the Loan Agreement with due attention to economy, efficiency and effectiveness, and for the purposes for which they were provided;

ii. Counterpart funds have been provided and used in accordance with the conditions of the Loan Agreement;

iii. Goods and services financed have been procured in accordance with the Loan Agreement and the Fund`s rules and procedures;

iv. Necessary supporting documents, records and accounts have been kept in respect of all Program activities; and

v. Adequate internal control to monitor expenditure and other financial transactions and ensure safe custody of assets exists.

AGRICULTURAL SECTOR DEVELOPMENT SUPPORT PROGRAMME II (SIDA GRANT NO.51110109)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1552. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1553. Low Budget Absorption by the Programme

As disclosed in Note 1.2 of the Project information, the Project is earmarked to close on 30 November, 2022. Note 1.7 on funding summary indicates commitment made towards the Project amounting to Kshs.5,692,500,000 (USD 35,590,254). However, actual drawdowns as at 30 June, 2022 amounted to Kshs.4,671,041,957 equivalent to (USD

30,693,777) leaving undrawn balance of Kshs.1,021,458,043. In addition, the cumulative expenditure as at 30 June, 2022 amounted to Kshs.3,366,688,345 thus yielding an under absorption rate of Kshs.1,304,353,612 or 30% against actual drawdowns to date of Kshs.4,671,041,957.

In the circumstances, the low absorption might have affected the achievement of Programme objectives and may lead to refund of undrawn balance to the donor at the expense of revitalization of the County's agriculture sector as envisaged in the Programme objectives.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1554. Unauthorized Bank Account - Laikipia County

Examination of documents provided during the field audit revealed that ASDSP II, Laikipia County Programme Secretariat had opened a commercial bank account at Equity Bank Ltd but was now dormant. The Programme opened another commercial bank account at National Bank, which is currently active without closing the initial account opened at Equity Bank. In addition, the County Programme Coordination Unit did not provide for audit authority for opening the dormant bank account or details of the signatories to the account. This is contrary to Regulation 82 (4) of the Public Finance Management (National Government) Regulations, 2015 which stipulates that no Accounting Officer may open a bank account for the deposit, custody or withdrawal of public moneys or other moneys for which he or she is responsible in his or her official capacity or for the transaction of official banking business except with the prior authority of The National Treasury.

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

1555. Irregular Appointment of County Chief Officers as Mandatory Signatories to the Operations Bank Account

Review of cash and cash equivalents documents provided for audit revealed that two (2) counties, Isiolo and Meru appointed Chief Officers for Agriculture as mandatory signatories to ASDSP II bank operations accounts. This was contrary to Section C (6) of the Memorandum of Understanding (MoU) between the National Government through the Ministry of Agriculture, Livestock and Fisheries and the County Governments in the year 2018, under obligations of the County Government, which stipulates that the mandatory bank signatories shall be the County ASDSP II Coordinator and the assigned accountant responsible for the Programme.

In the circumstances, the irregularity might lead to impediment of efficient and effective execution of Programme activities through limitation and delays in access of funds.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1556. There were no material issues relating to effectiveness of internal controls, risk management and governance.

EMERGENCY LOCUST RESPONSE PROJECT (IDA CREDIT NO.6648-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1557. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1558. Budgetary Control and Performance

The statement of comparison budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,362,000,000 and Kshs.1,027,505,630 respectively resulting to a budget shortfall of Kshs.334,494,370 or 25% of the budget. Similarly, the Project expended an amount of Kshs.696,009,708 against an actual receipt of Kshs.1,027,505,630 resulting to an underexpenditure of Kshs.331,495,922 or 32% of the actual receipts. The underfunding and under-absorption affected the planned activities and impacted negatively on goods and services delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1559. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1560. There were no material issues relating to effectiveness of internal controls, risk management and governance.

MULTI-NATIONAL RURAL LIVELIHOODS' ADAPTATION TO CLIMATE CHANGE IN THE HORN OF AFRICA (ADB/ADF GRANT NO.5550155001201)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1561. Variances Between Financial Statements and IFMIS Ledger

The statement of receipts and payments reflects total payments of Kshs.68,815,652 as detailed in Note 6 and 8 to the financial statements. However, some reported expenses had variances with the IFMIS ledger as tabulated below:

Item	Actuals as per Financial Statements (Kshs.)	Actuals as per IFMIS Ledger (Kshs.)	Variances (Kshs.)
Printing, Advertising and Information Supplies and Services	1,127,800	0	1,127,800
Training Expenses	8,618,341	21,204,538	(12,586,197)
Specialized Materials and Supp	8,281,552	9,189,652	(908,100)
Office and General Supplies and Services	1,354,607	490,000	864,607
Fuel Oil and Lubricants	1,437,800	2,669,500	(1,231,700)
Other Operating Expenses	9,997,098	10,069,558	(72,460)
Routine Maintenance - Vehicles	4,259,400	2,743,340	1,516,060
Use of Goods Total	**35,076,598**	**46,684,035**	
Research, Feasibility Studies, Project Preparation and Design, Project Supervision	16,243,960	26,960,385	(10,716,425)
Acquisition of Assets Total	**16,243,960**	**26,960,385**	

In the circumstances, the accuracy and completeness of use of goods and acquisition of assets amounts of Kshs.35,076,598 and Kshs.16,243,960 respectively for the year ended 30 June, 2022 could not be confirmed.

1562. Misclassifications under Training Expenses

The statement of receipts and payments reflects purchase of goods and services amount of Kshs.35,644,045 which, as disclosed in Note 6 of the financial statements, includes training expenses amounting to Kshs.8,618,341. Included in the training amount are payments totalling Kshs.1,116,900 incurred on supervision of projects and postage that have been wrongly classified under training. Consequently, the accuracy and completeness of training expenses of Kshs.8,618,341 for the year ended 30 June, 2022 could not be confirmed.

Other Matter

1563. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects approved receipts budget and actual on comparable basis of Kshs.168,000,000 and Kshs.33,821,497, respectively resulting to an underfunding of Kshs.134,178,503 or 20% of the budget. Similarly, the statement reflects an approved expenditure budget of Kshs.168,000,000 and an actual amount of Kshs.68,815,652 resulting to underexpenditure of Kshs.99,184,348 or 59% of the budget.

Further, the statement reflects approved budgeted amounts for purchase of goods and services and acquisition of assets of Kshs.97,527,500 and Kshs.70,472,500 which vary with the approved budget amounts of Kshs.73,527,500 and Kshs.94,472,500 respectively. However, no explanation was given for the variances.

In the circumstances, the underfunding and underexpenditure of the budget affected planned activities and could have negatively impacted on the delivery of goods and services to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1564. Delay in Completion of Kanaodong Producer Group Shallow Well Project

A contract for the construction of Kanaodong Producer Group Shallow Well in Turkana County was awarded at a contract sum of Kshs.2,843,341 for an initial contact period of two (2) months commencing on 18 June, 2021 which was later extended to 4 September, 2021. Physical inspection of the works in the month of September, 2022 revealed that works were incomplete with works valued at Kshs.1,125,000 still pending and the contractor was not on site.

In the circumstances, stakeholders may not obtain value for money for the expenditure incurred on the project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1565. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1566. As required by African Development Bank and African Development Fund, except for the matters described in the Basis for Qualified Opinion, Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I report based on my audit, that:

i. The Programme`s funds have been used in accordance with the conditions of Protocol of Grant Agreement with due attention to economy, efficiency and effectiveness for the purposes for which they were provided;

ii. Goods and services financed have been procured in accordance with the Protocol of Grant Agreement and the Bank's and Fund`s rules and procedures;

iii. Necessary supporting documents, records and accounts have been kept in respect of all Programme activities;

iv. Adequate internal control to monitor expenditure and other financial transactions and ensure safe custody of assets exist; and

v. Ledgers and fixed assets register for the Programme's assets are maintained as required.

vi. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit;

vii. In my opinion, adequate accounting records have been kept by the Programme, so far as appears from the examination of those records; and,

viii. The Programme's financial statements are in agreement with the accounting records and returns.

STRENGTHENING FERTILIZER QUALITY AND REGULATORY STANDARDS IN KENYA PROJECT (AGRA GRANT NO. 2013 SHP 001)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1567. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1568. Failure to Hand over Project Assets

Schedule II of the Grant Agreement dated 23 July, 2014 indicated the project completion date as 30 June, 2017 which was extended to 19 February, 2018 through a letter from the donor (AGRA). However, there was no evidence that assets with cumulative value of Kshs.5,473,400 reflected in the statement of receipts and payments which comprises of motor vehicles and ICT equipment had been handed over to the State Department for Crops Development and Agricultural Research.

In the circumstances, the existence and ownership of assets worth Kshs.5,473,400 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1569. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1570. There were no material issues relating to effectiveness of internal controls, risk management and governance.

SUPPORTING AGRICULTURAL INPUT AND OUTPUT MARKETING POLICY AND REGULATORY REFORMS TO IMPROVE THE ENABLING BUSINESS ENVIRONMENT FOR AGRICULTURE IN KENYA (AGRA GRANT NUMBER 2018 KE 005)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1571. There were no material issues noted during the audit of the financial statements of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1572. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1573. Lack of Internal Audit Review

As previously reported, it was noted that there was no internal audit review of the Project's activities contrary to Section 73(3)(b) of the Public Finance Management Act, 2012 which require that the Internal Auditor shall conduct internal auditing which includes risk-based, value-for-money and systems audits aimed at strengthening internal control mechanisms that could have an impact on achievement of the strategic objectives of the entity.

OTHER DONOR FUNDED PROJECT IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR CROP DEVELOPMENT AND AGRICULTURAL RESEARCH

CENTRE OF EXCELLENCE IN SUSTAINABLE AGRICULTURE AND AGRIBUSINESS MANAGEMENT CREDIT NO.5798-KE - EGERTON UNIVERSITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1574. Other Grants and Transfers and Payments

The statement of receipts and payments reflects other grants and transfers and payments amounting to Kshs.57,826,186 as further detailed in Note 8.7 to the financial statements. The amount relates to expenditure funded by other Donor funds. However, the expenditure includes imprests issued totalling to Kshs.29,650,041 which has not been accounted for and supported with evidence of travel, list of participants and their role in the project and evidence of work done.

In the circumstances, the propriety of the other grants and transfers and payments totalling Kshs.57,826,186 for the year ended 30 June, 2022 could not be confirmed.

Emphasis of Matter

1575. Pending Accounts Payable

Other important disclosures in Note 11 to the financial statements include pending accounts payable totalling to Kshs.2,475,500. Review of documents revealed that the pending accounts payable relate to commitments for which the goods and services had not been delivered or received.

Failure to settle bills during the year in which they relate to adversely affect the budgetary provisions for the subsequent year to which they have to be charged.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1576. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1577. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1578. As required by International Development Association - Credit No.5798-KE financing agreement, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Centre of Excellence in Sustainable Agriculture and Agribusiness Management (CESAAM) and the financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR CO-OPERATIVES – VOTE 1173

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1579. Misstatement of Expenditure on Rentals of Produced Assets

The statement of receipts and payments reflects an expenditure of Kshs.344,120,894 on use of goods and services which, as disclosed in Note 4 to the financial statements, includes an amount of Kshs.8,509,016 on rentals of produced assets. Review of payment records revealed that the expenditure on rentals of produced assets includes payments totalling Kshs.346,657 which did not relate to rental of produced assets.

In the circumstances, the expenditure on rentals of produced assets is overstated by Kshs.346,657.

1580. Variances on Compensation of Employees Expenditure

The statement of receipts and payments reflects an expenditure of Kshs.244,683,479 on compensation of employees which, as disclosed in Note 3 to the financial statements, includes amounts of Kshs.161,346,752 and Kshs.83,336,727 in respect of basic salaries and other personal allowances, respectively. However, review of payroll records revealed that amounts of Kshs.138,410,003 and Kshs.94,790,129 were paid in respect of basic salaries and other personal allowances, resulting to unreconciled variances of Kshs.22,936,749 and Kshs.11,453,402 respectively. Although, Management explained that the variances arose due to payments that were not made through the payroll, no reconciliations of the differences were provided for audit verification.

Further, Integrated Financial Management Information System (IFMIS) payments records indicated that the Department paid an amount of Kshs.5,724,523 as special duty allowance to various officers. However, the Integrated Personnel and Payroll Database (IPPD) system did not reflect any amount having been paid as special duty allowances.

In the circumstances, the accuracy and completeness of the basic salaries and other personal allowances of Kshs.22,936,749 and Kshs.11,453,402 respectively could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1581. Irregular Award of Tender for Proposed Modernisation of Luanda Farmers' Co-operative Union Ginnery

The State Department awarded a contract for the proposed modernisation of Luanda Farmers' Co-operative Union Ginnery to a firm at a contract sum of Kshs.36,262,199. Review of the procurement process revealed that bidder number six (6) whose bid was

Kshs.28,887,225 was found non-responsive. The bidder's form of tender was not dully filled, signed and a sworn affidavit on default notices / warning for incomplete projects was not attached. These were mandatory requirements. However, examination of the original bid submitted by the firm on 16 February, 2021 confirms that the bidder had fulfilled the said mandatory requirements as was the case with the winning bidder.

Further, the tender documents provided for the supply of a cottonseed screw conveyor with all necessary equipment, spare parts and accompanying tools for operation at a total cost of Kshs.2,273,224. However, physical verification of the Project in the month of September, 2022 revealed no new conveyor was delivered. Instead, the existing pneumatic seed cotton transportation system was cleaned, serviced and repaired at a total cost of Kshs.240,000, resulting in an unaccounted for expenditure of Kshs.2,033,224.

Review of payment records as at 30 June, 2022 revealed that an amount of Kshs.35,021,624 had been paid leaving a balance of Kshs.1,240,575 unpaid as of 30 June, 2022.

In the circumstances, the Management was in breach of the law and the stakeholders may not have obtained value for money in this procurement of this contract.

1582. Irregular Procurement for Consultancy Services to Modernize Coffee Factories

On 14 September, 2021, the State Department invited bids for technical and financial proposals for consultancy services to modernize selected co-operative coffee factories in the country through request for proposals. Review of the procurement records revealed that four (4) bidders responded to the tender but the following anomalies were observed:

i. The tender notice was published under Section 116(1)(b) of the Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer may use request for proposals for a procurement if the services to be procured are advisory or otherwise of predominately intellectual nature. However, the items advertised for in the tender notice and tender documents issued under terms of reference to the bidders were not intellectual in nature.

ii. The professional opinion was approved by the Accounting Officer on 2 November, 2021 while notification of award to successful and unsuccessful bidders was communicated on 1 November, 2021.

iii. Although the Head of Supply Chain Management Services prepared an addendum on 20 September, 2021 notifying the bidders that requirement number 12 and number 15 on communication, authorization, certification and ICT authority certification were not mandatory requirements, there is no evidence that a tender notice for the addendum was issued to tenderers as required by law.

iv. The standard technical evaluation criteria was not provided for audit review.

The foregoing irregularities notwithstanding, the contract for consultancy services to modernize selected co-operative coffee factories in the country was awarded and signed

between the State Department for Co-operatives and a firm on 24 November, 2021 at a contract sum of Kshs.61,568,740.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1583. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR TRADE AND ENTERPRISE DEVELOPMENT – VOTE 1174

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1584. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1585. Government Assets

1585.1 Loss of Motor Vehicles

As previously reported, the financial statements reflect non-current assets with a historical cost of Kshs.371,380,398, as disclosed in the summary of fixed assets register at Annex 2 of the financial statements. Included in these assets are transport equipment with a historical cost of Kshs.16,301,895, which includes two vehicles, registration numbers GK H604 Isuzu pick-up and GK A589T Toyota Pick-up all of unknown value, that were reported stolen at Thika Police Station on 27 August, 2007 and Kabete Police Station on 09 February, 2013 respectively. Although, the Management indicated that the issues are still under investigations and awaiting conclusion and recommendations of the cases from the investigating agency, the matter has taken long to conclude.

In the circumstances, the accuracy and validity of the non-current assets could not be confirmed.

1585.2 Land Without Ownership Documents

As previously reported, information available and as disclosed in Annex 2 to the financial statements indicates that the State Department owns the Weights and Measures Complex in South C Nairobi. The complex is built on a parcel of land measuring approximately seven (7) acres of unknown value whose ownership documents were not provided for audit.

In the circumstances, it was not possible to confirm the ownership status of the parcel of land in South C Nairobi.

My opinion is not modified in respect of these matters.

Other Matter

1586. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. Management had indicated

that the issues were responded to. However, the issues remained unresolved as Parliament has not met to deliberate on the same.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1587. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1588. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR INDUSTRIALIZATION - VOTE 1175

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1589. Motor Vehicles without Title Documents

As previously reported, Annex 4, the summary of fixed assets register reflects a total historical cumulative cost of assets of Kshs.635,627,327. However, the balance excludes 78 vehicles (36 vehicles at the headquarters and 42 vehicles at the County Industrial Development Offices) with an estimated value of Kshs.185,080,000 and Kshs.94,200,600 respectively. Records provided indicated that out of the pool of 78 vehicles, 75 vehicles did not have logbooks or any registration documents and therefore it was not possible to determine their ownership status.

Management explained that, the original registration documents for the vehicles could not be traced due to the reorganization of the Ministry of Industrialization into various State Departments. Although, Management had requested for copies of the registration documents from the National Transport Safety Authority (NTSA), the logbooks had not been received at closure of audit in November, 2022.

In absence of the logbooks, it was not possible to confirm the ownership status of the vehicles.

Other Matter

1590. Budgetary Control and Performance

The summary statement of appropriation: recurrent and development combined reflects actual exchequer releases of Kshs.4,257,569,405 against budgeted receipts of Kshs.5,132,333,120 resulting to an underfunding of Kshs.874,763,715 or 17% of total budget. Similarly, the statement reflects budgeted payments of Kshs.6,292,747,120 against actual payments of Kshs.5,090,081,684 resulting to under expenditure of Kshs.1,202,665,436 or 19% of total budget.

In the circumstances, the State Department has not implemented all the planned and approved programmes resulting to delayed provision of services to citizen.

1591. Pending Bills

Notes 18.1 and 18.3 to the financial statements reflects pending bills amounting to Kshs.90,272,732 which comprises of Kshs.16,914,534 for the State Department and Kshs.73,358,198 for Kenya Industrial Training Institute that were not settled in the year under review but were carried forward to the 2022/2023 financial year. The pending bills balance includes an amount of Kshs.30,720,699 which relates to 2020/2021 and earlier financial years.

No plausible explanation was provided for non-payment of the pending bills before the end of the financial year. This was contrary to Regulation, 42(1)(a) of the Public Finance Management (National Government) Regulations, 2015 which states that debt service payments shall be a first charge in the Consolidated Fund and the Accounting Officer shall ensure this is done to the extent possible that the Government does not default on debt obligations.

Failure to settle bills in the year to which they relate will adversely affect the implementation of the subsequent year's budgeted programmes as the pending bills form a first charge for that year's budget provision.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1592. Late Exchequer Releases

The statement of receipts and payments reflects exchequer releases of Kshs.4,257,569,405 which as disclosed in Note 1 to the financial statements, includes an amount of Kshs.458,369,160 received on 4 July, 2022. This was contrary to Section 17(2) (b) of the Public Finance Management Act, 2012 which states that, payment from the National Exchequer Account should be done without undue delay on all amounts that are payable for public services.

The delayed exchequer releases may have affected the State Department's ability to implement its planned programmes and possible underutilization of the budget, resulting to negative impact on delivery of services to the public.

In the circumstances, the late Exchequer releases affected the planned activities of the State Department and impacted negatively on service delivery to the public.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1593. Failure to Provide Internal Audit Reports

As previously reported, the internal audit reports for the State Department were not provided for review and it was therefore not possible to ascertain whether the internal audit function had given an assurance on the state of the risk management, internal control and governance within the State Department as required by the Regulation 160(1) of the Public Finance Management (National Government) Regulations, 2015.

Further, Management did not provide the Audit Committee minutes for audit, contrary to Regulations 166(2) and 179(1) of the Public Finance Management (National Government) Regulations, 2015, which requires the Audit Committee to carry out annual review of independence, performance, and competency of the internal audit unit and comment on their effectiveness in the annual report and also ensure that the Audit Committee meets at least once in every three months respectively.

DONOR FUNDED PROJECTS

KENYA INDUSTRY AND ENTREPRENUERSHIP PROJECT (CREDIT NO. IDA 6268-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1594. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1595. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects actual receipts of Kshs.99,523,561 against budgeted receipts of Kshs.968,500,000 resulting in a shortfall of Kshs.868,976,439 or 90% of total budget. The shortfall arose under the IDA Loan where actual receipts amounted to Kshs.63,687,757 against the budgeted receipts of Kshs.912,000,000 resulting in a shortfall of Kshs.848,312,243 or 93% of the total budgeted receipts. In addition, actual receipts under transfer from Government entities were Kshs.35,835,804 against budgeted receipts of Kshs.56,500,000, resulting to shortfall of Kshs.20,664,196 or 37% of the total budgeted receipts.

Further, the statement of comparative budget and actual amounts reflects budgeted payments of Kshs.968,500,000 against actual payments of Kshs.139,713,236 resulting to under expenditure of Kshs.828,786,764 or 86% of total budget.

In view of the above, the Project Management have not implemented all the planned and approved programmes, resulting to delayed provision of services to the citizens.

1596. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under Other Matter and the Report on Lawfulness and Effectiveness in Use of Public Resources. Management has indicated that the issues have been responded to. However, the issues remained unresolved as Parliament has not met to deliberate on the same.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1597. Unpaid Salaries

As disclosed in Note 1 of other important disclosures, the Project did not pay 3 consultants salaries of 5 months from February to June, 2022 totalling Kshs.7,750,000 due to restructuring process. This was contrary to the consultancy contracts rates agreed and specified in the cost estimate and schedule of rates at annexes C and D which states that "the client shall pay the consultant for services rendered at the rate(s) per man/month spent in accordance with the rates agreed.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1598. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENT

1599. As required by International Development Agency Credit Agreement No.6268 dated 03 August, 2018, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

OTHER DONOR FUNDED PROJECT IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR INDUSTRIALIZATION

KENYA YOUTH EMPLOYMENT AND OPPORTUNITIES PROJECT (CREDIT NO. IDA 5812-KE) – MICRO AND SMALL ENTERPRISES AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1600. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1601. Amount Withdrawn but Unclaimed

The Statement of Special (Designated) Account Reconciliation for the Project on Page 25 reflects amount withdrawn but unclaimed as at 30 June, 2022 of USD6,767,459 or Kshs.744,420,524 equivalent at the then exchange rate. This represents cumulative funds transferred to the local Project bank account but whose expenditure returns have not been submitted to The National Treasury by the close of the financial year.

My opinion is not modified in respect of this matter.

Other Matter

1602. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted payments of Kshs.2,000,000,000 against actual payments of Kshs.1,624,484,970 resulting to under expenditure of Kshs.375,515,030 or 19% of total budget.

In view of the above, Management did not implement all the planned and approved programmes, resulting to delayed provision of services to the citizens.

1603. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under emphasis of matter, other matter and Report on Effectiveness of Internal Controls, Risk Management and Governance. Although Management has indicated that the issues have been responded to, the issues remained unresolved as Parliament has not met to deliberate on the same.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1604. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1605. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENT

1606. As required by International Development Agency, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

MINISTRY OF LABOUR - VOTE 1184

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1607. Unsupported Balances

The statement of assets and liabilities reflects balances of Kshs.65,607,134 and Kshs.57,426,499 in respect of accounts receivable and accounts payable which as disclosed in Notes 11 and 12 to the financial statements represent salary advances, receivables from foreign missions and deposits respectively. However, the schedules to support the balances were not provided for review.

In the circumstances, the completeness and accuracy of the balances as at 30 June, 2022 could not be confirmed.

Emphasis of Matter

1608. Budgetary Control and Performance

The summary statement of appropriation for both recurrent and development expenditure combined indicates a final receipts budget of Kshs.2,705,640,133 against actual receipts of Kshs.2,259,445,101 leading to under collection of Kshs.446,195,032 or 16% of the approved budget. Similarly, the Ministry spent a total of Kshs.2,257,924,241 against the actual receipts of Kshs.2,259,445,101 leading to an under expenditure of Kshs.1,520,860 of the actual receipts.

The underfunding and the resultant underperformance may have affected the planned activities and programmes which impacted negatively on effective service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1609. Unresolved Prior Year Matters

Various prior year audit issues remained unresolved as at 30 June, 2022. Management did not provide reasons for the delay in resolving prior year audit issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1610. Stalled Construction of the National Employment Promotion Centre

The project was awarded to a local contractor on 15 May, 2015 at a contract sum of Kshs.442,723,947 and was for a duration of seventy-eight (78) weeks. However, the total amount certified and paid as at the time of the audit was Kshs.244,023,001 implying that

the project may have stalled. Further, physical verification done in November, 2022 revealed that the contractor had abandoned the site.

In the circumstances, the value for money realized from the expenditure of Kshs.244,023,001 could not be confirmed.

1611. Stalled Construction of the Research Institute Office Complex for the Directorate of Occupational Safety and Health Sciences

The project was awarded to a local contractor on 3 May, 2019 at a contract sum of Kshs.114,039,118 and was for a duration of thirty-two (32) weeks. However, the total amount certified as at the time of the audit was Kshs.95,291,477 implying that the project may have stalled. Further, there was an irregular variation of contract sum from Kshs.114,039,118 to Kshs.140,170,548 by an additional amount of Kshs.26,131,430 representing 23% variation contrary to the provisions of Section 139(4)(b) of the Public Procurement and Asset Disposal Act, 2015 which caps contract variation at 15%.

Physical verification done in September, 2022 revealed that the works were at 87% level of completion and had stalled as a result of non-payment of dues to contractors.

In the circumstances, the value for money realized from the expenditure of Kshs.95,291,477 could not be confirmed. Further, Management was in breach of the law.

1612. Stalled Construction of Works at the National Employment Authority

The project was awarded to a local contractor on 3 June, 2019 at a contract sum of Kshs.14,587,615 and was for a duration of 24 weeks. However, the total amount certified and paid as at the time of audit was Kshs.11,170,000 implying that the project may have stalled. Further, project progress reports, minutes of final inspection, project handover minutes and certificates of practical completion were not provided for audit review.

In the circumstances, the value for money realized from the expenditure of Kshs.11,170,000 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1613. Lack of a Functional Audit Committee

The Ministry did not have an active Audit Committee contrary to the provisions of Section 73 (5) of the Public Finance Management Act, 2012 which requires every National Government public entity to establish an audit committee whose composition and functions shall be as prescribed by the Regulations.

In the circumstances, the Ministry did not benefit from the assurance and advisory services from the internal audit function as well as oversight from the Audit Committee.

1614. Incomplete Fixed Assets Register

Annex 4 to the financial statements reflects a list of fixed assets with a total balance of Kshs.355,181,084 as at 30 June, 2022. However, review of the balance revealed that the Ministry's land, ICT equipment and nine (9) motor vehicles had not been valued and the resulting values included in the balance. Further, the fixed assets register provided was incomplete where some assets lacked corresponding values, dates of purchase and details of physical locations making it difficult to carry out verification. In addition, it was noted that most assets had not been labelled for identification, control, traceability and ease of verification and that the Ministry was in possession of various parcels of land and motor vehicles whose ownership documents were not provided for review.

In the circumstances, the ownership and existence of the fixed assets balance of Kshs.355,181,084 as at 30 June, 2022 could not be confirmed.

DONOR FUNDED PROJECT

KENYA YOUTH EMPLOYMENT OPPORTUNITIES PROJECT - CREDIT NO. 58120-KE

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1615. Unsupported Cash and Cash Equivalents

The statement of financial assets and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs.27,251,447. However, monthly bank reconciliation statements for the month of June, 2022 supporting the balance were not provided for audit review.

In the circumstances, the completeness and accuracy of the cash and cash equivalents balance of Kshs.27,251,447 could not be confirmed.

1616. Inaccuracies in the Statement of Cash Flows

The statement of cash flows reflects purchase of goods and services amounting to Kshs.147,354,486, however, Note 2 to the financial statements and the statement of receipts and payments reflects purchase of goods and services amounts of Kshs.147,554,486, resulting to an unexplained variance of Kshs.200,000.

Further, the statement reflects a net cash flow from operating activities of Kshs.146,539,842 whereas the recalculated amount is Kshs.147,354,486, resulting to an unexplained variance of Kshs.814,644.

In the circumstances, the accuracy and completeness of the above balances in the statement of cash flows could not be confirmed.

1617. Inaccuracies in the Statement of Comparison of the Budget and Actual Amounts

The statement of comparison of the budget and actual amounts reflects total receipts final budget of Kshs.358,177,305 which differs with the recalculated amount of Kshs.496,624,305 resulting to an unexplained variance of Kshs.138,447,000. In addition, the statement reflects total performance difference of Kshs.319,179,218 which differs with the recalculated amount of Kshs.399,681,218 resulting to an unexplained variance of Kshs.80,502,000

In the circumstances, the accuracy and completeness of the above amounts could not be confirmed.

Other Matter

1618. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.358,177,305 and Kshs.96,943,087 respectively, resulting to an underfunding of Kshs.261,234,218 or 73% of the budget. Similarly, the Project expended Kshs.184,014,126 against an approved budget of Kshs.358,177,305, resulting to an underexpenditure of Kshs.174,163,179 or 49% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1619. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1620. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1621. As required by Financing Agreement between the International Development Association (IDA) and the Government of the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

OTHER DONOR FUNDED PROJECT IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR LABOUR

KENYA YOUTH EMPLOYMENT AND OPPORTUNITIES PROJECT - IDA CREDIT NO. 5812-KE - NATIONAL INDUSTRIAL TRAINING AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1622. Incomplete Fixed Assets Register

The summary of fixed assets register at Annex 4 and Note 5 to the financial statements reflects the cumulative total acquisition of non-financial assets balance of Kshs.148,159,167. However, the audit review of the assets register revealed it was incomplete since important information such as serial numbers and conditions of the assets were not indicated and assets worth Kshs.9,254,343 were not tagged.

In the circumstances, the accuracy, completeness and ownership of cumulative non-financial assets of Kshs.148,159,167 could not be confirmed.

Other Matter

1623. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final revenue budget and actual revenue on comparable basis of Kshs.575,808,289 and Kshs.382,328,585 respectively, resulting to an underfunding of Kshs.193,479,704 (or 34%) of the approved budget. Similarly, the Project expended Kshs.290,912,383 against an approved budget of Kshs.575,808,289 resulting to an underexpenditure of Kshs.284,895,906 (or 49%) of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1624. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1625. Lack of Effective Internal Audit Function

The Project has not established an effective internal audit function. This is contrary to Section 155 of the Public Finance Management Act, 2012 which provided for the

establishment of an effective internal audit function. As such, the Project did not benefit from the assurance and advisory services from the internal audit function.

In the circumstances, effectiveness of internal controls and governance could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1626. As required by Financing Agreement between the International Development Association and the Government of the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

STATE DEPARTMENT FOR SOCIAL SECURITY AND PROTECTION – VOTE 1185

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1627. Unsupported Bank Balance

The statement of assets and liabilities reflects an amount of Kshs.816,841,947 in respect of bank balances As disclosed in Note 9 to the financial statements, the balance includes an amount of Kshs.174,472,168 held at Central Bank of Kenya relating to Kenya Social Economic Inclusion Programme (KSEIP) whose bank statements and bank reconciliations statements were not provided for review.

In the circumstances, the existence of the Kenya Social Economic Inclusion Programme (KSEIP) bank balance of Kshs.174,472,168 as at 30 June, 2022 could not be confirmed.

1628. Discrepancy Between Payroll and Financial Statements

The statement of receipts and payments reflects an expenditure of Kshs.1,690,819,559 in respect of compensation of employees which however, differed with the total payroll amount of Kshs.1,689,554,701 by an unexplained variance of Kshs.1,264,858

In the circumstances, the accuracy of the expenditure on compensation of employees of Kshs.1,690,819,559 could not be confirmed.

1629. Unsupported Purchase of Specialized Materials and Supplies

The statement of receipts and payments reflects an amount of Kshs.1,585,933,542 in respect of use of goods and services which, as disclosed in Note 5 to the financial statements, includes an expenditure of Kshs.244,901,512 in respect of purchase of specialized materials and supplies. However, the expenditure was not supported by a schedule.

In the circumstances, the accuracy and occurrence of the expenditure on purchase of specialized materials and supplies of Kshs.244,901,512 could not be confirmed.

Other Matter

1630. Unresolved Prior Year Matters

Various prior year audit issues remained unresolved as at 30 June, 2022. Management has not provided reasons for the delay in resolving prior year audit issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1631. Delayed Cash Transfers

The statement of receipts and payments reflects transfers to other Government units of Kshs.31,864,726,518 which, as disclosed in Note 6 to the financial statements, includes cash transfers amounting to Kshs.31,254,074,195. However, review of data from the Consolidated Cash Transfer Management Information System (CCTPMIS) and Payment Service Providers (PSPs) operations revealed that transfers to Inua Jamii Programme beneficiaries had delays of between 12 and 90 days. This is contrary to Section 3.3.3 of the Operations Manual for Consolidated Cash Transfer Programme which states that payments are made at the tail end of the second month of a payment cycle.

In the circumstances, Management was in breach of the operational manuals.

1632. Over-Commitment of Salary

The statement of receipts and payments, as disclosed in Note 4 to the financial statements, reflects expenditure of Kshs.1,690,819,559 on compensation of employees. However, review of the payroll data revealed that, during the year under review, sixteen (16) employees earned a net salary less than one-third (⅓) of their basic salary contrary to the provisions of Section C.1(3) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which states that Public officers shall not over-commit their salaries beyond two thirds (⅔) of their basic salaries and Heads of Human Resource Units should ensure compliance.

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

1633. Undeserving Program Beneficiaries

The statement of receipts and payments reflects transfers to other Government units of Kshs.31,864,726,518 which, as disclosed in Note 6 to the financial statements, includes cash transfers amounting to Kshs.31,254,074,195. However, verification of the transfers revealed that some of the households in the program were not eligible since members had other adequate regular incomes. This ineligibility is contrary to the provisions of Section 1.2 of the Operations Manual for Consolidated Cash Transfer Programme which states that an individual benefit is where the cash transfer is issued to each individual in a household who meets the certain criteria set while a household benefit is issued once to a household with at least one member who meets the certain criteria.

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

1634. Overpayment of Transfers

The statement of receipts and payments reflects transfers to other Government units of Kshs.31,864,726,518. As disclosed in Note 6 to the financial statements, the balance includes cash transfers amounting to Kshs.31,254,074,195. However, review of the

payments from the consolidated cash transfer programme data revealed that the programme had paid amounts totalling to Kshs.85,453,000 as cash transfers to two thousand nine hundred and eighty-nine (2,989) beneficiary households which exceeded the expected transfers of Kshs.71,736,000 by an unexplained amount of Kshs.13,717,000. This was a contravention of Section 3.3.1 of the Operations Manual for Consolidated Cash Transfer Programme which states, inter alia, that the current transfer value is Kshs.2,000 per month (Kshs.4,000 per payment cycle).

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1635. Lack of an Effective Internal Audit Function

During the year under review, the State Department did not have an effective internal audit function and consequently, the Department lacked an active Audit Committee contrary to the provisions of Sections 73(1) and (5) of the Public Finance Management Act, 2012 which requires every public entity to have arrangements in place for internal audit function for the purpose of carrying out in depth reviews of Management operations and internal controls.

In the circumstances, the Department did not benefit from the assurance and advisory services from the internal audit function as well as oversight from the Audit Committee.

1636. Lack of an Approved Training Plan

The statement of receipts and payments reflects expenditure on use of goods and services amounting to Kshs.1,585,933,542 which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.29,771,483 incurred on training expenses. However, no approved training plan was provided for audit verification making it difficult to determine whether the trainings were carried out effectively and that the public received value for money in the expenditure.

In the circumstances, the effectiveness of the expenditure on training could not be confirmed.

1637. Anomalies in the Summary of the Fixed Asset Register

Annex 4 to the financial statements reflects total assets historical cost balance of Kshs.1,235,597,562 as at 30 June, 2022. However, the balance excludes the cost of land owned by the Department. Further, some items in the assets register had no corresponding values and no date of purchase. In addition, review of records revealed that the State Department had thirty-six (36) parcels of land spread across the country but whose ownership documents were not provided for audit verification.

In the circumstances, it may not be possible for Management to safeguard the Department's assets.

DONOR FUNDED PROJECT

KENYA SOCIAL AND ECONOMIC INCLUSION PROJECT CREDIT NO.6348-KE

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1638. Unsupported Payments

The statement of receipts and payments reflects purchase of goods and services expenditure of Kshs.849,856,604 as disclosed in Note 5 to the financial statements which further includes domestic travel, subsistence and other transportation costs of Kshs.461,297,970. However, the following anomalies were noted during the audit:

i. Included in the expenditure is an amount of Kshs.14,573,400 incurred on formation and training of consolidated beneficiary's welfare committees in twenty (20) Counties which was not adequately supported with relevant documents such as training programmes, attendance registers, work tickets and back to office report.

ii. In addition, the expenditure includes an amount of Kshs.3,600,000 paid to field officers which was not supported with signed payment details.

iii. Included in that balance is an amount totalling to Kshs.65,402,480 for claims to various Government employees in five counties of West Pokot, Kitui, Kilifi, Marsabit and Turkana to undertake training on baby friendly initiative strategy for Nutrition to support Nutrition Improvement through cash and Health Education (NICHE) deliverable. The officers were drawn from the State Department of Social Protection and the Ministry of Health. However, invitation letters and training programmes were not provided for audit.

iv. Further transport claims amounting to Kshs.10,490,180 were paid to facilitate movement of the persons to be trained which were not supported with bus tickets attached to the payment vouchers or signed schedules by the beneficiaries.

v. In addition, the No Objection by the Donor indicated that the fuel and airtime costs would be covered by the Government of Kenya counterpart funding. However, Kshs.850,000 was paid for fuel and Kshs.250,000 was paid for airtime resulting to an ineligible expenditure of Kshs.1,100,000.

In the circumstances, the completeness, accuracy and propriety of the expenditure of Kshs.95,166,060 could not be confirmed.

1639. Cash and Cash Equivalents

The statement of financial assets reflects bank balances of Kshs.230,178,868 as disclosed in Note 9 to the financial statements . However, the balance was not supported

with bank reconciliation statements, bank statements, bank confirmation certificates for the month of June, 2022 for two bank accounts out of three bank accounts being operated by the Project.

In addition, one bank account with a balance of Kshs.8,505,200 was not disclosed in the financial statements. Further authority for opening and operating the bank account was not provided for audit.

In the circumstances, the accuracy and completeness of the bank balances of Kshs.230,178,868 could not be confirmed.

Other Matter

1640. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.17,208,944,501 against actual receipts of Kshs.14,934,713,928 resulting to underfunding of Kshs.2,274,230,573 or 13% of the budget.

Similarly, the project had budgeted to spend a total of Kshs.17,176,549,501 against actual expenditure of Kshs.14,940,372,344 leading to an under-expenditure of Kshs.2,236,177,157 or 13% of the budget.

The underfunding and under expenditure might have affected the planned activities and programmes which may have impacted negatively on effective service delivery to the citizens.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1641. Irregular Recruitment of Project Co-ordination Assistant

The statement of receipts and payments reflects purchase of goods and services expenditure amounting to Kshs.849,856,604 as disclosed in Note 5 to the financial statements. Included in the expenditure is an amount of Kshs.94,797,444 relating to other operating expenses which further includes an amount of Kshs.1,620,000 paid to an individual consultant whose contract sum was Kshs.7,920,000 on a one-year time-based contract. However, review of the procurement documents revealed the following anomalies:

i. The recruited consultant was awarded the contract based on the strength of having worked on social protection activities in Kenya. However, there was also another bidder who had extensive work experience on social protection activities both in Kenya and outside the county and was rejected.

ii. Further, the recruited consultant had indicated one of the members of the evaluation committee as a referee in the curriculum vitae resulting in a conflict of interest situation.

iii. In addition, it was indicated that the recruited consultant had worked at the National Social Protection Secretariat as a Program Support Assistant for a period of ten (10) months. No documents were provided for audit verification.

iv. Contract agreement documents were also not provided for audit verification.

In the circumstances, the regularity of the recruitment of the individual consultant could not be confirmed.

1642. Non-Payment to Beneficiaries in the Economic Inclusion Programme

The statement of receipts and payments reflects other grants and transfers payments of Kshs.13,902,759,000 as disclosed in Note 8 to the financial statements. The expenditure includes an amount of Kshs.63,668,000 which was paid out to beneficiaries through the Economic Inclusion Programme Cash Transfer. However, the audit revealed that the payment was made out to four thousand seven hundred fifteen (4,715) beneficiaries only as opposed to the seven thousand five hundred (7,500) as outlined in section 1.1.3 of the Operations Manual. No reconciliation was provided to explain the failure to pay two thousand seven hundred eighty-five (2,785) beneficiaries.

In the circumstances, the value for money and regularity of the expenditure of Kshs.63,668,000 could not be confirmed.

1643. Irregular Payments

The statement of receipts and payments reflects purchase of goods and services expenditure of Kshs.849,856,604 as disclosed in Note 5 to the financial statements which includes domestic travel, subsistence and other transportation costs of Kshs.461,297,970. However, included in the expenditure is an overpayment of Kshs.2,076,200 resulting from the use of County rates instead of Sub-County rates where actual trainings were undertaken.

In the circumstances, the regularity of the expenditure of Kshs.2,076,200 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1644. Lack of Internal Audit Function and an Audit Committee

The Project does not have in place an Internal Audit Function and Audit Committee contrary to the provisions of Section 73(1) and (5) of the Public Finance Management Act, 2012 which requires every public entity to have arrangements in place for internal audit function for the purpose of carrying out in depth reviews of Management operations and internal controls. As a result, the Project did not benefit from the assurance and advisory services from the internal audit function as well as oversight from the Audit Committee.

Consequently, the effectiveness of the internal controls could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1645. As required by Financing Agreement between the International Development Association (IDA) and the Government of the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

OTHER DONOR FUNDED PROJECT IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR SOCIAL SECURITY AND PROTECTION

KENYA SOCIAL AND ECONOMIC INCLUSION PROJECT NO. P164654 IDA CREDIT NO. 6348KE AND GRANT NO. TF0A9527 – NATIONAL DROUGHT MANAGEMENT AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1646. Unsupported Expenditure on Purchase of Goods and Services

The statement of receipts and payments reflects purchase of goods and services expenditure of Kshs.586,232,754 as disclosed in Note 6 to the financial statements. The expenditure includes communication and postage costs of Kshs.25,996,035 which further includes an amount of Kshs.18,783,700 relating to educational items. However, stock control cards (S3), stock issues cards (S11) and the distribution list of these items were not provided for audit review.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.18,783,700 incurred on educational items could not be confirmed.

1647. Multiple Cash Transfers to Beneficiaries

The statement of receipts and payments reflects other grants and transfers expenditure of Kshs.4,126,109,218 as disclosed in Note 9 to the financial statements which further includes regular cash transfer of Kshs.3,216,012,600. However, review of supporting documents and analysis of the payroll revealed that there were a total of one thousand five hundred and two (1,502) beneficiaries who were paid an amount of Kshs.135,000,000 over and above the normal payments under the Project as they were also enrolled in other three cash transfer programs as follows:

i. Five hundred and fifty-three (553) were beneficiaries in both Older Person's Cash Transfer (OPCT) and Kenya Social Economic Inclusion Project (KSEIP) resulting in overpayment of Kshs.50,000,000.

ii. Seven hundred and thirty-eight (738) were beneficiaries in both Cash Transfer to Orphan and Vulnerable Children (CT-OVC) and KSEIP resulting in overpayment of Kshs.65,000,000.

iii. Two hundred and eleven (211) were beneficiaries in both Persons with Severe Disability Cash Transfer (PWSD-CT) and KSEIP resulting in overpayment of Kshs.20,000,000.

Multiple payments to beneficiaries is a contravention of the provisions of Project Appraisal Document which states that through the KSEIP, the Government of the Republic of Kenya has established and strengthened the Single Registry (SR)—a database of National Safety Net Programme cash transfer beneficiaries for all four cash transfer programs to guard against the risk of double-dipping; The four cash transfer programmes include Cash Transfer to Orphans and Vulnerable Children (CT-OVC), Older Persons Cash Transfer (OP-CT), Persons with Severe Disability Cash Transfer (PWSD-CT) and KSEIP cash transfer.

In the circumstances the propriety, accuracy and completeness of the cash transfers of Kshs.135,000,000 could not be confirmed.

1648. Cash and Cash Equivalents

As previously reported, the Project's name in the year 2019/2020 was Hunger Safety Net Programme (HSNP) which later changed to Kenya Social and Economic Inclusion Project (KSEIP) under National Drought Management Authority. The opening balance of Kshs.486,296,128 in the year 2020/2021 excluded an amount of Kshs.1,132,080,182 that was not transferred to KSEIP from HSNP.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.167,160,657 (2021: Kshs.350,740,087) could not be confirmed.

1649. Unapproved Reallocation of Funds

The statement of receipts and payments reflects other grants and transfers of Kshs.4,126,109,218 as disclosed in Note 9 to the financial statements. The amount includes the scale up payments of Kshs.910,096,618 relating to payments made to beneficiaries during severe drought emergencies which does not form part of the regular cash transfers. However, review of supporting documents revealed that the approved budget for scale up was Kshs.297,000,000 resulting to overexpenditure of Kshs.613,096,618. No documents were provided for audit to support the reallocation of funds by the Board or request by the Accounting Officer to The National Treasury to incur additional expenditure on scale ups. Further, there was no communication to the Cabinet Secretary for devolution on the material reallocation of funds.

In the circumstances the propriety, completeness and accuracy of the expenditure of Kshs.613,096,618 incurred on scale ups could not be confirmed.

1650. Unsupported Payments to Disbursement Service Providers

The statement of receipts and payments reflects purchase of goods and services expenditure of Kshs.586,232,754 as disclosed in Note 6 to the financial statements. The

expenditure includes specialized materials and services amount of Kshs.56,953,350 which further includes Kshs.20,826,225 paid to service providers for successful credits to four hundred twenty-five thousand and twenty-five (425,025) beneficiaries accounts and Kshs.36,127,125 which was paid to service providers for successful withdrawals by the beneficiaries. However, the successful withdrawal reports supporting the payments were not provided for audit.

Further, an invoice received from the service provider indicated that the successful withdrawals to beneficiaries were one hundred and five thousand six hundred eighty-seven (105,687) while the authorized payroll reflected a number of one hundred thousand eight hundred and two (100,802) on the same account resulting to unexplained variance of four thousand eight hundred eighty-five (4,885) beneficiaries.

In the circumstances, the propriety, accuracy and completeness of the expenditure of Kshs.36,127,125 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1651. Delayed Payments to Beneficiaries

Review of data generated from Management Information System (MIS) and Payment Service Providers (PSP) operations revealed the following anomalies:

i. Kenya Social and Economic Inclusion Project (KSEIP) beneficiaries were paid only five (5) cycles instead of six (6) cycles. This was contrary to the provisions of Cash Transfers Operations Manual which states that the payments are to be made to beneficiaries bimonthly (6 cycles in a year) on the 5th day of the month.

ii. Further, there were delays in disbursements of cash transfers to the beneficiaries as analyzed below:

No.	Expected Dates of Disbursements	Actual Payment Dates	No of Days Delayed
1.	5 July, 2021	16 August, 2021	40 days
2.	5 September, 2021	14 September, 2021	9 days
3.	5 November, 2021	15 November, 2021	9 days
4.	5 January, 2022	1 March, 2022	54 days
5.	5 March, 2022	27 May, 2022	82 days
6.	5 May, 2022	Not Paid	12 days

iii. In addition, three (3) instalments of scale up cash transfers in response to drought was not made on time when the trigger for the scale up happened. This was a contravention of the provisions of the Operations Manual which states that beneficiaries should be paid within ten (10) days after the request has been received.

In the circumstances, the Management was in breach of the Operations Manual guiding implementation of the Project.

1652. Irregularities in the Registration of Beneficiaries

Review of disbursement documents revealed that beneficiaries in the counties of Tana River, Garissa, Isiolo and Samburu were registered without identification numbers while others were registered in more than one household using the same identification number. Further, there were instances where beneficiaries were registered in both the scale-up and regular programmes. No explanation was provided for the anomalies.

In the circumstances, the regularity and value for money realized on the transfers could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1653. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1654. As required by the Financing Agreement between the International Development Association and the Government of the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

MINISTRY OF PETROLEUM AND MINING - VOTE 1194

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1655. Misclassification of Expenditure

The statement of receipts and payments reflects an expenditure of Kshs.636,677,019 in respect of use of goods and services, as disclosed in Note 7 to the financial statements. Included in this amount is an expenditure of Kshs.2,024,677 incurred on foreign travel and subsistence. However, review of the expenditure records revealed that Kshs.1,097,843 was in respect of domestic travel and subsistence allowance though charged under foreign travel and subsistence allowance.

Similarly, the statement reflects acquisition of assets amount of Kshs.1,118,730,114, as disclosed under Note 10 to the financial statements. Included in this amount is Kshs.1,005,288,436 which was incurred on research studies, project preparation, design and supervision out of which an amount of Kshs.4,533,266 was recurrent in nature and ought to have been charged under office and general supplies component.

In the circumstances, the accuracy of the amounts reported against the expenditure items in the statement of receipts and payments could not be confirmed.

1656. Unsupported Transfer of Funds to other Entities

The statement of receipts and payments reflects Kshs.479,000,000 in respect of grants and transfers to other Government entities, as disclosed in Note 8 to the financial statements. Included in this amount are transfers to the National Oil Corporation (NOCK), amounting to Kshs.250,000,000 which was transferred for the purpose of Petroleum Exploration in Block 14T, Kshs.200,000,000 to Energy and Petroleum Regulatory Authority (EPRA) for the purpose of fuel marking and Kshs.29,000,000 to the National Mining Corporation. However, the funds were transferred without detailed work plans from the three entities to justify the disbursement. In addition, none of ten recipient entities provided expenditure returns to the Ministry as evidence that the funds were utilized for intended purposes.

In the circumstances, the completeness of the transferred amount of Kshs.479,000,000 could not be confirmed.

Other Matter

1657. Pending Bills

The financial statements reflect pending bills balance of Kshs.132,775,321 as disclosed in Note (a) to other important disclosures in the financial statements. However, the bills were not settled and did not form a first charge in the year under review contrary with the Government policy.

Failure to settle bills during the year to which they relate distorts the budget implementation of the subsequent year as the outstanding bills form a first charge on resources available.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1658. Non-Compliance with the Public Sector Board in the Presentation of the Financial Statements

The financial statements presented for audit review did not include prior year balances as per the format prescribed by the Public Sector Accounting Standards Board (PSASB). In the circumstances, the presentation of the financial statement does not conform to the requirements of the Public Sector Accounting Standards Board.

1659. Delayed implementation of the Mwananchi Liquefied Petroleum Gas Enhancement Project

Mwananchi Liquefied Petroleum Gas (LPG) Project was initiated by the defunct Ministry of Energy and Petroleum in 2016 and was intended to promote use of modern cooking fuels among the low-income households. The project entails supply and distribution of LPG cylinders, grills, and burners to households at subsidized prices, and erection of facilities to store the cylinders at local distribution points. The National Oil Corporation of Kenya was engaged to implement the project with the role of ensuring that the LPG components were distributed to the targeted households.

The project was to be implemented in two modules whereby Module I entailed distribution of subsidized filled 6 Kg cylinders fitted with a grill and a burner in eleven (11) piloted sub-Counties in Nairobi. Module II involved distribution of filled 6 Kg cylinders with a smart metering device, a horse pipe and 2 low burner tabletop cookers.

As reported in previous years, at least 79,057 of the 357,355 6 kg gas cylinders were found to be defective by an independent inspector who was contracted by the Ministry following safety concerns raised by consumers, which led to suspension of the project in 2019.

An audit verification carried out on 15 December, 2022, revealed that the 6 kg cylinders purchased in Module I and 72,000 two-burner low pressure tabletop cookers purchased in Module II of the project were yet to be distributed and were lying at the warehouses rented by the Ministry and NOCK.

As at 30 June, 2022, an amount of Kshs.1,104,781,654 had been incurred for the purchase of LPG cylinders and accessories, inspection of the cylinders and accessories and purchase of two-burner low pressure tabletop cookers.

In addition, there were uncertainties in the implementation of the project due to lack of critical policies and plans such as project implementation plan, strategy detailing how the project was started and overall sustainability plan, a beneficially identification mechanism for the LPG cylinders and 20,000 low burner tabletop cookers. Further, there was no

smart metering service and technical support for dispensing LPG from the source point to consumers who constituted the point of use.

In the circumstances, it could not be confirmed that the public obtained value for money on the Kshs.1,104781,654 incurred in the implementation of the project.

1660. Irregular Payment of Special Duty Allowance

The statement of receipts and payments reflects expenditure on compensation of employees amounting to Kshs.521,816,962, as disclosed in Note 5 to the financial statements. Included in this amount is Kshs.1,059,482 paid as special duty allowance to employees who performed duties which were of higher grades. However, the amount was paid despite the Public Service Commission directive issued in December, 2021 requiring review of organization structures and staff establishment, and a succession management be put in place across the Public Service. The Commission further directed that payment of special duty allowance should henceforth cease and vacant positions be declared for competitive filling.

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

1661. Delayed Completion of Office Partitioning Works

The Ministry on 24 November, 2021 entered into a lease agreement with Kenya Accountants and Secretaries National Examinations Board (KASNEB) for office space measuring 36,339 square feet at Upper hill area in Nairobi. The lease agreement was signed on 19 May, 2022 for a period of six (6) years and backdated to 1 December, 2021. Effectively, rent was payable from 1 December, 2021. The Ministry thus, paid rent amounting to Kshs.28,453,719 for the period from 01 December, 2021 to 30 June, 2022.

However, as at the time of audit in December 2022, the Ministry had not occupied the leased offices due to incomplete works and continued to pay rent for the offices. Management indicated that the office partitioning works were due to be completed on 31 December, 2022, after the Contractor requested for two extensions.

In the circumstances, it was not possible to confirm that the Ministry realized value for money on rent incurred for the leased building.

1662. Non-Compliance with the Data Protection Act, 2019

During the year under review, the Ministry did not appoint a Data Protection Officer contrary to Section 24 of the Data Protection Act, 2019, to carry out the data protection functions. Further, Management did not register the Ministry as either a Data Controller or Data Processor or both with the Data Protection Commissioner's Office contrary to Section 18 of the Act, which requires such registration.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1663. Failure to Establish a Public Finance Management Committee

During the year under review, the Ministry had two operational committees in place comprising of the Training Committee and the Ministerial Human Resource Management Advisory Committee (MHRMAC). However, the Public Finance Management Standing Committee envisaged under Regulation 18(1) of the Public Finance Management (National Government) Regulations, 2015 was yet to be constituted and operationalized at the Ministry.

In the circumstances, the effectiveness of the finance department could not be confirmed.

1664. Lack of a National Upstream Petroleum Advisory Committee

During the year under review and earlier years, the Ministry did not have a National Upstream Petroleum Advisory Committee as required in Section 12 of the Petroleum Act, 2019. The Act outlines the functions of the Committee to include advising the Cabinet Secretary on upstream petroleum operations.

In the absence of the Committee, it was not possible to confirm how the outlined functions were being performed.

1665. Lack of a National Petroleum Policy and Plan

During year under review, the Ministry did not have a National Policy on Petroleum Operations contrary to Section 5(1) and Section 6(1) of the Petroleum Act, 2019. In addition, a National Petroleum Strategic Plan had not been developed and published. The Act, stipulates that the Strategic Plan and the National Petroleum Policy serve as a guide for the implementation of the national policy on petroleum operations.

In the absence of the policy and strategic plan on petroleum operations, it was not possible to confirm how the petroleum operations were guided.

REVENUE STATEMENTS OF THE MINISTRY OF PETROLEUM AND MINING

REPORT ON THE REVENUE STATEMENTS

Basis for Qualified Opinion

1666. Long Outstanding Arrears

The statement of arrears of revenue reflects arrears totalling Kshs.2,675,311,892 owed by various companies as at 30 June, 2022. However, out of the six (6) Companies with long outstanding arrears, only Magadi Soda and Carbacid (CO_2) Limited made partial payments of Kshs.216,114,540 and Kshs.3,763,833 respectively during the year. Further,

and although the Receiver of Revenue sent out demand letters to the companies during the year, no significant progress was made to collect the long outstanding arrears as detailed below:

1666.1 East African Portland Cement PLC

Included in the arrears of revenue balance of Kshs.2,675,311,892 is an amount of Kshs.404,759,572 owed by the East African Portland Cement PLC, which accrued in the financial years 2014/2015 to 2020/2021. Further, the Company had since 2018/2019 filed incomplete self-declaration assessments and was, therefore, not assessed for cement levy from 2018/2019 to 2021/2022 financial years. Management did not provide an explanation on why levies that were due and chargeable to the Company were not assessed in the relevant periods. Further, the Company had carried out its operations without a mining licence, contrary to Section 159 of the Mining Act, 2016.

Under the circumstances, the recoverability and accuracy of the arrears of revenue of Kshs.404,759,572 could not be confirmed.

1666.2 Savanna Cement Limited

Included in the balance of Kshs.2,675,311,892 is also an amount of Kshs.370,862,635 due from Savanna Cement Limited in respect of cement minerals levy, which accrued in 2020/2021 and earlier years. Although a payment plan agreement was signed in August, 2017 between the Ministry and the Company requiring settlement of the arrears in twenty-four (24) monthly instalments starting from September, 2017, the Company had reneged on the plan stating that it did not hold a mineral license from the Ministry and therefore was not liable to pay the levy. The Company had also moved to the High Court challenging Legal Notice No.222 of 2013 which required payment of cement minerals levy by all cement producing companies in Kenya. The Cabinet Secretary for Petroleum and Mining subsequently entered into consent with the Company where the Ministry committed to forego the demand against the Company.

Further, the Company had not filed any self-declaration assessment since 2018/2019 financial year to the year ended 30 June, 2022 and had, therefore, not been assessed for cement levy. In addition, the Company remitted Kshs.5,000,000 during the 2021/2022 financial year, but the remittance was not supported by production and sales reports.

Under the circumstances, the recoverability of the arrears of Kshs.370,862,635 could not be confirmed.

1666.3 Tata Chemicals Magadi Limited

The arrears of revenue balance of Kshs.2,675,311,892 further includes royalty arrears of Kshs.1,050,467,818 owed by Tata Chemicals Magadi Limited which has accrued since the financial year 2015/2016. The Company settled arrears amounting to Kshs.216,114,540 during the year under review.

However, review of correspondences between the Company and the Ministry revealed that the Company had cited serious operational and financial challenges and could

therefore not afford to pay the royalties at the gazetted rates. The Company Management proposed to pay a negotiated rate of 3% applied retrospectively from 1 July, 2017. However, the Ministry of Petroleum and Mining insisted on application of the gazetted rates of 4% of gross sales value from 1 July, 2017 and 5% of gross sales value from 1 July, 2019.

In the circumstances, the recoverability of the arrears of revenue of Kshs.1,050,467,818 could not be confirmed.

1666.4 African Diatomite Factories Ltd

The balance of Kshs.2,675,311,892 also includes arrears of Kshs.21,030,156 due from African Diatomite Factories Ltd, out of which arrears amounting to Kshs.17,520,857 relate to financial year 2020/2021 and earlier years and Kshs.3,509,299 to the year under review. Although, the Ministry issued default notice and reminders, the arears remained outstanding and continued to increase.

In the circumstances, the recoverability of the arrears of revenue of Kshs.21,030,156 could not be confirmed.

1666.5 Carbacid (CO_2) Limited

The arrears of revenue balance of Kshs.2,675,311,892 includes an amount of Kshs.99,122,674 due from Carbacid (CO_2) Limited accrued from 2017/2018 financial year to 2020/2021 financial year. However, review of correspondences revealed that the Company's Management had expressed reservations regarding payment of the royalties before a consensus on payment rates was reached. In addition, the Company did not file a self-declaration assessment and was, therefore, not assessed for royalties due in the year under review.

In the circumstances, the recoverability of the arrears of revenue of Kshs.99,122,674 could not be confirmed.

1666.6 ARM Cement Ltd

The balance of Kshs.2,675,311,892, in addition, includes arrears of Kshs.290,232,493 relating to 2020/2021 and earlier years, due from ARM Cement Ltd. The Ministry stated that the arrears are unrecoverable as the Company is under Insolvency.

Under the circumstances, the recoverability of arrears of revenue totalling Kshs.290,232,493 as at 30 June, 2022 is doubtful.

1667. Unsupported Non-Tax Receipts

The statement of receipts and disbursements reflects non-tax receipts of Kshs.4,838,661,230 which, as disclosed in Note 1 to the revenue statements, consists of balance brought forward of Kshs.2,101,834,223 and receipts for the year under review of Kshs.2,736,827,007. The receipts comprise revenue collected from cement levy, mining royalties and licence and permits fees from various licensees. However, established cadastre system or register of mineral rights or records of licences issued for each

category were not provided for audit. Section 191 of the Mining Act, 2016, provides for establishment and maintenance of an up-to-date computerized mining cadastre and registry system, including a register of mineral rights. Due to the unavailability of these records, the accuracy of revenue from mining and exploration licences, export permits and mining royalties from various licensees could not be confirmed.

Under the circumstances, the accuracy, validity and completeness of the non-tax receipts amounting to Kshs.4,838,661,230 could not be confirmed.

1668. Cement Levy Received from National Cement Limited

The statement of receipts and disbursements reflects cement levy and royalties receipts of Kshs.4,838,661,230 which, as disclosed in Note 1 to the revenue statements, includes cement levy of Kshs.345,842,612 received from National Cement Limited. However, the following unsatisfactory matters were noted:

1668.1 Irregular Variation of Cement Levy Rates

Analysis of production and sales reports from the Company revealed a variance of Kshs.167,799,898 between cement levy remitted to the Ministry of Kshs.413,565,362 and the levy due on sales of Kshs.581,365,260 as shown below:

Period	Production in Tons	Rate Used (Kshs.)	Levy as Per Reports (Kshs.)	Levy Payable at 140/Ton (Kshs.)	Variance (Kshs.)
July, 2021 - Sep, 2021	1,010,632	100.00	101,063,200	141,488,480	40,425,280
Oct -Dec 2021	1,023,573	100.00	102,357,300	143,300,220	40,942,920
Jan-March 2022	1,055,127	99.30	104,774,111	147,717,780	42,943,669
April, 2021 - June, 2021	1,063,277	99.10	105,370,751	148,858,780	43,488,029
Total			**413,565,362**	**581,365,260**	**167,799,898**

According to Sections 183(2) and 188(2) of the Mining Act, 2016, the Cabinet Secretary is required to make regulations to provide for the conditions and criteria for determining application for reduction or suspension of payment of royalties. Although a letter from the Cabinet Secretary dated 14 March, 2021 provided for audit authorized the Company to pay a reduced cement levy rate different from the gazette rate of Kshs.140 per ton, the letter was not based on any existing regulations as required.

As a result of the variation, the Government lost revenue amounting to Kshs.167,799,898.

1668.2 Unconfirmed Cement Levy

The reported amount of Kshs.345,842,612 received from the Company differs with Kshs.413,565,362 analysed from the production and sales reports, resulting to an unreconciled variance of Kshs.67,722,750.

In the circumstances, the accuracy and completeness of the reported cement levy received from National Cement Limited of Kshs.345,842,612 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1669. Un-Authorized Use of Prospecting Fees

During the year under review, revenue in respect of prospecting fees amounting to Kshs.28,137,769 was collected and paid into the Department's recurrent bank account and utilized as Appropriations-In-Aid (A.I.A) without approval from the Cabinet Secretary for The National Treasury. This was contrary to Regulation 64(4) of the Public Finance Management (National Government) Regulations, 2015 which states that all public moneys collected by a receiver of revenue or collector of revenue or collected and retained by a national government entity, shall be paid into the designated bank accounts of the national government and shall not be used by any public officer in any manner between the time of their receipt and payment into the bank except as provided by law.

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

1670. Underutilized Gemstone Centre in Voi

The Ministry operates a Gemstone Centre situated in Voi Town as a value addition centre which was constructed between 2015 and 2017. However, the centre was underutilized and not generating revenues for the Government due to the following reasons:

i. The services to the public and customers could not be priced due to absence of gazetted rates on gem identification and value addition at the gem laboratory and lapidary.

ii. The laboratory and lapidary were inadequately equipped and staffed.

iii. Being a business centre, occupation of dealers' booths and restaurant through competitive bidding had not been done.

iv. The Centre was yet to be officially commissioned.

Under the circumstances, the Government was not obtaining value for money spent in the construction and equipping the Centre.

1671. Non-Issuance of Mining Permits to Artisanal Miners

The Mining Act, 2016 outlines the functions of the representatives of the Director of Mines in the county offices. The functions include compiling a register of artisanal miners, renewing, revoking and granting artisanal mining permits guided by the recommendations of Artisanal Mining Committees. Review of operations in county offices revealed the following;

i. Artisanal Mining Committees had been established in Kakamega, Vihiga, Siaya, Migori, Taita Taveta and Narok counties back in the year 2020. However, no evidence was provided for audit to confirm that the Committees held meetings and

deliberations concerning recommendations for issuance of artisanal mining permits. There is a likelihood that the terms for the gazetted Committees may lapse without the members engaging in any meaningful activities.

ii. Although a register of artisanal miners was maintained for the regions mentioned above, but there was no record of artisanal mining permits issued to the registered miners.

In the circumstances, the Ministry was not able to monitor operations of the miners and lost opportunity to collect revenue from artisanal mining permits.

1672. Failure to Enforce Surrender Mineral Rights

Review of the mineral rights register maintained in the online mining cadastre revealed that companies holding prospecting mineral rights whose term had expired had not applied for renewal of the rights or made applications to surrender them. Further, majority of the companies had not paid ground rent for the year under review or complied with the requirement for submitting quarterly reports. In addition, there were no records of activities reported for some companies that held prospecting licences.

In the circumstances, there is a likelihood that the mineral rights holders may have advanced their operations from prospecting to mining without following due process or abandoned the sites without rehabilitating them or were just merely hoarding the mineral rights.

1673. Dealing in Minerals Without Valid Licenses

The mining cadastral records maintained by the Ministry of Petroleum and Mining indicated that Tata Chemical Magadi Limited had a pending mining license application as at the time of audit carried out in September, 2022. However, the Company continued to undertake mining activities and dealing in minerals contrary to the Mining Act, 2016. Management indicated that the Company was operating on a licence that was issued before the enactment of the Mining Act, 2016.

Similarly, review of the mining cadastral records revealed that an international mining company had not been issued with a mineral dealer's licence or permit but continued to carry out mining activities, contrary to Section 159 of the Mining Act, 2016. According to the cadastral records, the Company's prospecting licence expired in 2015 while its mining permit expired in 2018. However, during the year under review, the Company exported 5,800 tonnes of manganese ore.

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

1674. Lack of Revenue Sharing Framework

Since enactment of the Mining Act, 2016, a total of Kshs.10,224,771,968 in royalties had been collected from various mineral rights holders. However, no supporting evidence of minerals revenue sharing among the National Government, county governments and local communities was provided for audit. Section 183(5) of the Mining Act, 2016, requires royalties paid by a holder of mineral rights to be distributed as follows: seventy percent

(70%) to the National Government, twenty percent (20%) to the County Governments and ten percent (10%) to the community where the mining operations occur.

Had the amount been shared as per the law, a total of Kshs.1,022,477,203 would have been paid to the communities and Kshs.2,044,954,393 to the devolved units as detailed in the table below:

Year	Amount (Kshs.)	70% Payable to the National Government (Kshs.)	20% Payable to the County Governments (Kshs.)	10%Payable to the Local Community (Kshs.)
2016/2017	1,065,421,154	745,794,808	213,084,231	106,542,115
2017/2018	1,364,759,144	955,331,401	272,951,829	136,475,914
2018/2019	1,571,862,220	1,100,303,554	314,372,444	157,186,222
2019/2020	1,666,666,523	1,166,666,566	333,333,305	166,666,652
2020/2021	1,835,176,919	1,284,623,844	367,035,384	183,517,692
2021/2022	2,720,886,007	1,904,620,205	544,177,201	272,088,601
Total	**10,224,771,968**	**7,157,340,377**	**2,044,954,393**	**1,022,477,203**

The Management attributed the situation to lack of a framework for remission of royalties share to the communities and county covernments. Further, if the shares for the county governments and communities are not set aside, the citizens in areas where mining activities are carried out might not benefit from royalties as the minerals being extracted are finite and might get depleted by the time structures for revenue sharing are established. In addition, the county governments and communities that hosted mining activities during the six (6) years may lose a total of Kshs.3,067,431,596.

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

1675. Unlicensed Mining Operations

Field visits done in September, 2022 on artisanal miners in Siaya and Migori Counties revealed that operators of gold leaching plants did not possess the requisite mineral processing licenses and permits as provided by the Mining Act, 2016. Further, the plants and small scale gold operators in those counties were using cyanidation to extract gold from tailings. Cyanidation is widely used to process tailings due to its efficiency in reacting with gold thus lowering the cost of mining. However, the contaminated waste material from the leaching process were abandoned at the sites since most leaching sites lacked proper disposal mechanism. The leaching plants were also situated in proximity to human habitats.

In the circumstances, activities of the operators of gold leaching plants in Siaya and Migori Counties were unlawful. Further, the highly toxic cyanide chemical may result in negative environmental impacts and public health risks if released into the environment.

1676. Non-Adherence to Prospecting Licence Conditions

Site inspection of prospecting map area in Bondo, Siaya County for Lake Mining Company conducted on 27 September, 2022 revealed that the Company had

commenced processing of gold tailings. However, review of the operations of the company revealed the following anomalies:

i. Cadastral records indicate that the Company was granted prospecting licence No. PL/2017/0054 in 2019. However, the mineral right expired in July, 2022 but there was no record of renewal application lodged in the cadastre system.

ii. The Company personnel at the site explained that the Company had already commenced processing of tailings in July, 2022. The gold ore processing equipment found at the site included a rock crusher/grinding mill, leaching tanks, concentration table among others. Such operations would require a mining license or mineral dealings license as provided for in Section 159 of the Mining Act, 2016, but none was provided for audit.

iii. The nature of activities seen on the ground were not indicative of prospecting.

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

1677. Irregular Issuance of Mineral Exploration Rights

Site inspection of Copper Hill Exploration and Mining Resources Company Limited situated in Migori-Nyatike area revealed the following:

i. Whereas the Company holds mining permit No. MP/2021/0418 issued on 19 March, 2021 with an expiry date of March, 2026, cadastral records indicated that the mineral right was at application stage.

ii. The moratorium issued on 18 December, 2019 froze issuance of permits and licenses regarding any new potential mineral areas, thus it remains unclear, how the Company was awarded the mining permit, yet it had no continuing obligations such as prospecting or mineral dealings.

iii. Second Schedule of the Mining Act, 2016 provides that a mining or prospecting operation may be classified as small-scale operation if the operations do not employ specialised prospecting, mechanised mining technologies, chemicals including mercury and cyanide or explosives. However, the scale of operations at the site and the heaps of waste removed from the site was indicative of capital-intensive activities that required heavy machinery such as large trucks, excavators, and dozers.

In the circumstances, the legality of the mining activities of the Copper Hill Exploration and Mining Resources Company Limited could not be confirmed.

1678. Expired Prospecting License

Site inspection of Aurum Utalum Mining Company prospecting location situated in Rongo; Migori County revealed the following anomalies:

i. Although the Company claimed to hold a valid prospecting licence, cadastral records indicate that the Company's prospecting licence No. PL/2018/0107 expired on

11 November, 2021. There was no record of application of renewal lodged in the cadastre system.

ii. The nature of activities observed at the time of the site visit entailed removal of tailings from a colonial mine and testing for mineral recoverability per sample of the tailings extracted. However, the Company declined to provide the lab test results and the use of the heaps of tailings that had been piled over the years by the Company could not be ascertained.

In the circumstances, license holders were using prospecting licenses to undertake mining operations thus denying Government the mineral extraction revenue.

1679. Delayed issuance of Prospecting Licenses

Field inspection carried out in the Ministry's Regional Office in Kwale County on 26 September, 2022 and 27 September, 2022 revealed that Base Titanium had applied for prospecting licenses in the year 2019. However, as at the time of the audit, the application was still pending and no satisfactory explanation was provided for the delay.

In the circumstances, any royalties the Government may have earned on mining activities following successful prospecting were lost.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1680. Lack of an Updated Cadastre Records

Review of mining cadastral records maintained by the Ministry of Petroleum and Mining revealed that the Ministry did not maintain an up-to-date cadastre records. Some of the records indicated that the actions were open, yet they were supposed to be closed. Further, the system was not fully supported by the contracted service provider. Management attributed this to lack of requisite clauses in the contract agreement to enable payments for maintenance.

In the circumstances, the integrity of the information stored in the cadaster could not be confirmed.

DONOR FUNDED PROJECT

KENYA PETROLEUM TECHNICAL ASSISTANCE PROJECT (IDA CREDIT NO.5526-KE AND GRANT NO. TFOA 3418)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1681. Ineligible Expenditure – Unremitted Tax and Penalties

The statement of receipts and payments reflects purchase of goods and services expenditure of Kshs.344,248,676 which comprises of Kshs.175,990,515 and Kshs.168,258,161 paid by the Ministry and the Donor respectively. The payments made by the Ministry include Kshs.81,824,559 made to Kenya Revenue Authority (KRA) in respect of unremitted Withholding Tax (WHT), Withholding Value Added Tax (WHVAT) and reverse value added tax. Review of payment details and correspondences between the Ministry and KRA revealed that the Project Management Unit made payments to non-resident professionals offering training services without deducting withholding taxes and value added tax applicable for imported services.

In the circumstances, the tax payments amounted to double payment and thus ineligible charge to the project and to public funds.

1682. Long Outstanding Bank Reconciliation Items

The statement of financial assets reflects a bank balance of Kshs.482,815. Review of the bank reconciliation statement in respect of the account revealed long outstanding unpresented cheques totalling to Kshs.159,000 and payments in bank statements not in the cash book amounting to Kshs.641,815. The reconciling items have been outstanding since 2020/2021 financial year. The Management indicated that non-clearance of the items was due to insufficient documentation to support the reconciling items hence could not clear the entries from the final project books. Therefore, this implies that the uncleared reconciling items will remain outstanding as the project closed on 31 August, 2021, and a disbursement deadline of four (4) months after the closing date lapsed on 30 June, 2022.

In addition, the project bank account had not been closed despite the balance in the account having been transferred to The National Treasury after the project closed on 31 August, 2021.

In the circumstances, the accuracy and completeness of bank and cash balances of Kshs.482,815 could not be confirmed.

1683. Lack of an Approved Annual Workplan

The statement of receipts and payments reflects payments amounting to Kshs.344,248,676 in respect of purchase of goods and services. However, no approved workplan in respect of implemented activities was availed for audit review.

In the circumstances, the regularity and accuracy of the expenditure amounting to Kshs.344,248,676 could not be confirmed.

Other Matter

1684. Budgetary Control and Performance

The statement of comparative budget and actual amounts for the year under review reflects final budget and actual payments on comparable basis of Kshs.437,584,215 and Kshs.344,248,676 respectively, resulting in an underexpenditure of Kshs.93,335,539 or 21%. As a result, some of the planned activities were not undertaken during the year and therefore the Project may not have achieved its desired objectives.

1685. Project Implementation and Performance

The project information and funding summary statement indicates that the donor had made a funding commitment of USD.51,000,000 (Approximately Kshs.5,100,000,000) comprising Kshs.600,000,000 and Kshs.4,500,000,000 in IDA Grant and IDA Loan respectively. However, as at 30 June, 2022, the Project had utilized a total of Kshs.4,533,412,421 or 89% with the Project closure on 31 August, 2021 after a six (6) month extension from the initial closure date of February, 2021.

In the circumstances, the Project failed to realize and utilize the remaining funding commitment of Kshs.579,048,893 which may have negatively impacted on service delivery to citizens.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1686. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1687. Lack of Asset Handing Over Report

Annex 4 to the financial statements containing a summary of fixed asset register, and a corresponding detailed fixed asset register as at 30 June, 2022 reflects net book value of assets at historical cost amounting to Kshs.215,351,264. However, no asset handing over report to the Accounting Officer was provided following closure of the Project on 31 August, 2021 as required under Regulation 74(6) of the Public Finance Management Regulation (National Government) Regulations, 2015.

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1688. As required by International Development Association (IDA), I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR TOURISM - VOTE 1202

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1689. Inaccuracies in the Financial Statements

Comparison of balances reflected in the financial statements for the year ended 30 June, 2022 and reports generated by Integrated Financial Management Information System (IFMIS) annexed to the financial statements revealed unreconciled differences as detailed below:

1689.1 Statement of Receipts and Payments

The statement of receipts and payments reflects an amount of Kshs.237,870,098 in respect to use of goods and services while IFMIS report reflects an amount of Kshs.237,732,103 resulting to unreconciled and unexplained variance of Kshs.137,995.

1689.2 Statement of Assets and Liabilities

The statement of assets and liabilities was at variance with the IFMIS report as detailed below:

Item	Amount as per Audited Financial Statements (Kshs.)	Amount as per IFMIS Report (Kshs.)	Variance (Kshs.)
Cash and Cash Equivalents	156,999,780	619,741,521	(462,741,741)
Account Receivables	-	8,228,563	(8,228,563)
Account Payables	139,997,793	610,777,009	(470,779,216)

1689.3 Statement of Cash Flows

The statement of cashflows was at variance with the IFMIS report as tabulated below:

Item	Amount as per Audited Financial Statements (Kshs.)	Amount as per IFMIS Report (Kshs.)	Variances (Kshs.)
Cash Flow from Operating Activities	87,088,365	547,777,107	(460,688,742)
Net Increase in Cash and Cash Equivalents	18,417,850	481,106,592	(462,688,742)
Cash and Cash Equivalent at the end of the Year	156,999,780	619,741,521	(462,741,741)

1689.4 Between Financial Statements and Trial Balance

The financial statement amounts differed with trial balance amounts as detailed below:

Account No and Description	Financial Statement (Kshs.)	Trial Balance (Kshs.)	Variance (Kshs.)
2210400 Foreign Travel and Subsistence, and Other Transportation Costs	48,290,544	48,152,550	137,994
6530000 Recurrent Bank Account	14,551,584	616,842,216	(602,290,632)
6540000 Development Bank Account	3,493,200	(60,665,265)	64,158,465
6550000 Deposit Bank Account	138,954,996	116,405,157	22,549,839
6580104 Cash in Transit	-	(203,443,028)	203,443,028
6580000 Cash in Hand	-	150,602,441	(150,602,441)
6710103 Salary Advance	-	(132,735)	132,735
6740101 Prepayment	-	440,900	(440,900)
6740102 R/D Cheques	-	(70,891)	70,891
6760000 Government Imprests	-	7,991,289	(7,991,289)
7310000 Deposits	-	185,000	(185,000)
7320000 Other Liabilities	(1,042,797)	(1,076,479)	33,682
7320201 Contractors Retention Money	(138,954,996)	(116,405,157	(22,549,839)
7380000 Withholding Taxes	-	(143,655)	143,655
7390000 System Required Liabilities A/cs	-	(492,966,718)	492,966,718
9910000 Provisions	-	(11,717,043,408)	11,717,043,408
9990000 Opening Balance Reserves	-	9,907,878,700	(9,907,878,700)

In the circumstances, the accuracy and completeness of the financial statements for the year ended 30 June, 2022 could not be confirmed.

1690. Inaccuracies in Presentation of the Financial Statements

Review of the financial statements revealed the following anomalies:

i. Significant accounting policies Note 4(j) on prior period adjustments refers to Note 26 instead of Note 12 to the financial statements where errors corrected during the year are disclosed.

ii. Annex 4 to the financial statements on summary of fixed asset register reflects nil balance brought forward instead of the correct balance of Kshs.822,637,554 as per the previous year audited financial statements.

iii. Annex 6 to the financial statements provides a list of Semi-Autonomous Government Agencies (SAGAs) under the State Department that reflects their accounting officers as the Principal Secretary State Department for Tourism instead of the specific accounting officer of the respective SAGAs.

iv. Inter-entity confirmation letters for Tourism Research Institute and Tourism Regulatory Authority confirming the grant amounts received have not been provided and attached to the financial statements hence casting doubts on whether the funds were actually disbursed.

In the circumstances, the accuracy and completeness of the financial statements for the year ended 30 June, 2022 could not be confirmed.

1691. Unreconciled Transfers to Other Government Units

The statement of receipts and payments reflects transfers to other government units amount of Kshs.1,225,600,000 as disclosed in Note 4 to the financial statements. However, review of the ledger and schedules from the entities that received recurrent and development grants revealed a total of Kshs.1,236,843,332 was received resulting to unexplained and unreconciled variance of Kshs.11,243,332.

In the circumstances, the accuracy and completeness of the transfers to the other government entities amount of Kshs.1,225,600,000 for the year ended 30 June, 2022 could not be confirmed.

1692. Unsupported Payment of Deposits

The statement of assets and liabilities reflects accounts payables balance of Kshs.139,997,793 out of which an amount of Kshs.138,954,996 relates to deposits. However, the supporting documents for payment of Kshs.20,591,158 paid from deposit account to a local Company on 3 September, 2021 were not provided for audit review.

In the circumstances, the accuracy of the accounts payable balance of Kshs.20,591,158 as at 30 June, 2022 could not be confirmed.

1693. Use of Goods and Services - Design and Procurement of Government Calendars

Note 3 to the financial statements reflects Kshs.237,870,098 relating to use of goods and services which includes an amount of Kshs.28,434,062 in respect to specialized materials and services which in turn includes an amount of Kshs.10,000,000 for design and printing of calendars. Review of the payment details revealed the following anomalies:

i. The State Department had planned to procure 50,000 units of wall calendars and 25,000 units of desk calendars at an estimated unit cost of Kshs.200 all totalling to Kshs.10,000,000 and Kshs.5,000,000 respectively.

ii. The Management transferred Kshs.10,000,000 of its budgeted funds to Kenya Tourism Board (KTB) vide AIE No. 129013 to procure calendars on their behalf without justification as required by Section 51(2)(a) and (b) of the Public Procurement and Asset Disposal Act, 2015.

iii. KTB engaged a local procurement agent at a cost of Kshs.1,666,583 to design and print 45,800 units of wall calendars at a total cost of Kshs.5,897,208 and 22,700 units of desk calendars at a cost of Kshs.2,435,710. The quantities of calendars delivered were inadequate of the planned quantities by 4,200 and 2,300 units respectively. The Company engaged by KTB also engaged another agent to print the calendars at a cost of Kshs.8,332,918. Consequently, the payment of Agency fee of Kshs.1,666,583 could not be justified.

In the circumstances, the propriety and validity of the specialized materials and services expenditure of Kshs.28,434,062 for the year ended 30 June, 2022 could not be confirmed.

1694. Undisclosed Revenue in the Financial Statements

The State Department collected revenue amounting to Kshs.1,494,050 at the Mama Ngina Waterfront in Mombasa that was banked at KCB bank account No.1285363612. However, the State Department had not budgeted to collect any revenue during the year under review and the revenue collected was not disclosed in the financial statements.

In the circumstances, the accuracy and completeness of the revenue disclosed in the financial statements could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1695. Non-Disclosure of Pending Bills

In the year under review, the State Department had several active court cases on which judgements had been delivered while others were still ongoing. However, the Management did not recognize the ongoing cases as contingent liabilities. Further, a balance of Kshs.5,391,020 was omitted from the list of pending bills annexure 3 to the financial statements.

In the circumstances, Management was in breach of the Public Sector Accounting Standards Board Reporting Template.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1696. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR WILDLIFE - VOTE 1203

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1697. There were no material issues noted during the audit of the financial statements of the State Department.

Other Matter

1698. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.9,764,799,340 and Kshs.8,763,337,148 respectively, resulting to an underfunding of Kshs.1,001,462,192 or 10% of the budget. Similarly, the State Department spent Kshs.8,660,103,614 against an approved budget of Kshs.9,764,799,340 resulting to an underexpenditure of Kshs.1,104,695,726 or 11% of the budget.

The underfunding and under-performance affected the planned activities and may have impacted negatively on service delivery to the public.

1699. Human Wildlife Conflict Compensation

Annex 1 to the financial statements reflects outstanding balance for pending accounts payable of Kshs.2,715,987,161. This balance includes an amount of Kshs.2,708,390,651 in respect of unpaid human wildlife compensation claims. Although the Department paid claims amounting to Kshs.530,000,000 during the year under review, the cumulative outstanding balance is still growing due to increased human wildlife conflicts.

Failure to settle human wildlife conflict claims during the year in which they relate distorts the budget and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1700. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1701. Lack of ICT Policy and Risk Management Policy

The State Department had not prepared and implemented an ICT policy as a commitment to the process of implementing digital technology. An ICT policy would give guidance on

how to ensure confidentiality, integrity and availability of the entity's data. Further, the State Department did not have a risk management policy, contrary to Regulation 165(1) of the Public Finance Management (National Government) Regulations, 2015.

As a result, it has not been possible to define the entity's risk appetite and set the risk tolerance levels by identifying boundaries against unacceptable risk exposures as well as determining the data integrity.

In the circumstances, the State Department did not have a framework to identify, assess and control risks.

DONOR FUNDED PROJECT

COMBATING POACHING AND ILLEGAL WILDLIFE TRAFFICKING IN KENYA THROUGH INTEGRATED APPROACH (IWT-KENYA) PROJECT

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1702. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1703. Budgetary Control and Performance

The summary statement of comparison budget and actual amount reflects total receipts final budget and actual on comparable basis of Kshs.98,810,000 and Kshs.58,146,293 respectively resulting to an underfunding of Kshs.40,663,707 or 41% of the budget. Similarly, the Project spent Kshs.56,380,814 against an approved budget of Kshs.98,810,000 resulting to an under expenditure of Kshs.42,429,186 or 43% of the budget.

The underfunding and under-performance affected the planned activities and may have impacted negatively on service delivery to the stakeholders.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1704. Ambiguity in the Financing Agreement

Section IX of the Financing Agreement states that both Government of Kenya (GoK) and United Nations (UN) financial and procurement procedures will be utilized and adhered to as appropriate. However, this clause may bring conflict where GoK financial and procurement procedures are not in tandem with those of UN.

In the circumstances, continued application of the Financing Agreement with the above clause may result to non-adherence to GoK financial and procurement procedures.

1705. Gender Imbalance in Recruitment

During the year under review, the Project Management recruited for five (5) vacancies. However, all the five (5) posts were filled by male candidates despite existence of female applicants contrary to Section 33(2) of the National Cohesion and Integration Act, 2008. No explanation was provided for this anomaly.

In the circumstances, the Project Management was in breach of the Act.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1706. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR GENDER - VOTE 1212

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1707. Unsupported Amounts in the Financial Statements

The statement of receipts and payments reflects proceeds from domestic and foreign grants amount of Kshs.48,125,120, being a grant from Finland Government. The Management did not however, provide the supporting documents for audit review.

Further, the statement reflects use of goods and services amount of Kshs.231,968,254 which includes hospitality supplies and services expenditure of Kshs.49,967,708 as disclosed in Note 5 to the financial statements. Out of the amount, expenditure relating to grants totalling to Kshs.22,142,473 were not supported with the payment vouchers and other supporting documents. In addition, the use of goods and services amount includes expenditure on training of Kshs.13,896,888 out of which expenditure on Finland program through AIA of Kshs.2,000,000 was not supported with any document.

In the circumstances, the accuracy and completeness of proceeds from foreign grants, hospitality supplies and services and training expenses of Kshs.48,125,120, Kshs.22,142,473 and Kshs.2,000,000 respectively could not be confirmed.

Other Matter

1708. Pending Bills

According to Note 17.1 to the financial statements, the Department had pending accounts payable totalling Kshs.3,608,065 as at 30 June, 2022. Management did not explain why the bills were not settled during the year when they occurred. As a result, the Department is at risk of incurring significant interest costs and penalties with their continued delay in payment.

Further, failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

1709. Unresolved Prior Year Matters

In the audit report of the previous year, several paragraphs were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. Although Management indicated that some of the issues were responded to, the matters remained unresolved.

1710. Failure to Implement Public Accounts Committee's Recommendations

The Public Accounts Committee (PAC) deliberated on the Department's report of the Auditor-General on the financial statements for the financial year 2018/2019 on 17 May, 2022. The Committee recommended that within three (3) months of tabling and

adoption of the report, the Accounting Officer should recover amounts overpaid or irregularly paid to officers. A review of the position as at 8 December, 2022 however, revealed that out of the total irregular payments of Kshs.6,296,000, the Department has only recovered Kshs.3,688,385 or 58.6% of the total amount, leaving a balance of Kshs.2,607,614.

Thus, the recommendations of the PAC have not been fully implemented as required.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1711. Failure to Update Fixed Asset Register

The statement of receipts and payments reflects acquisition of assets amount of Kshs.88,388,080 which includes purchase of office furniture and general equipment amount of Kshs.7,579,080 as disclosed in Note 8 to the financial statements. The amount includes expenditure on purchase of fixed assets of Kshs.955,840 incurred at the county offices. The details of the assets, including date of purchase, cost, supplier's name and location of the assets have however, not been updated in the asset register contrary to Regulation 143 of the Public Finance Management (National Government) Regulations, 2015 which requires the Assets Register to be updated with all assets acquisitions.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis of the Conclusion

1712. Lack of Information Communication Technology Policy

Review of the Department's information technology systems revealed that it has in place systems to manage its operations. The Department did not however, have an approved IT policy for governance and management of its ICT resources. In addition, there was no ICT Steering Committee in place to assist in the development of ICT policy framework to enable the Department to realize long-term ICT strategic goals. Lack of an approved IT policy may result in an unclear direction regarding maintenance of information security across the organization and safeguarding the Department`s ICT assets. Further, without a sound and approved framework, users do not have any rules and procedures to follow in order to minimize risk of errors, fraud and the loss of data confidentiality, integrity and availability.

STATE DEPARTMENT FOR PUBLIC SERVICE - VOTE 1213

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1713. There were no material issues noted during the audit of the financial statements of the State Department.

Other Matter

1714. Unsupported Accounts Payables-Deposits

The statement of assets and liabilities and corresponding Note 12 to the financial statements, reflects accounts payables - deposits balance of Kshs.20,819,640. Included in the balance is an amount of Kshs.19,220,963 in respect of retention monies owed to contractors engaged by the State Department to undertake various projects. However, schedules and analysis provided to support the balance did not have relevant details.

In the circumstances, the accuracy of the accounts payables - deposits balance of Kshs.20,819,640 could not be confirmed.

1715. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.20,158,815,921 and Kshs.19,268,681,238, respectively, resulting in an underfunding of Kshs.890,134,684 or 4% of the budget. Similarly, the State Department spent an amount of Kshs.19,268,027,814 against an approved budget of Kshs.20,158,815,921 resulting to an underexpenditure of Kshs.890,788,107 or 4% of the budget.

The underfunding and underperformance affected the implementation of the State Department's activities and overall annual work plan and may have impacted negatively on service delivery to the public.

1716. Long Outstanding Pending Accounts Payables

As disclosed under other important disclosures, Note 17.2 (Annex 1) to the financial statements reflects pending accounts payables (pending bills) balance of Kshs.1,478,128,900 as at 30 June, 2022 owed to various suppliers of goods and services. Included in the balance is long outstanding pending accounts payables balance of Kshs.120,777,055. However, Management did not provide reasons for non-payment of the bills.

Further, failure to settle bills in the year to which they relate adversely affects the implementation of the subsequent year's budgeted programmes as the pending bills form a first charge to that year's budget provision.

1717. Unresolved Prior Year Matters

In the previous year's audit report, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, the Management had not resolved the issues or given explanation for the failure to implement the recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1718. Construction Works at Proposed Ultra-Modern Huduma Centre, Garden City Mall

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.1,162,080,137 as disclosed in Note 5 to the financial statements. Included in the expenditure is an amount of Kshs.48,700,339 in respect of routine maintenance-other assets. Review of the expenditure records indicated that a contractor was paid a total of Kshs.40,106,173, out of which Kshs.24,087,536 was paid during the year under review for the interior works at the Ultra-Modern Huduma Centre located at Garden City Mall, being the first interim payment to the contractor.

Review of records attached to the payment vouchers revealed the following irregularities:

1718.1 Irregular Payments Without a Valid Contract

The payments to the contractor amounting to Kshs.40,106,173 was based on a contract signed between the State Department for Public Service, Youth and Gender Affairs and the contractor on 2 February, 2018 for provision of consultancy services for designing, building works, supervision and project management at Bomet, Narok and Kajiado West Huduma Centres at a contract sum of Kshs.169,958,444. There was no valid contract for the payment of interior works at the proposed Ultra-Modern Huduma Centre, Garden City Mall and the contract agreement used to support the payment excluded the specific contract sum for the works carried out at Garden City Mall.

1718.2 Non-Performance by the Contractor

Further, examination of the project file contract revealed that the Project was to run for thirty-six (36) weeks with commencement date of 17 May, 2018 and expected completion date of 17 February, 2019. Records provided for audit indicated that a site visit meeting held on 13 September, 2018 noted very minimal execution of works had been completed, including mechanical ventilation and electrical works. The project remained inactive for over five (5) years. It is therefore, not clear why Management did not take action to terminate the contract based on the site visit meeting minutes and subsequent evidence of non-performance.

In addition, Management contracted consultancy services to a private firm for services that would ordinarily have been provided by the State Department for Public Works in the designing of buildings, preparation of bills of quantities, preparation and evaluation of

tender documents, tendering process, supervision and approval of work programs, final accounts among others.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1719. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR YOUTH AFFAIRS - VOTE 1214

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1720. There were no material issues noted during the audit of the financial statements of the State Department.

Other Matter

1721. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts and actual on comparable basis of Kshs.5,395,360,032 and Kshs.5,220,923,013 respectively resulting in a budget underfunding of Kshs.174,437,019 or 3% of the budget. Similarly, the State Department spent Kshs.4,447,103,358 against an approved budget of Kshs.5,395,360,032 resulting to an underexpenditure of Kshs.948,256,674 or 18% of the budget.

In the circumstances, the budget underfunding and underabsorption affected the planned activities and may have impacted negatively on service delivery to the public.

1722. Late Exchequer Releases

The statement of receipts and payments reflects transfers from the National Treasury totalling Kshs.5,102,220,321. However, Exchequer issues totalling Kshs.894,659,831 comprising Kshs.104,741,121 and Kshs.789,918,831 in respect to recurrent and development expenditure respectively were received by the State Department during the months of June and July, 2022 as follows:

Date	Vote	Amount (Kshs.)
15 June, 2022	Recurrent	34,220,386
24 June, 2022	Recurrent	52,694,005
30 June, 2022	Recurrent	16,403,915
06 July, 2022	Recurrent	1,422,814
16 June, 2022	Development	65,662,075
23 June, 2022	Development	4,538,780
30 June, 2022	Development	22,971,087
01 July, 2022	Development	600,266,120
06 July, 2022	Development	96,480,770
Total		**894,659,952**

In the circumstances, the late Exchequer releases may have hindered timely implementation of the planned programmes and activities of the State Department.

1723. Pending Bills

Note 16.2 to the financial statements reflects pending accounts payables amounting to Kshs.66,186,271 as at 30 June, 2022 which were not settled in the year under review, but were carried forward to 2022/2023 financial year.

Failure to settle bills in the year for which they relate adversely affects the implementation of the subsequent year's budgeted programs as the pending bills form a first charge to that year's budget provision.

1724. Unresolved Prior Year Matters

In the previous year's audit report, several paragraphs were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues nor given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1725. Irregular Procurement of Motor Vehicle Service and Repairs

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.2,905,884,137. The expenditure includes an amount of Kshs.29,515,863 in respect of routine maintenance – other assets which further includes an amount of Kshs.1,524,616 paid to a garage for repair of two (2) motor vehicles. Examination of records provided for audit indicated that the two vehicles were repaired on 25 July, 2019 and 30 August, 2019. However, request for quotations was made on 21 October, 2021 with a deadline of 26 October, 2021 and Local Purchase Orders issued on 13 April, 2021 approximately two years after the two vehicles were repaired. In addition, an amount of Kshs.4,011,308 was spent on repair and service of other eleven (11) motor vehicles. However, original work tickets showing movement of the vehicles to and from the garages were not provided for audit review.

In the circumstances, it was not possible to confirm whether the State Department obtained value for money for the expenditure totalling Kshs.5,535,924 in respect of repair of motor vehicles.

1726. Failure to Provide Motor Vehicle Work Tickets

As disclosed in Note 4 to the financial statements, the State Department incurred an expenditure of Kshs.14,084,611 on fuel, oil and lubricants. However, work tickets for sixteen (16) motor vehicles were not provided for audit verification. This is contrary to Regulation 166(4)(b) of the Public Procurement and Asset Disposal Regulations, 2020

which stipulates that an Accounting Officer should ensure that the movement and condition of assets can be tracked.

Further, review of fuel statements provided for audit revealed payments amounting to Kshs.1,430,694 through three (3) general fuel cards Nos.1122008267 - Kshs.1,272,678, 1122021169 - Kshs.28,564 and 1122023475 - Kshs.129,452. However, the registration numbers of vehicles that drew the fuel was not indicated in the statement.

In the circumstances, value for money and authenticity of the expenditure could not be confirmed.

1727. Irregular Procurement of Goods and Services

Note 4 to the financial statements reflects an expenditure of Kshs.2,905,884,137 on use of goods and services. The expenditure includes payments totalling Kshs.13,771,865 incurred on procurement of various goods and services from suppliers. However, the suppliers were not registered with the State Department as prequalified suppliers for the year under review. Further, the updated list of suppliers provided was not classified into categories of goods, works or services according to the State Department's procurement needs contrary to Section 106(2)(a) of the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, the propriety and value for money on expenditure of Kshs.13,771,865 for the year ended 30 June, 2022 could not be confirmed.

1728. Management of Imprest

The statement of assets and liabilities reflects accounts receivables - outstanding imprests and accounts clearance balance of Kshs.1,709,116 and as disclosed in Note 9 to the financial statements. However, several officers were issued with multiple imprests before surrendering previous imprest contrary to Regulation 93(4) of the Public Finance Management (National Government) Regulations, 2015 which prohibits issue of new imprests to officers with outstanding imprest. No explanation was provided by Management for the anomaly.

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

1729. Refurbishment of Youth Empowerment Centres

The statement of receipts and payments reflects acquisition of assets balance of Kshs.290,257,712 and as disclosed in Note 7 to the financial statements. Included in the balance is Kshs.25,687,067 incurred on refurbishment of youth empowerment centres. Physical verification of the facilities carried out in the month of September, 2022 revealed the following anomalies:

1729.1 Poor Workmanship

There were visible deep cracks on the walls and floors, loose electrical installations, leaking ceiling and broken window latches at Mulot Youth Empowerment Centre, while Rachuonyo YEC had evidence of leakages from the roof an indication of poor workmanship of centres.

1729.2 Irregular Renting of Kithimani Youth Empowerment Centre

Physical verification at Kithimani Centre revealed that three (3) rooms earmarked for Youth Centre Manager's office, computer lab and hall were all rented out to Independent Electoral and Boundaries Commission (IEBC) and an individual. The lease agreement provided indicated that the agreement was signed by a Sub-County Youth Officer and IEBC Returning Officer which was not approved by the State Department. No explanation was provided or authority given to the Officer to enter into contract with the tenants on behalf of the State Department.

1729.3 Delayed Installation of LAN and CCTV in Youth Empowerment Centres

Note 7 to the financial statements reflects an amount of Kshs.109,926,285 in respect of purchase of specialized plant and equipment and machinery. The expenditure relates to installation of Local Area Network (LAN) and Closed-Circuit Television in twenty-five (25) Youth Empowerment Centres (YECs). However, physical verification carried out in the month of September, 2022 in seventeen (17) out of the twenty-five (25) YECs revealed the following:

i. CCTV and LAN in four (4) Youth Empowerment Centres could not be confirmed to be working due to lack of electricity connection.

ii. Although LAN was installed in seventeen (17) centres, only two (2) were operational. The remaining fifteen (15) could not be confirmed as computers had not been installed at the centres.

In the circumstances, value for money may not have been obtained from the expenditure of Kshs.109,926,285 incurred on installation of LAN and CCTV in Youth Empowerment Centres.

1730. Incomplete Fixed Assets Register

Annex 2 to the financial statements reflects Kshs.228,514,544 in respect of additions to fixed assets. Review of the fixed assets register provided for audit revealed that information such as date of acquisition, cost of purchase, serial numbers of electronic equipment and values of all assets were not indicated in the register. Further, physical verification revealed that the assets were not tagged for ease of identification and tracking.

In the circumstances, it could not be confirmed that preventative mechanisms were in place to eliminate theft, security threats, losses, wastage and misuse of assets as required by Regulations 139(1) and (2) of the Public Finance Management (National Government) Regulations, 2015.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1731. Lack of Risk Management Policy

Review of the State Department's internal controls revealed that the Department did not have an approved risk management policy. Further, the Management has not identified and documented risks and controls to respond to the risks identified contrary to

Regulation 165 of the Public Finance Management (National Government) Regulations, 2015. The regulation stipulates that the Accounting Officer shall ensure that the National Government entity develops risk management strategies, which include fraud prevention mechanism and system of risk management and internal control that builds robust business operations.

In the absence of a risk management policy, it was not possible to determine the effectiveness of controls implemented by the State Department to mitigate the potential risks.

DONOR FUNDED PROJECTS

KENYA YOUTH EMPLOYMENT AND OPPORTUNITIES PROJECT (IDA CREDIT NO. 5812 – KE)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1732. Variance between Amounts in the Financial Statements and Special Account Statement

The statement of receipts and payments and as disclosed under Note 1 to the financial statements reflects loan from external development partners of Kshs.3,270,287,713, which differs with the amount of Kshs.3,273,340,882 (USD29,090,939.58) withdrawn from the special account maintained at the Central Bank of Kenya, resulting to unexplained variance amounting to Kshs.3,053,169.

In the circumstances, the accuracy of the loan from external development partners of Kshs.3,270,287,713 could not be confirmed.

1733. Unsupported Expenditure

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects payments of purchase of goods and services totalling Kshs.2,480,743,498 which includes payments of Kshs.1,036,219,396 relating to hospitality supplies and services out of which an amount of Kshs.8,660,000 was not supported with documentary evidence.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.8,660,000 could not be confirmed.

Other Matter

1734. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts and actual on comparable basis of Kshs.3,297,267,232 and Kshs.3,270,287,713

respectively resulting in underfunding of Kshs.26,979,519 or 1% of the budget. Similarly, the Project expended Kshs.2,503,609,024 against an approved budget of Kshs.3,297,267,232 resulting to underexpenditure of Kshs.793,658,208 or 24% of the budget.

This under performance affected the implementation of the project activities and may have impacted negatively on service delivery to the public.

1735. Unresolved Prior Year Audit Issues

The Project's audit report of the previous year highlighted several issues under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circulars.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1736. Incomplete Fixed Assets Register

Annex 4 to the financial statements reflects summary of fixed assets register with total assets valued at Kshs.221,414,758 as at 30 June, 2022. Review of the asset register provided for audit revealed lack of critical information such as date of purchase, asset number, serial numbers and cost of the assets in the register. Further, the assets were not recorded distinctly, but instead a block amount was captured in the register hence it was not possible to trace and verify each asset.

In the circumstances, the completeness of fixed assets balance of Kshs.221,414,758 could not be confirmed.

1737. Non-Compliance with Project Work Plan Implementation

Review of the project work plan revealed that the Project had planned to disburse to youth an amount of Kshs.1,350,000,000 by 15 July, 2021 through component two; Business Plan Competition dubbed "MbeleNabiz" to support awardees to start or expand businesses that would create employment opportunities. However, examination of Project records revealed that funds totalling Kshs.1,287,219,750 had been disbursed as of 30 June, 2022, against a target amount of Kshs.1,350,000,000. This indicates that the project did not meet the set target as per the agreement between the awardees and the State Department for Youth Affairs. Further, no evidence was provided by the Project Management indicating the success of the business operated by youths who received the grants.

In the circumstances, the Project may not have achieved its intended objectives.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1738. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1739. As required by the provisions of the Financing Agreement No.5812-KE dated 12 June, 2016 between the International Development Association (IDA) and the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

YOUTH EMPOWERMENT PROGRAMME GRANT/CREDIT NO. B4210 -

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1740. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1741. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts and actual on comparable basis of Kshs.14,000,000 and Kshs.7,801,980 respectively resulting in an underfunding of Kshs.6,198,020 or (44%) of the approved budget. Similarly, the Programme spent Kshs.6,776,343 against an approved budget of Kshs.14,000,000 resulting to an underexpenditure of Kshs.7,223,657 or (52%) of the budget.

In the circumstances, the under-performance affected the implementation of the project activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1742. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1743. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1744. As required by the provisions of the Financing Agreement- Grant/Credit Number: B4210 between the Government of Kenya and the United Nations Population Fund, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project Management and the Programme's financial statements are in agreement with the accounting records and returns.

VIJANA VUKA NA AFYA YOUTH PROGRAMME (GRANT NO. 201367465)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1745. Unsupported Expenditure

The statement of receipts and payments reflects purchase of goods and services expenditure of Kshs.145,115,875, which as disclosed under Note 3 to the financial statements, includes Kshs.118,702,692 payments made by third parties relating to domestic travel and subsistence, training expenses, other operating expenses and printing, advertising, information, supplies and services. However, the payments were not supported with details and requisite documentation such as invoices, receipts, work tickets, program of activities and signed attendance schedules. Further, included under the expenditure is communication, supplies and services balance of Kshs.705,200, were payments totalling to Kshs.50,000 for which supporting documents and records were not provided for audit review.

In the circumstances, the accuracy, completeness and fair presentation of purchase of goods and service expenditure of Kshs.145,115,875 reflected in the statement of receipts and payments could not be confirmed.

Other Matter

1746. Budgetary Control and Performance

The statement of comparison of budget and actual amounts for the year ended 30 June, 2022 reflects budgeted receipts and actual on comparable basis amounting to Kshs.280,720,892 and Kshs.146,783,000 respectively resulting in a revenue shortfall of

Kshs.133,937,892 or 48% of the budget. The Programme's expenditure was limited to the receipts realized.

In the circumstance, the underfunding implies that some of the planned activities were not implemented which could impact negatively on the achievement of the overall Programme's goals and objectives.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1747. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1748. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1749. As required by the provisions of the Financing Agreement No.201367465 dated 22 November, 2016 and amended on 30 March, 2021 between the KfW Development Bank and the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements agree with the accounting records and returns.

STATE DEPARTMENT FOR EAST AFRICAN COMMUNITY - VOTE 1221

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1750. There were no material issues noted during the audit of the financial statements of the State Department.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1751. Failure to Comply with Public Finance Management Regulations, 2015 - Pending Bills

As disclosed in Note 13.1 and Annex 1 to the financial statements, the State Department had pending bills amounting to Kshs.13,818,936 that were not settled during the year under review but were instead carried forward to the 2022/2023 financial year. The pending bills balance includes an amount of Kshs.1,242,797 which relates to 2020/2021 and earlier financial years.

No explanation was provided for non-payment of the pending bills before the end of the financial year. Failure to settle pending bills in the year for which they relate to adversely affects the implementation of the subsequent years budget programs as pending bilss form a first charge to that year's budget provision.

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

1752. Late Exchequer Releases

The statement of receipts and payments reflects exchequer releases of Kshs.608,257,880 which as disclosed in Note 1 to the financial statements, includes an amount of Kshs.52,869,956 received on 6 July, 2022. This is contrary to Section 17(2) b of the Public Finance Management Act, 2012 which states that, payment from the National Exchequer Account should be done without undue delay on all amounts that are payable for public services.

The delayed exchequer releases may have affected the State Department's ability to implement its planned programmes and possible underutilization of the budget, resulting to negative impact on delivery of services to the public.

In the circumstances, The National Treasury was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1753. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR REGIONAL AND NORTHERN CORRIDOR DEVELOPMENT - VOTE 1222

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1754. Misallocation of Expenditure

The statement of receipts and payments reflects an expenditure of Kshs.32,055,898 under acquisition of assets which, as disclosed in Note 8 to the financial statements includes amounts of Kshs.3,745,721 and Kshs.28,310,177 for the purchase of office furniture and general equipment and rehabilitation of civil works respectively. However, examination of supporting documents for rehabilitation of civil works revealed that expenditure totalling to Kshs.17,894,477 which constitutes amounts of Kshs.2,197,343, Kshs.11,536,199 and Kshs.4,160,935 incurred on payment of wages, field allowances and motor vehicle repairs and fuel respectively, which were not related to the rehabilitation of civil works. This was contrary to Regulation 43(b) of the Public Finance Management (National Government) Regulations, 2015 which provides that an Accounting Officer shall ensure that public funds entrusted to their care are properly safeguarded and are only applied for purposes for which they were intended and appropriated by Parliament.

In the circumstances, the regularity of the expenditure amounting to Kshs.17,894,477 could not be confirmed.

Other Matter

1755. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects actual receipts of Kshs.4,711,026,537 against budgeted receipts of Kshs.5,504,562,275 resulting to an underfunding of Kshs.793,535,738 or 14% of total budget. Similarly, the statement reflects budgeted payments of Kshs.5,504,562,275 against actual payments of Kshs.4,710,034,185 resulting to under expenditure of Kshs.794,528,090 or 14% of total budget.

In the circumstances, the State Department has not implemented all the planned and approved programmes, resulting to delayed provision of services to the citizens.

1756. Pending Bills

As disclosed in Annex 1 and Note 18 to the financial statements, the State Department had pending bills amounting to Kshs.2,451,916,061 chargeable to both the recurrent and development votes that were not settled during the year under review but were instead carried forward to the 2022/2023 financial year. The pending bills balance includes an amount of Kshs.2,448,920,483 which relates to 2020/2021 and earlier financial years. No plausible explanation was provided for non-payment of the pending bills before the end

of the financial year. This is contrary to Regulation 42(1)(a) of the Public Finance Management (National Government) Regulations, 2015 which states that debt service payments shall be a first charge in the Consolidated Fund and the Accounting Officer shall ensure this is done to the extent possible that the Government does not default on debt obligations.

Failure to settle bills during the year in which they relate to adversely affects the budgetary provisions for the subsequent year to which they have to be charged.

1757. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. However, although Management has indicated that the issues have been responded to, the issues remained unresolved as the State Department has not appeared before the Parliamentary Accounts Committee (PAC) to deliberate on the same.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1758. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1759. Inactive Audit Committee

Review of records for the State Department revealed that an Audit Committee was appointed on 15 July, 2020. However, the Committee Members have not performed any duties since their appointment. This is contrary to Regulation 175 of the Public Financial Management (National Government) Regulations, 2015 which states that the main function of the Audit Committee shall be to support the Accounting Officers with regard to their responsibilities for issues of risk, control and governance and associated assurance but the responsibility over the management of risk, control and governance processes remains with the management of the concerned entity; and also to follow up on the implementation of the recommendations of internal and external auditors. No explanation was provided for failure to operationalize the Audit Committee.

In the circumstances, the existence of an effective oversight mechanism to ensure efficient system of internal controls could not be established.

DONOR FUNDED PROJECT

KIMIRA OLUCH SMALLHOLDER FARM IMPROVEMENT PROJECT (ADF LOAN NO. 2100150012296)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1760. Inaccuracies in the Financial Statements

1760.1 Unsupported Transfer from Government Entities

The statement of receipts and payments and as disclosed under Note 11.1 to the financial statements reflects an amount of Kshs.62,763,831 being transfer from other government entities. The amount was received and expended by the State Department for Regional and Northern Corridor Development on behalf of the Project. The Management indicated that financial records in respect of these amounts were maintained at the State Department Headquarters with the field office just processing. Further, the ledger and other support documents for these receipts were not provided for audit review.

In the circumstances, the completeness and accuracy of the amount of Kshs.62,763,831 under transfer from other government entities could not be confirmed.

1760.2 Unreconciled Fund Balance

The statement of receipts and payments reflects a cumulative deficit balance of Kshs.230,900 while the statement of financial assets reflects a fund balance of Kshs.311 resulting in unexplained variance of Kshs.231,211. In addition, the Management did not explain how the deficit was funded.

In the circumstances, the accuracy, completeness of the fund balance of Kshs.311 could not be confirmed.

1760.3 Unconfirmed Cumulative Balances

The statement of receipts and payments reflects total cumulative receipts of Kshs.4,362,826,464. However, the cumulative amounts do not include cumulative receipts from the financers of Kshs.2,993,408,349 as disclosed in the Project Information and Overall Performance Table A on source of funds. The cumulative balance reflected in the statement of receipts and payments is therefore inaccurate.

In addition, Table A on source of funds reflects an amount of UA 7,676,071 (Kshs.825,171,548) as being the undrawn balance from the Government of Kenya (GOK) Counterpart Funds. However, the financial statements for the previous year, (2021) showed a similar amount of UA 7,676,071, which translated to Kshs.890,005,390. The Project received Kshs.62,763,831 from GOK in the year under review.

Further, the statement of receipts and payments reflects cumulative payments of Kshs.4,363,057,364, which differs with the Table B on application of funds which reflects accumulated balance of Kshs.7,356,234,812 as at 30 June, 2022. The cumulative amount shown on the statement of receipts and payments does not include cumulative amounts paid by financiers of Kshs.2,993,408,349. Management did not explain how the cumulative payments were financed as they exceeded receipts by Kshs.230,900.

In the circumstances, the accuracy of the financial statements could not be confirmed.

1761. Unconfirmed Project Fixed Assets

The statement of receipts and payments reflects cumulative amount on acquisition of non-financial assets of Kshs.2,484,137,711. However, Annex 4 to the financial statements on summary of fixed assets reflects total project assets of Kshs.57,325,434 while the schedule provided for audit shows assets totalling to Kshs.68,604,515 resulting into unexplained difference of Kshs.11,279,081.

Further, as was reported in the previous year, the consultant who was supervising the project procured two motor vehicles with registration numbers KBS 681Z and KBS 682Z at a total cost of Kshs.7,200,000. However, the vehicles were not handed over to the Project Management after the completion of the consultancy services. This is contrary to Paragraph 10.0(IV) of the Service Contract No. KOSFIP/C/2 2020-2011 on consultant fees and payments, which states that after completion of the project, the consultant shall hand over equipment and vehicles to the project.

In addition, two other vehicles GKA 099Y and GKA 100Y whose log books are currently in custody of KOSFIP were released to Kenya Agricultural & Livestock Research Organisation (KALRO), Kisii Centre in November, 2011. The KOSFIP Management has made no effort to recover the two vehicles.

The value of the two vehicles, which technically belong to the project have not been recorded in the fixed assets register and are therefore not part of the Kshs.57,325,434 disclosed in Annex 4 to the financial statements. Further, the two other vehicles, currently under the control of KALRO cannot be said to belong to the Project.

In the circumstances, the accuracy and ownership of project fixed assets could not be confirmed.

Other Matter

1762. Pending Bills

Analysis of Pending Bills disclosed in the financial statement as Annex 3 reveals that two main service providers to KOSFIP have not been paid a total of Kshs.700,656,527 for a period of more than two years. The two firms were involved in the provision of major civil works and services for phase one of the KOSFIP. This is contrary to Section 53 (8) of the Public Procurement and Asset Disposal Act, 2015 which provides that the project manager should not commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contracts are reflected in approved budget estimates.

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

1763. Handing Over/Taking Over of Assets and Liabilities

Between 26 June, 2000 and 29 June, 2022, the Project Management spent Kshs.2,400,000 on travelling back and forth between Homa-Bay and Kisumu for the purpose of preparing handing over report. An assessment/handing report was thereafter prepared which involved 4 parties: Lake Basin Development Authority, State Department for Regional and Northern Corridor Development, the project contracted team whose term had lapsed and the new team appointed to take over the management of the Project.

It was however noted that there was no official handing over report signed by the four parties. The report provided during the audit was in soft copy which could easily be altered and therefore could not be relied on.

In the circumstances, the status of assets and liabilities of the Project as at 30 June, 2022 could not be ascertained.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1764. Late Submission of the Financial Statements

The Project Management presented the financial statements for audit on 21 October, 2022, three weeks past the statutory deadline. This delay was occasioned by the fact that most of the project's expenditure were incurred at the parent ministry and the project management therefore did not envisage any need to prepare financial statements. However, there has been no formal handover of the project activities, assets and any existing liabilities to the Ministry or any other relevant authorities.

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

1765. Unbudgeted Expenditure

The statement of receipts and payments and as disclosed under Note11.4 to the financial statements reflects total expenditure amount of Kshs.62,763,831 which includes an amount of Kshs.27,750,177 relating to purchases of goods and services. Review of the schedule provided to support the expenditure revealed an amount of Kshs.7,363,824 being payments for field allowance, salary deduction, meals allowances and security wages which were budgeted for under compensation of employees but actual expenditure made under purchase of goods.

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

1766. Irregular Engagement of Security Officers

Included in the total expenditure on compensation of employees of Kshs.34,453,654 is Kshs.3,017,324 paid as wages to project security officers during the period under review. However, there was no formal engagement or contract between the Project Management and the security officers as provided under Section 76 (2) of the Employment Act, 2007 which requires that an employer shall notify every vacancy occurring in the establishment,

business or work place in a prescribed form giving the following details; (a) the employer's name and full address; (b) details of the vacant post; (c) minimum qualification required of the person seeking to be employed; (d) the place of work; and (e) the type of work, whether casual, permanent or term contract; and (f) such other information as required

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

1767. Delayed Project Completion

The protocol of agreement and the loan agreement between the Republic of Kenya and the African Development Fund (AFD) for the Project was signed on 14 July, 2006 and its implementation commenced in February 2007. The final disbursement for the loan was to be 30 September, 2013. The loan had a grace period of 10 years after the signing of the loan agreement. It has been observed that it is now four (4) years since the loan repayments started, and nine years since the last disbursement by the Fund was supposed to be made. The Project is therefore past approved timelines and its current operation structure is not supported by an original or any subsequent agreements.

No reasons have been given for the failure to hand over the project and its activities, assets and any existing liabilities to the parent Ministry or other relevant authorities as earlier envisaged.

The Management is therefore in breach of the financing agreements since lapse of the project timeline have not been documented by any extension.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1768. Lack of an Audit Committee

The Project had not established an Audit Committee to assist management with responsibilities for issues of risk, internal controls, governance and associated assurance, and a follow up on the implementation of the recommendations of internal and external auditors.

1769. Lack of Staff Establishment

During the year under review, the Project incurred an expenditure of Kshs.34,453,654 on compensation of employees. However, it was observed that it did not have an approved establishment and a human resource plan to support achievement of goals and objectives in the strategic plan.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1770. As required by the financing agreement between African Development Fund and the Republic of Kenya, I report based on my audit, that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project Management and the Project's financial statements are in agreement with the accounting records and returns.

STATE LAW OFFICE AND DEPARTMENT OF JUSTICE - VOTE 1252

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1771. There were no material issues noted during the audit of the financial statements of the State Law Office and Department of Justice.

Other Matter

1772. Pending Bills

Note 16.1.C and Annex 1 to the financial statements reflects pending accounts payable balance of Kshs.53,634,452 as at 30 June, 2022 which were not settled during the year but were instead carried forward to the 2022/2023 financial year.

Failure to settle bills in the year to which they relate distorts the financial statements for the year and affects the budgetary provisions for the subsequent year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1773. Compensation of Employees

1773.1 Unsupported 3% Commission on Payroll Deductions

During the year under review, the State Law Office and Department of Justice deducted from staff payrolls an amount of Kshs.1,754,844 in respect of 3% payroll commission charge but did not record the amount in the books of account as revenue or support the same with an official receipt. This was contrary to Regulation 81(1) of the Public Finance Management (National Government) Regulations, 2015 which provides that the receiver of revenue shall promptly deposit into National Exchequer Account all receipts due to the Consolidated Fund.

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

1773.2 Non-Compliance with One Third of Basic Salary Rule

During the year under review, two hundred and forty-four (244) employees were paid net salary which was less than one third ($^1/_3$) of their basic salary contrary to Section 19(3) of the Employment Act, 2007 which provides that without prejudice to any right of recovery of any debt due, and notwithstanding the provisions of any other written law, the total amount of all deductions which under the provisions of subsection (1), may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages or such additional or other amount as may be prescribed by the Minister either generally or in relation to a specified employer or employee or class of employers or employees or any trade or industry.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1774. Lack of an Approved Enterprise Risk Management Process and Information Technology Strategic Committee

As previously reported, the State Law Office and Department of Justice did not have an approved well documented enterprise wide risk management process and policies in place to effectively guide the risk management processes. Further, there was no Information Technology (IT) Strategic Committee or IT Strategic Plan that supports business requirements. In addition, a formally approved IT Security Policy to ensure data confidentiality, integrity and availability, documented and tested emergency procedures, and IT continuity and disaster recovery plan was not in place.

In the circumstances, the policy, strategies and procedures put in place to assess, identify, measure, prioritize and mitigate risks in the State Law and Department of Justice could not be confirmed.

1775. Asset Management

The summary of fixed assets register under Annex 3 to the financial statements reflects assets with a historical cost of Kshs.226,896,753 as at 30 June, 2022. However, the State Law Office and Department of Justice did not maintain a detailed up to date assets register to keep track of the assets procured and held. This was contrary to Regulation 143(1) of the Public Finance Management (National Government) Regulations, 2015 which requires an Accounting Officer to maintain a register of assets under his or her control or possession as prescribed by the relevant laws.

In addition, the State Law Office and Department of Justice did not dispose any assets during the year although fifty-nine (59) motor vehicles were grounded at various locations. Further, log books for ten (10) motor vehicles bought and delivered by The National Treasury to the State Law Office and Department of Justice were not provided for audit verification.

In the circumstances, the State Law Office and Department of Justice lacked an effective system for safeguarding, recording, controlling and accounting for its fixed assets.

REVENUE STATEMENTS OF STATE LAW OFFICE AND DEPARTMENT OF JUSTICE

REPORT ON THE REVENUE STATEMENTS

Basis for Qualified Opinion

1776. Discrepancies between Revenue Statements and Integrated Financial Management Information System (IFMIS) Amounts

The following discrepancies were noted between amounts in the revenue statements and amounts in the Integrated Financial Management Information System (IFMIS) trial balance as indicated below:

Description	Revenue Statements (Kshs.)	IFMIS-Trial Balance (Kshs.)	Variance (Kshs.)
Bank Balances	125,937	867,454,964	867,329,027
Cash in Transit	0	96,267,432	96,267,432
Consolidated Fund	0	740,706,215	740,706,215

In the circumstances, the accuracy and completeness of the above account balances as reflected in the revenue statements could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1777. Balance Due for Disbursement

As disclosed in Note 2 to the revenue statements, the statement of receipts and disbursements reflects a balance due for disbursement of Kshs.168,902,437 which includes an amount of Kshs.168,776,500 collected through Huduma Centres and relating to prior years but not transferred to the Receiver of Revenue for subsequent remittance to the Exchequer. This was contrary to Regulation 64(1)(a) of the Public Finance Management (National Government) Regulations, 2015, which requires an Accounting Officer and a Receiver of Revenue to be personally responsible for ensuring that adequate safeguards exist and are applied for the prompt collection and proper accounting for all National Government revenue and other public moneys relating to their Ministries, Departments or Agencies.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1778. Failure to Prepare and Submit Marriage Fees Periodical Reports by the Deputy County Commissioners (DCCS) and Assistant County Commissioners (ACCS) Offices

Review of documents provided for audit revealed that revenue amounting to Kshs.129,673,594 was collected from registration of marriages in 2021/2022 financial year. However, only four (4) of the thirty-four (34) gazetted Deputy County Commissioners (DCCS) and Assistant County Commissioners submitted quarterly and consolidated reports as at 30 June, 2022. Another thirty (30) Deputy County Commissioners (DCCS) and Assistant County Commissioners did not submit the monthly reports as provided in the Registrar General circular dated 10 May, 2020 on guidelines of marriage services.

In the circumstances, the existence of effective internal controls that ensures all revenues are collected and reported on a timely manner could not be confirmed.

DONOR FUNDED PROJECT

PROGRAMME FOR LEGAL EMPOWERMENT AND AID DELIVERY (GRANT/CREDIT NUMBER KE/FED/2018/397-591)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

1779. Presentation and Disclosure of the Financial Statements

Review of the Project's financial statements revealed the following anomalies:

i. The financial statements are indicated as having been signed on 30 June, 2022 a date before the date the original financial statements submitted which were signed on 29 September, 2022.

ii. The page headings and tables in the financial statements are not aligned to the page margins.

iii. The statement of financial assets reflects cash balance of Kshs.25,000 while Note 11 to the financial statements reflects a nil balance.

iv. The heading of the statement of comparative budget and actual amounts presented does not include the phrase, "for the year ended 30 June, 2022".

v. The statement of comparative budget and actual amounts reflects net budget utilization difference of Kshs.38,047,627 and percentage utilization difference of negative 494% which were not supported or explained with any documentary evidence.

vi. The budget utilization differences reflected in the statement of comparative budget and actuals amounts are not consistent with Annexure 1 to the financial statements explaining the variances and hence not comparable.

vii. The financial statements were not supported with signed confirmations from beneficiaries on transfers to other government entities, bank reconciliation statements, and a register of contingent liabilities and a board of survey report.

viii. The financial statements were not supported with a trial balance as at 30 June, 2022.

ix. An annexure of summary of fixed assets register as at 30 June, 2022 was not attached to the financial statements.

In the circumstances, the accuracy, completeness and fair presentation of the financial statements for the year ended 30 June 2022 could not be confirmed.

1780. Unsupported Cash and Cash Equivalents Balance

The statement of financial assets reflects cash and cash equivalents balance of Kshs.43,421,845 as at 30 June, 2022. However, the balance was not supported with bank reconciliation statements, bank confirmation certificate and a board of cash survey certificate.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.43,421,845 as at 30 June, 2022 could not be confirmed.

1781. Unsupported Counter Funding Receipts

The statement of receipts and payments reflects transfers from government entities (counterpart funding) amounting to Kshs.4,000,000 as disclosed in Note 1 to the financial statements. However, the project's bank statement reflects receipt of Kshs.1,500,000 resulting to an unexplained and unreconciled difference of Kshs.2,500,000.

In the circumstances, the accuracy and completeness of the transfers from government entities of Kshs.4,000,000 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1782. Irregularities in the Compensation to Employees

The statement of receipts and payments reflects an expenditure of Kshs.4,304,933 on compensation to employees as disclosed in Note 5 to the financial statements. However, the following anomalies were noted:

i. A review of supporting schedules and analysis of the sub-items under compensation of employees revealed an expenditure of Kshs.462,441 relating to purchase of office toner, petty cash disbursed and purchase of staff airtime which was charged to compensation to employees without requisite approvals and re-allocation.

ii. The expenditure on compensation of employees includes Programme Management and Facilitation Unit (PMFU) staff airtime allowance amounting to Kshs.308,000 which was not supported with authorization by the accounting officer for payment.

In the circumstances, regularity of the expenditure on compensation to employees could not be confirmed.

1783. Late Remittance and Non-remittance of Statutory Deductions

The Project Management did not remit monthly P.A.Y.E deductions from the project manager's salaries for seven (7) months totalling to Kshs.964,425 contrary to Section 72(d) of the Income Tax Act Cap 470 (revised 2017). In addition, the NHIF deductions for October, 2021 amounting to Kshs.5,100 were not remitted which is contrary to NHIF Act which requires that deduction be remitted by 9th of the next month following the deduction after which a penalty becomes due.

Consequently, Management was in breach of the law.

1784. Failure to Prepare and Submit Monthly Bank Reconciliations

Further, the Project Management did not prepare and submit monthly bank reconciliations to The National Treasury with a copy to the Auditor-General by 10th of the subsequent month as required under Regulation 90(1) of the Public Finance Management Act (National Government) Regulations, 2015.

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

1785. Failure to Maintain a Project Asset Register

Note 7 to the financial statement reflects expenditure on acquisition of assets totalling Kshs.14,376,612. However, the Project Management did not maintain a comprehensive project asset register which is contrary to Regulation 143(1) of the Public Finance Management (National Government) Regulations, 2015 which requires the Accounting Officer to be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1786. Lack of Internal Audit Review

During the financial year 2021/2022, there was no internal audit review of the Project's activities contrary to Section 73(3)(b) of the Public Finance Management Act, 2012 which

requires that the Internal Auditor shall conduct internal auditing which includes risk-based, value-for-money and systems audits aimed at strengthening internal control mechanisms that could have an impact on achievement of the strategic objectives of the entity.

In the circumstances, the effectiveness of the Project's internal controls could not be confirmed.

1787. Delayed Project Implementation

Following the signing of the project financing agreement in the year 2017, the project was to be implemented over a duration of sixty (60) months with a closure period of twenty four (24) months after the implementation phase. The project has been in the operational implementation phase for a period of sixty (60) months while the total amount disbursed as of 30 June, 2022 was EUR 751,341 (Kshs.83,487,209) out of the total donor commitment of EUR 7,250,000 (Kshs.806,927,175). The disbursed amount represents 10% while the lapsed project implementation period as at 30 June, 2022 was at 100%.

In the circumstances, there is a risk of not achieving the project objectives due to expiry of the agreed deadlines.

BUSINESS REGISTRATION SERVICE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1788. There were no material issues noted during the audit of the financial statements of the Service.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1789. Failure to Open County Offices

Audit review of Business Registration Service (BRS) records on regional offices revealed that operational branches are only in Kisumu and Mombasa Counties. However, strategic plan for the period 2021-2026 did not consider opening of regional offices in other Counties in Kenya contrary to Section (3) of Business Registration Service Act, 2015 which provides that; The headquarters of the Business Registration Service shall be in the capital city but the Business Registration Service shall establish branches in every County in Kenya to ensure reasonable access of its services.

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

1790. Failure to Submit Compliance Reports to State Corporations Advisory Committee (SCAC)

Audit review of records provided revealed that the Business Registration Service did not submit compliance reports for approval to State Corporations Advisory Committee (SCAC) as guided by the Office of the President Circular Ref. OP/CAB.9/1A dated

11 March, 2020. The circular requires all State Corporations to file with SCAC their Human Resource Compliance Reports, including payroll reports for all cadres of staff and other stated Human Resource Instruments for approval by 31 July of each year.

The Management was in breach of the law.

1791. Non-Compliance with Laws and Guidelines by the Board

A review of the records revealed that the Board Members were engaged in more than two Board Committees without approval of the respective Cabinet Secretary in consultation with State Corporations Advisory Committee. Further, the Board Committee Members had served in the same committees without rotations after every 12 months. This was contrary to Section B part 4 of the Management of State Corporation Circular Ref No OP/CAB.9/1A dated March 11, 2020 which stipulates that members can only sit in a maximum of two committees.

In the circumstances, the Board committee composition and operations did not comply with Mwongozo Code which may adversely impact on the effective implementation of the Board's resolutions.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1792. Non-Compliance with the Current Approved Staff Establishment

Review of the staff establishment as at 30 June, 2022 revealed that, the Business Registration Services had 108 employees out of the recommended staff establishment of 162 resulting to an understaffing of 54 staff (or 32%) of the approved establishments. No approved recruitment plan or budget was in place to address the staffing deficit in the near future which may adversely affect the efficiency and effective service delivery.

In the circumstances, the Management did not comply with the Public Service Commission Human Resource Policy and Manual 2016.

REVENUE STATEMENTS OF THE BUSINESS REGISTRATION SERVICE

REPORT ON THE REVENUE STATEMENTS

Basis for Qualified Opinion

1793. Unsupported Transfer of Collected Revenue

Note 2 to the revenue statements reflects transfers to exchequer totalling to Kshs.972,935,504 from a revenue collection account to exchequer account. However, supporting documents such as bank reconciliation, certificate of bank balance, bank statements, Central Bank account details, Board approval and bank signatories, were not provided for audit review. In addition, official receipt from The National Treasury to acknowledge receipt of revenue was also not provided contrary to Regulation 81(3) of

Public Financial Management Regulations, 2015 which provides that The National Treasury shall issue a receipt to a receiver of revenue to acknowledge the receipt of revenue thereof.

In the circumstances, the accuracy, validity and completeness of the revenue transfer of Kshs.972,935,504 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1794. Non-Provision of Service Providers' Contracts

As reported in the previous year, the Business Registration Service contracted service providers to collect revenue on its behalf. The service providers include E-Citizen and by extension Safaricom and Kenya Commercial Bank among others. However, the respective contract agreements were not provided for audit review.

In the circumstance it was not possible to establish the legality and performance of the service providers. Further, in the absence of supporting contracts, it was not possible to confirm the basis of the revenue collected.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1795. There were no material issues relating to effectiveness of internal controls, risk management and governance.

BUSINESS REGISTRATION SERVICE - OFFICIAL RECEIVER

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1796. There were no material issues noted during the audit of the financial statements of the Business Registration Service – Official Receiver

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis of Conclusion

1797. Irregular Operation of Bank Accounts

Review of financial records revealed that the Official Receiver maintained bank accounts at National Bank of Kenya Limited. This was contrary to the Section 708(1) of the Insolvency Act, 2015 which provides that the Official Receiver shall establish in the Central Bank of Kenya an account, to be called the "Insolvency Account". Further, the Act

provides that the Official Receiver shall pay into the Insolvency Services Account all money received or recovered by the Receiver in the performance and exercise of the Official Receiver's functions and powers under this Act.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1798. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PUBLIC TRUSTEE OF KENYA

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1799. Cash and Cash Equivalents

The statement of financial position and disclosure Note 11 to the financial statements reflects cash and cash equivalents balance of Kshs.4,608,766,739. However, review of the bank reconciliation statements for the Public Trustee Administration bank accounts held at the Headquarters revealed receipts in bank statements not in cash books of Kshs.46,154,194 which includes long outstanding receipts totalling to Kshs.24,568,642. Further, the bank reconciliation statements for Nyeri regional office reflects receipts in bank statements not recorded in cash book totalling Kshs.1,927,311 which were outstanding as at 30 June, 2022.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.4,608,766,739 as at 30 June, 2022 could not be confirmed.

1800. Deposits

As previously reported, the statement of financial position reflects a balance of Kshs.109,400,000 under deposits which, as disclosed in Note 14 to the financial statements, includes an amount of Kshs.72,000,000 held in Imperial Bank Limited. The bank was placed under receivership by the Central Bank of Kenya on 13 October, 2015 and the Kenya Deposit Insurance Corporation appointed as receivers. However, Imperial Bank Limited (In Receivership) informed the Public Trustee of Kenya through a letter dated 07 July, 2021 that an amount of Kshs.4,072,732 had been transferred to the Kenya Commercial Bank for transmission to the Public Trustee of Kenya leaving a balance of Kshs.67,927,268 held at Imperial Bank Limited. Although, the transfer was confirmed by the Kenya Deposit Insurance Corporation, the amount of Kshs.4,072,732 had not been remitted to the Public Trustee of Kenya as of 30 June, 2022. Consequently, recoverability of the balance of Kshs.67,927,268 held at Imperial Bank Limited remains doubtful.

In the circumstances, the accuracy and existence of deposits balance of Kshs.109,400,000 as at 30 June, 2022 could not be confirmed.

1801. Investments

As reported in the previous year, the statement of financial position reflects a balance of Kshs.231,159,644 under investments which, as disclosed in Note 15 to the financial statements, includes an amount of Kshs.144,097,597 described as deposits in financial institutions under the management of the Kenya Deposit Insurance Corporation (KDIC) and the Official Receiver. However, no sufficient explanation was provided for failure to seek refund of the dormant deposits.

Further, the dormant deposits of Kshs.144,097,597 includes investments totalling Kshs.29,693,938 held in two (2) financial institutions as detailed below:

Institution	Investment Balance (Kshs.)	Managing Institution
Central Finance Kenya Limited	22,750,356	Kenya Deposit Insurance Corporation (KDIC)
Allied Credit Limited	6,943,582	Kenya Deposit Insurance Corporation
Total	**29,693,938**	

The two financial institutions were placed in liquidation on 19 May, 1993 and 19 August, 1993, respectively when the Central Bank of Kenya appointed the Deposit Protection Fund Board as the liquidator. Subsequently, the liquidator applied for release due to lack of funds but since no objection had been raised at the expiry of 21 days' notice inviting the creditors to inspect the final accounts, the process of winding up continued.

The winding up and dissolution of the Central Finance Kenya Limited and the Allied Credit Limited was completed on 13 September, 2012 and 15 November, 2007, respectively when the Court ordered for the release of the Liquidator and a certificate of release was granted. The Kenya Deposit Insurance Corporation communicated this decision to the Public Trustee on 8 April, 2019 stating that the balances held in their account could not be paid since the institutions had been dissolved indicating irrecoverability and therefore loss of funds.

In the circumstances, the accuracy and existence of the balance of Kshs.231,159,644 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1802. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1803. Failure to Automate Beneficiaries Financial Records

As previously reported, review of financial records and business processes revealed that the Public Trustee of Kenya maintained its records in a manual form and had over 50,000 ledgers and average annual disbursements of Kshs.3,000,000,000 to beneficiaries in the Headquarters and twelve (12) regional offices. However, the records had aged over the years despite reasonable precautions to guard against damage and the task of updating them was challenging.

Consequently, Public Trustee did not perform periodic risk assessments in relation to beneficiaries' financial records so as to identify threats, assess vulnerability, and design automated systems that could help in keeping up to date beneficiaries' financial records.

1804. Understaffing of Key Staff Positions

As previously reported, Public Trustee of Kenya has its operation at the Headquarters and twelve (12) regional offices with operational bank accounts and other accounting records for estates. However, review of the staffing level revealed that the Headquarters has two accountants against the required number of five accountants while eight (8) regional offices did not have accountants after the previous ones exited from service without replacement.

In addition, four posts of records management staff and a post for a property manager were vacant as of 30 June, 2022.

This compromised maintenance of effective internal control measures and posted the risk of error and misstatements in the accounting records.

1805. Lack of an Operational and Approved Enterprise Risk Management Strategy

The Public Trustee of Kenya did not have an operational and approved Enterprise Risk Management Strategy contrary to the provisions of Regulation 165(1) of the Public Finance Management (National Government) Regulations, 2015, which requires Heads of Public Institutions to develop Risk Management Strategies, which include fraud prevention mechanism, system of risk management and internal control that build robust business operations.

Consequently, the policies, strategies and procedures put in place to assess, identify, measure, prioritize and mitigate risks in the Public Trustee of Kenya could not be confirmed.

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1806. Bank Balances

1806.1 Bank Reconciliation Statements for General Deposits

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.6,718,069,286 as disclosed in Note 8 to the financial statements. The balance includes general deposits held in the Central Bank of Kenya and various commercial banks of Kshs.581,300,657 and Kshs.6,113,568,283, respectively totalling Kshs.6,694,868,940. Bank reconciliation statements for deposits in respect of fifty-eight stations reflects long outstanding reconciling items. The items include receipts in the cash books not yet reflected in bank statements totalling Kshs.404,881,546 and payments in the bank statements not yet recorded in cash books totalling Kshs.125,806,926.

No explanation was provided for delay in recording the payments in the cash books and the receipts in the bank statements.

1806.2 Loss of Cash Deposits

As reported in the previous year, deposit records maintained by The Judiciary headquarters and Molo Court station reflects losses of Kshs.47,840,030 and Kshs.34,219,651, dating back to 2013/2014 and 2017/2018 financial years, respectively through theft by staff members who have since been dismissed. The matter was referred to the Director of Criminal Investigation and the Asset Recovery Agency and is still outstanding.

In addition, bank reconciliation statements for the month of June, 2022 for the bank accounts for Embu, Nakuru and Malindi court stations reflected losses amounting to Kshs.2,682,152, Kshs.84,588,258 and Kshs.1,455,800 respectively. However, as previously reported, the nature of the loss, recovery strategies and court proceedings on the matter have not been disclosed.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.6,718,069,286 could not be confirmed.

1807. Accounts Receivables

1807.1 Long Outstanding District Suspense and Clearance Accounts

The statement of assets and liabilities reflects accounts receivables – outstanding imprests and clearance accounts balance of Kshs.64,099,750 as disclosed in Note 9 to the financial statements. The amount includes Kshs.49,669,434 (2020/2021 - Kshs.26,306,566) relating to district suspense and clearance accounts. However, no

reconciliation was provided or proof of effort being made to clear the increasing district suspense and clearance account balances.

In the circumstances, the accuracy, completeness and validity of the balance of Kshs.64,099,750 could not be confirmed.

1807.2 Outstanding Imprests

Included in the accounts receivables balance of Kshs.64,099,750 and as reflected in Note 9 to the financial statements, are outstanding Government imprests totalling Kshs.14,180,234 which were due for surrender on or before 30 June, 2022. No explanation was provided why the imprests were not surrendered or recovered on time. In addition, the Government imprests balance includes an amount of Kshs.3,108,300 which was issued to non-staff members seconded from Other Government Agencies with some dating back to the financial year 2015/2016. Management did not explain why the long outstanding imprests have not been recovered fully to date.

In the circumstances, the recoverability of the long outstanding imprests of balance of Kshs.14,180,234 could not be confirmed.

1808. Accounts Payables

1808.1 Long Outstanding Accounts Payable

The statement of assets and liabilities reflects accounts payable balance of Kshs.6,694,868,940. As disclosed in Note 10 to the financial statements, the balance includes deposits held by various Court stations out which an amount of Kshs.866,827,061 has been outstanding for over 10 years and above and should have been surrendered to the Unclaimed Financial Assets Authority.

1808.2 Unconfirmed Accounts Payable

As disclosed in Note 10 to the financial statements, the accounts payable balance of Kshs.6,694,868,940 includes general deposits for various Court stations totalling Kshs.6,113,568,283 out of which an amount of Kshs.348,091,889 relates to deposits for fifty-eight (58) Court stations held by the former District Treasuries that have not been paid to The National Treasury. Although the Judiciary had written to the Principal Secretary for The National Treasury vide letter Ref. CRJ/14 of 29 December, 2021 to confirm the liability, The National Treasury has not acknowledged the same to date.

In the circumstances, the accuracy and validity of the accounts payables balance of Kshs.6, 694,868,940 could not be confirmed.

Other Matter

1809. Pending Bills

Notes 15.1 and 15.2 to the financial statements on Other Important Disclosures reflects pending accounts payable of Kshs.207,946,790 and pending staff payables of Kshs.223,235,174 both totalling Kshs.431,181,964 which were not settled during the financial year 2021/2022 but were instead carried forward to 2022/2023 financial year.

Failure to settle bills in the year to which they relate distorts the financial statements for the year and also affects the budgetary provisions for the subsequent year.

1810. Contingent Liabilities

Disclosed in Note 15.3 to the financial statements are contingent liabilities totalling Kshs.1,088,021,644 as at 30 June, 2022 (2021 - Kshs.1,138,713,450) which relates to courts and arbitration awards as result of disputes between The Judiciary and various contractors who had been awarded contracts for construction of court buildings.

Further delay in settling the awards is likely to result in interest on the outstanding amounts and nugatory expenditure.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1811. Delayed Completion of Development Projects

Review of the project status reports and field inspections for various court stations revealed that construction works for eight (8) projects with a contract sum of Kshs.505,496,668 had not been completed. Some projects have delayed for over seven (7) years and no evidence was provided to show when The Judiciary intends to complete the projects.

In the circumstances, it was not possible to confirm whether the public will obtain value for money on the delayed construction of these projects.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1812. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REVENUE STATEMENTS - THE JUDICIARY

REPORT ON THE REVENUE STATEMENTS

Unmodified Opinion

1813. There were no material issues noted during the audit of the revenue statements.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1814. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1815. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECT

JUDICIAL PERFORMANCE IMPROVEMENT PROJECT (IDA CREDIT NO. 5181- KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1816. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1817. Budgetary Control and Performance

The statement of comparison of budget and actual amounts for the year ended 30 June, 2022 reflects final revenue budget and actual amounts on comparable basis of Kshs.997,323,723 and Kshs.702,383,663 respectively, resulting in an underfunding of Kshs.294,940,059 or 30% of the budget.

The underfunding affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1818. Delayed Implementation and Completion of Projects

Review of records and status reports for various construction works being undertaken by the Judicial Performance Improvement Project revealed that seven (7) projects with a

total contract sum of Kshs.826,329,820 and total amount paid of Kshs.644,229,158 remained incomplete as at 30 June, 2022.

In the circumstances, the public have not obtained value for money from the amount of Kshs.644,229,158 already incurred on these projects.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1819. There were no material issues relating to effectiveness of internal controls, risk management and governance.

ETHICS AND ANTI-CORRUPTION COMMISSION - VOTE 1271

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1820. There were no material issues noted during the audit of the financial statements of the Commission.

Emphasis of Matter

1821. Poor Financial Performance

During the year under review, the Commission reported a deficit of Kshs.61,647,104 (2020/2021 - Kshs.64,475,692). The Management has disclosed in Note 28 to the financial statements that the deficit arose mainly due to depreciation and accrued expenses resulting from unfunded Exchequer. The persistent underfunding is likely to lead to financial difficulties which might affect the full implementation of the Commission's planned activities in the future. The existence of the Commission is therefore dependent on Exchequer releases from the National Government.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1822. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1823. There were no material issues relating to effectiveness of internal controls, risk management and governance.

ETHICS AND ANTI-CORRUPTION COMMISSION - STAFF HOUSE MORTGAGE AND CAR LOAN SCHEME

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1824. There were no material issues noted during the audit of the financial statements of the Scheme.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1825. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1826. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1827. There were no material issues noted during the audit of the financial statements of the Service.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1828. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1829. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1830. Discrepancies Between the Trial Balance and Financial Statements

The financial statements reflects account balances which were at variance with Integrated Financial Management Information System (IFMIS) ledger and trial balance as detailed below:

Category	IFMIS Trial Balances Amount (Kshs.)	Financial Statements Amount (Kshs.)	Variance (Kshs.)
Compensation of Employees	5,600	2,103,170,166	2,103,164,566
Use of Goods and Services	3,452,700	1,124,600,383	1,121,147,683
Transfer to Other Government Entities	0	40,000,000	40,000,000
Acquisition of Assets	113,712,470	158,161,048	44,448,578
Bank Balances	2,046,504	17,576,228	15,529,724
Cash Balances	1,285,272,500	653,144	1,284,619,356
Imprests and Advances and District Suspense	11,964,893	7,076,806	4,888,087
Third-Party Deposits and Retention	6,153,920	4,949,389	1,204,531

In the circumstances, the accuracy and completeness of the above account balances included in the financial statements for the year ended 30 June, 2022 could not be confirmed.

1831. Unsupported Balances

The statement of receipts and payments reflects amounts of Kshs.3,437,992,049 and Kshs.3,425,931,597 in respect to receipts and expenditure for the year respectively. However, receipts and expenditure amounting to Kshs.2,807,204 and Kshs.14,553,496 were not supported by requisite receipts and by way of explanations to variances and training and expenditure schedules respectively.

In the circumstances, the accuracy and completeness of the receipts and expenditure reflected in the statement of receipts and payments could not be confirmed. Further, the propriety of the unsupported expenditure amounting to Kshs.14,553,496 for the year ended 30 June, 2022 could not be confirmed.

1832. Unsupported Adjustments to the Financial Statements

The financial statements for the year ended 30 June, 2022 includes adjustments of Kshs.41,973,353 and Kshs.82,645,890 in respect of use of goods and services and

imprest, advances and district suspense respectively. However, the adjustments were not supported by respective journal vouchers and schedules.

Consequently, the accuracy and completeness of the use of goods and services and for imprest, advances and district suspense balance could not be confirmed.

1833. Prior Year Adjustments

The statement of assets and liabilities reflects a balance of Kshs.33,202,199 in respect to prior year adjustments which included an amount of Kshs.2,093,718 relating to receivables – Government imprests as disclosed in Note 11 to the financial statement. However, a balance of Kshs.2,959,850 remained uncleared as at 30 June, 2022. Further, district suspense account reflects a balance brought forward of Kshs.2,887,383 of which Kshs.1,587,175 was adjusted leaving a balance of Kshs.1,300,208 uncleared. No explanations or reconciliations were provided for the uncleared balances.

In the circumstances, the accuracy and validity of the prior year adjustment balance of Kshs.33,202,199 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1834. Non-Compliance with the One-Third of Basic Salary Rule

During the year under review, at least one hundred and sixty-three (163) employees earned a net salary of less than one third ($^1/_3$) of their basic salaries. In addition, two (2) employees earned negative net salaries in the months of July, 2021 to May, 2022 while five (5) employees earned a negative salary in the month of June, 2022. This is contrary to Section 19(3) of the Employment Act, 2007 and Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016. The Management has not given explanation for failure to comply with the policy.

Consequently, the Management contravened Section C 1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016 and this may expose the staff to pecuniary embarrassment.

1835. Employees Acting Capacity Beyond Stipulated Period

Review of the payroll and human resources records revealed that seven (7) employees appointed in an acting capacity and paid acting allowances totalling to Kshs.1,665,358 acted for more than six (6) months. This exceeded the statutory duration provided for in the Public Service Commission Act, 2017 which states that an officer may be appointed in an acting capacity for a period of at least thirty days but not exceeding a period of six months.

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

1836. Non-Compliance with Staff Establishment Ceiling

Review of the staff establishment for the Office of Director of Public Prosecutions for the year ended 30 June, 2022 revealed that four (4) job designations exceeded the approved number of staff in the staff establishment with a total of seven (7) staff as shown below:

S/No.	Designation	Grade	Job Group	Authorized Establishment	In post	Variances
1	Senior Principal Accountant	DPP 5	P	0	1	(1)
2	Principal Finance Officer	DPP 6	N	1	2	(1)
3	Accountant II/I/Senior. II	DPP 10/9/8	J/K/I	9	12	(3)
4	Supply Chain Management Assistant III/II/I/Senior	DPP 11/10/9/8	H/J/K/L	2	4	(2)

Consequently, the Management was in breach of the law.

1837. Irregular Expenditure on Overtime Allowances

Expenditure on use of goods and services amount of Kshs.1,124,600,383 disclosed in Note 4 to the financial statements included an amount of hospitality supplies and services amount of Kshs.83,656,968. The expenditure included an amount of Kshs.1,150,000 paid as overtime allowances to various officers above group J contrary to Section C.19 (1) of Public Service Commission Human Resource Policies and Procedures Manual 2016. In addition, the expenditure was not supported with a work program, supervision report, a schedule of hours worked and the approval of the departmental head or the accounting officer.

Consequently, the Management was in breach of the law.

1838. Underutilized Leased Office Space

Use of goods and services expenditure of Kshs.1,124,600,383 disclosed in Note 4 to the financial statements also includes Kshs.231,452,790 incurred on rentals of produced assets. The Office of the Director of Public Prosecution leased space at a commercial building in Mombasa located along Moi Avenue/Tewa Road at a total annual rent of Kshs.13,029,744 for five (5) years effective from 1 April, 2020 with a capacity of thirty-two (32) staff. However, an audit verification revealed that three quarters (¾) of the office space was not occupied resulting to an estimated annual loss of public funds of Kshs.9,772,308 and totalling Kshs.48,861,540 in five years. Further, an internal memo dated 8 June, 2022 addressed to the Deputy Director of Public Prosecutions indicating that there was no value for money on rental space had not been acted on by the time of the audit.

In addition, review of the Lease of rental space for a building in Machakos Town to accommodate nineteen (19) staff at an annual rent of Kshs.6,451,200 for six (6) years effective from 1 April, 2017 revealed that three quarter (¾) of the office space was not occupied resulting to an annual loss of public funds of Kshs.4,838,400.

In the circumstances, the value for money on the expenditure incurred on rental of the above offices could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1839. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS STAFF HOUSING MORTGAGE AND CAR LOAN SCHEME

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1840. Cash and Cash Equivalents

1840.1 Unsupported Cash and Cash Equivalents

The statement of financial position and disclosure Note 3 to the financial statements reflects cash and cash equivalents balance of Kshs.253,450,166 as at 30 June, 2022. However, the balance was not supported with a Board of Survey report.

1840.2 Incomplete Bank Statements

Bank certificates provided for audit review indicated that the Scheme's Staff Housing Mortgage and Car Loan accounts held at Consolidated Bank of Kenya had closing balances of Kshs.89,373,122 and Kshs.48,872,102, respectively. However, bank statements provided for audit review reflected lump sum cash receipts (credits) and loan disbursements to beneficiaries (debits) without details on interest income and individual borrowers' principal amount repaid. Further, individual loan statements from the bank were not provided for reconciliation with schedules provided for audit.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.253,450,166 could not be confirmed.

1841. Unreconciled Difference in the Principal Paid

The loan repayment schedule and disclosure Note 4 to the financial statements reflects a principal amount paid of Kshs.33,261,348 which when added to the prior year unaccounted for principal amount paid of Kshs.18,386,138 resulted to a credit of Kshs.51,647,486. However, review of the bank statements revealed that principal repayment of Kshs.44,860,819 was credited to the Scheme's accounts during the year ended 30 June, 2022 resulting to unreconciled difference of Kshs.6,786,667.

In the circumstances, the accuracy and completeness of the principal amount paid of Kshs.33,261,348 for the year ended 30 June, 2022 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1842. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1843. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OFFICE OF THE REGISTRAR OF POLITICAL PARTIES - VOTE 1311

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1844. There were no material issues noted during the audit of the financial statements of the Office.

Other Matter

1845. Pending Bills

As disclosed in Note 11 and Annex 1 to the financial statements, the Office of the Registrar of Political Parties had pending bills totalling Kshs.39,151,275 as at 30 June, 2022, which were not settled in 2021/2022 financial year but were instead carried forward to the 2022/2023 financial year.

Failure to settle bills during the year to which they relate adversely affects the budgetary provisions of the subsequent year to which they are charged.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1846. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1847. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OFFICE OF THE REGISTRAR OF POLITICAL PARTIES STAFF MORTGAGE AND CAR LOAN SCHEME

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1848. There were no material issues noted during the audit of the financial statements of the Scheme.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1849. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1850. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1851. There were no material issues noted during the audit of the financial statements of the Agency.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1852. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1853. Understaffing

As reported in the previous year, the Agency's Human Resource Policy Manual, 2016 provides for two hundred and ninety-six (296) staff members. However, only one hundred and nine (109) staff members were in post, resulting in a shortfall of one hundred and eighty-seven (187) staff members across the various staffing cadres as at 30 June, 2022. Further, the shortage was on various job cadres including core departments like Operations, Internal Audit, IT and Administration.

In the circumstances, the understaffing may hinder effective delivery of services by the Agency.

1854. Weaknesses in the Grading Structure

Review of the payroll versus the approved salaries structure revealed that the entry points of two job groups, Grades 2 and 3 had a wide salary difference even after the maximum increment of salary in Grade three (3) in which the salary should overlap to Grade 2. This was occasioned by having officers in Job Grades 1 and 2 on permanent basis while those in Grades 3 and below are on deployment and their salaries are to be reviewed by SRC through Job Evaluation. Although the Agency sought the SRC evaluation on 22 February, 2020, no advice on effecting the results had been received as at the time of the audit.

In the circumstances, the existence of an effective human resource management tool could not be established.

1855. Delay in Establishment of the Victims Compensation Fund (VCF)

Review of the Agency's records shows that a letter from The National Treasury dated 3 March, 2017 on Victims Compensation Fund (VCF) advised the Management to develop and align the policies for operationalizing the Victims Compensation Fund with the requirements of Section 24 of the Public Finance Management Act, 2012 and Regulation 207 of the Public Finance Management (National Government) Regulations, 2015. In response Management submitted the revised Draft Regulations to The National Treasury through the Office of the Attorney General on 7 November, 2019 for approval. However, although Management has subsequently written to The National Treasury seeking for approval of the same, the Regulations have not been approved to date. This has led to delay in establishing the Victims Compensation Fund for sixteen (16) years from 30 June, 2006 to 30 June, 2022 contrary to Section 3(i) of Witness Protection Act, 2006 (revised 2018) which requires establishment of a Victims Compensation Fund.

In the circumstances, the existence of a proper governance structure to execute the establishment of the fund could not be confirmed.

WITNESS PROTECTION AGENCY STAFF HOUSING MORTGAGE SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1856. There were no material issues noted during the audit of the financial statements of the Fund.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1857. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1858. There were no material issues relating to effectiveness of internal controls, risk management and governance.

WITNESS PROTECTION AGENCY STAFF MOTOR CAR LOAN SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1859. There were no material issues noted during the audit of the financial statements of the Fund.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1860. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1861. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1862. There were no material issues noted during the audit of the financial statements of the Commission.

Other Matter

1863. Pending Bills

According to Annex 1 to the financial statements, the Commission had pending bills totalling Kshs.13,242,693 as at 30 June, 2022, which were not settled in 2021/2022 financial year but were instead carried forward to 2022/2023 financial year due to inadequate exchequer allocations.

Failure to settle bills during the year to which they relate adversely affects the budgetary provisions of the subsequent year to which they are charged as they form a first charge.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1864. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1865. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS CAR AND MORTGAGE LOAN SCHEME

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1866. There were no material issues noted during the audit of the financial statements of the Scheme.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1867. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1868. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1869. Unsupported Prior Year Adjustments

The statement of assets and liabilities reflects prior year adjustments of Kshs.6,587,878,307 as disclosed in Note 14 to the financial statements. However, Management did not provide any evidence to support the prior year adjustments.

In the circumstances, the validity, accuracy and completeness of the prior year adjustments of Kshs.6,587,878,307 could not be confirmed.

Other Matter

1870. Pending Bills

Note 14.2 to the financial statements reflects pending bills balance of Kshs.531,496,362 comprising of Kshs.17,424,210, Kshs.487,150,361 and Kshs.26,921,791 in respect of supply of goods, supply of services and staff payables, respectively. These bills were not paid during the year under review but were instead carried forward to the financial year 2022/2023.

Further, pending bills totalling Kshs.6,279,400 were not adequately supported with the necessary documentation.

In the circumstances, the existence of the pending bills of Kshs.6,279,400 could not be confirmed and failure to settle bills during the year to which they relate distorts the budget implementation of the subsequent year as the outstanding bills form a first charge on resources available.

1871. Contingent Liabilities

Note 14.2 and Annex 7 to the financial statements reflect contingent liabilities totalling Kshs.490,961,706 arising from legal fees, court cases and awards against the Commission. Further, the contingent liabilities balance includes an amount of Kshs.11,000,000 in respect of legal fees out of which an amount of Kshs.9,021,651 has remained outstanding since certification by the court on 4 January, 2019.

In the circumstances, the non-payment of the outstanding amounts may attract further avoidable expenses through interest and penalties charged on late payments.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1872. Non-Compliance with One Third Basic Pay Rule

Review of the Commission's staff payroll revealed that, during the year under review, there were twenty-six (26) employees whose salary deductions exceeded two-thirds of their basic salaries. This was contrary to Section 19(3) of the Employment Act, 2007 which requires that deductions made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages

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

1873. Officers on Acting Capacity Beyond Stipulated Time

Review of the payroll and other staff records revealed that eight (8) employees serving as County coordinators continued to serve in acting capacities and receive acting allowances beyond six (6) months. This was contrary to Section 5.6 of the Commission's Human Resource Policy Manual which provides that acting appointments will be made for a minimum of thirty (30) days and maximum of six (6) months duration.

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

1874. Irregular Engagement of Legal Services

The statement of receipts and payments reflects expenditure totalling Kshs.589,814,663 in respect of use of goods and services, as disclosed in Note 5 to the financial statements, which includes other operating expenses of Kshs.261,982,324. The latter amount includes an expenditure of Kshs.91,816,642 that was paid to a law firm on 21 June, 2022 due to various miscellaneous civil applications.

However, review of records revealed that the Attorney General did not authorize the engagement of the law firm. This was contrary to Section 17(1) of the Office of the Attorney General Act, 2012 which provides that no Ministry or Department shall engage the services of a consultant to render any legal services relating to the functions of the Attorney General without the approval of the Attorney General.

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

1875. Avoidable Interest Expense on Legal Fees

Review of court records in relation to Civil Application No. 363 of 2014, between an Investment Company and the Commission, revealed that the court awarded the plaintiff a sum of Kshs.20,679,403 which comprised of the decretal amount of Kshs.15,318,382 and interest of Kshs.5,361,021 at a rate of 12% from 19 December, 2017. The interest expense of Kshs.5,361,021 was an avoidable charge to public funds which arose from the delay by the Commission in settlement of the payment due to the Company.

In the circumstances, value for money on the expenditure of Kshs.5,361,021 incurred on the interest expense could not be ascertained.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1876. Failure to Update the Fixed Assets Register

Annex 4 to the financial statements on summary of fixed assets register reflects a balance of Kshs.744,537,853 as at 30 June, 2022 as the historical cost of assets. However, the fixed asset register provided for audit lacks critical information like the cost of the assets as well as other requisite disclosures contrary to the requirements under the guidelines on assets and liabilities by The National Treasury.

In the circumstances, the effectiveness of controls relating to management of fixed assets could not be confirmed.

1877. Staffing Levels Below Approved Staff Establishment

Review of human resource records revealed that the Commission has an approved staff establishment of one thousand two hundred and sixteen (1,216) staff against five hundred and forty-eight (548) staff members in post thus resulting in an overall under-establishment of six hundred and sixty-eight (668) staff as at 30 June, 2022. This was contrary to Section 2 of the Commission's Human Resource Policy Manual which provides that in order to attract and retain competent employees required for efficient and effective service delivery, appointments shall be made with the approval of the Commission and shall be within the approved establishment.

In the circumstances, failure to recruit and retain the optimal number of employees may hinder the effective delivery of services by the Commission.

NATIONAL LAND COMMISSION HOUSING SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1878. Unreconciled Long-Term Receivables from Exchange Transactions

The statement of financial position reflects long-term receivables from exchange transactions balance of Kshs.48,993,645 as disclosed in Note 5 to the financial statements. However, the loan statements from the bank reflects a total amount of Kshs.41,875,799 resulting to an unexplained variance of Kshs.7,117,846.

Further, the current amount receivable in the next twelve (12) months was not separated from the long-term receivables from exchange transactions balance of Kshs.48,993,645 contrary to the requirement of the reporting template.

In the circumstances, the accuracy and fair presentation of the long-term receivables from exchange transactions balance of Kshs.48,993,645 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1879. Failure by the Steering Committee to Hold Requisite Meetings

Perusal of the Steering Committee meetings minutes revealed that during the year under review, the Committee held three (3) meetings. This was contrary to Regulation 6(5) of the National Land Commission Housing Scheme Fund Regulations, 2016 which states that, the Committee shall meet at least four times in a year and the period between one meeting of the Committee and the next shall not exceed four (4) months.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1880. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NATIONAL LAND COMMISSION STAFF CAR LOAN SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1881. Long Term Receivables from Exchange Transactions

The statement of financial position reflects long-term receivables from exchange transactions balance of Kshs.2,792,520 as disclosed in Note 5 to the financial statements. However, the schedule of receivables provided for audit review reflected a balance of Kshs.2,419,673 resulting in an unexplained variance of Kshs.372,847.

In the circumstances, the accuracy and completeness of the long term receivables from exchange transaction balance of Kshs.2,792,520 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1882. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1883. There were no material issues relating to effectiveness of internal controls, risk management and governance.

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION - VOTE 2031

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1884. Long Outstanding Receivables

As previously reported, the statement of financial position reflects balances of Kshs.11,160,000 and Kshs.26,193,000 in respect of accounts receivables and car loan accounts receivables, respectively which have been outstanding for more than fifteen (15) years. As disclosed in Notes 10 and 11 to the financial statements, the amounts relates to imprests and salary advances held by staff and outstanding car loans to Commissioners of the defunct Electoral Commission of Kenya. The funds were recovered from the Commissioners final dues but were retained by The National Treasury. Management has indicated that the Commission is engaging The National Treasury with a view of getting the money refunded or obtaining approval to write off the accounts receivables from the Commission's accounting records.

In the circumstances, the recoverability of the long outstanding accounts receivables totalling Kshs.37,353,000 could not be ascertained as at 30 June, 2022.

1885. Inaccurate Inventory Balance

The statement of financial position and disclosure Note 12 to the financial statements reflects an inventory balance of Kshs.907,560,000 which relates to the August, 2022 General Elections. The Commissions held significant quantities of strategic and non-strategic election materials in various stores in its national, county and constituencies offices. However, as reported in the previous years, the disclosed amount does not include items of undetermined values inherited from the defunct Electoral Commission of Kenya and some purchased by the Independent Electoral and Boundaries Commission which have not been valued. In addition, there was no stock taking carried out to determine the value of stocks held as at 30 June, 2022.

In the circumstances, the accuracy and completeness of inventories balance of Kshs.907,560,000 reflected in the financial statements could not be confirmed as at 30 June, 2022.

1886. Property, Plant and Equipment

The statement of financial position and disclosure Note 13 to the financial statements reflects property, plant and equipment balance of Kshs.2,966,356,000. However, review of the balance revealed the following unsatisfactory matters:

1886.1 Untitled Land and Buildings

As reported in the previous years, the balance excludes the cost of fifty-six (56) parcels of land on which the Commission's office blocks have been constructed in the counties. Further, the Commission had not obtained ownership documents for eighty-four (84) parcels of land allocated by the National and County Governments and whose values

were not included in the financial statements. The financial statements also excludes the value of a parcel of land located in Mandera whose value has not been determined and is subject to ownership dispute between the Commission and the County Government of Mandera.

1886.2 Unconfirmed Ownership and Valuation of Motor Vehicles

Included under property, plant and equipment balance of Kshs.2,966,356,000 as at 30 June, 2022 are motor vehicles with a carrying amount of Kshs.56,447,000. However, examination of the motor vehicles status report as at 30 June, 2022 and field inspection revealed the Commission had two hundred and fifty-six (256) motor vehicles, three (3) motor boats and two (2) folk lifts. However, only the cost of one hundred and fifty-nine (159) motor vehicles was included in the property, plant and equipment balance of Kshs.2,966,356,000. Further, two hundred and ten (210) motor vehicles were still registered under the defunct Electoral Commission of Kenya and have not been transferred to the Independent Electoral and Boundaries Commission while eighty-five (85) motor vehicles, three (3) motor boats and one (1) folk lift were grounded with some being unserviceable and have been idle for over three (3) years.

In addition, four (4) motor vehicles grounded in private garages in Mombasa and Meru counties have accumulated storage costs of Kshs.3,202,600.

In the circumstances, the accuracy, completeness and ownership of the property, plant and equipment balance of Kshs.2,966,356,000 reflected in the financial statements as at 30 June, 2022 could not be ascertained.

Other Matter

1887. Pending Bills

Note 15 to the financial statements indicates that the Commission had pending bills totalling Kshs.2,051,567,000 as at 30 June, 2022 that were not settled during the financial year 2021/2022 but were instead carried forward to 2022/2023 financial year. Some of the pending bills date back to more than ten (10) years. Further, the amount includes legal pending bills totalling Kshs.1,733,343,356 which have increased from Kshs.1,316,180,629 reported as at 30 June, 2021. The Commission risks legal actions since the debt has been outstanding for the past ten (10) years.

Failure to settle bills during the year in which they relate to adversely affects the provisions of the subsequent year to which they have to be charged.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1888. Failure to Carry out County Accounting Functions in IFMIS

The statement of financial performance indicates that the Commission incurred an expenditure totalling Kshs.15,801,962,000, out of which an amount of Kshs.4,576,896,665 related to county offices. Although the Accounting Officer had

appointed the County Election Managers as Authority to Incur Expenditure (AIE) Holders, the county offices were not linked to IFMIS even though internet infrastructure required for use of IFMIS existed in the county offices.

Further, the AIE disbursements were made through IFMIS but the expenditure at the County offices was done manually. As a result of County budgeting, expenditure management and control, accounting and reporting functions were manual and implemented outside IFMIS contrary to Chapter 3.0 of the Commission's Finance and Accounts Policies and Procedures Manual.

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

1889. Failure to Use E-Procurement System

Examination of the Commission's records revealed that an expenditure totalling Kshs.856,993,800 was incurred at the County offices for budget items that involved procurement. The expenditure was authorized by the County Elections Managers who were appointed AIE Holders by the Accounting Officer. However, examination of the payment vouchers, local purchase orders and local service orders supporting the expenditure revealed that the procurement was implemented outside e-Procurement system and manual returns sent to the Head office for further processing. This was contrary to Regulation 54 of the Public Procurement and Asset Disposal Regulations, 2020 which require procuring entities to use the e-Procurement system.

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

1890. Outstanding Court Awards

The statement of financial position reflects a balance of Kshs.20,813,000 in respect of receivables from non-exchange transactions which, as disclosed in Note 9 to the financial statements, includes an amount of Kshs.5,396,000 described as Court awarded costs. As reported in the previous years, the balance relates to Appropriations-In-Aid (AIA) receivables from court cases decided in the year 2013 and for which costs had been awarded to the Commission. However, Management did not demonstrate the measures taken to collect the amounts awarded or collect the revenue due as required under Regulation 64 (1) of the Public Finance Management (National Government) Regulations, 2015.

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

1891. Status of Construction of the County Warehouses

Field inspection carried out in the counties revealed that all the Commission's warehouse construction projects lagged behind schedule as indicated below:

County	Project Cost (Kshs.)	Project Cost Paid as at 30 June, 2022 (Kshs.)	Project Duration	Expected Completion Date
Machakos	39,996,999	28,127,526	24 weeks	16 September, 2021
Garissa	40,503,510	34,707,318	30 weeks	30 July, 2021
Wajir	40,000,000	34,275,861	30 weeks	30 November, 2021
Isiolo	37,106,200	33,925,872	30 weeks	31 August, 2021
Kakamega	42,000,000	42,783,076	40 weeks	18 December, 2021
Renovation of ICT Warehouse - Nairobi	93,898,250	56,110,235	52 weeks	12 May, 2022

Further, a contract for the proposed phased refurbishment of a go-down at Supplies Branch Industrial area was awarded at a total cost of Kshs.93,898,250 for a project period of 52 weeks and completion date of 12 May, 2022. However, the contractor had not completed the works as at the time of the audit in December, 2022. In addition, the Contract Implementation Team (CIT) report to support payments of Kshs.15,354,155 to the contractor was not provided.

In the circumstances, the delayed completion of the project casts doubt on the value for money on the expenditure incurred on the project.

1892. Lack of Career Progression Guidelines

During the year, the Commission filled eighty-eight (88) vacancies by promoting employees to various grades. However, career progression guidelines as stipulated in Section 3.26.2 of the Commission's Human Resource and Administration Manual (Policies and Procedures) were not provided for audit review.

In the circumstances, Management was in breach of the guidelines and the considerations that were put into account for the promotions could not be confirmed.

1893. Lack of a Comprehensive Asset Register

As reported in the previous years, the Commission did not maintain a comprehensive asset register. This was contrary to Regulation 143(2) of the Public Finance Management (National Government) Regulations, 2015 which states that the register of land and buildings shall record each parcel of land and each building and the terms on which it is held, with reference to the conveyance, address, area, dates of acquisition, disposal or major change in use, capital expenditure, lease hold terms, maintenance contracts and other pertinent management details.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1894. KIEMS Kit Status

Review of the Commission's ICT status report dated 30 June, 2022 showed that the Commission had a total of 59,100 Kiems kits which comprise of 45,000 Morpho kits and 14,100 VIU kits. However, 124 Morpho kits were missing and 3,376 Morpho kits had

become faulty leaving a balance of 41,500 Morpho kits functional and ready for use during the August, 2022 General Election and pre-general election activities. The remaining kits were not enough to cover the 46,229 polling stations and an additional 14,100 kits were procured for the increased stations and cover for contingencies making a total of 55,600 functional Kiems kits.

Further, examination of records provided revealed that, the Kiems Kits and related accessories distributed to various counties for the General Election were retrieved back to the Central warehouse but the following items were missing as indicated below:

Item	Opening Balance/ Procured Kits	Available Kits	Missing Kits
Power Banks_ Morpho	41,500	38,331	3,169
Power Banks_ VIU	30,000	29,439	561
32 GB Sd cards	120,700	119,083	1,657
Sim Cards - Safaricom	49,564	34,772	14,792
Sim Cards - Airtel	28,551	17,662	10,889
Sim Cards Telkom	24,312	16,090	8,222

In the circumstances, the Commission appears to lack strategies to mitigate the risks associated with loss or damage of its critical election equipment.

1895. Failure to Fill Existing Vacancies

The approved staff establishment indicated that there were two hundred and thirty-two (232) vacancies in various cadres of staff which were not filled by the time of the audit in November, 2022. The posts included twenty (20) County Accountants in the Directorate of Finance, twenty-six (26) County Supply Chain Management Assistants in the Directorate of Supply Chain Management, sixteen (16) Senior Elections Officers and five (5) Assistant Elections Officer in the Directorate of Voter Registration and Electoral Operation, among others. In addition to failure to fill these posts, there was lack of segregation of duties at County offices and the casual staff discharged key roles and were privy to Commission's confidential information and documentation.

In the circumstances, the confidential data at IEBC were put at a risk of being disclosed to outside parties.

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION STAFF MORTGAGE AND CAR LOAN SCHEME

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1896. There were no material issues noted during the audit of the financial statements of the Scheme.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1897. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1898. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PARLIAMENTARY SERVICE COMMISSION - VOTE 2041

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1899. There were no material issues noted during the audit of the financial statements of the Commission.

Other Matter

1900. Pending Bills

As disclosed in Annex 1 to the financial statements, the Parliamentary Service Commission had pending bills amounting to Kshs.152,814,517 which were not settled as at 30 June, 2022 but were carried forward to 2022/2023 financial year.

Failure to settle pending bills in the year they to relate distorts the financial statements and adversely affects the budgetary provision for the subsequent year as they form a first charge.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1901. Irregular Procurement of Office Supplies and Services, Accommodation and Transport Service at County Offices

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.3,205,134,436 as disclosed in Note 4 to the financial statements. The expenditure includes an amount of Kshs.572,707,027 relating to other operating expenses out of which Kshs.10,499,839 was incurred on office supplies and services, food & accommodation and transport services at the County Offices. The goods and services were procured using low-value procurement method despite being above the allowable threshold of Kshs.50,000 per item per financial year for goods and services as provided for in the second schedule threshold matrix of the Public Procurement and Asset Disposal Regulations, 2020.

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

1902. Lack of Assets Register and Ownership Documents

As disclosed in Annex 2 to the financial statements, the summary of fixed assets register reflects assets with historical cost brought forward and additions during the year of Kshs.8,272,797,462 and Kshs.30,945,127 respectively, totalling to Kshs.8,303,742,589 as at 30 June, 2022. However, the Commission did not maintain an asset register to keep track of the assets. This was contrary to Regulation 143 of the Public Finance Management (National Government) Regulations, 2015. In addition, the assets held by the Commission were not tagged for ease of identification and traceability.

Further as previously reported, ownership documents for the parcels of land holding; the Main Parliament Building, Center for Parliamentary Studies and Training, Juvenile Court House, County hall and Protection House were not provided for audit.

In the circumstances, existence and ownership of assets held by the Commission could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1903. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PARLIAMENTARY MORTGAGE SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1904. Receivables from Exchange Transactions

The statement of financial position reflects receivables from exchange transactions balance of Kshs.5,686,521,878 as disclosed in Note 8 to the financial statements. The balance includes an amount of Kshs.35,057,050 due from loan defaulters, whose loans were not being serviced. Further, some of the loanees have been in default for more than three financial years and no adequate provision was made in the financial statements to cater for the uncertainty.

In the circumstances, the accuracy and fair presentation of the receivables from exchange transactions balance of Kshs.5,686,521,878 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1905. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1906. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PARLIAMENTARY CAR LOAN SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1907. There were no material issues noted during the audit of the financial statements of the Fund.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1908. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1909. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1910. There were no material issues noted during the audit of the financial statements of the National Assembly.

Other Matter

1911. Pending Bills

Annex 2 to the financial statements reflects pending bills totalling Kshs.290,665,300 as at 30 June, 2022, which were not settled in 2021/2022 but were instead carried forward to the 2022/2023 financial year. Further, these pending bills include an amount of Kshs.239,117,226 relating to 2021/2022 financial year and Kshs.51,548,074 for the previous financial years. Failure to settle bills during the year to which they relate adversely affects the budgetary provisions of the subsequent year to which they form first charge.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1912. Compensation of Employees

The statement of receipts and payments, as disclosed in Note 2 to the financial statements, reflects an amount of Kshs.11,223,868,346 in respect to compensation of employees. The expenditure includes an amount of Kshs.4,187,307,576 relating to basic wages of temporary employees at the Constituencies Offices. However, the amount was not supported with any documentary evidence on the terms of employment and approved salary scales of the Constituency offices staff.

Further, Likoni and Kilifi Women Representative Constituencies Offices did not remit Pay As You Earn (PAYE) and National Social Security Fund (NSSF) deductions resulting in arrears of Kshs.3,860,363 and Kshs.2,510,251 respectively. This was contrary to Section 19(3) of the Employment Act, 2007 which provides that an employer who deducts an amount from an employee's remuneration in accordance with subsection (1)(a), (f), (g) and (h), shall pay the amount so deducted in accordance with the time period and other requirements specified in the law.

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

1913. Procurement of Office Supplies and Services, Accommodation and Transport Service at Constituency Offices

The statement of receipts and payments, and as disclosed in Note 3 to the financial statements, reflects an amount of Kshs.8,620,229,140 in respect to use of goods and services. The amount includes Kshs.2,584,634,240 relating to other operating expenses out of which an amount of Kshs.72,099,479 was incurred on office supplies and services,

accommodation and transport at the Constituency Offices. Documents available revealed that the Management of the constituency offices procured goods and services directly through cash purchases although in various cases the threshold for low value procurement method was exceeded. This was contrary to Section 91 of the Public Procurement and Asset Disposal Act, 2015.

Further, included in the other operating expenses balance of Kshs.2,584,634,240 is Kshs.21,783,431 relating to travel and subsistence expenses which were not supported by approved guidelines on the standard rates for subsistence allowances.

In the circumstances, the regularity and value for money on the expenditure of Kshs.72,099,479 incurred on office supplies and services, accommodation and transport and Kshs.21,783,431 incurred on travel and subsistence for the year ended 30 June, 2022 could not be confirmed.

1914. Accounts Receivables - Outstanding Imprest

The statement of assets and liabilities, and as disclosed in Note 9 to the financial statements, reflects accounts receivables balance of Kshs.12,094,409. The balance includes an amount of Kshs.11,113,945 relating to outstanding imprests which ought to have been accounted for on or before 30 June, 2022. This was contrary to Regulation 93(5) of the Public Finance Management (National Government) Regulations, 2015 which provides that a holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station.

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

1915. Lack of Asset Register

Annex 3 to the financial statements on summary of fixed asset register reflects total assets value of Kshs.639,443,203 made up of historical cost brought forward and additions during the year of Kshs.543,736,778 and Kshs.95,706,425 respectively. However, The National Assembly did not maintain an asset register during the year under review to keep track of its assets contrary to Regulation 143(1) of the Public Finance Management (National Government) Regulations, 2015 which requires an accounting officer to maintain a register of assets under his or her control or possession as prescribed by the relevant laws. Further, the assets were not tagged contrary to The National Treasury Guidelines on Asset and Liability Management in the Public Sector (issued in March, 2020).

In the circumstances, Management was in breach of the law and The National Treasury Guidelines.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1916. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PARLIAMENTARY JOINT SERVICES – VOTE 2043

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1917. There were no material issues noted during the audit of the financial statements of the Services.

Other Matter

1918. Pending Bills

As disclosed in Note 9(c) and Annex 1 to the financial statements, the Parliamentary Joint Services had pending bills totalling Kshs.558,027,648 as at 30 June, 2022, which were not settled in 2021/2022 but were instead carried forward to the 2022/2023 financial year. Failure to settle bills during the year to which they relate adversely affects the budgetary provisions of the subsequent year to which they are charged.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1919. Incomplete Assets Register

The summary of fixed assets register under Annex 2 to the financial statements reflects assets with a historical cost of Kshs.5,980,464,502 as at 30 June, 2022. However, the Parliamentary Joint Services did not maintain a detailed and up to date assets register to keep track of the assets procured and held. This is contrary to Regulation 143(1) of the Public Finance Management (National Government), Regulations, 2015 which requires an Accounting Officer to maintain a register of assets under his or her control or possession as prescribed by the relevant laws. Further, the assets did not have unique identification or tag numbers for ease of traceability and accountability.

In the circumstances, the Management was in breach of the law and accuracy and completeness of the fixed assets balance of Kshs.5,980,464,502 could not be confirmed.

1920. Construction of the Proposed Multi-Storey Office Block

The statement of receipts and payments reflects an expenditure of Kshs.1,807,571,564 on acquisition of assets which, as disclosed in Note 6 to the financial statements, included an amount of Kshs.1,044,811,964 in respect to construction of buildings. The construction of buildings expenditure relates to payments for the proposed multi-storey office block whose contract period was estimated to take 42 months from 1 July, 2014 to 31 December, 2017. Review of contract documents revealed that the contractor was granted first, second and third extensions of time varying the completion date to 16 January, 2018, 23 August, 2020 and 30 November, 2021, respectively.

However, as at the time of audit inspection in November, 2022, the construction of the office block had not been completed. In addition, and as previously reported, the contractor had sought the services of an arbitrator over a dispute to determine when to start charging interest on delayed payments and payment certificates rates/ratios of 80:20 in US dollars and Kenya shillings, which may increase the total cost of the project significantly. Further, due to non-completion of the project, the Parliamentary Joint Service paid rent amounting to Kshs.381,390,606 for the leased offices during the year under review.

In the circumstances, delay in completing construction of the multi-storey office block building may result in the escalation of total costs in the long run due to inflation.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1921. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1922. There were no material issues noted during the audit of the financial statements of the Commission.

Other Matter

1923. Pending Bills

According to Annex 1 to the financial statements, the Commission had pending bills totalling Kshs.18,781,934 as at 30 June, 2022, which were not settled in 2021/2022 financial year but were instead carried forward to 2022/2023 financial year due to inadequate exchequer allocations.

Failure to settle bills during the year to which they relate adversely affects the budgetary provisions of the subsequent year to which they are charged as they form a first charge.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1924. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1925. There were no material issues relating to effectiveness of internal controls, risk management and governance.

COMMISSION ON REVENUE ALLOCATION - VOTE 2061

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1926. There were no material issues noted during the audit of the financial statements of the Commission.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1927. Irregular Promotions of Staff Based on an Unapproved Salary Structure

As previously reported, the Commission on Revenue Allocation (CRA) implemented a new salary structure in 2020/2021 financial year and accorded direct promotion to fourteen (14) staff members without the necessary approval from the Salaries and Remuneration Commission (SRC). This was contrary to Article 230 Clause 4(b) of the Constitution of Kenya which provides that the power and function of SRC shall be to advise the National and County Governments on the remuneration and benefits of all other public officers.

Although Management explained that the CRA had sought approval from The National Treasury on the structural reorganization of the budget which was granted, The National Treasury had advised that the changes in salary structure be approved by SRC. Although, the CRA sought for the advisory opinion on structural reorganization and staffing from SRC, it went ahead and implemented the unapproved structure before receiving the advisory. CRA claimed that SRC was only to provide advisory services and that they were at liberty to accept or reject the advisory.

Management also indicated that review and development of a new Strategic Plan of the Commission will align the current approved organization and salary structures with the results of the Job Evaluation undertaken by the Salaries and Remuneration Commission for 2021/2022-2024/2025 remuneration review cycle. This is aimed at realizing the most updated and optimum structures for the Commission. However, the SRC advisory opinion on structural reorganization and staffing was not provided for audit review.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1928. There were no material issues relating to effectiveness of internal controls, risk management and governance.

COMMISSION ON REVENUE ALLOCATION STAFF MORTGAGE SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1929. There were no material issues noted during the audit of the financial statements of the Fund.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1930. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1931. There were no material issues relating to effectiveness of internal controls, risk management and governance.

COMMISSION ON REVENUE ALLOCATION STAFF CAR LOAN SCHEME

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1932. There were no material issues noted during the audit of the financial statements of the Scheme.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1933. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1934. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1935. Unsupported Expenditure on Leave Commutation

The statement of receipts and payments and as disclosed under Note 4 to the financial statements reflects compensation to employees amount totalling Kshs.1,711,821,368. The expenditure includes an amount of Kshs.22,214,479 in respect of personal allowances paid as part of salaries, out of which, Kshs.8,548,038 was paid as leave commutation for officers who were unable to proceed on leave due to exigencies of service. However, the authority, justification and approval or basis of paying leave commutation was not provided for audit.

In the circumstances, the accuracy and validity of the leave commutation expenditure of Kshs.8,548,038 could not be confirmed.

Other Matter

1936. Pending Bills

Note 16.2 to the financial statements reflects pending bills amounting to Kshs.58,733,175 that were not settled in the year under review but were carried forward to the 2022/2023 financial year. However, Management did not provide an explanation for the failure to settle the bills. The Commission is therefore at risk of incurring significant interest costs and penalties with the continued delay in payment.

Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions of the subsequent year as they form a first charge.

1937. Unresolved Prior Year Matters

In the audit report of the previous year, several paragraphs were raised under the Report on Financial Statements, Other Matter and Report on Lawfulness and Effectiveness in Use of Public Resources. Although, the Management has indicated that some of the issues have been responded to, the matters have remained unresolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1938. Non-Submission of Financial Statements for Staff Car Loan and Mortgage Scheme

The statement of receipts and payments and Note 7 to the financial statements reflect acquisition of assets amount of Kshs.62,690,874 which includes a domestic lending and on-lending amount of Kshs.48,000,000 transferred during the year under review.

Available information indicates that the domestic lending and on-lending amount was in respect of the Staff Car Loan and Mortgage Scheme established in the year 2018 and which is managed and administered by a local bank. Since inception, a total of Kshs.355,000,000 has been disbursed by the Commission to the Car and Mortgage Scheme Fund. However, the Fund administrator has not prepared separate financial statements for the Fund since its inception. This is contrary to Section 84(1) and (3) of the Public Finance Management Act, 2012 which provides that an administrator of a national public fund established under the Constitution or an Act of Parliament shall prepare financial statements for the fund for each financial year in a form prescribed by the Accounting Standards Board and not later than three months after the end of each financial year, submit the financial statements to the Auditor-General.

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

1939. Compensation of Employees

The statement of receipts and payments and as disclosed under Note 4 to the financial statements reflects compensation to employees amount totalling Kshs.1,711,821,368.

Review of the expenditure records and human resource records revealed the following anomalies:

1939.1 Irregular Recruitment of Staff

During the year under review, the Commission appointed a Director-Finance, Planning and Resource Mobilization without any advertisement of the vacant position for fair competition. This is contrary to Article 232(1)(g) of the Constitution of Kenya, 2010, which states that the values and principles of public service include fair competition and merit as the basis of appointments and promotions; representation of Kenya's diverse communities; and affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of men and women, the members of all ethnic groups and persons with disabilities.

Further, the service contract for the senior driver was not provided for audit.

1939.2 Retention of Retired Officers in Service

Review of human resource records revealed that the Commission has three officers in service who were appointed and continued to be retained past the approved retirement age of sixty (60) years. This is contrary to Section 80 (1) (a) and (b) of the Public Commission Act, 2017 which states that where a public officer has attained the mandatory retirement age as may be prescribed in regulations - the public officer shall retire from the service with effect from the date of attaining the mandatory retirement age; and the Commission or other appointing authority shall not extend the service of such retired public officer beyond the mandatory retirement age.

Further, the Public Service Commission (PSC) Circular Ref. No: PSC/ADM/13(7) dated 19 November, 2020 stopped the approval of any extension of service to the officers who have attained mandatory retirement age.

In the circumstances, the Commission was in breach of the law and its guidelines.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1940. There were no material issues relating to effectiveness internal controls, risk management and governance.

SALARIES AND REMUNERATION COMMISSION - VOTE 2081

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1941. There were no material issues noted during the audit of the financial statements of the Commission.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1942. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1943. There were no material issues relating to effectiveness of internal controls, risk management and governance.

SALARIES AND REMUNERATION COMMISSION MORTGAGE AND CAR LOAN SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1944. There were no material issues noted during the audit of the financial statements of the Fund.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1945. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1946. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1947. Transactions in System Payments not Processed in Payment Details

Review of the Commission's financial statements and analysis of the IFMIS system payment reports processed against the payments made indicates that three hundred and ninety-one (391) transactions amounting to Kshs.98,309,130 were paid but not captured in the IFMIS payment details as at 30 June, 2022. No explanation was provided by the Commission Management for the anomaly.

In the circumstances, the accuracy, completeness, presentation, and disclosure of the financial statements for the year ended 30 June, 2022 could not be confirmed.

1948. Unreconciled Variances in Cash and Cash Equivalents

The statement of assets and liabilities reflects bank balances of Kshs.1,750,770,936 as disclosed in Note 8A to the financial statements. The balance includes National Bank of Kenya - Teachers account balance of Kshs.262,946,218. Review of the bank reconciliation statements revealed a reconciling item of receipts in the cash book not recorded in the bank statement of Kshs.1,000,000,000. No explanation was provided as to how and when the Commission earned the cash which was in the call deposit account.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.1,750,770,936 as at 30 June, 2022 could not be confirmed.

1949. Unconfirmed Teachers Service Commission (TSC) Car and Mortgage Fund

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.1,750,770,936 as disclosed in Note 8A to the financial statements which includes TSC car and mortgage bank balance of Kshs.520,999,796. During the year, the Fund reflected mortgage loan advances receivables balance of Kshs.304,734,248 (2021 - Kshs.806,062,361) and mortgages/bank loans payables of Kshs.271,233,343. However, documents to support the movement during the year were not provided for audit. Further, the Management does not have regulations governing the management of the Car and Mortgage Fund. As such, it was not possible to confirm whether the Fund is a self-reporting entity or part of the Commission.

In the circumstances, the accuracy and completeness of cash and cash equivalent balance of Kshs.1,750,770,936 as at 30 June, 2022 could not be confirmed.

1950. Accounts Receivables

1950.1 Unreconciled Domestic Debtors and Advances

As disclosed in Note 9 to the financial statements, the statement of assets and liabilities reflects an accounts receivables balance of Kshs.852,488,748 which includes an amount of Kshs.1,526,741 in respect of domestic debtors and advances. However, the prior year

closing balance of Kshs.10,531,875 differs from the current year's comparative balance of Kshs.1,526,741 by unreconciled amount of Kshs.9,005,134. Further, as previously reported, salary advances balances included an amount of Kshs.2,125,414 described as undefined recoveries whose composition and supporting documents were not provided for audit.

In addition, advances of Kshs.4,264,665 in respect of one hundred and forty-five (145) staff had no movement over the last twenty-four (24) months while some of the staff with outstanding balances had received additional salary advances during the year ended 30 June, 2022. Management did not give an analysis of how the above balances were recovered or written off during the year under review.

1950.2 Unexplained Increase in Salary Overpayment

As disclosed in Note 9 to the financial statements, the statement of assets and liabilities reflects accounts receivables balance of Kshs.852,488,748 which includes an amount of Kshs.466,892,922 in respect of salary overpayment. The amount is an increase of Kshs.114,039,769 (or 32%) from previous year's balance of Kshs.352,853,153. However, the origin and build-up of the balance has not been explained. Further, the aging analysis was not provided for audit and as such, it was not possible to establish how long these balances have been outstanding. In addition, Management has not demonstrated efforts it has made to recover the salary overpayments, thus the recoverability of this receivable is doubtful.

1950.3 Unsupported Receivables Balances

As disclosed in Note 9 to the financial statements, the statement of assets and liabilities reflects an accounts receivables balance of Kshs.852,488,748 which includes disbursement to counties amounts of Kshs.67,156,978. However, according to disbursement records, the Commission disbursed to the County offices an amount of Kshs.1,428,212,926 during the year under review resulting in a total amount disbursed and not surrendered from the prior year of Kshs.1,903,281,195. Management has not supported how the County expenditure returns difference of Kshs.1,836,124,217 was accounted for.

In the circumstances, the accuracy, completeness, presentation, and disclosure of accounts receivables balance of Kshs.852,488,748 as at 30 June, 2022 could not be confirmed.

1951. Unsupported Accounts Payables

The statement of assets and liabilities reflects accounts payables balance of Kshs.433,128,747 as disclosed in Note 10 to the financial statements. The balance includes clearance account balance of Kshs.399,616,822 which further includes unexplained sundry creditors balance of Kshs.43,042,122, unsupported returned salaries of Kshs.10,209,284, returned EFT payments of Kshs.278,871, and stale cheques amounting to Kshs.2,037,905 which have been supported by listings showing outstanding transactions, dating back to the financial year 2015/2016 and earlier years. Further, the clearance account balance of Kshs.399,616,822 indicates minimal movement over the last twelve months which was not supported or explained.

In the circumstances, the accuracy, completeness, and occurrence of the accounts payable balance of Kshs.433,128,747 as at 30 June, 2022 could not be confirmed.

1952. Unexplained Decrease in Employer Contribution to National Social Security Fund (NSSF) and Staff Pension Scheme

The statement of receipts and payments reflects an amount of Kshs.286,687,983,132 in respect of compensation of employees as disclosed in Note 4 to the financial statements. Review of the compensation of employees expenditure reflects an unexplained decrease of Kshs.483,437 and Kshs.316,494,809 contributed by the employer to National Social Security Fund (NSSF) and Staff Pension Scheme respectively despite a general increase in compensation of employees of Kshs.9,296,034,959. An increase in basic pay and allowances should result in a proportionate effect on employer contributions to both N.S.S.F and Staff Pension Scheme.

In the circumstances, the completeness and accuracy of compensation of employees' balance could not be confirmed.

Other Matter

1953. Long Outstanding Accounts Receivables - Cash Losses

As previously reported the statement of assets and liabilities reflects an accounts receivables balance of Kshs.852,488,748 which includes cash losses amounting to Kshs.2,928,398 that occurred between the years 1988 and 2000 and the matter was investigated whereby the Director of Public Prosecutions directed the suspect be charged with the offence of stealing by servant in accordance with Section 280 of the Penal Code. Review of the matter during the year under review indicates that all teachers are paid by electronic funds transfers through their respective bank accounts and the Commission has reported that there are no longer cash losses reported. However, the lost cash had not been recovered at the time of the audit in November, 2022.

1954. Unconfirmed Property, Plant and Equipment

As reported in the previous years, the property, plant and equipment balance of Kshs.4,955,290,287 as disclosed in Note 19 on other important disclosures to the financial statements includes one (1) motor vehicle procured in 2004 at a cost of Kshs.2,085,869. Review of the matter in November, 2022 revealed that the vehicle had earlier been auctioned by auctioneers after obtaining a duplicate logbook No.20063490279 from Kenya Revenue Authority. Although the Commission repossessed the vehicle, the case is still pending in court.

1955. Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness, Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management had not resolved the issues or given any explanation for failure to implement the recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1956. Over-Expenditure on Budget - Use of Goods and Services

The statements of receipts and payments reflects the use of goods and services expenditure of Kshs.1,739,822,652 as disclosed in Note 5 to the financial statements. The expenditure includes over-expenditure of Kshs.163,968,426 on various components for which approvals were not provided for audit as detailed below:

Description	Financial Statements Amount (Kshs.)	Budget (Kshs.)	Variance (Kshs.)
Insurance Costs	156,993,158	114,500,000	42,493,158
Fuel Oil and Lubricants	65,735,378	60,000,000	5,735,378
Domestic Travel and Subsistence	177,045,876	64,759,216	112,286,660
Hospitality, Supplies and Services	30,300,971	26,847,741	3,453,230
Total	**430,075,383**	**266,106,957**	**163,968,426**

Over-expenditure on a budget may lead to unplanned expenditures, pending bills, and budget reallocations.

In the circumstances, the regularity and validity of the over-expenditure amounting to Kshs.163,968,426 could not be confirmed.

1957. Failure to Deduct and Remit Pay-As-You-Earn from Employees

During the year under review, Management did not deduct Pay-As-You-Earn (PAYE) due from three thousand, two hundred and eighty-one (3,281) special needs staff, three thousand, seven hundred and eighty-four (3,784) non-special need staff and four (4) Secretariat's staff with gross pay amounting to Kshs.350,930,993, Kshs.214,965,126 and Kshs.96,694 respectively.

Review of the Commission's payroll revealed that employees with special needs, as prescribed under Section 11(3) of the Persons with Disabilities Act, 2003 are denoted by codes 2-9 under the special needs field in the Integrated Payroll and Personnel Database (IPPD) but the above referenced employees code was zero (0) denoting that they are not people with special needs and had not been exempted from paying income tax by the Kenya Revenue Authority. Failure to deduct and remit Pay-As-You-Earn tax is contrary to the Income Tax Act CAP 470.

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

1958. Over-Payment of Leave Allowance and Salary Arrears

Review of payroll data for the period under review revealed that twenty-one (21) teachers and seventy-five (75) Secretariat staff were paid leave allowance twice amounting to

Kshs.240,000 and Kshs.740,000 respectively. Further, the payments were made to teachers and the secretariat staff who were not in the hardship areas.

In addition, one thousand eight hundred and seven (1,807) teachers, and one hundred and thirty-five (135) Secretariat staff were paid salary arrears more than once during the year amounting to Kshs.197,214,537 and Kshs.15,509,930, respectively contrary to Article 201(d) of the Constitution of Kenya, 2010 which states that public money shall be used in a prudent and responsible way.

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

1959. Non-Procurement of Group Life Cover

The statement of receipts and payments reflects an amount of Kshs.1,739,822,652 in respect of the use of goods and services as disclosed in Note 5 to the financial statements which includes insurance costs amounting to Kshs.156,993,158. Included in the expenditure is an amount of Kshs.62,922,122 paid to a financing institution as a group life insurance cover. The Commission entered into a contract for the provision of group life cover with a Financing Institution on 13 May, 2021 for a period of one year, with an expiry date of 13 May, 2022. However, upon the expiry of the cover, the Commission did not procure another cover hence resulting in the Commission operating without a group life cover.

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

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1960. Control Weaknesses in Human Resource Management

The statement of receipts and payments reflects an amount of Kshs.286,687,983,132 in respect of compensation of employees costs as disclosed in Note 4 to the financial statements. However, the following internal controls weaknesses over payroll management were noted: -

i. Comparison of the national identification numbers in the teachers' payroll against the Integrated Personnel and Payroll Database (IPPD) for MDAs indicates that there were twenty-four (24) employees earning salaries in two entities in the same month.

ii. Examination of the IPPD reflects that one (1) identification number, was in both the Teachers' and Secretariat payrolls but with a different name. The amount paid during the year was Kshs.1,520,192 and Kshs.483,545 for the Secretariat and teachers' payrolls respectively.

iii. Review of the payroll for the month of June, 2022 revealed the existence of seventy-nine (79) employees with similar names, similar bank account numbers but different payroll numbers. The total gross pay amounted to Kshs.4,263,212.

Further, three (3) teachers did not have national identification numbers in the staff register.

In the circumstances, the internal controls over the management of employees' payroll are weak and susceptible to loss of the Commission's resources.

1961. Recovery of Salary Overpayment

Review of the detailed analysis of the payroll for the period under review revealed that there were eighty-five (85) teachers with an outstanding overpayment balance amounting to Kshs.47,352,946. Further, the outstanding repayment period for these officers will exceed their retirement age of sixty (60) or the end of the contract period. Therefore, recovery of the overpayment is in doubt. Further, the Commission Management did not provide for audit, a strategy for the recovery of the overpayments beyond the retirement period.

In the circumstances, the existence of internal control to safeguard loss of public resources could not be confirmed.

DONOR FUNDED PROJECT

SECONDARY EDUCATION QUALITY IMPROVEMENT PROJECT (IDA CREDIT NO. 6138-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1962. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1963. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects the final receipts budget and actual on a comparable basis of Kshs.450,000,000 and Kshs.272,376,218 respectively resulting in an underfunding of Kshs.177,623,782 (or 39%) of the budget. Similarly, the Project expended Kshs.317,841,547 against an approved budget of Kshs.450,000,000 resulting in an underexpenditure of Kshs.132,158,454 (or 29%) of the budget.

In the circumstances, the under-absorption of the approved budget is an indication of the activities not implemented by the project management leading to the non-provision of services to the stakeholders.
My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

1964. Un-Surrendered Authority to Incur Expenditure Funds

The statement of financial assets reflects a balance of Kshs.14,326,719 in respect of other receivables as disclosed in Note 11.4 to the financial statements. The balance represents AIEs issued to twenty-six (26) County Directors out of which an amount of Kshs.425,504 is in respect of unspent amount of Kshs.283,854 and Kshs.141,650 for the Commission's Kisii County office and the Commission Headquarters respectively which had not been surrendered as at 30 June, 2022. This was contrary to the provisions of Regulation 117 of the Public Finance Management (National Government) Regulations, 2015 which states that where an AIE holder observes that it will not be possible to utilize all the funds allocated for a particular project in a given financial year, the Accounting Officer will then surrender the resources to The National Treasury.

In the circumstances, the Project Management was in breach of the law due to the failure to surrender that amount as prescribed in law.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1965. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1966. As required by International Development Association, I report based on my audit that I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. Further, adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1967. There were no material issues noted during the audit of the financial statements of the Commission.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1968. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1969. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NATIONAL POLICE SERVICE COMMISSION STAFF CAR LOAN AND MORTGAGE SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1970. There were no material issues noted during the audit of the financial statements of the Fund.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1971. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1972. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OFFICE OF THE CONTROLLER OF BUDGET - VOTE 2121

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1973. There were no material issues noted during the audit of the financial statements of the Office.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1974. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS, OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1975. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OFFICE OF THE CONTROLLER OF BUDGET STAFF MORTGAGE SCHEME

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1976. There were no material issues noted during the audit of the financial statements of the Scheme.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1977. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1978. There were no material issues relating to effectiveness of internal controls, risk management and governance.

THE COMMISSION ON ADMINISTRATIVE JUSTICE - VOTE 2131

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1979. There were no material issues noted during the audit of the financial statements of the Commission.

Other Matter

1980. Pending Bills

Annex 1 to the financial statements indicates that the Commission had pending bills totalling Kshs.5,533,492 as at 30 June, 2022, which were not settled in 2021/2022 but were instead carried forward to the 2022/2023 financial year.

Failure to settle bills during the year to which they relate, adversely affects the budgetary provisions of the subsequent year to which they are charged.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1981. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1982. There were no material issues relating to effectiveness of internal controls, risk management and governance.

COMMISSION ON ADMINISTRATIVE JUSTICE - STAFF MORTGAGE AND CAR LOAN FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1983. There were no material issues noted during the audit of the financial statements of the Fund.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1984. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1985. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1986. There were no material issues noted during the audit of the financial statements of the Commission.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1987. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1988. There were no material issues relating to effectiveness of internal controls, risk management and governance.

INDEPENDENT POLICING OVERSIGHT AUTHORITY - VOTE 2151

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1989. There were no material issues noted during the audit of the financial statements of the Authority.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1990. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1991. There were no material issues relating to effectiveness of internal controls, risk management and governance.

INDEPENDENT POLICING OVERSIGHT AUTHORITY STAFF MORTGAGE AND CAR LOAN SCHEME

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1992. There were no material issues noted during the audit of the financial statements of the Scheme.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1993. There were no material issues relating to lawfulness and effectiveness in use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1994. There were no material issues relating to effectiveness of internal controls, risk management and governance.

Appendix A: Unmodified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
1.	State Department for Planning
2.	The Executive Office of the President
3.	Ministry of Defence
4.	State Department for Implementation of Curriculum Reforms
5.	State Department for Information Communication Technology and Innovation
6.	State Department for Broadcasting and Telecommunications
7.	State Department for Trade and Enterprise Development
8.	State Department for Wildlife
9.	State Department for Public Service
10.	State Department for Youth Affairs
11.	State Department for East African Community
12.	State Law Office and Department of Justice
13.	Ethics and Anti-Corruption Commission
14.	National Intelligence Service
15.	Office of the Registrar of Political Parties
16.	Witness Protection Agency
17.	Kenya National Commission on Human Rights
18.	Parliamentary Service Commission
19.	The National Assembly
20.	Parliamentary Joint Services
21.	Judicial Service Commission
22.	Commission on Revenue Allocation
23.	Public Service Commission
24.	Salaries and Remuneration Commission
25.	National Police Service Commission

Appendix A: Unmodified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
26.	Office of the Controller of Budget
27.	The Commission on Administrative Justice
28.	National Gender and Equality Commission
29.	Independent Policing Oversight Authority
30.	National Exchequer Account
31.	Consolidated Fund Services - Subscription to International Organizations - The National Treasury
32.	Consolidated Fund Services - Public Debt - The National Treasury
33.	Consolidated Fund Services - Salaries, Allowances and Miscellaneous Services - The National Treasury
34.	Revenue Statements of the Pensions Department - The National Treasury
35.	Development Revenue Statements - The National Treasury
36.	Receiver of Revenue (Recurrent) - The National Treasury
37.	Revenue Statements - Ministry of Defence
38.	East Africa Tourist Visa Fee Collection Account
39.	Revenue Statements for the Ministry of Lands and Physical Planning
40.	Revenue Statements of the State Department for Fisheries, Aquaculture and the Blue Economy
41.	Revenue Statements - The Judiciary
42.	Business Registration Service
43.	Business Registration Service - Official Receiver
44.	National Cohesion and Integration Commission
45.	Ethics and Anti-Corruption Commission - Staff House Mortgage and Car Loan Scheme
46.	Office of the Registrar of Political Parties Staff Mortgage and Car Loan Scheme
47.	Witness Protection Agency Staff Housing Mortgage Scheme Fund

Appendix A: Unmodified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
48.	Witness Protection Agency Staff Motor Car Loan Scheme Fund
49.	Kenya National Commission on Human Rights Car and Mortgage Loan Scheme
50.	Independent Electoral and Boundaries Commission Staff Mortgage and Car Loan
51.	Parliamentary Car Loan Scheme Fund
52.	Commission on Revenue Allocation Staff Mortgage Scheme Fund
53.	Commission on Revenue Allocation Staff Car Loan Scheme
54.	Salaries and Remuneration Commission Mortgage and Car Loan Scheme Fund
55.	National Police Service Commission Staff Car Loan and Mortgage Scheme Fund
56.	The Office of the Controller of Budget Staff Mortgage Scheme
57.	Commission on Administrative Justice - Staff Mortgage and Car Loan
58.	Independent Policing Oversight Authority Staff Mortgage and Car Loan Scheme
59.	Public Financial Management Reforms Program (Credit Nos. DANIDA FY06, SIDA 51110081, IDA GESDEK-6133-KE, AFD/CKE 1130 & PASEDE CRISNO:041-658 – The National Treasury
60.	Technical Support Programme (Financing Agreements No. KE/FED/2009/021421; No. KE/FED/023-733 and No. KE/FED/037-941 – The National Treasury
61.	Micro Finance Sector Support Credit Project (Credit No. CKE 3004 01E and CKE 6060 01E) – The National Treasury
62.	Financing Locally-Led Climate Action Program Credit No. IDA 6980; TF B6810 - KE (P173065) - The National Treasury
63.	Financial Sector Support Project (IDA Credit No.5627-KE) - The National Treasury
64.	Infrastructure Finance and Public Private Partnerships Project - IDA Credit No.5157-KE - The National Treasury

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NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
65.	Programme for Rural Outreach of Financial Innovations and Technologies (Profit) (IFAD Loan No.814-KE and Grant No.1218-KE) - The National Treasury
66.	Affordable Housing Finance Project (IDA Credit No.8958-KE) - The National Treasury
67.	Public Debt Management Support Project - ADB Grant Agreement No.5500155013708 - The National Treasury
68.	Study and Capacity Building Fund Project (Grant Numbers CKE 6015 01K, CKE 1043 01F AND CKE 1047 01K) - The National Treasury
69.	Horn of Africa Gateway Development Project (IDA Credit No. 6768) – Kenya Revenue Authority
70.	Eastern Africa Regional Transport, Trade And Development Facilitation Project (IDA Credit No.5638-KE) – Kenya Revenue Authority
71.	Coordination of Population Policy Implementation Project (UNFPA-KEN09POP) – National Council for Population and Development
72.	National Information Platform for Food Security and Nutrition Project (FOOD/2017/393-022) - Kenya National Bureau of Statistics
73.	UNICEF - Kenya Generation Unlimited (GENU) Project (Programme No.2400/A0/A6) - Executive Office of the President
74.	Kenya - EU Partnership for the Implementation of the National Strategy to Counter Violent Extremism in Kenya - National Counter Terrorism Centre
75.	Technical Assistance to Enhance the Capacity of the President's Delivery Unit (AFD Grant No. 5500155012902) - State Department for Interior and Citizen Services
76.	Support to Technical and Vocational Education and Training for Relevant Skills Development Project-Phase II (Loan No.2100150033295) - State Department for Vocational and Technical Training
77.	Support to Technical and Vocational Education Training and Entrepreneurship (TVETE Project Phase III) (Loan No. 2100150042254) - State Department for Vocational and Technical Training
78.	East Africa Skills for Transformation and Regional Integration Project (EASTRIP) IDA Loan Credit No. 6334-KE - Ministry of Education - State Department for Vocational and Technical Training

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NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
79.	Promotion of Youth Employment and Vocational Training Phase II in Kenya Loan No.BMZ 2018 65 120 - State Department for Vocational and Technical Training
80.	Promotion of Youth Employment and Vocational Training in Kenya (TVET Phase I) Project Loan Reference: BMZ No.2016 67 211 & BMZ No.2016 65 298 and Project Grant Reference No.1930 05 527 - State Department for Vocational Training and Technical Training
81.	East Africa Skills Transformation and Regional Integration Project (EASTRIP) Grant/Credit No.IDA 6334-KE – Kisumu National Polytechnic
82.	East Africa Skills Transformation and Regional Integration Project (Credit Number 6334 – KE) – Kenya Coast National Polytechnic
83.	Eastern and Southern Africa Higher Education Centres of Excellence (ACE II) Project (Credit No.5798-KE) - State Department for University Education and Research
84.	Africa Centre of Excellence (ACE II) in Phytochemicals, Textiles and Renewable Energy (PTRE) Project (IDA Credit No.5798-KE) - Moi University
85.	DANIDA Primary HealthCare (PHC) Support Program - Ministry of Health
86.	Support of the Health Care Financing Strategy - Reproductive Health - Output Based Approach Project (Credit BMZ No. Kenya 201065853) - Ministry of Health
87.	Resilient Sustainable Systems for Health (RSSH) KEN-T-TNT 2067 - Sub Receipt - Ministry of Health
88.	Global Fund Tuberculosis Project Grant/Credit No.KEN-T-TNT-1548 - Ministry of Health
89.	Global Fund Tuberculosis Project Grant/Credit No. KEN-T-TNT-2067 - Ministry of Health
90.	Transforming Health Systems for Universal Care (THS-UC) PROJECT Grant IDA Credit No. 5836 - KE, TFOA2561, TFOA2792, and CR.P152394 - Ministry of Health
91.	Global Fund Malaria New Funding Model (NFM) KEN-M-TNT-2064 - Ministry of Health

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NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
92.	Global Fund Malaria New Funding Model (NFM) KEN-M-TNT-1546 - Ministry of Health
93.	East Africa's Centre of Excellence for Skills and Tertiary Education in Biomedical Sciences - Phase I (Loan NO.2100150031997) Project - Ministry of Health
94.	Global Fund HIV AIDS Program Grant No. KEN-H-TNT GA 1547 - Ministry of Health
95.	Health Sector Support Project - SWAp Secretariat - IDA CR NO. 4771-KE and CR. NO. 5367-KE - Ministry of Health
96.	Global Fund HIV/AIDS Project Grant Number KEN-H-TNT-2065 - National Aids Control Council
97.	Kenya Health Sector Programme Support III (DANIDA/ REF.104.KENYA A.810.300-GRANT – County Government of Kisii
98.	A Case Study on Integrated Delivery of Selected Non-Communicable Diseases in Kenya (PHGF Grant No. TFOA5636) - Moi Teaching and Referral Hospital
99.	Horn of Africa Gateway Development Project Credit Number 6768-KE - State Department for Infrastructure
100.	Kenya Transport Sector Support Project (IDA Credit No. 4926-KE and No. 5410-KE) – State Department for Infrastructure
101.	Nairobi - Thika Highway Improvement Project Lot 3 Government Concessional Loan Agreement No. (2009) 39 Total No. (290) - Kenya National Highways Authority
102.	Nairobi Southern Bypass Road Project - Kenya National Highways Authority
103.	EPC/TURN KEY Construction of Five Footbridges and T-Mall Flyover on Mombasa and Langata Road (Project Loan Credit No. KEN-01001-19 and KEN-02001-19) - Kenya National Highways Authority
104.	Mombasa Special Economic Zone Development Project (I) - Kenya National Highways Authority
105.	Mombasa-Nairobi-Addis Ababa Road Corridor Project Phase II (Marsabit-Turbi Road) ID NO. P-Z1-DB0-027 - Kenya National Highways Authority

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NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
106.	Nairobi Outer Ring Road Improvement Project - Kenya Urban Roads Authority
107.	National Urban Transport Improvement Project Credit No. IDA 5140-KE (KRC Component) - Kenya Railways Corporation
108.	Support to Roads Sector Policy: 10th EDF Rural Roads Rehabilitation Project in Kenya (Agreement No.KE/FED/023/-571) - Kenya Rural Roads Authority
109.	Horn of Africa Gateway Development Project (IDA Credit No. 6768 KE) - National Transport and Safety Authority
110.	Kenya Urban Support Program (IDA Credit No. 6134 KE) - State Department for Housing and Urban Development
111.	Green Growth and Employment Thematic Programme (GGETP) – Danish Embassy File No.2015-39790 - Ministry of Environment and Forestry
112.	Kenya Gold Mercury Free ASGM Project Credit No. GEF/UNDP/GOK-00108253 - Ministry of Environment and Forestry
113.	Strengthening Drought Resilience for Small Holder Farmers and Pastoralists in the IGAD Region Project No.03/DRESS-EA/07/0SS-KE/20 - Ministry of Environment and Forestry
114.	Kenya Institutional Strengthening Project Phase XII (No. UNEP/KEN/SEV/86/INS/64) Project - Ministry of Environment and Forestry
115.	Kenya Special Project on BRSM and SAICM - Ministry of Environment and Forestry
116.	Kenya Enabling Activities for HFC Phase - Down Project (Grant No.UNEP/KEN/SEV/81/TAS/01+) - Ministry of Environment and Forestry
117.	National Action Plan on Artisanal Small - Scale Gold Mining Project - Ministry of Environment
118.	Kenya Water Towers Project (Grant No. FED/2016/375-958) - Kenya Forest Service
119.	Green Zones Development Support Project Phase II (Credit NO.P.KE-AAD-005) - Kenya Forest Service
120.	Africa Environmental Health and Pollution Management Project (AEHPMP) GEF Grant No: TFOB3322 - National Environment Management Authority

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NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
121.	Green Growth and Employment Thematic Programme-NEMA (CR NO: 2015-39789) - National Environment Management Authority
122.	NEMA-GCF Project Preparation Facility: "Devolved Climate Change Governance to Strengthen Resilience of Communities in Target Counties" (Project No: KEN-PPF-010) - National Environment Management Authority
123.	NEMA - GCF Readiness and Preparatory Support: "NEMA Capacity Strengthening Programme Towards Accessing Climate Finance from Green Climate Fund" - (Credit No: KEN-RS-003) – National Environment Management Authority
124.	Integrated Programme to Build Resilience to Climate Change and Adaptive Capacity of Vulnerable Communities in Kenya - National Environment Management Authority
125.	Water and Sanitation Development Project (IDA Credit No.6029/6030-KE) - Ministry of Water, Sanitation and Irrigation
126.	Coastal Region Water Security and Climate Resilience Project (IDA Credit No.5543-KE) - Ministry of Water, Sanitation and Irrigation
127.	Kenya Italy Debt for Development Programme - Ministry of Water, Sanitation and Irrigation
128.	Kenya Water Security and Climate Resilience Project (IDA Credit No.5268/5674-KE) - Ministry of Water, Sanitation and Irrigation
129.	Upper Tana Catchment Natural Resource Management Project (UTaNRMP) IFAD Loan No.1-867-KE; IFAD Additional Financing Loan No.2000002597-KE; and Spanish Trust Fund Loan No.1-E-8-KE - Ministry of Water, Sanitation and Irrigation
130.	Mwea Irrigation Development Project (Loan No. KE-P27) - National Irrigation Authority
131.	Bura Rehabilitation Development Project (Loan Nos. BADEA 3530: LA/763, KUWAIT 752, OPEC 1154P) - National Irrigation Authority
132.	Nairobi Rivers Basin Rehabilitation and Restoration Program: Sewerage Improvement Project Phase II (AfDB Loan No.2000200003407 and ADF Loan No.2100150040550) - Athi Water Works Development Agency

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NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
133.	Northern Collector Phase I-Additional Rehabilitation and Development of the Network (Credit No. CKE-1074) - Athi Water Works Development Agency
134.	Nairobi Water Distribution Network Project (Credit BMZ NO. 2020.82.527/KV 26833) - Athi Water Works Development Agency
135.	Support to Water and Sanitation Services in Peri-Urban Area (Loan No. BMZ 2013.6543.6) - Athi Water Works Development Agency
136.	Nairobi Inclusive Sanitation Improvement Project (Grant No:5600155005153 - Athi Water Works Development Agency
137.	Kenya Towns Sustainable Water Supply and Sanitation Program (Loan No.2000200000501) – Athi Water Works Development Agency (AWWDA)
138.	Water and Sanitation Services Improvement Project (IDA CR. NO.5103-KE) - Lake Victoria North Water Works
139.	Eastern Africa Regional Transport, Trade and Development Facilitation Project (IDA Credit No.5638-KE) - Information and Communication Technology Authority
140.	Horn of Africa Gateway Development Project - IDA Credit No. 6768-KE - Information and Communication Technology Authority
141.	Kenya Off-Grid Solar Access Project for Under-Served Counties (IDA CR.NO.6135-KE) - Ministry of Energy
142.	Kenya Off-Grid Solar Access Project for Underserved Counties (IDA CR. No.6135-KE) - Ministry of Energy and SNV Netherlands Development Organization
143.	Kenya Electricity Modernization Project (IDA CR. No. 5587 KE) - Ministry of Energy
144.	Rural Electrification in Five Regions Project (CR. NO.11/597KE, CR. No.1407PKE) - Rural Electrification and Renewable Energy Corporation
145.	Kenya Electricity Modernisation Project (IDA Credit No.5587-KE) - Rural Electrification and Renewable Energy Corporation
146.	Kenya Electricity Expansion Project (OFID CR NO.1487P) - Rural Electrification and Renewable Energy Corporation
147.	Kenya Off-Grid Solar Access Project for Underserved Counties (IDA CR. NO.6135-KE) - Rural Electrification and Renewable Energy Corporation

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NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
148.	Ethiopia - Kenya Electricity Highway Project (ADB Loan No. 2000200003502-Mariakani Substation Project ID NO: P-ZI-FA0-162) - Kenya Electricity Transmission Company Limited
149.	Olkaria-Lessos-Kisumu Transmission Lines Construction Project (JICA Loan No. KE-P28) - Kenya Electricity Transmission Company Limited
150.	Eastern Electricity Highway Project (IDA Credit No. 5148-KE; AFD Loan No.CKE 1030 01B and ADF Loan No.2100150027845) - Kenya Electricity Transmission Company Limited
151.	Multinational - Kenya Section of Interconnection Project of Electricity Grids of Nile Equatorial Lakes Countries (ADF Loan No.2100150022643) - Kenya Electricity Transmission Company Limited
152.	Power Transmission System Improvement Project (ADF Loan No.2100150023752) - Kenya Electricity Transmission Company Limited
153.	220KV and 132KV Transmission Lines and Substations (Exim Bank of India Funded) Projects - Kenya Electricity Transmission Company Limited
154.	Multinational Kenya-Tanzania Power Interconnection Project (Kenyan Component) (ADF Loan No. 2100150032846) - Kenya Electricity Transmission Company Limited
155.	Nairobi Ring Transmission Line Project (AFD Credit No. CKE6012.01, AFD Credit No. CKE 1068 01, AFD Credit No. CKE 1030.01B, EIB Credit No. 25.367/KE and GoK) - Kenya Electricity Transmission Company Limited
156.	Last Mile Connectivity Project I (Loan No.2100150032195) – The Kenya Power and Lighting Company PLC
157.	Last Mile Connectivity Project II Loan No.2000200000152 – The Kenya Power and Lighting Company Plc
158.	Towards Ending Drought Emergencies: Ecosystem Based Adaptation in Kenya's Arid and Semi-Arid Rangelands (IUCN Grant No. P02886) - State Department for Livestock
159.	Regional Pastoral Livelihood Resilience Project (IDA CR. NO KE 53880) - State Department for Livestock
160.	Kenya Livestock Commercialization Project Loan Number 2000003566 and 2000003566 - State Department for Livestock

Appendix A: Unmodified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

161. Aquaculture Business Development Programme (IFAD Loan No.2000002052 & 2000002614) - State Department for Fisheries, Aquaculture and the Blue Economy

162. Kenya Marine Fisheries and Socio-Economic Development Project (IDA Credit No. 65400-KE) - State Department for Fisheries, Aquaculture and the Blue Economy

163. Kenya Climate Smart Agriculture Project (IDA Credit No. 5945-KE) - State Department for Crop Development and Agricultural Research

164. Capacity Development Project for Enhancement of Rice Production in Irrigation Schemes in Kenya (Project Grant/Credit Number 1161001009) - State Department of Crop Development and Agricultural Research

165. Strengthening Fertilizer Quality and Regulatory Standards in Kenya Project (AGRA Grant No. 2013 SHP 001) - State Department for Crop Development and Agricultural Research

166. Enable Youth Kenya Program (ADF Loan No.2100150038895) - State Department for Crop Development and Agricultural Research

167. Small-Scale Irrigation and Value Addition Project - (ADF Loan No. 2000130014530 and Grant No.557015000751) - State Department for Crop Development and Agricultural Research

168. National Agricultural and Rural Inclusive Growth Project (IDA Credit No. 5900-KE) - State Department for Crop Development and Agricultural Research

169. Agricultural Sector Development Support Programme II (SIDA Grant No. 51110109) - State Department for Crop Development and Agricultural Research

170. Kenya Cereal Enhancement Programme - Climate Resilient Agricultural Livelihood Window (EU Grant No.2000000623, Grant No.2000001522, Grant No.2000003493, Grant No.2000001122 and IFAD Loan No.2000001121) - State Department for Crop Development and Agricultural Research

171. Emergency Locust Response Project (IDA Credit No.6648-KE) - State Department for Crop Development and Agricultural Research

172. Supporting Agricultural Input and Output Marketing Policy and Regulatory Reforms to Improve the Enabling Business Environment for Agriculture in Kenya (AGRA Grant Number 2018 KE 005) - State Department for Crop Development and Agricultural Research

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NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
173.	Kenya Industry and Entrepreneurship Project (Credit No. IDA 6268-KE) - State Department for Industrialization
174.	Kenya Youth Employment and Opportunities Project (Credit No. IDA 5812-KE) - Micro and Small Enterprises Authority
175.	Combating Poaching and Illegal Wildlife Trafficking in Kenya Through Integrated Approach (IWT-KENYA) Project - State Department for Wildlife
176.	Youth Empowerment Programme Grant/Credit No. B4210 - State Department for Youth Affairs
177.	Judicial Performance Improvement Project (IDA Credit No. 5181-KE) - The Judiciary
178.	Secondary Education Quality Improvement Project (IDA Credit No. 6138-KE) - Teachers Service Commission

Appendix B: Qualified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
1.	The National Treasury
2.	State Department for Interior and Citizen Services
3.	State Department for Correctional Services
4.	State Department for Devolution
5.	State Department for Development of the Arid and Semi-Arid Lands (ASALS)
6.	Ministry of Foreign Affairs
7.	State Department for Vocational and Technical Training
8.	State Department for University Education and Research
9.	State Department for Early Learning and Basic Education
10.	Statement for Post Training and Skills Development
11.	Ministry of Health
12.	State Department for Infrastructure
13.	State Department for Transport
14.	State Department for Shipping and Maritime
15.	State Department for Housing and Urban Development
16.	State Department for Public Works
17.	Ministry of Environment and Forestry
18.	Ministry of Water, Sanitation and Irrigation
19.	Ministry of Lands and Physical Planning
20.	State Department for Sports
21.	State Department for Culture and Heritage
22.	Ministry of Energy
23.	State Department for Livestock

Appendix B: Qualified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
24.	State Department for Fisheries, Aquaculture and the Blue Economy
25.	State Department for Crop Development and Agricultural Research
26.	State Department for Co-operatives
27.	State Department for Industrialization
28.	Ministry of Labour
29.	State Department for Social Security and Protection
30.	Ministry of Petroleum and Mining
31.	State Department for Tourism
32.	State Department for Gender
33.	State Department for Regional and Northern Corridor Development
34.	The Judiciary
35.	Office of the Director of Public Prosecutions
36.	National Land Commission
37.	Independent Electoral and Boundaries Commission
38.	Teachers Service Commission
39.	Consolidated Fund Services - Pension and Gratuities
40.	Government Investments and Public Enterprises - Revenue Statements - The National Treasury
41.	Revenue Statements - State Department for Interior and Citizen Services
42.	Revenue Statements of the Ministry of Petroleum and Mining
43.	Revenue Statements of State Law Office and Department of Justice
44.	Revenue Statements of the Business Registration Service
45.	Public Trustee of Kenya
46.	Office of the Director of Public Prosecutions Staff Housing Mortgage and Car Loan Scheme
47.	National Land Commission Staff Car Loan Scheme Fund

Appendix B: Qualified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
48.	National Land Commission Housing Scheme Fund
49.	Parliamentary Mortgage Scheme Fund
50.	Global Fund - To Reduce Morbidity and Mortality Caused by Malaria in the Various Epidemiological Zones by Two-Thirds of the 2015 Level by 2020 Program - KEN-M-TNT, GA 1546 - The National Treasury
51.	Global Fund - To Contribute to Achieving Vision 2030 Through Universal Access to Comprehensive HIV Prevention, Treatment and Care Program - KEN-H-TNT, GA 2065 - The National Treasury
52.	Global Fund - To ensure Provision of Quality Care and Prevention Services for All People in Kenya with TB, Leprosy and Lung Diseases Program - KEN-TNT, GA 2067 - The National Treasury
53.	Global Fund - To Reduce Malaria Incidence and Deaths by at Least 75 Percent of the 2016 Levels by 2023, Working Towards a Malaria-Free Kenya Program - KEN-M-TNT, GA 2064 - The National Treasury
54.	Global Fund - To Contribute to Achieving Vision 2030 Through Universal Access to Comprehensive HIV Prevention, Treatment and Care (NFM 2) Program - KEN-H-TNT, GA 1547 - The National Treasury
55.	Global Fund - To Accelerate the Reduction of TB, Leprosy and Lung Disease Burden Through Provision of People-Centered, Universally Accessible, Acceptable and Affordable Quality Services in Kenya Program - KEN-T-TNT, GA 1548 - The National Treasury
56.	National Treasury Capacity Strengthening Project (Grant No.5500155013902 ID No.P-KE-KOO-011) - The National Treasury
57.	Infrastructure Finance and Public Private Partnerships Project - Additional Financing (IDA Credit No. 6121-KE) - The National Treasury
58.	Instruments for Devolution Advice and Support (IDEAS) Credit No.KE/FED/024-230 - Ministry of Devolution
59.	Kenya Symbiocity Programme - Project No. SIDA 51110060 - Council of Governors
60.	Kenya Cooperation and Partnership Facility (KCPF) Project No. KE/FED 2019/041-712, Credit No.FED/2021/423-175 - Ministry of Devolution

Appendix B: Qualified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
61.	Kenya Development Response to Displacement Impacts Project (KRDIP) IDA Credit No.6021-KE and Grant No. TFOA 7762-KE - State Department for Development of Arid and Semi-Arid Lands
62.	Kenya Italy Debt for Development Program - Ministry of Education - State Department of Vocational and Technical Training
63.	East Africa Skills for Transformation and Regional Integration Project (EASTRIP) (IDA Loan No. 6334-KE) - Meru National Polytechnic
64.	Support to Enhancement of Quality and Relevance in Higher Education, Science and Technology Project (ID No. P-KE-IAD-001-Loan Agreement No. 2100150027993) - State Department for University Education
65.	Establishment of Kenya Advanced Institute of Science and Technology Project No KEN-4 - Ministry of Education - State Department for University Education and Research
66.	Africa Centre of Excellence in Sustainable use of Insects as Food and Feeds Project (IDA Credit No.5798-KE)-Jaramogi Oginga Odinga University of Science and Technology
67.	Centre of Excellence in Sustainable Agriculture and Agribusiness Management Credit No. 5798-KE - Egerton University
68.	Kenya Primary Education Development Project (Grant No. TFO18863) - State Department for Early Learning and Basic Education
69.	Kenya GPE Covid-19 Learning Continuity in Basic Education Project (Grant ID. P174059 and Credit No. TFB03336) - State Department for Early Learning and Basic Education
70.	Secondary Education Quality Improvement Project (Credit No.61380-KE) - State Department for Early Learning and Basic Education
71.	GOK/UNICEF Education for Young People Programme - State Department for Early Learning and Basic Education
72.	Global Fund HIV AIDS Program Grant No. KEN-H-TNT GA 2065 - Ministry of Health

Appendix B: Qualified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
73.	East Africa Public Health Laboratory Networking (EAPHLN) Project Credit No.4732 - KE - Kenya Medical Supplies Authority
74.	Health Sector Support Project (Credit No.4771-KE) - Kenya Medical Supplies Authority (KEMSA)
75.	COVID-19 Health Emergency Response Project Grant/Credit No.6598-KE - Ministry of Health
76.	East Africa Skills for Transformation and Regional Integration Project – IDA 6334-KE – State Department for Infrastructure
77.	Eastern Africa Regional Transport, Trade and Development Facilitation Project CR No. 5638-KE IDA - State Department for Infrastructure
78.	Improvement of Rural Roads and Market Infrastructure in Western Kenya Project Credit No.BMZ 2007-65 123 (KFW) - Kenya Rural Roads Authority
79.	Upgrading of "Gilgil Machinery" Road Project - Kenya Rural Roads Authority
80.	Roads 2000 Phase Two Project (AFD Credit No. CKE 101201B, Credit No. CKE 104601J and Credit No. CKE 109401 M) - Kenya Rural Roads Authority
81.	Multinational Arusha-Holili/Taveta-Voi Road Corridor Development Project Phase I - Loan No.2100150028894 - Kenya National Highways Authority
82.	Kenya Transport Sector Support Project (Credit No.4926 KE and No.5410 KE) - Kenya National Highways Authority
83.	Mombasa-Nairobi-Addis Ababa Road Corridor Project Phase III (Turbi-Moyale) No.P-ZI-DB0-095 Loan No.21001500255546 - Kenya National Highways Authority
84.	Merille – Marsabit Road Rehabilitation Project (KE/001/09) Loan Agreement No. KE/FED/2009/021-655 - Kenya National Highways Authority
85.	Eastern Africa Regional Transport, Trade and Development Facilitation Project (IDA CR-5638) - Kenya National Highways Authority

Appendix B: Qualified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
86.	Mombasa Port Area Road Development Project - Kenya National Highways Authority
87.	National Urban Transport Improvement Project-IDA Credit No.5140-KE - Kenya National Highways Authority
88.	Mombasa-Mariakani Highway Project (Lot 1 - Mombasa - Kwa Jomvu) - Kenya National Highways Authority
89.	Kapchorwa-Suam-Kitale and Eldoret Bypass Roads Project (Kenya) ID No.P-Z1-DBO-183 - Kenya National Highways Authority
90.	Kenol-Sagana-Marua Highway Improvement Project (P-KE-DBO-037) CREDIT Nos.5050200000901 and 2000200004504 - Kenya National Highways Authority
91.	Kenya - South Sudan Link Road Project (REF. No. 2020 62 065 and BMZ No.202083939) - Kenya National Highways Authority
92.	Horn of Africa Gateway Development Project Loan No.6768-KE - Kenya National Highways Authority
93.	Bagamoyo-Horohoro Lunga Lunga-Malindi Road Project (PHASE 1) ID No: PZ1-DBO-129 - Kenya National Highways Authority
94.	Nuno-Modogashe Road Project - Kenya National Highways Authority
95.	Port Reitz/Moi International Airport Access (C110) Road (FIDIC EPC/TURNKEY Based) Project - Kenya National Highways Authority
96.	Northern Corridor Rehabilitation Programme Phase III - Kenya National Highways Authority
97.	Arusha-Namanga-Athi River Road Development Project No. P-Z1-DB0-040 - Kenya National Highways Authority
98.	East Africa Trade and Transport Facilitation Project (IDA Credit No.4148-KE) - Kenya National Highways Authority
99.	Nairobi Western Bypass - Kenya National Highways Authority

Appendix B: Qualified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
100.	Northern Corridor Transport Improvement Project IDA Credit No.3930-KE & No.4571-KE - Kenya National Highways Authority
101.	Regional Mombasa Port Access Road Project (Loan No. 27459, Credit No.84010 and Grant No.202061919 - Kenya National Highways Authority
102.	Sirari Corridor Accessibility and Road Safety Improvement Project: Isebania-Kisii-Ahero - (A1) Road Rehabilitation - Kenya National Highways Authority
103.	Dualling of Magongo Road (A109L): Phase II (FIDIC EPC/TURNKEY Based - Kenya National Highways Authority
104.	Mombasa Gate Bridge Construction Project (I) Loan Agreement No.KE-P34 - Kenya National Highways Authority
105.	Upgrading of Kibwezi-Mutomo-Kitui Road Project - Kenya National Highways Authority
106.	Nairobi-Thika Highway Improvement Project Lot I and II (Credit No.2100150015544) - Kenya National Highways Authority
107.	Mombasa-Nairobi-Addis Ababa Road Corridor Development Project: (Isiolo/Merille/Moyale Road - Kenya National Highways Authority
108.	Kisumu Urban Project (Project Advance Account) - CKE 1035.01.G - County Government of Kisumu
109.	Horn of Africa Gateway Development Project Grant/Credit Number 6768 - KE - State Department for Transport
110.	Safe Roads/Usalama Barabarani Programme (EU Grant No. KE/FED/037-778) - National Transport and Safety Authority
111.	Multinational Lake Victoria Maritime Communications and Transport (MLVMCT) Project (ADF Loan No.2100150036247 - Kenya Maritime Authority
112.	Kenya Informal Settlement Improvement Project No. P13542 Credit No.4873KE - State Department for Housing and Urban Development
113.	Second Informal Settlements Improvement Project No. P167814 Credit No. 6759KE - State Department for Housing and Urban Development

Appendix B: Qualified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
114.	Nairobi Metropolitan Services Improvement Project (IDA Credit No.5102-KE) - State Department for Housing and Urban Development
115.	Integrated Health and Environment Observatories and Legal and Institutional Strengthening for the Sound Management of Chemicals in Africa (NO.AFR/CHEMOBS PROJECT/C/07-2017) - Ministry of Environment and Forestry
116.	Lake Victoria Environmental Management Project Phase III (LVEMP) Project Preparatory Advance No. V1570 - KE - Ministry of Environment and Forestry
117.	Sound Chemicals Management Mainstreaming and UPOPS Reduction in Kenya Project (Grant No.P0099820) - Ministry of Environment and Forestry
118.	System for Land Based Emissions and Estimation in Kenya (SLEEK) Project - Ministry of Environment and Forestry
119.	Capacity Development Project for Sustainable Forest Management in Kenya (CADEP) (GRANT NO.22) - Kenya Forest Service
120.	Thwake Multi-Purpose Water Development Program Phase 1 (AfDB Loan No. 2100150029993, 2000200003351, AGTF No. 5050200000501 and AfDB Grant No. 2100155025973) - Ministry of Water, Sanitation and Irrigation
121.	Rwabura Irrigation Development Project - National Irrigation Authority
122.	Kisii Water Supply and Sanitation Project – ORIO11/KE/21 – Lake Victoria South Water Works Development Agency
123.	Trilateral Development Cooperation in Kenya, Water and Sanitation Sector Project (Credit No. BMZ 201365352 – Lake Victoria South Water Works Development Agency
124.	Kenya Towns Sustainable Water Supply and Sanitation Programme (AfDB Loan No.2000200000501) – Tana Water Works Development Agency
125.	Nairobi Sanitation Output Based Aid (OBA) Project - (IDA Grant No.TF014251 and No.TF0A5607) - Nairobi City Water and Sewerage Company Limited

Appendix B: Qualified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
126.	Improvement of Drinking Water and Sanitation Systems in Mombasa: Mwache Project (AFD Credit Facility No.CKE 1103 01 C) - Coast Water Works Development Agency
127.	Kenya Towns Sustainable Water Supply and Sanitation Programme - CR. No. P-KE-E00-011 (AFDB Loan No.2000200000501) - Central Rift Valley Water Works Development Agency
128.	Lake Victoria Water Supply and Sanitation Programme Phase II Project No. P-Z1-EAO-004 (ADF Grant No. 2100155019967) - Lake Victoria South Water Works Development Agency
129.	Water Sector Development Programme - Lake Victoria South (Kericho, Kisii, Nyamira and Litein) Loan No.BMZ 2010 65 861 And Grant No.BMZ 2010 70 457 - Lake Victoria South Water Works Development Agency
130.	Lake Victoria Water and Sanitation Project Grant No CKE 1093 02 M, Credit No. CKE1093 01 L and EIB No. FI N°83890 Serapis N° 2011-0619 - Lake Victoria South Water Works Development Agency
131.	Kenya Development of Solar Power Plant in Garissa Project (GCL No.2015(10) - Rural Electrification and Renewable Energy Corporation
132.	Bogoria Silali Geothermal Project (Loan No.2013.66.103) - Geothermal Development Company Limited
133.	Menengai Geothermal Project Agreement No.CKE 1038.01K - Geothermal Development Company Limited
134.	Multi-National Drought Resilience and Sustainable Livelihoods Programme in the Horn of Africa (ADF Loan No. 2100150028345) - State Department for Crop Development and Agricultural Research
135.	Multi-National Rural Livelihoods' Adaptation to Climate Change in the Horn of Africa (ADB/ADF Grant No.5550155001201) - State Department for Crop Development and Agricultural Research
136.	Kenya Youth Employment and Opportunities Project - IDA Credit No. 5812-KE - National Industrial Training Authority

Appendix B: Qualified Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
137.	Kenya Youth Employment Opportunities Project - Credit No. 58120-KE - State Department for Labour
138.	Kenya Social and Economic Inclusion Project Credit No.6348-KE - State Department for Social Protection
139.	Kenya Social and Economic Inclusion Project No. P164654 IDA Credit No. 6348KE and Grant No. Tf0a9527 - National Drought Management Authority
140.	Kenya Petroleum Technical Assistance Project (IDA Credit No.5526-KE and Grant No. TFOA 3418) - Ministry of Petroleum and Mining
141.	Kenya Youth Employment and Opportunities Project (IDA Credit No. 5812 - KE) - State Department for Youth Affairs
142.	Vijana Vuka Na Afya Youth Programme (Grant No. 201367465) -State Department for Youth Affairs
143.	Kimira Oluch Smallholder Farm Improvement Project (ADF Loan No. 2100150012296) - State Department for Regional and Northern Corridor Development

Appendix C: Adverse Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
1.	State Officers House Mortgage Scheme Fund – State Department for Housing and Urban Development
2.	Kisumu Urban Project (Cash Expenditure Fund) - CKE 1035.01.G - County Government of Kisumu
3.	Programme for Legal Empowerment and Aid Delivery (Grant/Credit Number KE/FED/2018/397-591) - State Law Office and Department of Justice

Appendix D: Disclaimer of Opinion

NO.	MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS
1.	Statement of Outstanding Obligations Guaranteed by Government of Kenya - The National Treasury
2.	Timboroa-Eldoret Road Rehabilitation Project No. P-KE-DBO-019 (Loan No. 2100150023344) - Kenya National Highways Authority