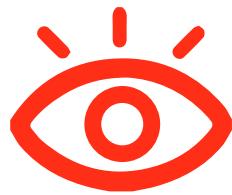




AUDITOR-GENERAL'S REPORT ON NATIONAL GOVERNMENT 2022/2023

**REPORT
OF
THE AUDITOR-GENERAL
ON
THE NATIONAL GOVERNMENT
MINISTRIES, DEPARTMENTS AND AGENCIES
FOR
THE YEAR 2022/2023**



VISION

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



MISSION

Audit services that impact on effective and
sustainable service delivery



OUR CORE VALUES

Integrity • Credibility • Relevance •
Accountability • Independence

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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, 2023.

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 timelines for audit and reporting 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 as mandated by the Constitution to three (3) months. This has been adversely affecting the timelines for reporting, leading to delays 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 years due to lack of decisive 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 quality 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 oversight 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 us build technical capacity, expand our 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 devolved level. During the year under review, we established the North Coast Regional Office in Kilifi and the South Rift Regional Office in Kericho. We have so far constructed Regional Offices in Garissa, Kakamega and Eldoret, while construction works in Embu is almost complete. Plans for construction of a Regional Office in Mombasa and our Headquarters in Nairobi, which are currently at the design stage, have been delayed by lack of adequate 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 thirty-nine (39) Teachers' Training Colleges, two hundred and eighty-seven (287) 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). In addition, implementation of new projects and establishment of news funds requires timely oversight.

During the period under review, the Office 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), the Salaries and Remuneration Commission (SRC), the Commission on Revenue Allocation (CRA) 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, 2023, 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.



FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

31 January, 2024

Introduction

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.

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.

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.

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.

Audit Opinions

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

i. 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.

ii. 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.

iii. 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.

iv. 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, 2023 are highlighted in the ensuing pages.

THE NATIONAL TREASURY - VOTE 1071

REPORT ON THE FINANCIAL STATEMENTS

1. Long Outstanding Salary Advances

The statement of financial assets and financial liabilities reflects accounts receivables-outstanding imprest and clearance account balance of Kshs.1,795,512,222 as disclosed in Note 13 to the financial statements. The amount includes salary advances amounting to Kshs.605,548 out of which advances totaling Kshs.241,267 were outstanding from the financial year 2019/2020 and earlier years and for which no recoveries have been made.

In the circumstances, the recoverability of salary advances amounting to Kshs.241,267 could not be confirmed.

2. Loans to Kenya Airways Limited

The statement of receipts and payments reflects transfers to other Government units amounting to Kshs.77,939,079,780 which as disclosed in Note 8 to the financial statements includes capital grants to Government agencies and other levels of Government amount of Kshs.43,677,829,870. The later amount includes Kshs.10,000,000,000 transferred to Kenya Airways as on lent loan. This was in addition to other loan disbursements to the Company totalling Kshs.31,270,000,000 remitted between 2019/2020 and 2021/2022 resulting to total loan amount of Kshs.41,270,000,000. Review of documents and correspondences between The National Treasury and the entity revealed that the loans were disbursed before the loan agreements were signed.

Further, records available indicated that the loans issued had accrued interest and penalties totalling Kshs.1,778,075,609 that remained outstanding as at 31 December, 2022 bringing the total accumulated loan to Kshs.43,048,075,609.

In addition, records at The National Treasury indicate that the Government paid an amount of Kshs.12,326,894,172 being foreign loan repayment of Kshs.10,635,604,751 and finance costs of Kshs.1,691,289,421 out of which Kshs.7,812,582,663 was made under Article 223 of the Constitution of Kenya. The amount was in respect to guaranteed debt to the Company with a foreign bank which was defaulted. As a result, the total outstanding amount due from Kenya Airways as at 30 June, 2023 stood at Kshs.55,374,969,781.

However, there was no evidence that The National Treasury had entered into any formal agreement with Kenya Airways on how the guaranteed loan repayments amounting to Kshs.12,326,894,172 would be recovered and whether the Airline had provided any security to the Government as a fall back.

In the circumstances, the completeness and recoverability of the loans to Kenya Airways Limited amounting to Kshs.55,374,969,781 could not be confirmed.

3. Unapproved Expenditure on Purchase of Shares

The statement of receipts and payments reflects other payments amount of Kshs.6,196,584,631 and as disclosed in Note 14 to the financial statements. Review of supporting documents indicated that the expenditure was in respect of acquisition of sixty percent (60%) shareholding of Telkom Kenya. The expenditure was incurred under Article 223 of the Constitution. The National Treasury submitted the expenditure for approval by the National Assembly as part of the supplementary budget as required by Section 44(1) of the Public Finance Management Act, 2012, which states that the National Government shall submit to parliament for approval a supplementary budget in support of money spent under Article 223 of the Constitution. However, the expenditure was not approved by the National Assembly.

In the circumstances, the propriety of the expenditure amounting to Kshs.6,196,584,631 could not be confirmed.

4. Failure to Account for Promotional Materials

The statement of receipts and payments reflects use of goods and services amount of Kshs.21,059,164,752 which, as disclosed in Note 7 to the financial statements, includes other operating expenses amounting to Kshs.11,693,496,291. The other operating expenses amount further includes part payment of Kshs.29,488,477 towards a contract for provision of co-location services for e-Citizen platform. Review of documents revealed that the contract was awarded to a supplier for a period of three years from 01 July, 2020 to 30 June, 2023 renewable annually upon satisfactory performance at a contract sum of Kshs.82,973,520.

The contract provided for enrolment in the company's loyalty program and the Company was to deliver promotional items to The National Treasury. Records available indicate that the Company delivered ninety-two (92) and seventy-five (75) phones in the first and second year respectively. However, stores record including counter receipt vouchers (S13) for the items were not provided for audit. It was therefore not clear how the promotional materials were accounted for.

In the circumstances, the propriety of other operating expenses and management of inventories could not be confirmed.

Emphasis of Matter

5. 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.147,563,195,247 and Kshs.119,819,891,866 respectively resulting to an underfunding of Kshs.27,743,303,381 or 19% of the budget. Similarly, The National Treasury spent a total of Kshs.119,806,144,793 against an

approved budget of Kshs.147,563,195,246 resulting to an underexpenditure of Kshs.27,757,050,453 or 19% of the budget.

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

6. Pending Accounts Payable

Note 21.2 to the financial statements reflects pending accounts payable balance of Kshs.7,703,536,902 owed to various suppliers that had not been paid at the close of the year. Review of pending accounts payable revealed that Kshs.3,980,185 of the pending accounts payable relate to 2019/2020 financial year. Management has indicated that the non-payment of the bills was due to lack of exchequer issues and budget cuts after commitments had been made. Further, records of Independent Electoral and Boundaries Commission (IEBC) reflect balances of Kshs.11,160,000 and Kshs.26,193,000 in respect of defunct Electoral Commission of Kenya (ECK) accounts receivables and ECK car loan receivables respectively, which have been outstanding since 2008. The amounts relate 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 their final dues but retained by The National Treasury. However, the retained amounts were not included as pending amount payable to IEBC.

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.

My opinion is not modified in respect of these matters.

Other Matter

7. Unresolved Prior Year Matters

In the audit report of the previous year, several paragraphs were raised. However, Management has not resolved and disclosed the status of all the prior year matters as prescribed in the reporting requirements set by the Public Sector Accounting Standards Board. Management has not provided satisfactory explanation for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

8. Wasteful/Avoidable Expenditure on Court Award

The statement of receipts and payments reflects transfer to other Government units amounting to Kshs.77,939,079,780 which, as disclosed in Note 8 to the financial statements, includes expenditure on other capital grants and transfers of Kshs.3,788,556,493. The later amount further includes an amount of Kshs.170,000,000 being part payment of decretal sum of Kshs.327,192,575 awarded to a firm under claim

of High Court No.182 of 2019. Review of the contract and related records including the court judgement revealed that the Ministry acknowledged owing an amount of Kshs.235,683,000 and as such judgement was made against it. An amount of Kshs.327,192,575 which included interest of Kshs.91,509,575 was awarded on 21 October, 2022. Had the Ministry paid the bill when it fell due, the interest charged of Kshs.91,509,575 and legal costs awarded of Kshs.5,765,160 would have been avoided. Further, delay in settlement of the bill subjects the Ministry to further interest charges.

In the circumstances, the value for money obtained from the payment of interest and legal costs of Kshs.97,274,735 could not be confirmed.

9. Non-Compliance with the One-Third of Basic Salary Rule

During the year under review, one hundred and fifty-five (155) employees earned a net salary less than one-third ($\frac{1}{3}$) of their basic salary contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016. The Management has not explained the failure to comply with the policy.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

10. Lack of Fixed Assets Register

Annex 4 to the financial statements reflects a summary of fixed assets register with a historical cost of Kshs.7,108,502,784. However, The National Treasury did not maintain an assets' register to support the assets. This is contrary to 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, the existence of effective internal controls on management of fixed assets could not be confirmed.

11. Failure to Dispose Obsolete Inventory

Review of records and physical inspection of inventories held in the Ministry's stores revealed that Management held obsolete inventory relating to stationery, toners, motor vehicle tyres and other equipment. Further, some items have been held in the store since 2008 and no explanation was provided on why these items were not utilized or disposed as they have expired and are unusable. This is contrary to Regulations 168(c) of the Public Procurement and Asset Disposal Regulations, 2020 which requires that an Accounting Officer of a procuring entity shall ensure proper management and distribution of inventory, stores and assets by ensuring that any inventory, stores and assets worn out in the course of public business are removed from the store's records through a disposal process.

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

NATIONAL EXCHEQUER ACCOUNT - THE NATIONAL TREASURY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

13. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.3,620,152,378,939 and Kshs.3,245,407,876,662 respectively, resulting in an undercollection of Kshs.374,744,502,277 or 10% of the budget. Similarly, The National Treasury disbursed Kshs.3,242,790,391,178 against an approved budget of Kshs.3,620,152,378,939, resulting in an under-disbursement of Kshs.377,361,987,761 or 10% of the budget.

The under-collection of revenue and under-disbursement affected the planned activities of the National and County Governments 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

14. Late Exchequer Releases

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.2,617,485,484 which as disclosed in Note 13.6 to the financial statements excludes Kshs.33,899,650,760 relating to payments in cash book not yet recorded in bank statement. However, the amount relates to uncleared Exchequer releases to Ministries, Departments and Agencies, Pensions and Public Debt that were disbursed after the end of the financial year. This is contrary to Regulation 97(4) of the Public Finance Management (National Government) Regulations, 2015 which states 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.

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

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

Conclusion

15. 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

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

Emphasis of Matter

17. Costly Domestic Debt

The summary statement of public debt (debt stock) reflects an amount of Kshs.10,264,939,001,661 in respect of total public and public guaranteed debt of which an amount of Kshs.4,818,378,066,403 or 47% is the domestic debt while an amount of Kshs.5,446,560,935,258 or 53% is the foreign debt. Further, the statement of receipts and payments reflects an amount of Kshs.617,714,104,133 in respect of finance costs including loan interest which, as disclosed in Note 4 to the financial statements, includes balances of Kshs.154,679,317,706 and Kshs.457,206,007,989 in respect of interest payments on foreign borrowings and interest on domestic borrowings, respectively. Interest on internal debt therefore stood at 75% to that of external debt representing 25% of the total finance costs. The cost of domestic debt is three times the cost of external borrowings even though it forms 47% of the total debt.

18. Guaranteed Debts

The summary statement of public debt reflects total outstanding debt stock balance of Kshs.10,264,939,001,661. Review of the debt stock records provided revealed that the balance includes guaranteed loans amounting to Kshs.170,228,957,457. 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.

Although Management has 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, the National Government is however, obliged to bail out any amount that could be defaulted using public resources.

19. Payment of Commitment Fees on Undrawn Amounts

As reported in the previous year, the statement of receipts and payments reflects finance costs including loan interest amounting to Kshs.617,714,104,138 which, as disclosed in Note 4 to the financial statements, includes interest payments on foreign borrowing of Kshs.154,679,317,708. The latter balance includes commitment fees on undrawn amounts paid during the period under review amounting to Kshs.1,435,968,272. The commitment fees relate to undrawn loans signed between the Government of Kenya and foreign lenders.

Further, review of the summary statement of debt stock revealed that three (3) loans with cumulative amounts of Kshs.25,241,947,500 were signed between 24 April, 2017 and 15 December, 2022. However, no drawdowns on these loans had been made by the various implementing agencies for the funded projects and programmes as at 30 June, 2023. 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.

20. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budget and actual repayment of domestic and foreign borrowing on comparable basis of Kshs.1,385,066,506,270 and Kshs.1,200,608,836,164 respectively, resulting in an under-absorption of Kshs.184,457,670,106 or 13 % of the budget. Similarly, the statement reflects receipts budget and actual receipts on comparable basis of Kshs.1,385,066,506,270 and Kshs.1,200,179,454,767 respectively, resulting in a receipts shortfall of Kshs.184,887,051,503 or 13% of the budget. The under-funding and under-absorption may have affected the implementation of planned activities thus impacting negatively on service delivery.

My opinion is not modified in respect of these matters.

Other Matter

21. Special Audit on Consolidated Fund Services- Public Debt

The Auditor-General is currently undertaking a special audit on Consolidated Fund Services- Public Debt. As at the time of this report, the special audit had not been

concluded. Therefore, there could be some matters in the special audit report that may not have been included in this report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

22. Default on Debt Repayment

As previously reported, review of records held by The National Treasury's Commonwealth Secretariat Debt Recording and Management System as at 30 June, 2023 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 EUR	Principal Defaulted EUR	Interest Defaulted EUR	Total Arrears EUR	Equivalent Kshs.
Arnor 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 the loans were not provided for audit 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 is in court. However, by the time of this report all the accused persons in respect to the court case had been acquitted. 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.

In the circumstances, Management was in breach of the credit agreements for the loans.

23. Breach of the Debt Ceiling

The summary statement of public debt (debt stock) as at 30 June, 2023 reflects an amount of Kshs.10,264,939,001,661 in respect of total public and public guaranteed debt, which exceeds the debt ceiling of Kshs.10 trillion as provided in Regulation 2 of the Public Finance Management (National Government) (Amendment) Regulations, 2022 which states inter alia, that the public debt shall not exceed ten trillion shillings.

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

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

Conclusion

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

RECEIVER OF REVENUE-RECURRENT

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

25. Unallocated Balance

The statement of receipts and disbursements reflects total tax receipts collected during the year amounting to Kshs.1,961,969,728,861. However, the total tax receipts balance excludes unallocated revenue balance of Kshs.395,802,640 reflected in the Kenya Revenue Authority (KRA) revenue accountability statement for the year under review and held in various accounts. The unallocated revenue relates to payments remitted to the KRA collection accounts but with missing mandatory information including the taxpayers details and Payment Registration Numbers (PRN) while some payments were made using expired PRN.

In the circumstances, the accuracy and completeness of the total tax receipts of Kshs.1,961,969,728,861 could not be confirmed.

26. Unreconciled Arrears of Revenue Balance

The statement of arrears of revenue reflects arrears of tax receipts totalling Kshs.999,599,467,329 which, as disclosed in Note 14 to the revenue statements, is net of Kshs.541,763,028,833 referred as erroneous, uncollectable and doubtful debts whose details are as summarized below;

Category	Amount (Kshs.)
Pending/outstanding backlog waivers	20,949,940,032
Erroneous VAT auto assessments	10,313,211,906
Outstanding tax in dispute	456,040,870,989
Resolved disputes not updated in taxpayers' ledgers	54,459,005,906
Total	541,763,028,833

Further, the aging analysis of the arrears of tax receipts indicates that arrears totalling Kshs.1,161,076,105,513 have been outstanding for over three (3) years casting doubt on the accuracy and recoverability of the balance. In addition, the arrears of tax receipts includes an amount of Kshs.245,553,868,392 in respect to public sector revenue debt.

However, third party confirmation from eighty-nine (89) Public Sector Departments (PSD) taxpayers with revenue debt of Kshs.65,525,185,389, revealed balances totalling Kshs.21,071,361,935 resulting to an unreconciled variance of Kshs.44,453,823,454.

In the circumstances, the recoverability, completeness and accuracy of the arrears of revenue balance of Kshs.999,599,467,329 could not be confirmed.

Emphasis of Matter

27. Long Outstanding Arrears of Revenue

The statement of arrears of revenue reflects non-tax receipts from Government Investment and Public Enterprises (GIPE) amounting to Kshs.267,937,400,728 which comprise of Kshs.180,458,854,968 and Kshs.87,478,545,760 in respect of loan redemption receipts and loan interest receipts, respectively. The balances include loan redemption receipts of Kshs.40,111,581,511 and loan interest receipts of Kshs.36,763,767,836 which have been outstanding for more than three (3) years.

Further, the non-tax receipts from GIPE also include arrears totalling Kshs.145,289,519,414 as at 30 June, 2023 receivable from State Corporations that are operational. However, no satisfactory explanation was provided for the failure by the State Corporations to service the loans, resulting in arrears as analyzed below;

Entity	Total Arrears (Kshs.)
National Water Conservation	2,069,496,885
Tanathi Water Services Board	1,137,037,550
Coast Water Services Board	5,017,030,806
Tana Water Service Board	1,136,067,333
Athi Water Services Board	7,604,908,863
Lake Victoria North Water Service Board	1,737,534,827
Lake Victoria South Water Service Board	1,587,349,649
Central Rift Valley Water Services Board	322,043,253
Kenya Railways Corporation	124,678,050,248
Total	145,289,519,414

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, full recoverability of the outstanding arrears of revenue could not be confirmed.

28. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final tax targets and actual collections of Kshs.2,067,874,568,509 and Kshs.1,961,969,728,861 respectively

resulting to an under-collection of Kshs.105,904,839,648 or 5% of the budget. Similarly, the statement reflects a final non-tax targets and actual collections of Kshs.79,183,051,442 and Kshs.81,316,841,862 respectively resulting to an over-collection of Kshs.2,133,790,420 or 3% of the budget.

The resultant total collection of Kshs.2,043,286,570,723 was an improvement from previous year's collection of Kshs.1,917,602,928,795 by Kshs.125,683,641,928 representing a 7% increase.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

- 29.** 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

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

DEVELOPMENT RECEIVER OF REVENUE STATEMENTS

REPORT ON THE REVENUE STATEMENTS

Unmodified Opinion

- 31.** There were no material issues noted during the audit of the financial statements of the development revenue statements.

Emphasis of Matter

32. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final revenue budget and actual on comparable basis of Kshs.99,544,360,381 and Kshs.70,802,234,674 respectively, resulting to an under performance of Kshs.28,742,125,707 or 29% of the budget. Management attributed the underperformance to underutilization of budgets by the respective Projects in the Ministries, Departments and Agencies.

The underperformance resulted to underfunding of planned development activities which may have adversely impacted 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

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

Conclusion

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

GOVERNMENT INVESTMENTS AND PUBLIC ENTERPRISES - REVENUE STATEMENTS

REPORT ON FINANCIAL STATEMENTS

Basis for Qualified Opinion

35. Unconfirmed Outstanding Loan Balances

Note 6 to the revenue statements on outstanding loan balance reflects principal loan balance of Kshs.974,199,319,038 from fifty-seven (57) institutions. However, as reported in the previous year, seven (7) institutions with outstanding balances amounting to Kshs.11,987,980,020 did not confirm their loan balances as at 30 June, 2023 as detailed below:

No.	Institution	Amount Outstanding as at 30 June, 2023 (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.	Mombasa Pipeline Board	22,964,980
5.	Mumias Sugar Company Limited	3,000,000,000
6.	Nairobi City Council	102,333,760
7.	Uchumi Supermarkets Limited	1,200,000,000
Total		11,987,980,020

In the circumstances, the existence, completeness and accuracy of the reported outstanding loans balance of Kshs.974,199,319,038 could not be confirmed.

Other Matter

36. Dormant Loans

As previously reported, the summary schedule of outstanding loans reflects total loans outstanding of Kshs.974,199,319,038 (2022 - Kshs.920,690,539,503). Included in the balance are thirteen (13) loans amounting to Kshs.19,597,984,196 (2022 - Kshs.13,151,255,401) which had no movement during the year and have remained unpaid over a significant period. Further, Management did not provide the aging analysis of the dormant loans tabulated below:

No.	Institution	Amount Outstanding as at 30 June, 2023 (Kshs.)
1	Mumias Outgrowers Company Limited	16,517,400
2	Mombasa Pipeline Board	22,964,980
3	Local Government Loans Authorities	7,594,273,720
4	Nairobi City Council	102,333,760
5	Kenya Urban Transport Various	40,706,140
6	Agro-Chemical and Food Company Limited	2,941,884,000
7	Catering Levy Trustee/Utalii College	122,000,000
8	Halal Meat Products	27,701,420
9	Kenya Meat Commission	940,241,100
10	Uchumi Supermarkets	1,200,000,000
11	Mumias Sugar Company	3,000,000,000
12	National Irrigation Board	1,128,486,779
13	National Water Conservation and Pipeline Corporation	2,460,874,897
Total		19,597,984,196

Although Management has indicated that it has continued demanding for outstanding loan amounts through demand letters, it has not disclosed measures put in place to ensure that all loans are being repaid and in case of default, sanctions imposed on the defaulters.

37. Dormant Investments

The summary schedule of investments by the Cabinet Secretary, The National Treasury in various companies reflects total investments of Kshs.112,446,941,373. Included in the balance are seven (7) companies with investments of 7,213,217 shares valued at Kshs.144,263,695 that are either non-performing, struck off the register or dissolved as indicated below:

No.	Institution	Number of Shares	Nominal Value (Kshs.)
1	Kenya Farmers Association	1	20
2	National Agricultural Chemical and Fertilizer Limited	2,084,998	41,699,960
3	Busia Sugar Company	1,485,675	29,713,500
4	Nyari Estate Limited	2,500	50,000
5	Kenya Poultry Limited	4	20
6	Mercat (K) Limited	39	195
7	Ken-Ren Chemicals and Fertilizers Limited	3,640,000	72,800,000
Total		7,213,217	144,263,695

Although the Management has indicated that it will continue to seek audience with the existing companies to establish Government position and seek approvals for dormant investments to be written off, it has not disclosed measures put in place to ensure that the dormant investments report returns.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

- 38.** 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

- 39.** 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 FINANCIAL STATEMENTS

Unmodified Opinion

- 40.** 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

41. 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

Conclusion

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

E-CITIZEN REVENUE ACCOUNTABILITY STATEMENT

REPORT ON THE REVENUE STATEMENTS

Basis for Adverse Opinion

43. Variances in Receivers of Revenue Receipts Records

The statement of revenue collections and transfers reflects an amount of Kshs.15,570,013,245 in respect of receivers of revenue receipts as disclosed in Note 1 to the revenue statements. Review of the E-Citizen revenue accountability platform and the revenue statements revealed variances between balances reflected in the revenue statements, e-portal system and the ledger as detailed below:

43.1 Variances Between Revenue Statements and E-Portal System Receipts

Entity	Revenue Statements Balances (Kshs.)	E-Portal System Receipts Balances (Kshs.)	Variance (Kshs.)
Business Registration Services	1,148,101,023	1,148,100,976	47
Ministry of Mining	359,500	340,000	19,500
Registrar of Motor Vehicles	3,554,765,789	3,566,874,519	(12,108,730)
Civil Registration Department	19,947,100	19,946,807	293
Department of Immigration	9,500,459,550	9,508,540,300	(8,080,750)
State Law Office and Department of Justice	64,504,900	61,118,650	3,386,250
Kenya Deposit Insurance Corporation	40	-	40

43.2 Variances Between Revenue Statements and Ledger Balances

Entity	Revenue Statements Balances (Kshs.)	Ledger Balances (Kshs.)	Variance (Kshs.)
Registrar of Motor Vehicles	3,554,765,789	3,589,862,509	(35,096,720)
Directorate of Criminal Investigations	1,278,450,000	1,273,753,000	4,697,000

43.3 Variances Between E-Portal System Receipts Amounts and Ledger Balances

Entity	E-Portal System Receipts (Kshs.)	Ledger Balances (Kshs.)	Variance (Kshs.)
Ministry of Mining	340,000	359,500	(19,500)
Registrar of Motor Vehicles	3,566,874,519	3,589,862,509	(22,987,990)
Civil Registration Department	19,946,807	19,947,100	(293)
Directorate of Criminal Investigations	1,278,450,000	1,273,753,000	4,697,000
Department of Immigration	9,508,540,300	9,500,459,550	8,080,750
State Law Office and Department of Justice	61,118,650	64,504,900	(3,386,250)
Application Fees	5,569,640	5,581,614	(11,974)

In the circumstances, the completeness and accuracy of the receivers of revenue receipts amounting to Kshs.15,570,013,245 could not be confirmed.

44. Anomalies in the Cash and Cash Equivalents Balance

The statement of financial assets reflects a balance of Kshs.611,179,132 in respect of bank balances. The balance includes an amount of Kshs.436,307,875 maintained in six (6) bank accounts at two local banks. However, as previously reported, cash books and bank reconciliation statements for the six (6) bank accounts were not provided for audit. Further, Management prepared a combined bank reconciliation statement for three (3) dollar accounts. This was contrary to Regulation 90(1) of the Public Finance Management (National Government) Regulations, 2015 which states that Accounting Officers shall ensure bank accounts reconciliations are completed for each bank account held by that Accounting Officer, every month and submit a bank reconciliation statement not later than the 10th of the subsequent month to The National Treasury with a copy to the Auditor-General.

In the circumstances, the completeness and accuracy of the bank balances of Kshs.611,179,132 could not be confirmed.

45. Unsupported Prior Year Balances

The statement of financial assets reflects prior year balances of Kshs.146,426,357 relating to revenue received that but had not been transferred to the respective collecting

agencies. However, details of the bank accounts containing the prior year balances and reasons for the long delay in transfer the funds were not provided.

In the circumstances, the completeness and accuracy of the prior year balances of Kshs.146,426,357 could not be confirmed.

Other Matter

46. Special Audit on E-Citizen Government Digital Platform

The Office is currently undertaking a special audit on E-Citizen Government Digital Platform. This special audit is informed by the current strategic importance of E-Citizen in the financial architecture of Government. The special audit is expected to provide highlights on the credibility and reliability of the E-Citizen system including assurance on whether data processed through the system is accurate and complete. Further, the special audit will interrogate both IT and physical security, governance arrangements and the adequacy of the controls in place. As at the time of this report, the special audit had not been concluded.

47. Pending Court Case

As previously reported, review of records revealed that The National Treasury had been sued by a system developer claiming ownership of the E-Citizen system. Although Management indicated that the court granted an out of court negotiation with the plaintiff, the outcome of the negotiation was not disclosed as at the time of the audit.

48. Prior Year Unresolved Matters

In the audit report of the previous year, several paragraphs were raised under the Report on Revenue Statements. However, the Management has not resolved the issues nor given explanation for failure to resolve them.

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. E-Citizen Government Digital Payments Platform

50.1 Over-Reliance on the Consultant

Preliminary review of operations of the E-Citizen Government Digital Payments (GDP) platform indicate that despite the strategic importance of E-Citizen, the Government does not have full control of the system and thereby rely significantly on the vendor for some

critical functions. The vendor has significant control of the system which makes it difficult for the Government Digital Payments Unit (GDPU) to perform critical system configurations and changes to support growth including on-boarding of new government services. Lack of full control of the system exposes the Government to the risk of revenue leakage, lack of full accountability, system unavailability or downtime, security vulnerabilities and threats including lack of business continuity.

In the circumstances, the adequacy and effectiveness of the current IT controls on E-Citizen may not guarantee integrity of the data processed through the system.

50.2 Manual Reconciliation and Settlement of Payments

Review of financial operations of the Government Payments Platform (GDP) Unit indicates that reconciliations and settlements for payments to Ministries, Departments and Agencies was done manually by the GDP Unit's accountant on two days in a week. The procedures are tedious and entail physical transfer of documents for approvals. Further, manual processes introduce risk of human errors and delays in transfer of payments. In view of the new government policy which require all payments for services to be done through E-Citizen, the manual system of reconciliation and settlement might not be sustainable. Management should therefore work towards ensuring reconciliation and settlement of payments is on real time.

In the circumstances, adequacy of internal controls over reconciliations and settlements through the E-Citizen Government Digital Payments Platform could not be confirmed.

50.3 Failure to Provide Consultancy Agreement Between The National Treasury and the Vendor

Management did not provide for audit review the Consultancy Agreement between the System Vendor and The National Treasury. It was therefore not possible to establish the terms of the consultancy and the responsibilities of each party in the management of the E-Citizen Government Digital Payments System.

In the circumstances, the governance arrangements in support of the E-Citizen platform could not be confirmed.

50.4 Lack of Approved Information Technology Security Policy

As previously reported, review of the E-Citizen system revealed that the Unit did not have an approved IT Policy for governance and management of its ICT resources. Further, there is no ICT Steering Committee in place to assist in the development of ICT Policy Framework to enable the Unit realize long-term ICT strategic goals. In addition, the system lacks an approved Business Continuity Plan and a secondary back up site. Lack of an approved IT Policy may result in an unclear direction regarding maintenance of information security across the Unit and safeguarding the Unit's ICT assets.

In the circumstances, users may 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.

STATEMENT OF OUTSTANDING OBLIGATIONS GUARANTEED BY THE GOVERNMENT OF KENYA

REPORT ON THE FINANCIAL STATEMENTS

Basis for Disclaimer of Opinion

51. 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; (2022-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 activities of the State Corporation will be closed once winding up process has been finalized, it is not clear how the guaranteed debt will be cleared without supporting documentation on the same.

52. Undisclosed Balances

The summary statement of Public Debt (Debt Stock) for the year ended 30 June, 2023 reflects guaranteed debts/undischarged guarantee from three (3) entities totalling Kshs.170,228,957,457 which have been omitted from the statement of obligations guaranteed by Government of Kenya as indicated below:

Entity	Lender	Guaranteed Debt (Kshs.)
Kenya Airways	Exim Bank of USA	88,223,867,803
Kenya Ports Authority	Government of Japan	79,490,515,426
Kenya Electricity Generating Company PLC	Government of Federal Republic of Germany-GTZ	2,514,574,228
Total		170,228,957,457

In the circumstances, the completeness, accuracy and the status of the outstanding obligations guaranteed by the Government of Kenya as at 30 June, 2023 could not be ascertained.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

- 53.** 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

- 54.** 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 - SALARIES, ALLOWANCES AND MISCELLANEOUS SERVICES

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

- 55.** There were no material issues noted during the audit of the financial statements of the Fund.

Emphasis of Matter

56. Repayment of Principal and Finance Cost on Domestic & Foreign Borrowing

The statement of receipts and payments reflects repayment of principal on domestic and foreign borrowing of Kshs.10,635,604,751 and finance costs including loan interest amounting to Kshs.1,691,289,421 both totalling to Kshs.12,326,894,172 as disclosed in Notes 4 and 3 to the financial statements, respectively. The payments were in respect to guaranteed Kenya Airways Limited loan with a foreign bank which the carrier had defaulted in repayments. Consequently, the Government through The National Treasury commenced repayment of the loan with effect from October, 2022.

Further, information available indicate that The National Treasury had not entered into any formal agreement with Kenya Airways Limited on repayment of the defaulted amounts and the airline had not provided any security to the Government in respect of the repayment of the defaulted amounts.

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.20,035,650,682 and Kshs.15,661,999,152 respectively, resulting in a receipts shortfall of Kshs.4,373,651,530 or 22% of the budget. Similarly, the statement reflects expenditure budget and actual payments on comparable basis of Kshs.20,035,650,682 and Kshs.15,663,297,516 respectively, resulting in a net under-absorption of Kshs.4,372,353,166 or 22% of the budget. The under-absorption was realized in the five (5) main payment components as detailed in the table below:

Component	Final Budget (Kshs.)	Actual on Comparable Basis (Kshs.)	Under- Absorption (Kshs.)
Compensation of Employees	3,916,001,011	3,326,192,357	589,808,654
Finance Costs Including Loan Interest	1,894,779,651	1,691,289,421	203,490,230
Repayment of Domestic and Foreign Borrowing	14,209,370,020	10,635,604,751	3,573,765,269
Miscellaneous Services	15,500,000	-	15,500,000
Transfer to Exchequer	-	10,210,987	(10,210,987)
Total	20,035,650,682	15,663,297,516	4,372,353,166

Although, as indicated in the statement of comparison of budget and actual amounts, Management has attributed the underutilization on the unfilled posts of Independent Electoral and Boundaries Commission (IEBC) Commissioners, lack of demand notes for miscellaneous services and late submission of demand notes by lenders for the repayment of finance costs and foreign debts and the under-absorption of 22% points to a case of overbudgeting compared to expected costs. Management should implement measures to ensure accurate budgeting to promote efficient resource allocation.

The underfunding and under-expenditure imply that some of the budgeted programs and activities may not have been executed during the year.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

58. 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

59. 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

60. Long Outstanding Bank Reconciliation Items

The statement of assets and liabilities reflects an amount of Kshs.4,598,497,594 in respect of bank balances. However, examination of the bank reconciliation statements revealed payments in bank not in cash book amounting to Kshs.15,640,107, some of which dated as far back as 2008. However, no explanation was provided why payments were made without being posted in the cash book or the reasons why it had taken an unduly long time to post the payments in the cash book.

In the circumstances, the accuracy and completeness of the bank balances of Kshs.4,598,497,594 could not be confirmed.

61. Long Outstanding Payables

The statement of assets and liabilities reflects an amount of Kshs.9,091,203,203 in respect of accounts payables - deposits and retentions which, as disclosed in Note 10 to the financial statements, includes returned pensions (recrated cheques) balance of Kshs.6,715,563,752. The balance has been increasing over the years mainly due to the demise of the pensioners or for lack of dependants. However, the Management did not provide analysis to determine what is payable and what needs to be receipted back. Some of the payables have been outstanding for more than ten years.

In the circumstances, the accuracy and completeness of accounts payables - deposits and retentions balance of Kshs.6,715,563,752 could not be confirmed.

Emphasis of Matter

62. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.172,639,549,130 and Kshs.136,358,726,797 respectively, resulting to an underfunding of Kshs.36,280,822,333 or 21% of the budget. Similarly, the Department spent Kshs.146,351,922,422 against an approved budget of Kshs.172,639,549,130, resulting to an under-expenditure of Kshs.26,287,626,708 or 15% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public. It may also have contributed to delays in pension payments.

My opinion is not modified in respect of this matter.

Other Matter

63. Special Audit on Consolidated Fund Services-Pension and Gratuities

The Auditor-General is currently undertaking a special audit on Consolidated Fund Services-Pension and Gratuities. As at the time of this report, the special audit had not been concluded. Therefore, there could be some matters in the special audit report that may not have been included in this report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

64. 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

65. Incomplete Pension Records

The statement of receipts and payments reflects an amount of Kshs.106,118,823,808 in respect of payment of pensions which, as disclosed in Note 7 to the financial statements, includes amounts of Kshs.51,723,012,846 and Kshs.7,641,202,595 in respect of civil pension and military pensions, respectively. However, as previously reported, the payroll provided for audit review had some missing pensioners details such as ID numbers while some pensioner employee numbers had been recorded as “DUMMY”.

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

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

- 67.** 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

68. Failure to Identify Non-Remittance Risk

The statement of receipts and disbursements reflects an amount of Kshs.282,191,910 in respect of receipts which, as disclosed in Note 1 to the financial statements, includes an amount of Kshs.196,698,529 in respect of 31% contribution that is remitted by parastatals and other Semi-Autonomous Government Agencies on behalf of civil servants on secondment from Ministries and Departments. Review of the processes revealed that there is a potential risk associated with unremitted contributions because the Department does not have any means of identifying officers on secondment and therefore follow up on the expected contributions. Management did not provide any mitigation strategies against the risk.

In the circumstances, there is a risk of loss of public funds where officers who have been on secondment receive their full pension before recovery of the 31% contribution.

DONOR FUNDED PROJECTS

FINANCIAL SECTOR SUPPORT PROJECT (IDA CREDIT NO.56270-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

- 69.** There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

70. Pending Bills

Annex 4 to the financial statements discloses that the project had a pending bill of Kshs.10,024,584 as at 30 June, 2023. Management did not explain 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 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

- 71.** 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

- 73.** 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 Management of the Project and the Project's financial statements are not 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

- 74.** There were no material issues noted during the audit of the financial statement of the Project.

Other Matter

75. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.40,360,000 and Nil respectively resulting to an

under-funding of Kshs.40,360,000 or 100% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.40,360,000 and Kshs.33,683,775 respectively resulting to an under-expenditure of Kshs.6,676,225 or 17% 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

76. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

78. 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 Management of 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 CRIS NO:041-658)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

80. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects expenditure budget and actual payments on a comparable basis of Kshs.857,169,412 and Kshs.766,477,838 respectively, resulting in under-absorption of Kshs.90,691,574 or 11% of the approved budget.

The under-performance affected the planned activities and impacted adversely on service delivery to the public.

81. Pending Bills

The financial statements disclose bills of Kshs.38,510,295 due to staff. 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.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

82. Non-Compliance with the Law on Ethnic Diversity

Review of the staff records indicated that the Program had a total of thirty-one (31) employees out of which ten (10) were seconded from the Public Service and twenty-one (21) were hired directly by the project on three-year contract basis. Of the twenty-one (21) employees hired directly, eight (8) or 38% were from one ethnic community against the provisions of Section 7(2) of the National Cohesion and Integration Act, 2008 which prescribes that no public establishment shall have more than one-third (1/3) of its employees being 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

83. Failure to Fill Vacant Positions

As previously reported, review of the staff establishment revealed that the Program had in place thirty-one (31) members of staff against the authorized establishment of forty-eight (48), resulting in a deficit of seventeen (17) employees. 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

- 84.** 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 Management of the Program and the Program 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

Basis for Qualified Opinion

85. Inaccurate Purchase of Goods and Services Amounts

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects comparative payments of Kshs.15,827,126 in respect of consultancy services and nil payments on training. However, 2021-2022 financial statements reflects Kshs.8,785,538 and Kshs.7,041,588 for consultancy and training services respectively. Further, the statement of comparison of budget and actual amounts reflects Kshs.547,120 in respect of budget utilization difference on proceeds from domestic and foreign grants and payments in respect of goods and services. However, re-computation of the payments reflects a total of Kshs.199,832 resulting to un-explained and unreconciled variance of Kshs.347,288.

In the circumstances, the accuracy and completeness of the above mentioned amounts could not be confirmed.

Other Matter

86. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. However the Management has not resolved the issues or given any explanation for failure to adhere to the provision of the Public Sector Accounting Standard Board templates.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

87. Failure to Conduct Internal Audit

The Project accounts and records were not subjected to internal audit during the year under review. This is contrary to Section 73(1)(a) of the Public Finance Management

Act, 2012 that mandates the project to ensure that it has appropriate arrangements for conducting internal audit according to the guidelines issued by the Accounting Standards Board.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

- 88.** 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

- 89.** There were no material issues noted during the audit of the financial statements of the Programme.

Emphasis of Matter

90. Failure to Close the Project

Records available indicate that the Project was to operate between 1 March, 2012 and 06 September, 2019. The Project duration was extended for a period of 20 months ending 24 April, 2021. However, as at 30 June, 2023, the Project had not been closed and had an active bank account held in a local bank with a balance of Kshs.22,823,152. No explanation was provided for the failure to close the project in accordance with the terms of the Financing Agreement.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

- 91.** 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

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

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

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

- 93.** 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

94. 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, and as previously reported, the Project closure report was not submitted for audit. Although Management indicated that AFD issued a No Objection for transfer of the Project's surplus funds to the Rural Kenya Finance Inclusion Facility (RK FINFA), also funded by AFD, the transfer process was not completed to enable formal closure of the Project. No explanation was provided on why it has taken over eight (8) years to conclude the process of closing the dormant Project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

- 96.** 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 Management of 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

- 97.** 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

- 98.** 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

- 100.** 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.

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

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

102. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.593,000,000 and Kshs.276,227,200 respectively resulting to an underfunding of Kshs.316,772,800 or 53% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.593,000,000 and Kshs.253,409,045 respectively resulting to an under-expenditure of Kshs.339,590,955 or 57% of the budget.

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

103. Pending Bills

The financial statements disclose pending accounts payables of Kshs.995,300 due to service providers. Management indicated that the pending bills were occasioned by the closure of IFMIS procurement module. 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.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

104. Weak Management of Imprest

The statement of financial assets reflects accounts receivables - imprests and advances balance of Kshs.146,000 and as disclosed in Note 7 to the financial statements. The balance which has been outstanding since the last financial year was described as workshop expenses. This is contrary to the requirement of Regulation 93(5) of the Public Finance Management (National Government) Regulations, 2015 which requires an imprest holder to account or surrender the imprest within seven (7) working days after returning to duty station.

Although the Project Management has indicated that official communication on outstanding imprests has been made, the imprests had not been recovered or surrendered as at the time of the audit.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

- 106.** 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 Management of the Project and the Project's financial statements are in agreement with the Financing Agreement.

FINANCING LOCALLY-LED CLIMATE ACTION PROGRAM NO. P173065; CREDIT NO. IDA 6980-KE; GRANT AGREEMENT NO. TF0B6810; LOAN AGREEMENT BMZ - NO.2016 65 108/2018 65 138

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

- 107.** There were no material issues noted during the audit of the financial statements of the Program.

Other Matter

108. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final total receipts budget of Kshs.1,486,000,000 against actual receipts of Kshs.1,303,749,577 resulting in a shortfall of Kshs.182,250,423 or 12% of the budget. Similarly, the statement reflects a final expenditure budget of Kshs.1,486,000,000 against actual expenditure of Kshs.1,327,755,267 resulting in under expenditure of Kshs.158,244,733 or 11% of the budget.

The shortfall and the 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

- 109.** 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

- 111.** 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 Management of the Project, and the Project financial statements are in agreement with the accounting records and returns.

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

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

- 112.** There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

113. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual amounts on comparable basis Kshs.265,023,053 and Kshs.167,769,482 respectively resulting to an underfunding of kshs.97,253,571 or 37% of the budget. Similarly, the Project expended Kshs.171,163,532 against a budget of Kshs.265,023,053 resulting to an under-expenditure of Kshs.93,859,521 or 35% of the budget. Further, Donor receipts as at 30 June, 2023 amounted to Kshs.54,502,690 or USD 354,930 against a pledged amount of Kshs.122,080,000 or USD 1,120,000 thereby resulting to an undrawn amount of Kshs.67,577,310 or USD 765,070. With the project coming to an end

in May, 2024 after an extension which was granted, there is a risk that the program will come to an end without all planned activities undertaken and the Project objectives met.

In addition, the statement of comparison of budget and actual amounts reflects original budget figure of Kshs.270,023,053 and a final figure of Kshs.265,023,053 after adjustments. An approved original and revised departmental work plan in support of the budget figure in the printed estimates which was given as a one-line budget under “Capital grants to Government Agencies and Other levels of Government” and not programme based was not provided to support the budget figures and the relating planned activities.

In the circumstances, the underfunding and the underexpenditure imply that some of the budget programs and activities may not be achieved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

114. Delay in Development of Public Debt Management Frameworks

The statement of receipts and payments reflects purchase of goods and services amount of Kshs.171,163,532 which include direct payment to consultant from foreign Grant amount of Kshs.11,937,500 as disclosed in Note 3 to the financial statements. This related to consultancy services for the development of public debt management frameworks under tender number TNT/RFP/004/2021-2022. The contract period was to be eight weeks from 17 May, 2023 to 17 July, 2023. However, two extensions of 6 weeks from 18 July, 2022 to 29 August, 2023 and 4 weeks from 30 August, 2023 to 26 September, 2023 were approved with no additional cost.

The first phase of the consultancy which was for the development of public debt risk management frameworks which was to take a week had been delivered and a direct payment of Kshs.11,937,500 made. However, four of the deliverables which included review and development of external resource mobilization procedure/operations manual, review and development of operational guidelines to support secondary market trading, development of monitoring and evaluation frameworks for donor funded projects, capacity building for Public Debt Management Office (PDMO) staff on the developed frameworks had not been fully rendered as at the time of audit on October, 2023. Although Management explained that the contract was completed within the stipulated time, a status report for the remaining phases of the consultancy project and the implementation team report for the same was not provided for audit review.

In the circumstance, the delivery of the consultancy services is uncertain.

115. Foreign Training Expenses

The statement of receipts and payments reflects purchase of goods and services amount of Kshs.171,163,532 which include payments to training institutions and domestic travel and subsistence amounts of Kshs.46,000,836 and Kshs.113,225,195 respectively as disclosed in Note 3 to the financial statements. Review of records relating to these

expenses revealed that payments to training institutions were made mainly to foreign training institutions, whereas Kshs.105,270,195 of the domestic travel and subsistence payments related to foreign travelling and subsistence allowances paid to officers attending the trainings and were charged on GOK counterpart funds. No plausible reason was provided why the courses could not be held locally neither were approvals from the Public Service Commission for the trainings provided as required by Public Service Commission February, 2017 publication on guidelines on training in the public service.

In the circumstance, it was not possible to ascertain whether the trainings were indeed warranted and that the right members of staff attended.

116. Unexplained Amount Withdrawn and not Claimed

The statement of special (designated) account reconciliation reflects amount withdrawn and not claimed of Kshs.4,172,714 as at 30 June, 2023. However, the details of this amount and reasons for failure to submit expenditure returns have not been provided. In this circumstance, Project Management may be in breach of section 4.4.3 of the AfDB guidelines for financial reporting and auditing of projects which states that borrowers must satisfactorily justify the use of all funds disbursed prior to the bank disbursing any new tranche of the loan.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

118. 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 Management of 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

Unmodified Opinion

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

Other Matter

120. Pending Bills

Annex 4a to the financial statements reflects pending bills totalling to Kshs.53,030,140. Although Management has attributed the non-payment of the bills to challenges in exchequer release, 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. Further, pending bills could expose the project to the risk of incurring unnecessary interest and penalties in case of litigation.

121. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.694,061,273 against the actual receipts of Kshs.582,768,644 resulting to an under-collection of Kshs.111,292,629 or 16% of the budget. Similarly, the statement reflects budgeted expenditure of Kshs.694,061,273 against actual expenditure of Kshs.564,920,288 resulting to an under-expenditure of Kshs.129,140,985 or 19% of the budget.

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

122. Unresolved Prior Year Matter

As previously reported, the statement of receipts and payments reflects cumulative amount of Kshs.494,541,977 with respect to transfer from Government entities (counterpart funding). The amount relates to the Government Counterpart funds drawn from the ledger as expenditure incurred by The National Treasury on behalf of the Project. 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 cumulative counterpart funding of Kshs.494,541,977 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

123. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

125. As required by the 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 Management of the Project and the Project'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

Unmodified Opinion

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

Other Matter

127. Pending Bills

Annex 4a to the financial statements reflects pending bills totalling to Kshs.1,063,280,388. Although Management has attributed the non-payment of the bills to challenges in exchequer release, 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. Further, pending bills could expose the project to the risk of incurring unnecessary interest and penalties in case of litigation.

128. Unresolved Prior Year Matter

As reported in the previous year, the statement of receipts and payments reflects cumulative amount of Kshs.1,670,368,768 with respect to transfer from Government (counterpart funding) as disclosed in Note 1 to the financial statements. The amount relates to the Government Counterpart funds which were 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.567,235,810 was not provided for audit.

In the circumstances, the eligibility and the accuracy of the counterpart funding of Kshs.567,235,810 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

- 129.** 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

- 131.** 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 Management of 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

- 132.** There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

133. Pending Accounts Payable

The financial statements disclose pending accounts payables of Kshs.1,672,770. Management indicated that the accounts payable were occasioned by system challenges in IFMIS during the closure of the financial year. 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.

134. 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.59,664,165 and Kshs.42,600,153 respectively resulting to an under-funding of Kshs.17,664,012 or 29% of the budget. Similarly, the

Project expended a total of Kshs.40,772,166 against an approved budget of Kshs.59,664,165 resulting to an under-expenditure of Kshs.18,891,999 or 32% 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

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 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 Management of the Project and the Project's financial statements are in agreement 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

Unmodified Opinion

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

Other Matter

139. Low Absorption of Project Funds

The Letter of Agreement and the extension of disbursement deadline indicates that the Project started on 12 February, 2021 and the disbursement deadline was expected to be 31 March, 2024. The Project expected to receive a total disbursement amounting to

Kshs.62,890,000 with the African Development Bank and the Government of Kenya committing funding amounting to Kshs.32,890,000 and Kshs.30,000,000, respectively.

Review of the application of funds indicated that the Project had utilized an amount of Kshs.11,787,824 representing 18.7% of the total expected project disbursement with the remaining disbursement of Kshs.51,102,176 expected to be absorbed in the remaining nine (9) months of the Project duration. Management explained that the low absorption of funds was caused by delays in procurement of ICT equipment as a result of change of Government policy on procurement of ICT equipment. However, no evidence was provided to indicate the progress made on the procurement of the ICT equipment.

In the circumstances, the Project may not be completed in time which may cause delay in delivery of services to the citizens and escalation of costs due to inflation.

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 African 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 Management of the Project and the Project's financial statements are in agreement 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

Unmodified Opinion

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

Other Matter

144. Pending Bills

Annex 4a to the financial statements discloses pending bills totalling to Kshs.176,406,228. Although Management has attributed the non-payment of the bills to challenges in Exchequer release, 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. Further, pending bills could expose the project to the risk of incurring unnecessary interest and penalties in case of litigation.

145. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted income of Kshs.511,413,660 against actual income of Kshs.688,570,383 resulting to an over-collection of Kshs.177,156,723 or 35% of the budget. The statement further reflects budgeted expenditure of Kshs.511,413,660 against actual expenditure of Kshs.671,981,792 resulting to an over-expenditure of Kshs.160,563,132 or 31% of the budget. Management has attributed the over-collection and over-expenditure to reduction of the budget during supplementary II revision.

The over funding and over expenditure resulted in the program implementing activities without appropriate approval by The National Treasury.

146. Unresolved Prior Year Matter

As reported in the previous year, the statement of receipts and payments reflects cumulative amount of Kshs.748,138,430 with respect to counterpart funding and as disclosed in Note 1 to the financial statements. The amount relates to the Government counterpart funds which were 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.326,958,900 were not provided for audit.

In the circumstances, the eligibility and the accuracy of the counterpart funding payments of Kshs.748,138,430 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

147. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

149. 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.

RURAL KENYA FINANCIAL INCLUSION FACILITY (RK FINFA) (IFAD LOAN NO.2000004121 AND LOAN NO. 2000004122)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

150. 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

151. Unauthorized Utilization of Reflows Revenue

The statement of receipts and payments reflects receipts from government entities of Kshs.372,014,853 and as disclosed in Note 9.1 to the financial statements. These funds were received as reflow funds attributable to participating financial partners in the Programme for Rural Outreach of Financial Innovations and Technologies (PROFIT) which preceded the RK FINFA Project. However, no budgetary provision had been made for these receipts.

The Management explained that the funds were to flow into the new programme and form part of Government of Kenya counterpart funding. However, the funds ought to have been included in the budget estimates for the year before utilization in accordance with Section 68(a) of the Public Finance Management Act, 2012. This Section provides that an Accounting Officer for a National Government entity, shall be accountable to the National Assembly for ensuring that the resources of the respective entity are used in a way that is lawful and authorised.

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

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 Financing Agreements No.2000004121 and No.2000004122, 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 Management of the Programme and the Programme's financial statements are in agreement with the accounting records and returns.

SUPPORTING ACCESS TO FINANCE & ENTERPRISE RECOVERY PROJECT (IDA CREDIT NO. 7018-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

155. Budgetary Control and Performance

The statement of comparison budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.400,000,000 and Kshs.141,067,100 respectively resulting to an under-funding of Kshs.258,932,900 or 65% of the budget. Similarly, the Project expended Kshs.17,182,085 against an approved budget of Kshs.400,000,000 resulting to an under-expenditure of Kshs.382,817,915 or 96% of the budget.

Further, the printed estimates under supplementary II reflected approved budget amount of Kshs.554,000,000 resulting to unexplained variance of Kshs.154,000,000.

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

156. Delay in Project Implementation

The Project (Supporting Access to Finance & Enterprise Recovery Project (IDA Credit No. 7018-KE) was signed on 8 February, 2022 and the expected commencement date was 8 May, 2022, ninety (90) days after the signing of the agreement. However, the Project commenced on 1 March, 2023 which was ten (10) Months after signing of the project agreement. This is contrary to paragraph 5.02 of Article V - Effectiveness;

Termination of the Financing Agreement, which sets the effectiveness deadline as the date ninety (90) days after the signature date.

In the circumstance, the Project Management was in breach of the provisions of the Financing Agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

158. 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.

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

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

Other Matter

160. 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.190,000,000 and Kshs.204,880,000 respectively resulting to over-funding of Kshs.14,880,000 or 8% of the budget. Similarly, the Project spent a total of Kshs.147,506,000 against an approved budget of Kshs.190,000,000 resulting to an under-expenditure of Kshs.42,494,000 or 22% of the budget. Management attributed the under-expenditure to delay in allocation of land for construction of Rapid Response Units (RRU) offices.

Non-implementation of the planned activities may result in failure to achieve all the Project planned deliverables by 31 December, 2023 being close date of the Project as per the revised financing agreement.

161. Pending Bills

Annex 4A of the financial statements disclose pending accounts payables of Kshs.12,458,000. Management indicated that the pending bills were occasioned by delayed submission of invoices by service providers. 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.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

162. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

164. 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 Management of the Project and the Project's financial statements are in agreement 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

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

Other Matter

166. 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.55,000,000 and Kshs.5,193,000 respectively resulting to an under-funding of Kshs.49,807,000 or 91% of the budget. Similarly, the Project spent a total of Kshs.13,656,000 against an approved budget of Kshs.55,000,000 resulting to an under-expenditure of Kshs.41,344,000 or 75% of the budget. Management attributed the under-funding and the under-expenditure to delayed implementation of the Project due to COVID-19 pandemic and delayed processing of No Objections approvals by 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

167. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

169. 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 Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR ECONOMIC PLANNING – VOTE 1072

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

170. 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

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.

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

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

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.

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

- 176.** 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

- 177.** 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

- 178.** 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

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

Emphasis of Matter

180. Pending Accounts payables

Note 20.1 to the financial statements reflects pending accounts payables totalling Kshs.12,347,481,810. The balance relates to pending bills that were not paid during the year under review but were instead carried forward to the financial year 2023/2024.

Failure to settle bills during the year to which they relate adversely affects the implementation of the subsequent year's budgeted programs as the outstanding bills form a first charge to that year's budget provision.

My opinion is not modified in respect of this matter.

Other Matter

181. Unresolved Prior Year Matters

The following issues raised on Projects implementation by Nairobi Metropolitan Services in the previous audit report remain unresolved;

181.1 Construction and Equipping of Health Facilities

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. An International Organization, 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) of the 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 were provided despite full payment of the contract sum.

In the circumstances, value for money on the expenditure of Kshs.869,400,000 incurred in the construction of the health facilities may not have been realized.

181.2 Irregular Procurement of Street Lights

Review of records 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 Kenya National Highways Authority (KeNHA) and an electricals Company in the procurement of 150/180W lights. On 08 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 installing 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, the regularity and value for money for the expenditure of incurred on procurement of street lights could not be confirmed.

181.3 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 the 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 of 27 March, 2021.

However physical 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.

181.4 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 or 37% of the contract sum had been paid, out of which Kshs.1,192,496,636 was paid in the 2021/2022

financial year and an advance payment of Kshs.447,576,642 in the 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 therefore behind schedule and no explanation or evidence of extension of the contract was provided casting doubt on value for money on the expenditure of Kshs.1,640,073,278 incurred on the project.

181.5 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, physical 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.

Although the issues were discussed by the Public Accounts Committee of the National Assembly in the Month of October, 2022, the Committee's recommendations are still pending.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

182. 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

Conclusion

183. 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

184. 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

185. Undrawn Project Funds and Lapse of Project Period

The grant agreement between United Nations Children's Fund (UNICEF) and the Government of Kenya provided for an approved total allocation of Kshs.31,600,000 and a project duration of two (2) years from 2020 to 2022. As at the time of audit in October, 2023, the project had received a cumulative amount of Kshs.26,195,316 leaving an undrawn balance of Kshs.5,404,684 despite the lapse of the project's official end date of 30 June, 2022. Further, both the Project Management and Project bank account were actively operating despite the project closure. Management was yet to commence the closure process as per the financing agreement guidelines, one year and three (3) months after the project end date.

In the circumstances, project planned objectives were not fully realized and the public may have been denied the benefits that may have accrued from the unutilised funds. In addition, management was in breach of the terms of the financing agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

186. 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

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

188. 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

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

OFFICE OF THE DEPUTY PRESIDENT – VOTE 1012

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

190. There were no material issues noted during the audit of the financial statements of the Office of the Deputy President.

Emphasis of Matter

191. Pending Accounts Payables

Note 14 to the financial statements reflects pending accounts payables totalling Kshs.58,244,497 as at 30 June, 2023. The balance relates to pending bills that were not paid during the year under review but were instead carried forward to the financial year 2023/2024.

Failure to settle bills during the year to which they relate adversely affects the implementation of the subsequent year's budgeted programs as the outstanding bills form a first charge to that year's budget provision.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

192. Procurement Irregularities

192.1 Irregular Split of Procurement

During the year under review, the Office procured curtains and furniture amounting to Kshs.10,272,524 and Kshs.7,869,700 respectively all totalling Kshs.18,142,224 through request for quotations thereby splitting the procurement. This was contrary to Section 54 (1) of the Public Procurement and Asset Disposal Act, 2015 which requires that no procuring entity may structure procurement as two or more procurements for the purpose of avoiding the use of a procurement procedure except where prescribed.

192.2 Direct Procurement

Further, Management procured furniture amounting to Kshs.2,401,000 from one supplier using direct procurement contrary to provisions of Section 103(2) of the Public Procurement and Asset Disposal Act, 2015 which provides that an entity may use direct procurement if the goods are available from a particular supplier or a particular supplier has exclusive rights in respect of the goods and no reasonable alternative or substitute exists.

192.3 Discrepancies in Procurement Documents

Review of payment and procurement records provided revealed that, Management procured goods and services amounting to Kshs.198,619,114. Documents provided for audit revealed various conflicts in dates from the time of initiating and processing the procurements for payment, with some invoice dates preceding user requisitions. This is contrary to Section 53 (1) of the Public Procurement and Asset Disposal Act, 2015 which states that, all procurements by State Organs and public entities are subject to the rules and principles of the Act.

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

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

Conclusion

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

OFFICE OF THE PRIME CABINET SECRETARY – VOTE 1013

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

- 194.** There were no material issues noted during the audit of the financial statements of the Office of the Prime Cabinet Secretary.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

- 195.** 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

Conclusion

- 196.** 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

Unmodified Opinion

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

Other Matter

198. Unresolved Prior Year Matters

In the prior year's audit report, several issues were raised under the Report on Financial Statements, Lawfulness and Effectiveness in Use of Public Resources, and Effectiveness of Internal Controls, Risk Management and Governance, respectively. Although Management indicated that the issues had been resolved, the matters remained unresolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

199. Delay in Completion of Construction of Mwea West Sub-County Headquarters at Kandongu-Kirinyaga County

The construction of Mwea West Sub-County Headquarters is being implemented in phases and at the time of audit in August, 2023 the procurement and implementation for two phases had been done. The contract for phase one was for Kshs.22,997,670 while phase two works were awarded at a contract price of Kshs.9,723,140 through open tender procurement method. The contract was signed on 14 March, 2022 for a contract period of twenty (20) weeks. The cumulative amount paid as at 30 June, 2023 was Kshs.30,514,645 comprising of Kshs.22,997,670 and Kshs.7,516,975 for the first and second phase respectively. The scope of works for phase two included external paving around the building, fixing of windows, doors and finishes on the ground, first and second floors, roofing and provisional sums for electrical and mechanical services for conduiting and piping.

Physical verification of the project conducted in August, 2023 revealed that although external paving, works on the ground floor, first floor as well as conduiting and piping works and roofing had been done, works on the second-floor doors and finishes had not been done. Further, the contractor was not on site and construction works had stalled. The contract period of twenty (20) weeks for completion of the second phase had already elapsed and there has been no evidence of extension of the contract.

In the circumstances, the value for money from the project expenditure of Kshs.30,514,645 may not be realized.

200. Incomplete Construction of Igembe South Deputy County Commissioner's Office at Maua

Review of documents provided for audit revealed that the construction of Igembe South DCC office at Maua, Meru County was allocated Kshs.5,000,000 in the financial year 2022/2023. However, project documents including procurement, contract agreement, payment vouchers, Authority to Incur Expenditure (AIEs) project file, certificates issued by State department for Works officers and site meeting minutes were not provided for audit.

Further, physical verification conducted in August, 2023 revealed that the building was incomplete at lintel level. Finishing works including doors, windows and roofing had not been done. In addition, the contractor was not on site at the time of audit.

In the circumstances, the delayed completion of the project denied the public the benefits derived from the completed project.

201. Incomplete Igembe North Sub County Offices at Laare

The State Department entered into a contract 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. Details of the payments provided for audit revealed payments in respect of the project amounting to Kshs.25,479,566.

However, physical verification conducted in August, 2023 revealed that the project was incomplete without doors and some windows. In addition, painting works had not been completed and the roof was leaking. Further, the contractor was not on site.

In the circumstances, the value for money for the expenditure of Kshs.25,479,566 could not be confirmed.

202. Stalled Construction of Deputy County Commissioner's (DCC) Office Block at Tigania Central Meru

Review of documents provided for audit revealed that the Construction of DCC'S Office Block at Tigania Central Meru was allocated Kshs.30,000,000 on 8 May, 2018 (AIE number A929683). 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 had been paid a total of Kshs.29,755,000 for certificate numbers 1 to 7. The payments were inclusive of retention money. However, physical verification carried out in August, 2023 revealed that the building was incomplete and the project had stalled. Management did not provide explanation why the project had stalled for over four (4) years. In addition, some materials were left unattended and exposed to theft and deterioration.

In the circumstances, the value for money on the Kshs.29,755,000 incurred on the project could not be confirmed.

203. Stalled Construction of Tigania East Sub-County Office Block at Muriri

The construction of the DCC office block commenced in 2011 and has been done in phases. The project had at least five (5) different contractors for the different phases up to the seventh phase. However, payments made to the different contractors up to the seventh phase could not be confirmed for lack of records.

Inquiries from Management indicated that the project stalled in 2019. Physical verification carried out in the month of August, 2023 revealed that the ground floor and first floor were completed and were currently in use while the remaining works on the second floor and the third roof were incomplete. In addition, the roofing works earmarked for completion in sixth and seventh phase was partially done.

In the circumstances, the Department did not receive value for money spent on the project.

204. Delays in Disbursement of Authority to Incur Expenditure (AIEs)

Analysis of funding to various field programs under the State Department experienced delays in funding their AIEs. For instance, disbursement of AIE to Sub County Police Commander Garissa County was delayed for over one hundred and fifty-five (155) days. This is contrary to Regulation 52 (e) of the Public Finance Management (National Government) Regulations, 2015 which provides that accounting officers whose votes cover field programs and projects shall issue AIE's to their field officers not later than the 15th day of each quarter.

In the circumstances, the delay in disbursement of AIE's may have affected service delivery to the public.

205. Stalled Magunga District Headquarters, Suba South Sub-County

The State Department entered into a contract for the construction of Magunga District Headquarters on 15 March, 2013 at a contract sum of Kshs.8,541,416. Review of project records and physical verification carried out in August, 2023 revealed that the project stalled in 2013 and has remained incomplete and abandoned. The Suba Sub County works officer on 17 May, 2018 estimated the cost of completing the remaining works to be Kshs.12,864,444. There was no evidence that the Management had made a budgetary provision to complete the project which has stalled for more than ten (10) years.

In the circumstances, the public may not obtain value for money on the project.

206. Unoccupied Assistant County Commissioner's Offices in Asegø, Homabay County

During the financial year 2021/2022, the State Department spent a total of Kshs.29,524,663 towards the construction of Asegø East and Asegø Division Assistant County Commissioner's Offices in Homabay County. Review of records revealed that as at 30 June, 2023, the final payments had been made to the contractors and the buildings completed, physical verification conducted in August, 2023 revealed that both buildings

were yet to be occupied. In addition, land ownership documents were not provided for audit.

In the circumstances, value for money may not have been realized from the two completed office blocks which are yet to be occupied.

207. Stalled Construction of Nyanza South Headquarters

Review of records revealed that the contract for construction of Nyanza South Headquarters was awarded to a contractor at a contract sum of Kshs.701,536,029. However, the project stalled in 1991 when the progress of works was about 35% completion level. Further, payment documents to the contractor were not provided for audit. Management did not explain why the project has stalled for over thirty (30) years. Although the County Commissioner has since secured the existing structure from theft and natural elements by reinforcing the fence and posting security officers on the site, no efforts have been made to revive the stalled project.

In the circumstances, the public may not have obtained value for money for the resources spent on the project and the objectives of the project may not be achieved.

208. Incomplete Construction of Deputy County Commissioner's Office - Chesumei-Nandi County

The State Department entered into a contract on 13 April, 2022 with a contractor for the construction of Deputy County Commissioner's Office in Chesumei in Nandi County. The contract was for a period of sixteen (16) weeks at a contract sum of Kshs.15,387,080. Records of the payments made revealed payments amounting to Kshs.12,715,215 were made to the contractor. However, physical verification conducted in August, 2023 revealed that, although the structure had been done, the doors, some windows plastering and wiring were not done. In addition, the contractor was not on site and the contract period had expired.

In the circumstances, value for money realized from the project could not be confirmed.

209. Proposed Construction and Completion of Kikuyu Sub-County Headquarters Offices in Kiambu County

The State Department through the Kiambu County Commissioner entered into a contract with a contractor for the construction and completion of the County Commissioner's Office at Kikuyu sub-county at an initial estimated cost of Ksh.46,401,754. The project started in the financial year 2010/2011. However, the project had not been put to use at the time of the audit in August, 2023.

In addition, physical inspection revealed that there was poor workmanship as iron sheets had worn-out overtime and tiles were not fitted properly. Further, windows panes were broken and plumbing works were incomplete. In addition, installation of water and electricity, kitchen and washrooms fittings had not been done.

Further, there were furniture worth Kshs.1,000,000 and other ICT equipment worth millions that were purchased for the Deputy County Commissioner's office in the financial

year 2018/2019, and were placed in the new building but has not been put in use as the building has not been occupied.

In the circumstances, the State Department may not have received value for money from the project.

210. Kenya School of Adventure and Leadership in Meru County

210.1 Delayed Construction of 100 PAX Hostel Block

As previously reported, 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, 2023, the contractor had been paid a total of Kshs.90,207,649. Review of the project records revealed that although the project was expected to be completed within two (2) years, it was yet to be completed as at the time of the audit in August, 2023 (seventeen months later).

The delayed completion of the project has denied the School the benefit derived from the completed project.

210.2 Stalled Construction of Staff Houses

The State Department entered into a contract 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, 2023 the actual amount paid was Kshs.6,490,978. However, examination of the project records and physical verification carried out in August, 2023 revealed that the project had not been completed (two years eleven months later). Further, construction had stopped at the lintel level without roofing works exposing the walls to damages and deteriorations.

In the circumstances, the public may not have received value for money.

211. Irregular Award of Contract for Maintenance of Nyayo House Lifts

Review of records for maintenance of Nyayo House revealed that the lifts were fitted during construction of the building by the first company. However, the maintenance contract was awarded to the second company during the year under review. No evidence was provided for audit to indicate that the second company had relevant license to maintain the lifts. This is contrary to the provisions of Regulation 174 (2) of the Public Procurement and Asset Disposal Regulations, 2020 which states that where the procuring entity lacks the capacity to carry out the repairs or maintenance, an accounting officer shall competitively procure such services from a pre-qualified list of service providers licensed to undertake such services in accordance with the Act, these Regulations and any other relevant laws. Physical verification carried out in the month of November, 2023 revealed that four (4) of the seven (7) lifts were not functioning

In the circumstances, value for money may not have been obtained from the contract.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

212. Grounded Government Vehicles - Kakamega and Migori Counties

Review of the fixed asset register maintained at Kakamega and Migori Counties revealed that included in the register were eight (8) unserviceable and grounded motor vehicles that had not been disposed. With some vehicles being unserviceable the Department may experience a shortage of vehicles in working condition, which will affect service delivery.

In the circumstances, the effective management of the State Department's assets could not be confirmed.

213. Gazetted Sub-Counties and Wards Operating Without Authority to Incur Expenditure (AIEs)

Review of records and inquiries from Management during the audit carried out in August, 2023 revealed that four (4) gazetted administrative units in Migori County were operating without AIE.

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

REVENUE STATEMENTS - STATE DEPARTMENT FOR INTERIOR AND CITIZEN SERVICES

REPORT ON THE REVENUE STATEMENTS

Basis for Qualified Opinion

214. Long Outstanding Arrears of Revenue

As disclosed in Note 7 to the revenue statements, the statement of arrears of revenue reflects arrears amounting to Kshs.875,049,489 as at 30 June, 2023. The arrears of revenue include a total of Kshs.631,156,762 representing 72% of total arrears that has been outstanding for over a year as shown in the table below;

Description	Less than 1 Year (Kshs.)	Between 1-2 Years (Kshs.)	Between 2-3 Years (Kshs.)	Over 3 Years (Kshs.)	Total (Kshs.)
Security of Government Buildings (SGB)	77,226,000	74,749,500	70,685,000	195,343,500	418,004,000
Kenya Police Service (KPS) Nairobi Area	-	-	-	517,600.00	517,600
Certificate of Good Conduct (DCI)	-	-	-	206,527,800.00	206,527,800

Description	Less than 1 Year (Kshs.)	Between 1-2 Years (Kshs.)	Between 2-3 Years (Kshs.)	Over 3 Years (Kshs.)	Total (Kshs.)
Kenya Police Service HQs	166,666,725	83,333,362	-	-	250,000,088
Total	243,892,725	158,082,862	70,685,000	402,388,900	875,049,488
Percentage of Arrears Outstanding for the Period	28%	18%	8%	46%	100%

Further, the statement of arrears of revenue does not include an assessment on the recoverability of the arrears.

In the circumstances, the recoverability of the arrears of Kshs.875,049,489 owed by various Government Agencies could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

215. 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

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

NATIONAL COHESION AND INTEGRATION COMMISSION

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

218. Unresolved Prior Year Matters

In the audit report of the previous year, an issue was raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. However, the Management did not resolve the issues nor give 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

219. Unremitted Value Added Tax (VAT)

The statement of financial position reflects current trade and other payables balance of Kshs.99,821,134 as disclosed in Note 15 to the financial statements. Included in the balance is VAT of Kshs.3,627,996 owed to the Kenya Revenue Authority that had not been settled as at 30 June, 2023, out of which Kshs.2,561,823 are taxes brought forward from the previous years. This is contrary to Regulation 23 (2a) of the Public Finance Management (National Government) Regulations, 2015 which states that, an Accounting Officer shall comply with any tax, levy, duty, pension, commitments and audit commitments as may be provided for by legislation.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

220. Ineffective Internal Audit Function

Review of the staffing levels in the Internal Audit Department revealed that the Department has only one member of staff after the resignation of the Head of the Unit. The member of staff in the Department is currently placed in a middle level management at scale NCIC 5. Further, the current staff establishment provides for only two auditors in the Internal Audit Department, which may not be adequate to ensure adequate risk management and governance. This is contrary to Part 3.4 of Mwongozo Code of Conduct for State Corporations which requires that the Internal Auditor be a senior member of Management, professionally qualified and in good standing in a professional body responsible for regulating auditors. Further, the Head of Public Service Circular dated 11 March, 2020 directed that the Head of Internal Audit should be placed between level 2 and 3 of the grading structures.

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

STATE DEPARTMENT FOR CORRECTIONAL SERVICES - VOTE 1023

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

222. Pending Bills

Disclosed in Note 17.2 to the financial statements are pending bills totalling Kshs.6,832,031,742 (2022 – Kshs.6,665,944,778) as at 30 June, 2023 owed to suppliers of goods and services which were not paid in the year under review but were carried forward to 2023/2024 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.

223. Contingent Liabilities

As disclosed in Note 17.3 and Annexure 4 to the financial statements, the State Department had contingent liabilities amounting to Kshs.70,673,471 as at June, 2023 relating to thirty-three (33) 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 measures being taken to clear these outstanding liabilities.

In the circumstances, the settlement of the reported contingent liabilities of Kshs.70,673,471 could not be confirmed.

My opinion is not qualified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

224. Over-Commitment of Salaries Beyond Two Thirds of Basic Pay

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects Kshs.22,625,666,241 in respect of compensation of employees. Analysis of the Integrated Personnel and Payroll Database (IPPD) for the month of June, 2023 revealed that 4,082 officers earned less than one-third of their basic salary in contravention of 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 guidelines.

225. Encroachment on Embu Prisons Land

The Commissioner of Lands, vide Kenya Gazette Vol. LXXVIII-No. 14 dated 2 April, 1976 Notice No. 1009 and Kenya Gazette Vol. LXXXI-No.21 Notice No. 1371 gave notice of the Government's intention to acquire 24 parcels of land, cumulatively totalling 116.75 acres, registered under different owners. An audit inspection carried out in July, 2023 reviewed documents in respect of the Prison land and established that out of the 24 parcels, 3 parcels totalling 13 Acres either had a private individual claiming beneficiary interest or the land was presently charged to secure loans from different commercial banks by private individuals. Although effort had been made by the Officer in Charge of the Embu Main Prison, to request for allocation of funds meant for documentation of the prison land by way of conducting a cadastral survey, the funds are yet to be provided. Consequently, the prison land has no title deed and its land boundaries have not been identified to date.

Further, the Embu Prison Command claims ownership of a plot located within Embu town. However, records held at the Embu Lands office indicate that the said plot is registered under Kenya Development Corporation under a certificate of lease.

In the circumstances, security and ownership of the facility's land could not be confirmed.

226. Failure to Register Rental Lease

The Ministry of Interior & Coordination of National Government entered into a lease with a State Corporation for lease of three (3) floors for use by the Department for Probation and After Care Services. However, the lease was not registered at the Ministry of Lands and Housing and Urban Development. This is contrary to requirements of Section 43(2) of the Land Registration Act, 2012 which provides that, no instrument effecting any disposition of private land under this Act shall operate to sell or assign land or create, transfer or otherwise affect any land, lease or charge until it has been registered in accordance with the laws relating to the registration of instruments affecting land in respect of which the disposition has been made.

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

227. Grounded Vehicles at Naivasha Main Prison

Physical verification conducted in the month of September, 2023 revealed that various vehicles were grounded at the Naivasha Main Prison. The vehicles had been inspected by the Chief Mechanical & Transport Engineer (C.M.T.E) on 30 November, 2021 with recommendations for disposal due to their poor mechanical condition, high fuel consumption and uneconomical to repair due to age. Further, minutes of the disposal committee meeting held on 08 November, 2022, one year after inspection by the C.M.T.E, revealed that the vehicles were unserviceable and therefore recommended for disposal. However, no further action was taken to dispose of the vehicles hence subjecting them to the vagaries of weather. This is contrary to Regulation 176(1) of the Public Procurement and Asset Disposal Regulations, 2020 which stipulates that an accounting officer of a procuring entity shall ensure that an annual assets disposal plan is prepared of items declared as unserviceable, surplus or obsolete, obsolescence stores, asset or equipment as set out under Section 53(4) of the Act.

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

228. Poor Maintenance of Buildings at Nyahururu Medium Security

Audit verification conducted in July, 2023 revealed that Nyahururu 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. 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.

229. Stalled Projects at Nyandarua and Machakos Prisons

Physical verification at Nyandarua and Machakos correctional facilities revealed abandoned projects at different levels of completion with contracts sum and payments to date of Kshs.28,812,175 and Kshs.12,846,470 respectively.

In the circumstances, 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.

230. Failure to Recover Machakos Prison Land from Third Parties

Audit verification carried out at Machakos Prison Command revealed that the National Land Commission (NLC) recommended that 34 parcels of land that had been alienated, encroached upon and allocated to private individuals be recovered. Further, the NLC directed that all letters of allotment and amendment of registry Index maps be cancelled and consequently, a letter of allotment and lease title for Kenya Prison be prepared. However, no letter of allotment or lease title for the Machakos Prison Command was provided to confirm the recovery of the said prison land parcels or the progress made in recovery of the property and stop development on the land by private citizens. This is contrary to Section 79 of the Public Finance Management Act of 2012, which requires that a public officer employed in a National Government state organ or public entity shall ensure that adequate arrangements are made for the proper use, custody, safeguarding and maintenance of public property.

Further, encroaching and development of multi-storey buildings overlooking the prison facilities by private individuals has compromised security of the prison complex with status of ownership remaining unknown.

In the circumstances, Management failed to preserve, safeguard and maintain public property.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

STATE DEPARTMENT FOR IMMIGRATION AND CITIZEN SERVICES – VOTE 1024

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

233. Pending Bills

Annex 1 to the financial statements reflects pending accounts payable amounting to Kshs.1,313,208,464 that were not settled during the year under review but were instead carried forward to the 2023/2024 financial year. No adequate 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 on 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 distorts the financial statements and adversely affects the budgeting provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

234. Delay in Delivery of e-Passport Booklets

The State Department entered into a contract with an international printing company for the supply and delivery of three hundred and thirty four thousand (334,000) AK, BK, CK and DK e-passport series booklets. The contract was signed on 21 July, 2022 with the last delivery expected in March, 2023. However, the deliveries were made up-to October, 2023 in contravention of Article 5 of the contract agreement.

In the circumstances, the late delivery of the e-passport booklets adversely affected the operations of the State Department and issuance of passports to the public.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

235. Inefficiencies in Digitization and Storage of Birth and Death Records

Review of records provided for audit revealed that the Civil Registration Services (CRS) had successfully digitized an estimated forty-six million (46,000,000) records. However, as at the time of the audit in November, 2023, sixteen million (16,000,000) digitized records had been uploaded to the Electronic Document Management System (EDMS). The CRS also had approximately ten million (10,000,000) records that had not been digitized. The non-uploading of records to the EDMS was as a result of a lack of adequate storage capacity in the CRS servers to store all the digitized records. Further, the CRS did not have staff who were centrally devoted to the digitization of records.

In addition, the Department had not developed proper measures to have offsite data backup and recovery procedures in place despite the sensitivity of data handled. The lack of offsite backup exposes the Service to loss of data as physical hard drives are susceptible to physical damage, theft and unauthorized access to the stored data.

In the circumstances, the effectiveness of controls and measures in place for the digitization of record of births and deaths could not be confirmed.

NATIONAL POLICE SERVICE – VOTE 1025

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

236. There were no material issues noted during the audit of the financial statements of the Service.

Emphasis of Matter

237. Pending Bills

Annex 1 to the financial statements on analysis of pending accounts payable, indicates that the National Police Service had pending bills amounting to Kshs.5,479,251,913. The bills were not settled during the period under review but were instead carried forward to 2023/2024 financial year. No satisfactory explanation was provided for non-payment of pending bills during the year they were incurred.

Further, failure to settle bills during the year in which they relate, distorts the budget of the following year as they constitute a first charge on that budget.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

238. Unpaid Last Expense for a Medical Cover

The National Police Service awarded a contract on 31 December, 2022 for provision of medical cover for the members of the National Police Service and the Kenya Prison Services to a local Insurance Company at a total premium of Kshs.8,669,999,999 which include Kshs.200,000,000 excess of loss (ex-gratia) inpatient claims. Clause 20 of the contract states that the cover provides for last expense for principal members at a rate of Kshs.200,000 and Kshs.50,000 for each declared dependent. However, review of payment details and claims made to the Insurance Company revealed that the Company had not paid claims totalling Kshs.3,100,000 as at 30 June, 2023 in respect of last expense.

In the circumstances, the provision under Clause 20 of the contract was breached.

239. Anomalies in Provision of Group Life Cover and Work Injury Benefits Act (WIBA) and Group Personal Accident Cover (GPA)

The National Police Service awarded a contract for Provision of Group Life Cover and Work Injury Benefits Act (WIBA) and Group Personal Accident Cover (GPA) for employees of the National Police Service and Kenya Prisons Service to a local Insurance

Company at an annual premium of Kshs.5,082,499,671 covering one hundred and fourty-one thousand nine hundred sixty-one (141,961) persons (National Police Service-109,557 and Kenya Prisons-32,404) from 01 January, 2023 to 31 December, 2023.

However, review of insurance records revealed the following unsatisfactory matters:

239.1 Unpaid Group Life Benefits

Clause 2.3.1 of the contract provides that upon the death of a member, the Member's declared next of kin shall be paid a lump sum compensation of five years (5) annual basic salary. However, as at the time of audit in the month of November, 2023 the Company had not paid an amount of Kshs.220,138,900 in respect to group life sum assured. This is contrary to the contract terms which states that claims shall be paid within five (5) days after notification and provision of all documentations.

239.2 Unpaid Injury Group Personal Accident (GPA)

The contract provides that where a member is out of work as a result of an injury arising out of an accident or as a result of illness such members shall be entitled to compensation for loss of gross salary up to a maximum period of two (2) years subject to the prevailing Human Resources (HR) Policy at the time of injury or illness. However, review of insurance records revealed that at the time of audit in November, 2023 the Company had a backlog of three hundred and twelve (312) persons with unpaid Injury GPA claims despite having been notified.

239.3 Unpaid Fatal Group Personal Accident (GPA)

The contract provides that permanent total disability under Group Personal Accident (GPA) shall be compensated at a rate of five (5) years basic salary multiplied by the percentage awarded. However, during the period under review, the Company had not processed four (4) claims amounting to Kshs.1,405,800 under fatal GPA.

239.4 Unpaid Claims under Work Injury Benefits Act (WIBA)

Clause 2.1.1 of the contract provides that temporary disablement shall be compensated through a periodical payment equivalent to the members salary. Periodical payments shall be made for as long as the temporary disablement continues but not for a period that exceeds twelve (12) months. However, review of records provided for audit revealed that the contract running from January, 2023 to the time of audit in the month of November, 2023 had unpaid WIBA claims of six hundred and eighty-seven (687) persons whose dispatch to the Company had not been done.

Further, the contract provides that death under WIBA or as a result of occupational accident shall be compensated at a rate of eight (8) years gross salary of the beneficiary. However, review of records provided for audit revealed that from January, 2023 up to the time of the audit in the month of November, 2023, the Company had not processed WIBA deaths for fourteen (14) members.

In the circumstances, Management did not adequately monitor the contract to ensure that the contract terms are complied with and ensure there is value for money and benefits to members from the contract.

240. Anomalies in Provision of Enhanced Comprehensive Group Life Cover and Inclusion of Work Injury Benefits Act (WIBA) and Group Personal Accident Cover (GPA)

The National Police Service entered into a six (6) month contract for provision of enhanced comprehensive group life cover for National Police Service and Kenya Prisons Service with National Hospital Insurance Fund (NHIF) for the period between 01 July, 2022 to 31 December, 2022. The insurance cover was intended to cover principal members and dependents if in employment at the commencement of the cover. The total agreed premium was Kshs.2,295,594,440 covering one hundred thirty-three thousand six hundred forty-four (133,644) officers. However, review of records revealed the following unsatisfactory matters:

240.1 Unpaid Claims on Last Expense

Clause 5.2 of the contract 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 three (3) days subject to provision of a duly completed claim form and copy of Burial Permit. Further, clause 5.3 provides that on the death of a member or dependent, NHIF shall pay Group Life benefit specified within five (5) days subject to provision of a duly completed claim form, original burial permit, original death certificate and a copy of National identification card or surrender of Identification Card. However, review of claims for funeral expenses covered in the Comprehensive Group Life cover revealed that fifty- eight (58) claims of principal members, spouses and children totalling to Kshs.9,950,000 had been dispatched to NHIF but had not been paid as at the time of the audit in the month of November, 2022. This was contrary to the terms of contract which state that within three (3) days subject to provision of a duly completed claim form and copy of Burial Permit they shall pay the next of kin.

240.2 Unpaid Work Injury Benefits Act (WIBA) Claims

Clause 2.1.1 of the contract provides that disablement shall be compensated through a periodical payment equivalent to the members salary. Periodical payments shall be made for as long as the temporary disablement continues but not for a period that exceeds twelve (12) months. However, review of data provided for audit revealed that the contract running from January, 2022 had unpaid WIBA claims amounting to Kshs.507,925,077 which had been submitted to NHIF and to the Department of Health and Safety (DOSH).

240.3 Unpaid Group Life Benefit

Clause 2.3.1 of the contract provides that on death the members next of kin shall be paid a lumpsum compensation of five years annual basic salary. Further clause 5.3 of the contract provides that upon the death of a member, NHIF shall pay group life benefit specified within five (5) days subject to provision of a duly completed claim form, original

burial permit, original death certificate and a copy of national identification card. However, contrary to NHIF requirements to pay group life benefit within 5 days, it was noted that NHIF had not settled claims raised during the period amounting to Kshs.385,437,732

In the circumstances, Management did not adequately monitor the implementation of the contract to ensure that both the contract terms were complied with and value for money from the contract is achieved.

241. Unpaid Last Expense Claims on Extended Contract for Provision of Comprehensive Medical Cover for Members of National Police Service and Kenya Prisons Service by NHIF

The National Police Service entered into a contract for provision of a Comprehensive Medical cover for employees of the National Police Service and Kenya Prisons Service through the National Hospital Insurance Fund for the period between 01 July, 2021 to 30 June, 2022. The Insurance cover was intended to cover Principal Members if in employment at the commencement of the cover and shall be on family-shared basis covering the Principal Member and Dependents. A three (3) months extension was approved on 14 June, 2022 covering the period from 01 July to 30 September, 2022 at a premium cost of Kshs.989,633,731. In a letter dated 19 September, 2022 the acting Inspector General wrote to the Principal Secretary State Department for Interior and Citizen Services requesting for an extension of the medical cover contract for a period of 3 months from 1 October to 31 December, 2022 and the extension was subsequently approved. The total premium for the 3 months extension for medical inpatient, outpatient and last expense for member of National Police Service (NPS) and Kenya Prisons Service from 01 October, 2022 to 31 December, 2022 was Kshs.1,413,620,872.

Clause 6.2 of the contract states that there shall be last expense for the principal members at a rate of Kenya Shillings Two Hundred Thousand (Kshs.200,000) and Kenya shillings Fifty Thousand (Kshs.50,000) for one declared dependent. The last expense payment shall be made within seventy-two (72) hours from the time reporting subject to submission of the required claim documents. However, contrary to the provisions of the contract, details of claims made during the period under review up to the time of audit in the month of November, 2023 for last expense covered in the Comprehensive Medical Cover revealed that one hundred and fourty-six (146) claims of members totalling to Kshs.6,850,000 had been dispatched to NHIF but had not been paid.

In the circumstances, Management did not adequately monitor the implementation of the contract to ensure that the contract terms are complied with and value for money from the contract was not achieved.

242. Abandoned Construction Works - Laisamis Police Station

The National Police Service entered into a contract for erection and completion of Laisamis Police Station at a contract sum of Kshs.105,365,412. The contract was expected to take seventy-eight (78) weeks which was extended to one hundred and sixty-seven (167) weeks and the revised completion date estimated to be 26 February, 2017. However, review of project records provided revealed that the Contractor had abandoned the site before completion of the project and without any handing over status

report. Further, the project had pending works including; paving, storm water drainage, landscaping, access road and parking, fencing and borehole.

In addition, on 05 February, 2018 the contractor forwarded a claim of Kshs.59,239,669 over and above the contract sum increasing the total cost of the project to Kshs.164,605,081 representing a 56% variation of the original contract sum. Although the matter is under arbitration, the process had not been concluded and the project remained incomplete as at the time of the audit in the month of November, 2023. In addition, the stalled building continues to deteriorate and may result to loss of public resources.

In the circumstances, the Kenya Police Service may not have realized value for money from the project.

243. Stalled Administration Police Service Projects

Physical inspection of works and review of project documents revealed that the Service has four (4) stalled development projects awarded in 2006/2007 at Police College Embakasi 'A' Campus and which were at various levels of completion and payments made so far totalling to Kshs.38,855,887.

In the circumstances, the Service may not have obtained value for money from the stalled projects.

244. Delay in Separation of Electricity Meters

In September, 2018 a policy change was made after the Presidential directive on National Police Service on policy framework and strategy for reorganization of the National Police Service and provision of decent housing for police officers and integration with the community. This 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 State Department paid Kshs.78,000,000 and Kshs.72,000,000 respectively to 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, it was noted that the service provider had only fitted some housing units at West Park Estate with prepaid meters in November 2021 and separation at the National Police College (NPC) Kiganjo was ongoing in 2023, no other works have been undertaken in any other police line.

In the circumstances, there is possible risk of loss of public resources with the delayed separation of the meters.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

245. Lack of Ownership Documents for Land

Review of records maintained in the planning department indicated that Kenya Police Service have over three thousand (3000) parcels of land across the country. However, land documents provided for audit indicated that only around four hundred and sixty-four

(464) title deeds were under the custody of the Deputy Inspector General at Vigilance House and several others at The National Treasury who is the main custodian of public assets. This is an indication that only 20% of the land owned by Service had title deeds while the balance of approximately 80% did not have ownership documents.

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

246. Stations Operating Without Authority to Incur Expenditure (AIE) Allocations

Review of records and physical verification revealed that one hundred and fifty-one (151) gazetted police stations were operating without funding in form of AIE. Instead, the stations were meeting their recurrent expenditures through support from nine (9) mother stations.

The lack of funding may affect the effective and efficient delivery of services to the public.

STATE DEPARTMENT FOR INTERNAL SECURITY AND NATIONAL ADMINISTRATION – VOTE 1026

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

248. Pending Accounts Payables

Annex 1 to the financial statements reflects pending bills amounting to Kshs.1,871,133,025 that were not settled during the year under review but were instead carried forward to 2023/2024 financial year. Failure to settle bills during the year in which they relate distort the budget of the following year as they form a first charge on that budget.

249. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis amounts of Kshs.8,845,935,362 and Kshs.7,524,103,981 respectively resulting in an under-funding of Kshs.1,321,831,381 or 15% of the budget. Similarly, the State Department expended an amount of Kshs.7,520,206,600 against an approved budget of Kshs.8,845,935,362 resulting in an under-expenditure of Kshs.1,325,728,762 or 15% of the budget. The underfunding and under-expenditure affected the planned activities and have impacted negatively on service delivery to the public.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

250. 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

251. 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

252. 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

253. Unutilized Balance in Special Account

Review of the Project's records indicated that an amount of Kshs.128,023 was refunded by the Project management to The National Treasury being the unutilized amount in the Project account. However, review of the special account statement revealed that the transferred amount was not credited to the Project special account.

Further, the special account reflects an amount USD 1,230 equivalent to Kshs.145,007 which was not refunded to the African Development Bank (AFDB) as required by the Bank's disbursement procedures. In addition, the Project had not prepared a project closure report. This is contrary to Paragraph 5.4.11 of the African Development Bank (AFDB) Disbursement Handbook, 2020 which provides that the Borrower must, within four (4) months of the closing date, refund to the Bank, in the currency of the Special Account, any unused/unjustified balance.

In the circumstances, Management was in breach of the financing agreement.

254. Amount Withdrawn But not Claimed

The Project special account statement reflects an amount of USD 3,252 equivalent to Kshs.456,894 under amounts withdrawn and not yet claimed. The amount represents cumulative funds transferred to the project bank account, but whose expenditure returns had not been submitted to The National Treasury. This is contrary to Paragraph 4.15 of the African Development Bank Disbursement (AFDB) Handbook, 2020 which provides that the Bank may require the Borrower to refund disbursed amounts advances to the Special Account that have not been justified within the timelines stipulated in the disbursement letter.

In the circumstances, Management was in breach of financing agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

256. As required by the African Development Bank, I report based on the audit that, the Project's funds have been used in accordance with the conditions of Grant Agreement with due attention to economy, efficiency and effectiveness for the purposes for which they were provided. Further, necessary supporting documents, records and accounts have been kept in respect of all Project activities and adequate internal controls to monitor expenditure and other financial transactions and ensure safe custody of assets exists.

STATE DEPARTMENT FOR DEVOLUTION - VOTE 1032

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

257. Unsupported Prior Year Adjustments

The statement of financial assets and financial liabilities and as disclosed in Note 14 to the financial statements reflects prior year adjustments balance of Kshs.140,763,816. The balance includes adjustment for a balance of Kshs.85,782,292 relating to district suspense that had been outstanding in the books of the State Department for long. However, no supporting documents in the form of returns were provided for audit review to account for the adjustment of the balance.

In the circumstances, the accuracy, validity and completeness of the prior year adjustments balance of Kshs.85,782,292 could not be confirmed.

Emphasis of Matter

258. 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.1,807,594,123 and Kshs.1,635,917,697 respectively resulting to an under-funding of Kshs.171,676,426 or 9% of the approved budget. Similarly, the State Department incurred expenditure amounting to Kshs.1,443,233,046 against an approved budget of Kshs.1,807,594,123 resulting to under expenditure of Kshs.364,361,077 or 20% of the budget.

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

259. Long Outstanding Pending Bills

Notes 17.2 and 17.3 to the financial statements reflect pending bills totalling Kshs.2,845,999,363 comprising of pending accounts payables of Kshs.2,740,999,363 and other pending payables of Kshs.105,000,000 as detailed in Annex 1 and 2 to the financial statements respectively. However, the recomputed amount of pending accounts payable was Kshs.3,560,436,675 which differs with the reported amount of Kshs.2,740,999,362 by an unexplained variance of Kshs.819,437,313. Further, the supporting pending bills committee report reflects ineligible or unverified bills amounting to Kshs.1,469,016,969 as at the 30 June, 2023 for which the criteria for determining whether the bills were eligible, or ineligible, was not provided for audit review.

In addition, out of the pending bills balance of Kshs.2,845,999,362, bills amounting to Kshs.2,825,026,348 relate to a financial year 2021-2022 and prior years. The State Department is at risk of incurring significant interest costs and penalties as they continue delaying the payments. This is contrary to the provisions of Section 42(1) (a) of the Public

Finance Management (National Government) Regulations, 2015, which states that debt service payments shall be a first charge on 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.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

260. Stalled Proposed Africities Convention Centre Project in Kisumu County

As previously reported, the State Department awarded a contract for the construction of the proposed Africities Convention Centre in Kisumu 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 for the third time where the contract period was revised to one hundred and forty one (141) weeks with the new completion date of 8 April, 2024. Physical verification carried out in the month of November, 2022 revealed that the project was only fifty-five (55%) percent complete. Management indicated that works stalled since May, 2022. The contractor has to-date been paid Kshs.250,000,000 leaving a balance of Kshs.640,829,345. However, according to a letter from the Principal Secretary, Devolution to Principal Secretary, The National Treasury dated 18 November, 2022, the contractor had submitted Interim Payment Certificates amounting to Kshs.212,535,291 which were outstanding.

Further, the contractor in their letter Ref: CJIC/KEN/SDD/092 dated 19 October, 2023 to the Works Secretary, State Department for Public Works tabulated a sum of Kshs.1,385,980,479 being claim for loss and expenses due to suspension of works for 502 days from 24 May, 2022 to 18 October, 2023.

In the circumstances, the State Department risks incurring additional costs in form of claims and interest on delayed payments. Further, the regularity and value for money of the expenditure of Kshs.250,000,000 incurred on the project could not be confirmed.

261. Irregular Payment of Salaries for Nairobi Rivers Commissioners

The State Department for Devolution received an Authority to Incur Expenditure (AIE) of Kshs.100,000,000 from the Office of the Deputy President on 31 May, 2023 for the operations of Nairobi Rivers Commission. The State Department paid the Nairobi River Commissioners as full-time employees a total of Kshs.17,761,164 for seven (7) months.

However, the appointment letters and Gazette Notice No.14891 appointing the Commissioners did not specify appointments on full-time basis. Further, the legislative mandate for full-time appointment of the Commissioners was not provided for audit review and its absence renders the salary amount drawn for full-time engagement irregular and recoverable.

In the circumstances, the regularity of the expenditure of Kshs.17,761,164 could not be confirmed and Management was in breach of the Gazette Notice.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

262. Lack of Audit Committee

During the year under review, the State Department did not have an active audit committee. This is contrary to the provisions of Section 7(5) of the Public Finance Management Act, 2012 which requires that every National Government public entity shall establish an audit committee whose composition and functions shall be as prescribed by the Regulations. The Department, therefore, did not benefit from the oversight of an Audit Committee.

In the circumstances, the existence of an effective oversight mechanism to ensure efficient system of internal controls could not be confirmed.

In the circumstances, the internal controls were not effective.

263. Failure to Put in Place Finance Management Standing Committee

The State Department did not have a Public Management Standing Committee during the year under review as required by Regulation 18(1) of the Public Finance Management (National Government) Regulations, 2015. The Public Finance Management Standing Committee provides strategic guidance to the entity on public finance management matters.

In these circumstances, the effectiveness of the system of internal controls related financial management could not be confirmed.

DONOR FUNDED PROJECTS

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

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

265. 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. However, Management has not resolved all 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

266. Unbalanced Budget

The statement of comparison of budget and actual amounts reflects a nil receipts budget and a corresponding expenditure budget and actual amounts of Kshs.46,377,778 and Kshs.19,774,022 respectively. Thus, the budgeted expenditures did not have a corresponding budgeted receipts. This is contrary to Regulation 33(c) of the Public Finance Management (National Government) Regulations, 2015 which provides that budget revenue and expenditure appropriations shall be balanced.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

268. 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 Management of 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 -SIDA NO. 51110060 - COUNCIL OF GOVERNORS

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

270. Unresolved Prior Year Issues

In the audit reports of the previous years, a number of unsatisfactory matters were raised on the Programme. However, the matters have remained unresolved as the Public Accounts Committee has not deliberated on them.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

271. 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

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

STATE DEPARTMENT FOR DEVELOPMENT OF THE ARID AND SEMI-ARID LANDS – VOTE 1035

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

274. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.20,805,079,170 and Kshs.14,490,802,728 respectively resulting to an underfunding of Kshs.6,314,276,442 or 30% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.20,805,079,170 and Kshs.14,214,797,966 respectively resulting to an under-expenditure of Kshs.6,590,281,204 or 32% of the budget.

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

275. Pending Accounts Payable

Note 15.2 to the financial statements reflects pending accounts payable balance of Kshs.931,581,524. Although Management indicated the delay in settling the pending bills was due to delayed exchequer releases and that an amount of Kshs.891,610,723 had been paid by the time of the audit in November, 2023, a balance of Kshs.39,970,802 remained outstanding.

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

My opinion is not modified in respect of these matters.

Other Matter

276. 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. 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.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

277. Unbudgeted Expenditure in Pending Accounts Payables

Note 15.2 to the financial statements reflects pending accounts payables amounting to Kshs.931,581,524 which were incurred during the year under review. Further, review of the statement of comparison of budget and actual amounts revealed an under expenditure of Kshs.276,004,762 thereby resulting to unbudgeted expenditure of Kshs.655,576,762. This is contrary to Regulations 51(2) of the Public Finance Management (National Government) Regulations, 2015 which states that expenditure commitments for goods and services shall be controlled against spending and procurement plans approved by the responsible Accounting Officer, based on allocations and allotments from approved budgets.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

278. Lack of Risk Management Policy

Review of the State Department's internal controls systems 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. This is contrary to Regulation 165 (1) of the Public Finance Management (National Government) Regulations, 2015 which states 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 control that builds robust business operations.

In the circumstances, Management's ability to identify the risks affecting the State Department and develop appropriate internal controls and policies on how to control or mitigate the risks could not be confirmed.

279. Failure by Audit Committee to Meet on Quarterly Basis

Review of records held by the State Department revealed that the Audit Committee in the parent Ministry did not meet during the year under review since no minutes of any of its meetings were provided for audit. This is contrary to Regulation 179(1) of 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 State Department did not benefit from the assurance, advisory and oversight services of the Audit Committee as expected.

DONOR FUNDED PROJECT

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

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

281. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.4,506,017,975 and Kshs.2,761,611,609 respectively resulting to an underfunding of Kshs.1,744,406,366 or 39% of the budget. Similarly, the Project expended Kshs.3,831,485,393 against an approved budget of Kshs.4,506,017,975 resulting to an under-expenditure of Kshs.674,532,582 or 15% of the budget.

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

282. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under Report on Financial Statements, other matter and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the issue remains unresolved, as the relevant Parliamentary committee did not discuss it.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

283. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENT

285. As required by International Development Agency credit Agreement No.6021-KE dated 29 May, 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 Management of the Project and the Project's financial statements agree with the accounting records and returns.

MINISTRY OF DEFENCE - VOTE 1041

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

287. Pending Bills

As disclosed in Note 17.2 and Annex 1 to the financial statements are pending bills totalling Kshs.9,803,533,442 owed to suppliers of goods and services which were not paid in the year under review but were carried forward to 2023/2024 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.

288. Contingent Liabilities

As disclosed in Note 17.7 to the financial statements, the Ministry of Defence had contingent liabilities amounting to Kshs.2,793,356,434. The contingent liabilities related to court cases against the Ministry. Detailed analysis of the balance provided for audit indicated that the total active court cases amounted to Kshs.2,813,708, 910. Out of which an amount of Kshs.20,352,476 was determined and paid during the year leaving an outstanding balance of Kshs.2,793,356,434.

Further, no supporting evidence was provided differentiating between those cases under appeal by the Ministry and other cases that are no longer prosecuted for various reasons and therefore are considered as inactive.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

289. 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

290. Commingling of Agency Funds

The statements of receipts and payments reflects Kshs.1,768,459,500 and Kshs.418,109,799 in respect of transfers from other government entities and reimbursements and refunds respectively. Further, the statement reflects Kshs.2,186,569,299 which as disclosed in Note 8 to the financial statements relates to various projects implemented and supervised on behalf of other Ministries, Departments and Agencies during the year under review. However, the Management of Agency activities was not done through an Independent Special Purpose Vehicle for purpose of strengthening the internal controls.

In the circumstances, due to commingling of funds, there is a risk of inadequate accountability over the funds received from the Ministries, Departments and Agencies.

RECEIVER OF REVENUE STATEMENTS - MINISTRY OF DEFENCE

REPORT ON THE REVENUE STATEMENTS

Unmodified Opinion

291. 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

Conclusion

292. 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

293. 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

294. Undisclosed AIA Collected by the Missions

The statement of receipts and payments reflects receipts totaling Kshs.15,140,530,062 and as disclosed in Note 3 to the financial statements. The receipts balance include an amount of Kshs.159,334,329 in respect of miscellaneous receipts collected at Headquarters' and Missions. However, review of the expenditure returns by the Missions provided for audit revealed that Appropriations-In-Aid (AIA) collected by the Missions totaled Kshs.178,676,777 while the Ministry recognized Kshs.159,334,329 resulting into undisclosed AIA of Kshs.19,342,448.

In the circumstances, the accuracy and completeness of the receipts of Kshs.15,140,530,062 could not be confirmed.

Emphasis of Matter

295. Foreign Currency Exchange Losses

The statement of receipts and payment reflects other payments of Kshs.761,597,333 and as disclosed in Note 10 to the financial statements. A review of Ministry financial statements revealed that the Missions incurred Kshs.761,597,333 on foreign exchange losses due to differences between the official exchange rate and the Central Bank rate and transactions made in the host country currencies. This negatively affected the liquidity of the Missions resulting to non-implementation of planned activities.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

296. Salary Overpayment

Review of the Ministry's human resource records revealed that an Officer was appointed as Kenya's High Commissioner to the Republic of Malaysia with effect from 15 August, 2018 and was to enter at the maximum salary of Kshs.320,000 per month. The Public Service Commission vide letter Ref PSC/152/1/ (1) dated 18 September, 2019 advised the Ministry that since the Officer served at a higher position, he should earn Kshs.344,286 per month.

However, the Officer was erroneously paid a gross salary of Kshs.659,286 per month for the period between 12 February, 2019 to 30 June, 2020 and Kshs.661,676 per month for the period 01 July, 2020 to 31 August, 2021 instead of Kshs.344,286 resulting in

overpayment of Kshs.6,779,624. The error was rectified and recovery of the overpayment at a monthly rate of Kshs.100,000 was initiated with effect from 01 June, 2022 implying that the recovery would take approximately 68 months or 5.6 years. As at the time of the audit in November 2023, the balance of the overpayment outstanding was Kshs.5,079,624. Further, review of the Officer's personal file revealed that the Officer was required to report back to the Country on or before 05 December, 2023.

In the circumstances, the Ministry may not be able to recover the outstanding amount by the end of the Officer's contract.

297. Delayed Disbursements to Missions Abroad

During the year under review, the Ministry disbursed to Missions abroad a total of Kshs.12,257,183,258 which were done on a quarterly basis. However, review of records provided for audit indicated that the disbursements were effected on the last week of the respective quarters. This resulting in delayed payments of foreign service allowance to the staff, payment of office expenses and delay in procurement processes.

In the circumstances, the delayed disbursement impacted negatively on the staff morale and service delivery to the public.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

STATE DEPARTMENT FOR FOREIGN AFFAIRS – VOTE 1053

REPORT ON THE FINANCIAL STATEMENTS

Basis of Qualified Opinion

299. Cash and Cash Equivalents Balance

The statement of financial assets and financial liabilities reflects cash and cash equivalents balance of Kshs.2,722,650,553 comprising of bank balance of Kshs.2,721,052,223 and cash balance of Kshs.1,598,330. Review of bank records revealed the following anomalies.

- i. The bank balance, as disclosed in Note 10A to the financial statements includes amounts of Kshs.276,937,295 and Kshs.1,885,098,283 all totalling Kshs.2,162,035,578 in respect to Kenya Missions abroad-recurrent and development balances respectively. As previously reported, the Department's bank reconciliation statements reflected long outstanding and unreconciled balances totalling Kshs.1,026,556,732 with some dating back to 1994.
- ii. The bank balance relating to Kenya Missions abroad includes bank balance for Kenya Mission in Brussels which further includes long outstanding and unreconciled balance totalling Kshs.2,234,890.
- iii. The bank balance relating to Kenya Missions abroad includes balance of New York Agency deposit of USD 5,380,199 equivalent to Kshs.677,905,074 comprising of deposits for various agencies. However, the actual cash books for the various agencies reflected an amount of USD 5,301,551, resulting in unreconciled variance of USD 78,648. Further, the Mission's miscellaneous deposit cash book was not provided for audit.
- iv. The bank balance relating to Kenya Missions abroad includes balance of Kenya Mission in Los Angeles of USD 2,327 equivalent to Kshs.293,222 which further include an amount of USD 229 equivalent to Kshs.28,863 being miscellaneous deposit for the State Department for Diaspora Affairs which was erroneously reported under the State Department for Foreign Affairs. Further, the bank reconciliation statement for the month of June, 2023 reflected an amount of USD 116,623 equivalent to Kshs.4,694,514 being receipts in cash book not in bank statement. However, the amount could not be traced to the cash book provided for audit.
- v. The bank balance relating to Kenya Missions abroad includes balance for Kenya High Commission in Kampala. Review of records revealed that the Commission maintained two deposits accounts for USD foreign currency and UGX local currency. The bank reconciliation statements for June, 2023 reflected balances of USD 107,607 and UGX 38,501,167 in the two accounts. However, the recasting performed on the statements' balances resulted to a total of USD 75,768 and UGX 11,700,145 respectively. The resultant variances of USD 31,839 and

UGX 26,801,022 respectively have not been reconciled. Further, the cash books for the two accounts were not provided for audit.

- vi. The bank balance relating to Kenya Missions abroad includes balance for Kenya High Commission in Mogadishu of USD 26,932 comprising of USD 20,457, USD 1,306, USD 3,390 and USD 1,779 in respect of deposit account, development account, Foreign Relations Officer agency account and State Department's recurrent account respectively. However, the deposit balance of USD 20,457 and Foreign Relations Officer balance of USD 3,390 was recognized as cash and cash equivalents resulting in an overstatement of cash and cash equivalents by USD 23,847 (Kshs.3,004,722).

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.2,722,650,553 could not be confirmed.

Emphasis of Matter

300. Unutilized Development Funds

The statement of financial assets and financial liabilities reflects bank balance of Kshs.2,721,052,223 as disclosed in Note 10A to the financial statements. Included in the balance, is an amount of Kshs.1,885,098,283 in respect of development cash book balance for Kenya Missions abroad. The balance has been built up over the years as a result of failure to surrender the unutilized development funds at the end of the financial year. Management did not explain how the amount would be utilized without factoring the same in the budget process.

301. Unbudgeted Exchange Losses

The statement of receipts and payments reflects other payments of Kshs.353,010,380 as disclosed in Note 9 to the financial statements. The amount was in respect of foreign exchange losses due to differences between the official exchange rate and the Central Bank rate and transactions made in the host country's currencies. The exchange losses negatively affected the liquidity of the Missions resulting in pending bills amounting to Kshs.332,062,297 in the Missions.

302. Pending Accounts Payable

Note 18.2 to the financial statements reflects pending accounts payables balance of Kshs.1,688,976,030. The balance relates to bills that were not paid during the period under review but were instead carried forward to the financial year 2023/2024.

Failure to settle bills during the year to which they relate adversely affects implementation of the subsequent year's budgeted programs as the outstanding bills form a first charge to that year's budget provision.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis of Conclusion

303. Management of Government Owned Properties in the Missions

303.1 Chancery Building and High Commissioner's Residence in Islamabad

The State Department entered into a contract for the proposed construction of Chancery Building and High Commissioner's residence at a revised contract price of PKRs 440,640,240 approximately Kshs.418,865,923 in 2008. The contractor abandoned the site in 2014 after payment of PKRs 437,524,929 approximately Kshs.415,904,556 had been paid. The Department terminated the contract and entered into another contract for completion of pending works at a revised price of PKRs 108,269,034. The final payment was made in June, 2020. At the time of audit in August, 2023, the Chancery and High Commissioner's residence were in poor condition due to the following defects; inadequate drainage, incomplete works on lifts, cracked walls and poor workmanship. Further, the contractors did not attend to the items in the snags list. The State Department was in the process of procuring another contractor for remedial works in the Chancery and the High Commissioner's residence which had not been concluded as at the November, 2023.

In the circumstances, it was not possible to confirm whether the public obtained value for money of Kshs.415,904,556 already spent on the contracts.

303.2 Lack of Ownership Documents for Kinshasa Chancery

The Government of the Republic of Kenya has four (4) plots in Kinshasa. However, one of the plots which hosts the Chancery did not have ownership documents. Efforts by the Mission to obtain the ownership documents from the lands office in Kinshasa were not successful since the Office insisted on documents to prove the ownership before the allotment letter and title deed could be processed.

In the circumstances, the ownership of the Department's land in Kinshasa could not be confirmed.

303.3 Delayed Purchase of Chancery for Kenya Mission in London

The lease for the Chancery for Kenya Mission in London expired on 10 October, 2021, and subsequently the Department transferred an amount of Kshs.1,669,999,550 in the financial year 2021/2022 and 2022/2023 for the purchase of chancery building. However, the process of acquisition had been halted. At the time of the audit in August, 2023, the Mission was leasing the Chancery at GBP 350,000 (Kshs.53,550,000) per annum which was expected to rise to market price of GBP 568,250 (Kshs.86,942,250) starting August, 2023, representing an increase of 62% rise.

In the circumstances, the delay in purchase of the Chancery building may lead to increased cost of lease rental

303.4 Renovation Works of High Commissioner and Deputy High CommissionerResidence in London

During the year under review the Management undertook minor renovations of the High Commissioner's residence in London. On completion of the works, the inspection team, vide minutes dated 24 January, 2023 recommended and approved additional works in order to make the house habitable. On 24 April, 2023 a contract was signed for the renovation of the Deputy High Commissioner's residence. Site visit carried out in August, 2023 revealed that additional works had commenced despite non-existence of a contract and Bills of Quantities for the same. The Management indicated that the additional works for the renovation of the High Commissioner's residence was being undertaken from savings made from the renovation of Deputy High Commissioner's residence. However, the Management did not provide evidence of the amount saved and how it was realized. As a result, it was not possible to determine the cost of renovation of each house.

In addition, the Mission continued to pay rent for leased house for the High Commissioner since October, 2022 when the renovations commenced at a monthly rate of GBP13,250 (Kshs.2,027,250). Similarly, the Deputy High Commissioner ended his tour of duty on 30 August, 2023 having stayed in a leased house at quarterly rent of GBP 11,400 (Kshs.1,744,200).

In the circumstances, the State Department has continued to incur rental expenses which could have been avoided had the houses been renovated in a timely manner.

303.5 Non-Utilization of Ambassador's Residence in Kenyan Mission in Pretoria

The Department entered into a contract with a contractor on 1 July, 2015 for the proposed construction of the Ambassador's residence and staff houses for Kenya High Commission in Pretoria at a cost of ZAR 102,000,000 (Kshs.765,000,000). Audit inspection carried out in August, 2023 revealed that the Ambassador's residence which had been completed remained vacant since it had not been furnished.

In the circumstances, the Department continued to incur unnecessary rental expenses for the Deputy Head of Mission.

304. Delayed Disbursements to Missions

During the year under review, the State Department disbursed to Missions abroad a total of Kshs.12,257,183,258 on a quarterly basis. However, review of records provided for audit indicated that the disbursements were made on the last week of the respective quarters. This resulted to delays in payment of foreign service allowance and salaries to home based and local staff respectively. Further, the Missions delayed in payments of office expenses and procurement process

In the circumstances, the delayed disbursement negatively affected the staff morale and low supplier's confidence to the Missions.

305. Lack of Procurement Guidelines for Missions

Review of the procurement processes and sampled procurements for twelve (12) Kenya Missions carried out in August, 2023 revealed the Missions did not have a list of registered

suppliers and lacked standardized procurement documents. Further, the Missions did not adhere to Regulation 91 of the Public Procurement and Asset Disposal Regulations, 2020 on request for quotations. Management explained that the use of standard tender and prequalification's documents in the host countries was challenging due to the different and unique legal, regulatory, and business environments that impede the application of Kenya's legal and regulatory procedures in procurement of goods, works and services. The Missions therefore lacked guidelines to effectively undertake procurements in the host countries.

In the circumstances, the lack of Missions specific guidelines may have affected the efficiency of procurement processes hence impacting negatively on service delivery by the Missions.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

STATE DEPARTMENT FOR DIASPORA AFFAIRS – VOTE 1054

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

308. Pending Bills

Note 10.2 to the financial statements reflects analysis of pending accounts payable of Kshs.82,276,638. The balance relates to pending bills that were not paid during the year under review but were instead carried forward to the financial year 2023/2024.

Failure to settle bills during the year to which they relate adversely affects the implementation of the subsequent year's budgeted programs as the outstanding bills form a first charge to that year's budget provision.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

309. 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

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

STATE DEPARTMENT FOR TECHNICAL, VOCATIONAL EDUCATION AND TRAINING – VOTE 1064

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

311. Unconfirmed Accounts Payables - Deposits Balance

The statement of financial assets and financial liabilities and Note 12 to the financial statements reflects accounts payables-deposits balance of Kshs.58,035,403. However, the statement of deposits maintained separately, reflects a balance of Kshs.71,336,419, resulting to an unreconciled variance of Kshs.13,301,016.

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

312. Unreconciled Transfers from the Exchequer

The statement of receipts and payments reflects transfers from the exchequer of Kshs.14,084,868,436. However, review of Integrated Financial Management Information System (IFMIS) data revealed exchequer receipts of Kshs.14,776,973,532, resulting in a variance of Kshs.692,105,096 which has not been explained nor reconciled.

In the circumstances, the accuracy and completeness of the transfers from the exchequer of Kshs.14,084,868,436 could not be confirmed.

313. Unconfirmed Transfers to Other Government Units

The statement of receipts and payments reflects transfers to other Government units of Kshs.12,486,008,764 and as disclosed in Note 7 to the financial statements. However, the following unsatisfactory matters were noted.

313.1 Transfers to Colleges and Institutes

Included in the amount of Kshs.12,486,008,764 is transfers to two hundred and forty-five (245) colleges and institutes amounting to Kshs.5,029,545,850. The amount further includes transfers to one hundred and eighty-two (182) institutions totalling Kshs.3,075,933,285 for which inconsistencies were noted. Out of the amount transferred of Kshs.1,363,140,000 indicated as disbursed to thirty-nine (39) colleges and institutes, only Kshs.1,166,624,873 was recorded in the financial statements of the receiving institutions resulting to a variance of Kshs.196,515,127 which has not been reconciled nor explained.

Further, included in the disbursements amount is Kshs.582,716,454 disbursed to other forty-six (46) colleges and institutes which acknowledged receipt of Kshs.929,377,108, resulting to unrecorded disbursements of Kshs.346,660,654.

In addition, the disbursements include transfers to eighty-seven (87) technical and vocational colleges amounting to Kshs.492,626,314 which did not provide expenditure

returns to the state department despite not being self-reporting. It was therefore not possible to confirm if the funds were received and used for the intended purpose.

Further, the disbursements amount also includes a total of Kshs.637,450,517 transferred to ten (10) technical and training institutes which did not confirm receipt of the funds.

313.2 Transfers to Principal Secretary of the State Department

Included in the transfers to other Government units amount of Kshs.12,486,008,764 is Kshs.188,774,600 indicated as a transfer to the Permanent Secretary of the State Department and whose support documents to confirm utilization were not provided for audit review.

In the circumstances, the accuracy and completeness of transfers to other Government units of Kshs.12,486,008,764 could not be confirmed.

314. Unsupported Compensation of Employees

The statement of receipts and payments reflects compensation of employees of Kshs.6,948,487,735 and as disclosed in Note 5 to the financial statements. However, payment vouchers presented for audit in support of the expenditure amounted to Kshs.6,940,977,437, resulting to an unsupported expenditure of Kshs.7,510,298.

In the circumstances, the regularity and accuracy of compensation of employees expenditure of Kshs.7,510,298 could not be confirmed.

315. Undisclosed Pending Bills

The State Department has not disclosed the pending bills balance as at 30 June, 2023 as prescribed in the International Public Sector Accounting Standards (Cash Basis) reporting framework.

In the circumstances, the pending bills amount could not be established and the financial statements presented for audit were not in accordance with the financial reporting template issued by the Public Sector Accounting Standards Board.

Emphasis of Matter

316. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.24,416,147,385 and Kshs.20,768,764,162 respectively, resulting to an under-funding of Kshs.3,647,383,223 (or 15%) of the budget. Similarly, the State Department spent Kshs.20,754,823,411 against an approved budget of Kshs.24,416,147,385, resulting to an under-absorption of Kshs.3,661,323,974 (or 15%) of the budget.

The underfunding and under-absorption 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

317. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management did not resolve the issues or give any explanation for failure to adhere to the provisions of the standards prescribed by the Public Sector Accounting Standards Board.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

318. Non-Compliance with Record Keeping Requirements

Management did not provide a copy of the report on non-financial performance for the year under review, contrary to Regulation 136(3) of the Public Finance Management (National Government) Regulations, 2015 which provides that an Accounting Officer shall put in place efficient and effective systems to monitor and report on non-financial performance for his or her national government entity's individual programmes and projects based on the prescribed format under paragraphs (1) and (2) and submit a report to the Cabinet Secretary responsible for planning with a copy to the Auditor-General;

Further, the State Department did not maintain a register of all AIE Holders designated under the Public Finance Management Act, 2012, contrary to the requirement of Regulation 25(4) of the Public Finance Management (National Government) Regulations, 2015 which provides that an Accounting Officer shall maintain a register of all AIE Holders designated under the Act;

In the circumstances, Management was in breach of law.

319. Non-Adherence to One Third (1/3) Basic Salary Rule

Review of payroll records for the month of June, 2023, revealed that two hundred and fifteen (215) employees received less than one-third 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.

320. Failure to Report on Procurement Activities

The State Department carried out several procurement activities during the year under review. However, no evidence was provided to confirm compliance with the mandatory

reporting requirements to the Public Procurement and Regulatory Authority as indicated below; -

- i. All signed contracts awarded through all procurement methods under Section 138(2) of the Public Procurement and Asset Disposal Act, 2015 and Regulation 131(1)(b) of the Public Procurement and Asset Disposal Regulations, 2020 which provide that an Accounting Officer of a procuring entity shall report all contract awards to the Authority as prescribed;
- ii. Termination of contracts under Regulation 141(6) of the Public Procurement and Asset Disposal Regulations, 2020 which provides that all terminated contracts shall be reported to the Authority on a quarterly basis;
- iii. Report on all contract awards where preference and reservation schemes are applied under Section 158(3) of the Public Procurement and Asset Disposal Act, 2015 which provides that all procurement awards by procuring entities where a preference or reservation scheme was applied shall be reported with disaggregated data to the Authority on a quarterly basis;
- iv. Six months report on preferences and reservations of contracts awarded to youth, women and persons with disability;
- v. Part of the annual procurement plan demonstrating application of the preference and reservation schemes under Sections 44(2)(1) and 158(2) of the Public Procurement and Asset Disposal Act, 2015 which provide that the procuring entity shall submit to the Authority the part in its procurement plan demonstrating application of preference and reservation schemes in relation to procurement budget within sixty days after commencement of the financial year;
- vi. Report on contract amendment/variation under Section 139(5) of the Public Procurement and Asset Disposal Act, 2015 which provides that an Accounting Officer of a procuring entity shall submit a quarterly report of their varied or amended procurement contracts to the Authority;
- vii. Report on seeking approval for use of alternative selection method for consultancy services;
- viii. Monthly progress reports of all procurement contracts prepared by the head of procurement function and submitted to the Accounting Officer for the year under audit were not provided for audit review. This was contrary Section 152 of the Public Procurement and Asset Disposal Act, 2015 which provides that the head of the procurement function shall prepare monthly progress reports of all procurement contracts of the procuring entity and submit them to the Accounting Officer;
- ix. Summaries of procurement proceedings as required by Section 68(2) of the Public Procurement and Asset Disposal Act, 2015 and the Seventh Schedule were not prepared as further guided by Regulation 66(1) of the Public Procurement and Asset Disposal Regulations, 2020 which provides that the records for procurement submitted as a summary of the proceedings of opening of tenders, evaluation and

- comparison of tenders, proposals or quotations including evaluation criteria envisaged in Section 68 of the Act, shall be in the form specified in the Seventh Schedule;
- x. The State Department did not maintain specimen signatures of all persons authorised to make approvals within the procurement process, contrary to Section 69(5) of the Public Procurement and Asset Disposal Act, 2015 which provides that an Accounting Officer of a procuring entity shall maintain specimen signatures of all persons authorised to make approvals within the procurement process; and
 - xi. Quarterly reports on the implementation of the annual procurement plan for the year were not prepared contrary to Regulation 40(6) of the Public Procurement and Asset Disposal Regulations, 2020 which requires an Accounting Officer to prepare quarterly reports on the implementation of the annual procurement plan.

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

321. Long Outstanding Unresolved Contract Variations

The State Department initiated the establishment of sixty (60) new technical and vocational colleges (TVCs) in 2014. However, review of records revealed that more than fifty (50) TVCs had raised contract variations amounting to Kshs.488,200,016. All the contracts were incomplete as at the time of audit in the month of November, 2023. Further, in 2016 the State Department awarded contracts for the construction of seventy (70) new technical training institutes across the country at a total contract sum of Kshs.3,821,946,495 for a period of one year. However, the status reports of these projects showing contract description; contract number; value of contract; commencement date; current status; the amount of money paid; and the expected completion date have not been provided for review. Further, supporting documentation such as certificates, payment vouchers and contracts were not provided for audit.

In the circumstances, Management was in breach of the law and value for money may not have been achieved on implementation of the TVCs.

322. Irregularities in Implementation of Mentorship Programme and Construction of New Technical and Vocational Colleges

The State Department initiated a project for the construction of thirty (30) new technical and vocational colleges (TVC's) across the country in order to enhance technical training capacity where a number of existing institutions were appointed to mentor the new colleges. Review of the financial and contractual records as well as physical verification of the projects revealed the following unsatisfactory matters:

322.1 Construction of Ngeria Technical and Vocational College

Records examined at Rift Valley Technical Training Institute (RVTTI) indicate that, a contract was signed on 19 May, 2021 between RVTTI and a construction company for the construction of the proposed Ngeria Technical and Vocational College. The project contract sum was Kshs.46,992,333 for a contract period of fifty-two (52) weeks ending on 19 May, 2022. Physical verification of the Project in November, 2023, revealed that the Project was still incomplete at 84% and the contractor was not on site. The contractor had

been paid Kshs.39,571,911 with an outstanding balance of Kshs.7,420,424 with a revised expected completion date of 31 December, 2023. However, there was no performance bond executed for the extended period. Management of Rift Valley Technical Training Institute explained that the delay in completion was caused by delay in exchequer funding.

322.2 Construction of Mt. Elgon Technical and Vocational College

Review of records at Kisiwa Technical Training Institute indicate that, a contract was signed on 22 March, 2019 between Kisiwa Technical Training Institute and a construction company for construction of the proposed Mt. Elgon Technical and Vocational College. The Project contract sum was Kshs.59,062,878 with a tenure of fifty-two (52) weeks ending on 21 March, 2020. Physical verification of the Project in November, 2023, revealed that the project was incomplete at 92% and the contractor was not on site. At the time of audit in the same month, the contractor had been paid Kshs.57,039,820. Further, on 29 January, 2023, the contractor was granted extension of time for completion to 31 December, 2023. However, no performance bond for the extended period was provided for audit. Management did not provide reasonable justification for the delay in the completion of the Institute.

322.3 Construction of Saku Technical and Vocational College

The State Department, through Meru National Polytechnic, entered into a contract on 16 December, 2015 for the construction and completion of Saku Technical and Vocational College at an initial estimated cost of Kshs.44,672,693. The expected start date was 16 December, 2015 and end date of 15 December, 2016 with no provisions for extensions. As at the time of audit in November, 2023, the contractor had been paid a total of Kshs.53,974,950 which exceeds the contract sum by Kshs.9,302,257 or 20%. However, review of records revealed the following irregularities; -

- i. The contract variation of Kshs.9,302,257 was not supported by a request and approval of the Accounting Officer in accordance with Regulation 132(2) of the Public Procurement and Asset Disposal Regulations, 2020 which provides that any variation request shall be reviewed by an evaluation committee for other contracts (non-specialized), before they are submitted through the head of a procurement function to the Accounting Officer for approval.
- ii. The contract period had lapsed but the construction work was still incomplete with electrical wiring, water reticulation and tiling work still pending. There was no approval by the Accounting Officer for the extension of the contract, contrary to the provisions of Section 139(2)(a) of the Public Procurement and Asset Disposal Act, 2015.
- iii. The title deed or proof of ownership of the land on which Saku TVC was being constructed was not provided for audit.

322.4 Collapse of Chepareria Technical Training Institute

The contract for the construction of Chepareria Technical Training Institute was awarded at a contract sum of Kshs.48,743,504. However, the building collapsed while under construction after more than Kshs.26,700,000 had been disbursed to the institution and

paid to the contractor. The collapse was attributed to poor workmanship by the contractor who seemed not to have been familiar with the site and who was demanding a new site and revised bills of quantities among other conditions in order to redo the work. The State Department has not taken any action against the contractor since the collapse of the building five (5) years ago. Further, the contract, payment vouchers and the status report of the project have not been provided for audit review.

In the circumstances, value for money amounting to Kshs.177,286,681 paid to various contractors for the four projects may not be achieved.

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

Basis for Conclusion

323. Weak Controls on Voided Transactions

Analysis of the IFMIS payments revealed that thirty-five (35) transactions valued at Kshs.1,563,635,424 were voided during the year 2022/2023. Available information also indicates that the Controller of Budget approved payment of these voided transactions. Management did not provide explanations for voiding the payments.

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

DONOR FUNDED PROJECTS

KENYA ITALY DEBT FOR DEVELOPMENT PROGRAM

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

324. Unconfirmed Bank Balance

The statement of financial assets reflects nil bank balance. However, review of documents revealed that an amount of Kshs.1,361,673 was transferred to The National Treasury. However, no acknowledgement from The National Treasury was provided for audit review.

In the circumstances, the accuracy and completeness of the nil bank balance could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Conclusion

325. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

327. 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 Management of the Program, and the Program's financial statements are in agreement with the accounting records and returns.

SUPPORT TO THE STATE DEPARTMENT FOR TECHNICAL, VOCATIONAL EDUCATION AND TRAINING FOR RELEVANT SKILLS DEVELOPMENT PROJECT – TVET PROJECT PHASE II (ADF LOAN NO.2100150033295)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

329. 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.759,500,000 and Kshs.657,876,570 respectively, resulting to an underfunding of Kshs.101,623,430 or 13% of the budget. Similarly, the Project spent an amount of Kshs.657,876,570 against an approved budget of Kshs.759,500,000, resulting to an under-expenditure of Kshs.101,623,430 or 13% 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 THE USE OF PUBLIC RESOURCES

Conclusion

330. 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

331. Failure to Issue Notifications and Raise Receipt Vouchers

The statement of receipts and payments reflects transfers from Government entities amount of Kshs.44,907,155 as disclosed in Note 1 to the financial statements. However, the amount was not supported with notifications from The National Treasury indicating the amount disbursed for the project nor itemized exchequer issuance notifications indicating funds for the project. Further, review of records provided for audit revealed that all monies were channeled through the development bank account of the State Department without the details. In addition, the Management did not raise receipt vouchers to confirm actual receipt of funds.

In the circumstances, the effectiveness of internal controls on notifications of exchequer issuance and raising of receipt vouchers could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

332. 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 Management of 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 (EASTRIP) IDA LOAN CREDIT NO.6334-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

334. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final budget and actual receipts on comparable basis of Kshs.1,050,000,000 and Kshs.586,213,255 respectively, resulting to an underfunding of Kshs.463,786,745 or 44% of the budget. Similarly, the Project expended Kshs.569,536,966 against an approved budget of Kshs.1,050,000,000 resulting to an under-expenditure of Kshs.480,463,034 or 46% 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

Conclusion

335. 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

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

337. 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 Management of 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 (PHASE I) REFERENCE: LOAN NO. BMZ 2016 67, 211 & BMZ NO. 2016 65 298 AND PROJECT GRANT REFERENCE: NO. 1930 05 527

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

339. 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.936,975,000 and Kshs.268,560,780 respectively resulting to an under-funding of Kshs.668,414,220 or 71% of the budget. Similarly, the Project expended Kshs.268,560,780 against an approved budget of

Kshs.936,975,000 resulting to an under-expenditure of Kshs.668,414,220 or 71% of the budget.

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

340. Unresolved Prior Year Matters

In the audit report for the previous year, several paragraphs were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not resolved the issues of the prior year matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

341. Failure to Raise Receipt Vouchers for Project Revenue

The statement of receipts and payments reflects an amount of Kshs.52,684,632 in respect of proceeds from domestic and foreign grants as disclosed in Note 2 to the financial statements. However, the Project Management did not issue an official receipt for these grants. The receipts were in respect to direct payments to different suppliers for professional consultancy services which were not supported by the respective bank statements. In addition, the amount was not supported by a receipt voucher or disbursement schedule from the donor.

In the circumstances, the regularity of the proceeds from domestic and foreign grants of Kshs.52,684,632 could not be confirmed.

342. Failure to Open and Maintain a Separate Bank Account

The statement of receipts and payments reflects receipts from Government of Kenya amount of Kshs.8,596,073 as disclosed in Note 1 to the financial statements. However, the Project Management did not maintain a 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 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. Further, the receipts were not supported with respective itemized exchequer issue notifications and receipt vouchers to confirm the receipt of funds. In addition, tracing expenditures from the State Department's cash book pertaining to the Project for the period under review was difficult.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT OF OTHER LEGAL AND REGULATORY REQUIREMENTS

344. As required by the Kreditanstalt fur Wiederaufbau (KfW), I report based on the audit, thatl 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 Management of 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 (PHASE II) LOAN NO. BMZ 2018 65 120

REPORT ON FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

346. Unresolved Prior Year Matters

In the audit report for the previous year, an issue was raised in the report on Lawfulness and Effectiveness in Use of Public Resources. However, Management has not resolved the matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

347. Unapproved Over Expenditure

The statement of comparison of budget and actual amounts reflects an expenditure budget of Kshs.7,400,000 and actual on a comparable basis of Kshs.8,430,595, resulting to an over expenditure of Kshs.1,030,595. However, no authorization was sought from The National Treasury for this overspending.

In the circumstances, the regularity of the excess expenditure of Kshs.1,030,595 could not be confirmed.

348. Overutilization of the Project's GoK Component

The statement of receipts and payments reflects cumulative to date receipts from Government of Kenya amount of Kshs.22,990,369 as disclosed in Note 1 to the financial statements. The Project expensed an amount of Kshs.22,990,369 over the past thirty (30) months against the counterpart funding of Kshs.23,000,000, leaving a balance of Kshs.9,631 for the remaining eighteen (18) months. It is not clear why the Management exhausted the Government counterpart funds yet the Project has not commenced and how the Project will fund the activities in the upcoming months is not clear. Further, the Management did not provide a work plan for the year under audit.

In the circumstances, the adequacy of the Government counterpart funding for the remaining eighteen (18) months could not be confirmed.

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

The statement of receipts and payments reflects receipts from Government of Kenya amount of Kshs.8,430,595 as disclosed in Note 1 to the financial statements. However, 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 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. Further, the receipts were not supported with respective itemized exchequer issue notifications and receipt vouchers to confirm the receipt of funds.

In the circumstances, value for money may not be realized in the implementation of the Project.

350. Slow Pace of Project Take off and Low Absorption of Funds

The KfW project commenced operation on 30 December, 2020 with funding of Kshs.1,380,000,000 for a period of four (4) years. However, as at the closure of the financial year 2022/2023, the project had not taken off and no amount had been drawn or spent. No explanation was provided for the failure to commence the Project as planned.

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

351. Non-Preparation of Progress Reporting to KfW Bank

During the year under review, it was observed that the Project Management did not prepare quarterly reports on the progress of the Project as stipulated in the loan

agreement nor stated any circumstances that are jeopardizing the achievement of the overall objective given that the project is behind the scheduled completion time.

In the circumstances, the Management was in breach of the loan agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

352. Non-Establishment of a Steering Committee

Review of the Project's governance structure revealed that the Executing Agency had not provided evidence that it had established a Steering Committee in accordance with Section 4 (1.1) of the loan agreement. Further, no evidence was provided to show that quarterly meetings were held by the Steering Committee for the fiscal year 2022/2023. In the absence of the Committee, the benefits of internal oversight, strategic guidance of the project and prompt advice and guidance for continued improvement of the Project was not achieved resulting to delays in implementation.

In the circumstances, the effectiveness of internal oversight and strategic guidance of the Project could not be confirmed.

REPORT OF OTHER LEGAL AND REGULATORY REQUIREMENTS

353. As required by the Kreditanstalt fur Wiederaufbau (KfW), 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 Management of the Project, and the 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

Basis for Qualified Opinion

354. Unconfirmed Receipts and Failure to Raise Receipt Vouchers

The statement of receipts and payments reflects transfers from Government entities amounting to Kshs.48,830,710. However, it was not possible to confirm these receipts for notification from The National Treasury indicating the amount disbursed for the project and itemized Exchequer issuance notification indicating the specific monies for the project

was not provided for audit review. The records indicated that the funds were channeled through development bank account of the State Department without details. Further, the project management did not raise receipt vouchers to confirm the actual receipts of funds. In the circumstances, the accuracy and completeness of transfer from Government entities amount of Kshs.48,830,710 could not be confirmed.

Emphasis of Matter

355. 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.848,000,000 and Kshs.120,421,564 respectively, resulting in an underfunding of Kshs.727,578,436 or 86% of the budget. Similarly, the Project spent Kshs.120,421,564 against an approved budget of Kshs.848,000,000, resulting in an underexpenditure of Kshs.727,578,436 or 86% 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

356. Unsupported Consultancy Services

The State Department for Technical, Vocational Education and Training invited request for proposals for tender NCB/MOE-VTT/TVET Phase III/2/2021 for consultancy services for the development of designs, master plans and tender documents. The consultancy also included supervision of construction works of additional department blocks in eleven (11) technical vocational colleges and a publishing and printing complex for curriculum and training materials.

Review of the tendering process revealed that the performance bond lapsed on 09 August, 2023 but there was no evidence of its renewal. In addition, the contract was signed on 17 August, 2022 which was nine (9) days after notifications were sent to the bidders on 08 August, 2022 and before lapse of fourteen (14) days. This is contrary to Section 68(2) of the Public Procurement and Asset Disposal Act, 2015. This section provides that 'the written contract shall be entered into within the period specified in the notification but not before fourteen (14) days have elapsed following the giving of that notification provided that a contract shall be signed within the tender validity period'.

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

REPORT ON THE 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 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 Management of 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 TECHNICAL, VOCATIONAL EDUCATION AND 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

359. Unreconciled Donor Funds

Note 2.7A on funding summary reflects source of funds from World Bank - IDA of EUR 3,949,175 equivalent to Kshs.454,444,631. However, records from the State department for Vocational Training reflects budgeted project estimates amounting to EUR 5,810,300 equivalent to Kshs.766,228,504, resulting to a variance of EUR 1,861,125 equivalent to Kshs.311,783,873. No supporting evidence or explanation was provided for failure of the State Department to disburse the funds to the project.

Further, Note 2.7B on funding summary reflects application of funds totalling to EUR 3,949,175 equivalent to Kshs.454,444,631 while the State department for Vocational Training reflects expenditure of EUR 3,790,311 equivalent to Kshs.437,764,017 resulting to unreconciled difference of EUR 158,864 equivalent to Kshs.16,680,614.

In the circumstances, the accuracy and completeness of IDA receipts of Kshs.454,444,631 could not be confirmed.

360. Undisclosed Pending Bills

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects Kshs.73,827,160 in respect to purchase of goods and services. Included in this amount is Kshs.782,072 in respect to printing, advertising and information supplies and services which relates to expenditures incurred during 2021/2022 financial year. However, review of documents revealed that the expenditure had not been disclosed as pending bills in the financial statements for the year ended 30 June, 2022.

In the circumstances, completeness and accuracy of the purchase of goods and services amount of Kshs.73,827,160 could not be confirmed.

Emphasis of Matter

361. Slow Absorption of Project Funds

As disclosed under Paragraph 2.2 on the Project information and overall performance, the Project will close in December, 2024. However, the Projects' funding summary indicates that out of Donor commitment amount of EUR 9,280,000 equivalent to Kshs.1,242,791,640, actual drawdowns as at 30 June, 2023 amounted to EUR 3,949,175 equivalent to Kshs.454,444,631 leaving an undrawn balance of EUR 6,850,825 amounting to Kshs.788,347,010.

Further, considering the credit lapse period, the Project's planned deliverables may not be realized.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

362. Irregularities in Construction of the Building Technology Flagship Center (EASTRIP Project)

The construction of the Building Technology Flagship Center (EASTRIP Project) at the Meru Polytechnic was awarded on 08 October, 2021 at a contract sum of Kshs.444,473,290 and a project duration of eighteen (18) months. The initial project completion date was in May 2023 which was later extended by a period of three (3) months to August, 2023. However, the contractor had stopped works on various days during the contract period for a total of one hundred seven days (107) days without justification. Physical verification of the Project in August, 2023, revealed that the contractor had abandoned the site and there was no evidence of physical progress despite the project being approximately 50% complete against time lapse of over 100%. In addition, the contractor was paid an advance payment of Kshs.56,689,678 against a bank guarantee for advance payment which lapsed on 28 January, 2023 no evidence of renewal was provided for audit review. This exposes the Polytechnic to the risk of loss of money in case of non-performance by the contractor. Similarly, the Environmental and

Social Performance Security dated 29 October, 2021 also lapsed on 28 October, 2022 and the same was not renewed contrary to Clause 61.2 (f) of the General conditions of the Contract. Management has not taken any step against the contractor for fundamental breaches of contract.

Although, the Polytechnic sought for legal opinion from the Attorney General in June, 2023 in view of the challenges leading to delays in project implementation, the opinion given was not explicit on whether to terminate the contract or not. As at the time of audit in September, 2023 Management was unable to provide a clear way forward for the completion of the project.

In the circumstances, the regularity and value for money realized from the expenditure of Kshs.444,473,290 awarded on the delayed Project could not be confirmed.

363. Unconfirmed Cost Variation Claims on the Flagship Project

The construction contract for the Flagship Project was a fixed price contract as per Clause 49 of the General Conditions of the contract agreement. However, as the works progressed, the contractor raised a claim for additional costs amounting to Kshs.68,617,854 due to increase in prices of construction materials which was not considered by the client.

Documents provided for audit revealed that the matter was referred to the State Department for Public Works who advised that changes in prices could only be considered on an ex-gratia basis. Further, the project Quantity Surveyors also acknowledged that the client was not contractually bound to review any price adjustments as claimed by the contractor unless on ex-gratia basis.

As at the time of conclusion of the audit on October, 2023, the matter had not been addressed by the respective parties.

In the circumstances, the quality of work and value for money of the project may be compromised with possibility of project stalling due to delay in resolving the cost escalation claims.

364. Lack of Value for Money - Consultancy Fees

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.73,827,160 which includes other operating payments amount of Kshs.20,795,254. The later amount includes Kshs.20,748,294 paid to a local company for consultancy services.

Review of records provided for audit revealed that the Management entered into a consultancy contract for supervision of construction works on 8 October, 2021 at contract cost of Kshs.33,335,875 exclusive of all indirect taxes which as at that time were Kshs.4,667,023 (14% VAT). The contract performance period was thirty (30) months commencing from 01 October, 2021.

The scope of services to be carried out by the consultant was in two phases: Phase 1-conceptual design, detailed design, and preparation of tendering documents of the building technology flagship centre and Phase 2-construction supervision and defect liability period.

On 08 October, 2021, upon completion of Phase 1, the Consultant came up with another financial proposal for Phase 2 of the project which covered supervision of construction works and defects liability period. The financial proposal amounts this time being Kshs.27,501,339 exclusive of taxes. This financial proposal was valid for eighteen (18) months during the construction period or such extension of time as may be granted to the contractor within the contract. The Project made monthly installment of Kshs.1,476,061 for 18 months in full settlement of the Phase 2, with the last payment made on 07 June, 2023.

Audit inspection and verification of the project conducted in August, 2023 revealed that the project had stalled at 50% completion as per interim certificates used to pay the main contractor who was not on site as at time of audit in September, 2023. The Management therefore, has paid the consultant full amount meaning an extra consultancy cost for the completion of outstanding works will be incurred.

Further, phase one payment of Kshs.16,747,626 were made without signing any contract agreement contrary to Regulation 63 of Public Procurement and Asset Disposal 2020 Regulations which states that after the award of the contract, the contract agreement shall be prepared and entered into.

In the circumstances, the propriety and value for money for the expenditure amount of Kshs.43,316,724 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

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

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

Emphasis of Matter

367. Section 1 of the financial statements on project information and overall performance shows that the Project duration is five (5) years or sixty (60) months from 2020 to 2024, with a donor commitment of EUR 9,280,000 equivalent to Kshs.1,080,000,000. As at 30 June, 2023, the Project had received EUR 4,377,191, equivalent to Kshs.507,754,172 or 47% of total budgeted funds, with lapsed Project duration of forty-two (42) months which is an indication that the project is behind schedule.

Other Matter

368. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final budget and actual receipts on comparable basis of Kshs.192,754,172 and Kshs.200,000,000 respectively resulting to an underfunding of Kshs.7,245,828 or 4% of the budget. Similarly, the Project expended Kshs.219,473,479 against an approved budget of Kshs.248,441,403 resulting to an under expenditure of Kshs.28,967,924 or 12% of the budget.

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

369. Undisbursed Funds

The funding summary at Section A of the financial statements indicates that the Project has received to date EUR 4,377,191 or Kshs.507,754,172 while records from the State department for Vocational Training reflects amount qualified to the Project amounting to EUR 6,441,263.76 or Kshs.747,186,596 as at 30 June, 2023, resulting to a variance of EUR 2,064,072.76 or Kshs.239,432,440. However, no supporting evidence or explanation was provided for failure to disburse the funds to the Project by the State Department.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

370. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

372. 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 Management of 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

Basis for Qualified Opinion

373. Cash and Cash Equivalents

The statement of financial assets reflects cash and cash equivalents of Kshs.101,594,274 comprising of bank and cash balances of Kshs.101,554,010 and Kshs.40,264 respectively. However, the Management did not submit the monthly bank reconciliation statements to the Office of the Auditor-General as required by Regulation 90(1) of the Public Finance Management (National Government) Regulations, 2015.

Further, the cashbook had cancellations which were not counter-signed by the preparer and cheques were not posted chronologically as per the cheque book serialization. In addition, the cash book was not checked and confirmed by a delegated official on monthly basis while cash count certificate and confirmation of the cash balances procedure on closing of the cash book were not provided for audit review.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.101,594,274 could not be confirmed.

374. Unsupported Payments on Construction-Civil Works

The statement of receipts and payments reflects construction-civil works of Kshs.134,686,345 and as disclosed in Note 5 to the financial statements which includes Kshs.122,123,983 paid to a contractor for construction of the Regional Flagship Marine Transport and Port Logistics Centre. However, payment vouchers for Kshs.120,103,668 paid were not supported with an invoice from the contractor and a valid tax compliance certificate as advised by The National Treasury and Planning Circular no. 15/2019 dated 11 December, 2019 on guidelines for payment of withholding income tax on payment made to contractors or other persons engaged in implementation of Projects.

In addition, under payment certificate No. 2, the withholding taxes on VAT @ 2% was not charged on the total certificate amount of Kshs.47,236,392 but was charged on

Kshs.40,721,027 thus resulting to incorrect amount being withheld totaling to Kshs.130,307.

In the circumstances, validity, accuracy and completeness of construction-civil works amount of Kshs.134,686,345 could not be confirmed.

Other Matter

375. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects a final receipts budget of Kshs.597,609,500 and actual receipts of Kshs.119,662,657 resulting to an under funding of Kshs.477,946,843 or 80%. Similarly, the Project expended Kshs.186,239,622 against an approved budget of Kshs.597,609,500 resulting to an under-expenditure of Kshs.411,369,878 or 69% 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

376. Irregular Contract

The Polytechnic entered into a contract on 7 November, 2022 with a consultancy Company on supervision of the Regional Flagship Marine Transport and Port Logistics Centre in Kwale at a contract sum of Kshs.43,208,115 and contract period that was to run throughout the construction period as per special condition No 14.1. Review of the contract documents showed that attestation was done by the Accounting Officer of the Institution and the representative of the consultant on 7 November, 2022 without involving any witnesses as required.

Further, the contract was signed on 7 November, 2022 while the price validity period as per the evaluation minutes was 150 days which ended on 6 February, 2020. Therefore, the signing of the contract was done twenty-two (22) months after the lapse of the contract validity period. This is contrary to Regulation 135(3) of the Public Procurement and Asset Disposal Regulations, 2015 which provide that a written contract shall be entered into within the period specified in the notification.

In the circumstances, Management was in breach of law.

377. Irregular Procurement of Marine Equipment

The tender for the supply, delivery, installation, testing and commissioning of maritime lab equipment, software and simulators including training on use of equipment was advertised in the daily newspaper on 8 October, 2021. The contract with a contract sum of USD 1.6 million was signed on 4 July, 2022 and was to be implemented in eight(8) months from the date the contract was signed. However, review of the documents provided noted that part of the equipment was delivered on diverse dates between the

months of April and June, 2023 to the Kenya Coast National Polytechnic along Kisauni road in Mombasa town and not at Kenya Coast National Polytechnic's Waa campus, Kwale County as indicated in the addendum number one dated 3 November, 2021 which specified the place of delivery as such.

Further, the machines and equipment had not been installed as at the time of audit in September, 2023 and there is no evidence that the equipment were insured by the supplier. In addition, the Management paid an amount of Kshs.18,187,500 for customs duty and clearance of the equipment from the Port which is contrary to the clause on taxes and duties in the signed contract that "for goods manufactured outside the country, the supplier shall be entirely responsible for all taxes, stamp duties, license fees- and other such levies imposed outside the purchaser's country."

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

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

Conclusion

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

STATE DEPARTMENT FOR HIGHER EDUCATION AND RESEARCH - VOTE 1065

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

379. Irregularities in Transfers to Other Government Units

The statement of receipts and payments reflects transfers to other Government units of Kshs.82,550,137,837 as disclosed in Note 7 to the financial statements. However, the following variances were noted;

379.1 Unconfirmed Transfers to Other Government Units

Included in the amount are transfers to Bomet University College and East African Centre for Excellence (ACE II) Project - IDA of Kshs.372,600,707 and Kshs.11,682,020 respectively, both totalling Kshs.384,282,727. However, records at the University College and Donor Project reflect receipts of Kshs.313,170,059 and Kshs.11,645,220 resulting in an unreconciled and unexplained variances of Kshs.59,430,648 and Kshs.36,800 respectively, both totalling Kshs.59,467,448.

Further, records maintained by the State Department indicates that an amount of Kshs.284,526,438 was transferred to Tharaka University College. However, the University acknowledged receipt of Kshs.338,152,120, resulting in an unrecorded transfers of Kshs.53,625,682. Similarly, a total amount of Kshs.3,374,601,855 is indicated as having been transferred to Kenyatta University in the financial statements which differs with confirmed receipts by the University of Kshs.3,454,601,855, resulting in an understatement of the transfers by Kshs.80,000,000.

379.2 Discrepancies between Expected and Actual Capitation Funding

Included in the transfers to other Government units of Kshs.82,550,137,837 is a total of Kshs.44,283,954,992 transferred to thirty-nine (39) public universities with total enrolment of four hundred and fifty thousand nine hundred and twenty-six (450,926) students comprising ninety-four thousand seven and thirty-eight (94,738) first year students and three hundred thousand and fifty-six, one hundred and eighty-eight (356,188) continuing students. However, the total expected capitation for the students was Kshs.44,023,955,000, thus resulting to net over disbursement of Kshs.259,999,992.

Further, nineteen (19) of the universities with expected capitation of Kshs.23,097,771,318 received Kshs.27,515,096,720, resulting to over-capitation of Kshs.4,417,325,402. In addition, the other twenty (20) universities had expected capitation of Kshs.20,926,183,272 and received Kshs.16,768,858,272, resulting to underfunding of Kshs.4,157,325,410. No explanation was provided for the over and under disbursements during the year under review.

In the circumstances, the accuracy of transfers to other Government units of Kshs.82,550,137,837 could not be confirmed.

380. Unconfirmed Fuel Expenditure

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.184,595,214 which, as disclosed in Note 6 to the financial statements, includes an expenditure of Kshs.12,504,579 incurred on fuel, oil and lubricants. However, the fuel supply statement does not indicate the registration numbers of the motor vehicles that drew the fuel. It was therefore difficult to track the fuel drawdowns to the individual copies of motor vehicle work tickets. Further, Management did not maintain the department's fuel register to assist in reconciliation with the suppliers' statements before making any payment.

In the circumstances, the regularity of fuel, oil and lubricants expenditure of Kshs.12,504,579 could not be confirmed.

381. Irregularities in Grants Transfers to Private Universities

The statement of receipts and payments reflects transfers to other Government entities amount of Kshs.82,550,137,837 which, as disclosed in Note 7 to the financial statements, includes an amount of Kshs.3,174,791,597 in respect of grants to private universities for Government Sponsored Students (GSS). A special audit of the capitation grants revealed that a total of Kshs.15,762,573,515 was disbursed to thirty-two (32) private universities for GSS for the period of seven (7) financial years from 2016/2017 to 2022/2023. However, included in the amount is an expenditure of Kshs.201,638,928 disbursed to fifteen (15) universities in respect of capitation grants for four thousand five hundred twenty-one (4,521) students who were not placed by the Kenya Universities and College Central Placement Services (KUCCPS); Kshs.412,729,628 in respect of capitation grants for nine thousand four hundred and eighty-nine (9,489) students who had stayed beyond the durations of course programmes they were undertaking; Kshs.17,774,388 in respect of double payments of capitation grants; Kshs.35,199,064 in respect of capitation grants for students who had already graduated and Kshs.53,594,188 disbursed for students who had deferred their studies or were on long academic leave.

In the circumstances, the accuracy and regularity of transfers in respect of grants to private universities for Government Sponsored Students (GSS) of Kshs.3,174,791,597 could not be confirmed.

382. Irregularities in Compensation of Employee Costs

The statement of receipts and payments reflects compensation of employees costs of Kshs.237,548,747 as disclosed in Note 5 to the financial statements. However, included in the compensation of employees amount is an expenditure of Kshs.351,500, being responsibility allowance paid to seven (7) officers whose basis for payments was not provided for audit. Further, included in the compensation amount is Kshs.1,130,000, being extraneous allowance paid to three (3) officers and whose basis for payment was not provided for audit.

In the circumstances, the regularity of responsibility allowance amounting to Kshs.351,500 and extraneous allowances totalling Kshs.1,130,000 could not be confirmed.

Emphasis of Matter

383. Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs.108,283,480,612 and Kshs.100,169,820,476 respectively, resulting in an underfunding of Kshs.8,113,660,136 or 7.5% of the budget. Similarly, the State Department spent Kshs.100,161,714,840 against an approved budget of Kshs.108,450,331,267, resulting in an under-expenditure of Kshs.8,288,616,427 or 8% of the budget. The underfunding and under-expenditure may have affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is however, not modified in respect of this matter.

Other Matter

384. Unresolved Prior Year Audit Matters

Various prior year audit issues remained unresolved as at 30 June, 2023. Management did not provide evidence of matters discussed and determined by the oversight body and the failure to resolve the prior year matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

385. Unbalanced Budget

The statement of comparison of budget and actual amounts - recurrent and development combined reflects final budgeted expenditure of Kshs.108,450,331,267 which exceeded the budgeted final receipts of Kshs.108,283,480,612 by an amount of Kshs.166,850,655. This is contrary to Regulation 33(c) of the Public Finance Management (National Government) Regulations, 2015 which states inter alia, that the budget shall be balanced.

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

386. Use of Personal Email Addresses in Official Communication

During the year under review, State Department's staff used personal emails for official communication. This is contrary to the directive of the Head of Public Service Circular No. SH/ADM/23(1) dated 14 June, 2022 which states, inter alia, that no Government official will be allowed to use personal email internet addresses for official Government communication.

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

387. Staff Over-Establishment

Review of the staff establishment and staff in post at the State Department revealed that one-hundred and eighty-four (184) members of staff were in post against an approved staff establishment of one-hundred and sixteen (116), resulting to an over-establishment of sixty-eight (68) members of staff. Further, the Department did not have in place annual human resource plans as required by Part II Section B.2(1) of the Human Resource Policies and Procedures Manual for the Public Service, 2016.

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

388. Failure to Prepare and Submit Separate Board Financial Statements for Audit

The statement of receipts and payments reflects transfers to other Government units of Kshs.82,550,137,837 as disclosed in Note 7 to the financial statements. Included in the amount is Kshs.29,634,474 in respect of Biosafety Appeals Board. However, Management did not prepare and submit for audit separate financial statements for the Board. This was contrary to Section 81(4)(a) of the Public Finance Management Act, 2012 which requires that, not later than three months after the end of each financial year, the Accounting Officer for the entity shall; submit the entity's financial statements to the Auditor-General and a copy of the statement to the Controller of Budget, The National Treasury and the Commission on Revenue Allocation.

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

389. Non-Submission of Financial Statements for Audit – Open University of Kenya

The statement of receipts and payments reflects transfers to other Government units of Kshs.82,550,137,837 as disclosed in Note 7 to the financial statements. Included in the transfers amount is an amount of Kshs.153,739,147 transferred to the Open University of Kenya. However, the University did not prepare and submit financial statements for the year under review. This was contrary to Section 68(2)(k) of the Public Finance Management Act, 2012 which requires an Accounting Officer to prepare annual financial statements for each financial year within three months after the end of the financial year, and submit them to the Auditor-General for audit.

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

390. Non-Compliance with Section 53 of the Universities Act, 2012

The statement of receipts and payments reflects transfers to other Government units of Kshs.82,550,137,838 as disclosed in Note 7 to the financial statements. The transfers amount comprises current grants to Government agencies and other levels of Government of Kshs.77,354,114,273, capital grants to Government Agencies and other levels of Government of Kshs.2,021,231,968, all totalling Kshs.Kshs.79,375,346,241 and transfers to private universities of Kshs.3,174,791,597. However, the State Department for Higher Education and Research has been directly financing all the universities. This is contrary to Section 53(1 and 2) of the Universities Act, 2012 which provides that there

shall be a Fund to be known as the Universities Fund whose objective and purpose shall be to provide funds for financing universities.

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

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

Basis of Conclusion

391. Lack of an ICT Steering Committee

Review of ICT operations revealed that the State Department did not have an IT Steering Committee in place. The lack of the Committee poses a risk on governance where the IT Department's needs are not addressed at budgeting stage and that decisions made by the IT Department's Management are not implemented as expected. Further, during the audit, it was observed that the ICT operations are frequently affected by the absence of internet which is not promptly solved by the responsible officers.

In the circumstances, the effectiveness of the IT Department could not be confirmed.

DONOR FUNDED PROJECTS

SUPPORT TO ENHANCEMENT OF QUALITY AND RELEVANCE IN HIGHER EDUCATION, SCIENCE AND TECHNOLOGY PROJECT CREDIT NO. 2100150027993

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

392. Inaccuracies in the Financial Statements

Review of the statement of receipts and payments revealed that payments amounting to Kshs.138,568,487 were not reflected. Further, the statement reflected acquisition of non-financial assets amounting to Kshs.3,182,739,569 which differs with the comparative amount of Kshs.3,364,346,908, resulting to an unexplained difference of Kshs.181,607,339.

Similarly, review of the statement of cash flows revealed that payments amounting to Kshs.138,568,487 were not reflected. Further, the statement reflected transfers from Government entities comparative amount of Kshs.11,370,170 which was not disclosed in Note 1 to the financial statements as well as 2021/2022 audited financial statements. In addition, the statement of cash flows reflects comparative amounts of Kshs.61,795,785, Kshs.11,068,370 and Kshs.62,097,585 in respect of proceeds from foreign borrowings; purchase of goods and services; and acquisition of assets which were

not disclosed in Note 2, Note 3 and Note 4 respectively. The same amounts were also not reflected in the 2021/2022 audited financial statements.

Further, review of the annual report and financial statements revealed that the statement of comparison of budget and actual amounts was not prepared. The Project had a development budget amounting to Kshs.138,600,000 under vote 1065100100 and made payments amounting to Kshs.138,568,487. In addition, ledger account for accounts payables was not provided to support the decrease/change of Kshs.138,568,038 to Nil balance as reflected in the statement of cash flows. The funding summary on page vi reflects loan from African Development Bank amounting to Kshs.3,576,020,397. However, the funding summary for the prior year reflected loan from African Development Bank amounting to Kshs.3,757,627,740, resulting to a variance of Kshs.181,607,343 which was not explained.

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

393. 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, 2023, the Project's cumulative expenditure on procurement of specialized plant, equipment and machinery from financial year 2013/2014 totalled Kshs.2,617,434,820. 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 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 Attorney-General issued the advisory on 20 June, 2022 indicating that performance guarantee amounting to Kshs.11,745,000 (Approximately USD 81,000) was not recovered. Further, 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.2,617,434,820 for purchase of specialized plant, equipment and machinery could not be confirmed.

394. Excess Payments on Bank Guarantee

Review of the bank statements for payments made for the universities equipment during the year under review revealed recovered bank guarantees amounting to Kshs.22,900,000 against total payments of Kshs.62,083,144, resulting in unrecovered guarantees totalling Kshs.39,183,146.

Further, records provided for audit indicated that the State Department paid Kshs.36,610,791 to African Development Bank. However, no acknowledgement for the receipt of funds by the bank was provided for audit review.

In the circumstances, the regularity and completeness of the expenditure of Kshs.36,619,791 on refunds made to the bank and the unrecovered bank guarantees of Kshs.39,183,146 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

395. Irregular Payment for Consultancy Services

The State Department for Higher Education and Research invited interested persons to bid for tender 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. However, the State Department entered into a contract on 22 October, 2021 after the lapse of the tender validity period 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. The records also indicated that during the year under review, the State Department paid Kshs.4,640,000 despite the lapsed tender validity period.

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

396. Unsupported Repair of Wangari Mathai Institute of Peace and Environment Studies

The State Department for Higher Education and Research paid Kshs.15,000,000 to the University of Nairobi for the repair of teaching and learning facilities at Wangari Mathai Institute of Peace and Environment Studies. However, payment vouchers for the direct payments and Government of Kenya counterpart funds since the commencement of the project in 2015 were not provided for audit review. The donor estimated costs for component 3 were not to exceed 6.14 million Units of Account (UA).

Further, procurement documents were not provided. This was contrary to Section 44(2)(d) of the Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer shall ensure proper documentation of procurement proceedings and safe custody of all procurement records.

In the circumstances, value for money may not have been achieved on the project and Management was in breach of the law.

397. Unsupported Tracer Study on Destination of Engineering Graduates

The State department for Higher Education and Research entered into a contract with the University of Nairobi, College of Architecture and Engineering on 3 July, 2019 for a period of five months at a contract sum of Kshs.19,804,158. The objective of the project was to conduct a tracer study on the destination of engineering graduates from Kenyan Universities. However, certificate confirming the right quality of service as part of contract close out required under Section 154 of the Public Procurement and Asset Disposal Act, 2015 was not provided for audit.

Further, Management did not provide a reasonable justification on the delay in completion of the tracer study. In addition, liquidated damages on delayed performance were not imposed on the contractor's payments amounting to Kshs.10,892,287 as required by Section 140(b) of the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, value for money was not achieved on the project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

399. 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 Management 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

400. Unreconciled and Unsupported Expenditure on Fuel and Lubricants

The statement of receipts and payments reflects an amount of Kshs.62,107,225 in respect of purchase of goods and services as disclosed in Note 3 to the financial statements. Included in the amount is Kshs.200,000 in respect of fuel and lubricants for

motor vehicles. Review of sampled copies of work tickets and the fuel receipts indicate that there were variances between entries made in work-ticket and fuel receipts and lack of verification from the supplier statement on the monthly fuel supply before payments. Further, work tickets used and contract between Project Management and service provider were not provided for audit. In addition, the fuel was not recorded in the Project's work tickets.

In the circumstances, the accuracy and regularity of the expenditure of Kshs.200,000 in respect of fuel and lubricants for motor vehicles could not be confirmed.

Other Matter

401. Unresolved Prior Year's Audit Issues

In the audit of the previous year, several paragraphs were raised under the Report on the Financial Statements, Lawfulness and Effectiveness in Use of Public Resources and Effectiveness of Internal Controls, Risk Management and Governance. However, the issues remained unresolved as Parliament has not deliberated on the same.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

402. Misuse of Project Motor Vehicles

As previously reported, the project management unit procured three (3) high-end vehicles valued at Kshs.36,320,000 for use by the Project in executing project activities. However, the vehicles are not used for project activities, Ministry officials use the vehicles for non-project activities.

In the circumstances, the regularity of expenditure on motor vehicles of Kshs.36,320,000 could not be confirmed.

403. Delayed Construction Works

As reported in the previous years, the Project's financial records indicate that the project has been ongoing for five (5) years since the signing of the loan agreement on 28 December, 2017 with accumulated expenditure on the acquisition of non-financial assets (construction of buildings) of Kshs.3,397,510,523. Review of the project records revealed that as at June, 2023, the set milestones for construction work had not been achieved. The project was due to end on 23 September, 2023 project progress rate at 20%. Further, amount of Kshs.109,107,296 that was paid during the period under review was not reflected in the financial statements.

In the circumstances, value for has not been obtained on the expenditure incurred todate.

404. Failure to Provide Project Schedule of Works

The statement of receipts and payments reflects expenditure on acquisition of non-financial assets of Kshs.1,502,014,110 as disclosed in Note 4 to the financial statements. Included in the amount is Kshs.1,500,000,000 in respect of construction of buildings.

However, the schedule of works was not provided for audit. This was acknowledged by management report on overall performance in the submitted financial statement.

In the circumstances, value for money may not be obtained.

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

Basis for Conclusion

405. Lack of Internal Audit Functions

During the year under review there was no evidence of the Project having been reviewed by the State Department internal audit function 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.

In the circumstances, the Project did not benefit for the oversight role of the Internal Audit function.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

406. 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 Management of the Project, and the financial statements are in agreement with the accounting records and returns.

EASTERN AND SOUTHERN HIGHER EDUCATION CENTRES OF EXCELLENCE (ACE II) PROJECT (CREDIT NO.5798-KE)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

407. Unsupported Domestic Travel Subsistence

The statement of receipts and payments reflects Kshs.8,339,300 in respect to purchase of goods and services and as disclosed in Note 3 to the financial statements. This amount includes Kshs.5,078,700 in respect to domestic travel and subsistence, out of which Kshs.3,286,500 and Kshs.974,400 relate to payments made to officers who attended National Steering Committee (NSC) meetings, did appraisal of the ACE II Project implementation held between 19-23 June, 2023 and 6-10 February, 2023 and performed internal audit respectively. However, review of supporting documentation related to domestic travel expenditure revealed that evidence of circulation of notices of the said NSC meetings by NSC chair to NSC members for 19 June, 2023 were not provided for audit, and no original work tickets were provided to confirm the journeys made. Further,

the actual number of people who were involved in NSC activities were more compared to the initial number of members appointed to be NSC members.

In the circumstances, the regularity of the expenditure of Kshs.2,854,500 could not be confirmed.

408. Variances in the Notes to the Financial Statements for Cumulative Balance

Note 3 to the financial statements reflects a Nil balance in respect to comparative balance for purchase of tonners. However, the previous year's audited financial statements reflect a balance of Kshs.337,500 in respect to the same item resulting in unexplained variance of Kshs.337,500.

In the circumstances, the accuracy and completeness of the expenditure on toners could not be confirmed.

Other Matter

409. 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.271,000,000 and Kshs.118,081,078 respectively, resulting in underfunding of Kshs.152,918,922 or 56% of the budget. Similarly, the Project spent Kshs.118,081,078 against a budget of Kshs.271,000,000, resulting in an under expenditure of Kshs.152,918,922 or 56% 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

410. Weaknesses in Management of Imprests

Review of documents provided for audit revealed that the Management expensed imprests amounting to Kshs.5,053,900 when issued. This posed a challenge of tracing imprests issued but not utilized and imprests issued but not surrendered. This is contrary to Regulation 91 (1) and 93(5) of the Public Finance Management (National Government) Regulations, 2015, which states that 'an imprest means a form of cash advance or a float which the Accounting Officer may authorize to be issued to officers who in the course of duty are required to make payments which cannot conveniently be made through the cash office of a government entity or bank account. A holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station'.

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

411. Local Purchase Order Issued after Procurement

Review of records revealed that the Project Management requested for quotations for conference facilities on 21 September, 2022 and all the quotations were submitted on 22 September, 2022. The conference facilities were provided between 26 September, 2023 and 8 October, 2022 respectively and invoice of Kshs.2,964,000 generated on 11 November, 2022. However, the local purchase order for this service was generated 5 months later on 2 March, 2023. This was contrary to Section 106(5) of the Public Procurement and Asset Disposal Act, 2015 which requires a procuring entity while procuring through a request for quotations to place a purchase order with the person submitting the successful quotation and the person submitting the successful quotation to confirm the purchase order in writing'.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

413. As required by 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 Management of 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 HIGHER EDUCATION AND RESEARCH

AFRICA CENTER OF EXCELLENCE IN SUSTAINABLE USE OF INSECTS AS FOOD AND FEEDS PROJECT (IDA CREDIT NO.5798-KE) – JARAMOJI OGINGA ODINGA UNIVERSITY OF SCIENCE AND TECHNOLOGY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

415. Works Achieved and Not Verified

Annex 11 to the financial statements on disbursement linked results reflects results achieved yet to be verified amounting to USD 278,200, equivalent to Kshs.27,820,000. However, according to annual work plan for the financial year 2022/2023, there was provision for construction of a centre of excellence at Jaramogi Oginga Odinga University of Science and Technology at an estimated cost of Kshs.1,931,655 and supply of 62-seater bus at an estimated cost of Kshs.20,000,000. Both projects were yet to be delivered as at time of audit in October, 2023, two months to the closure of the Project expected in December, 2023.

In the circumstances, the project deliverables and results will not be achieved as indicated.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

416. Irregular Payment of Daily Subsistence Allowance

The statement of receipts and payments reflects purchase of goods and services amount of Kshs.79,976,693 which as disclosed in Note 11.5 to the financial statements, includes training expenses of Kshs.7,305,345, which further includes Kshs.801,955 paid to an officer for training. However, review of records revealed that the officer was on an acting capacity in grade 15 for a period of five (5) months, from April, 2022 to 31 August, 2022, while the training took place between 20 March, 2023 to 31 March, 2023. She was therefore not in acting capacity during the training period.

Further, the daily subsistence rate for the officer's grade was USD 332. However, the officer was paid at the rate of USD 422. The officer spent twelve (12) days in Arusha but she was paid for 14 days at the rate of USD 422 per day, at the exchange rate of Kshs.128.97 all totalling to Kshs.761,955 instead of the actual twelve (12) days and a rate of USD 332 at Kshs.128.97 amounting to Kshs.513,817. The officer was therefore overpaid by an amount of Kshs.248,139.

Management has not provided an explanation for the overpayment of Kshs.248,139.

In the circumstances, value for money realized from the training expenses could not be confirmed.

417. Irregularities in Procurement of Air Tickets

Review of records provided revealed that the Project spent Kshs.10,724,990 on foreign travel during the year under review. Management used request for quotations as the method of procurement. However, there was no evidence of appointment of the tender opening committee or the quotation evaluation committee. This is contrary to Section 78 and 80 of the Public Procurement and Asset Disposal Act, 2015 which stipulates that an

Accounting Officer of a procuring entity shall appoint a tender opening committee and evaluation committee. Further, minutes of both committees were not provided for audit.

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

418. Undisclosed Assets

The statement of receipts and payments reflects acquisition of non-financial assets amount of Kshs.15,603,099 which, as disclosed in Note 11.6 to the financial statements includes Kshs.127,500 and Kshs.15,475,599 incurred on procurement of computers and equipment respectively.

Review of records provided and asset register revealed that assets valued at Kshs.79,626,217 acquired since inception of the project in 2018 were not summarized and annexed in the financial statements as required by Public Sector Accounting Standards Board's Guidelines. Further, the asset register included assets valued at Kshs.24,347,520, which were indicated to have been procured through the funding from other donors and are not in any way used for the purpose of the Project. Further, the assets register did not include the column for serial numbers, making it difficult to identify the assets such as laptops, desktops and other equipment.

In the circumstances, Management was in breach of the guidelines and the effective use of assets could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

420. 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 Management of 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

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

Other Matter

422. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.368,547,525 and Kshs.80,359,915 respectively resulting to an under-funding of Kshs.288,187,610 or 78% of the budget. Similarly, the Project expended Kshs.118,636,077 against an approved budget of Kshs.368,547,525 resulting to an under-expenditure of Kshs.249,911,448 or 68% of the budget.

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

423. Pending Bills

Annex 4a to the financial statements discloses pending bills totalling to Kshs.1,425,443 that were not paid during the year. 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. Further, pending bills may expose the Project to additional costs inform of interest due to delay in payment of the bills.

424. Unresolved Prior Year Matters

In the audit report of the previous year, two paragraphs were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources, however, Management has not resolved the issues or given any explanation for failure to resolve the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

425. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

427. 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 Management of the Program

and the Program's financial statements agree with the accounting records and returns.

KENYA RURAL TRANSFORMATION CENTERS DIGITAL PLATFORM PROJECT - COOPERATIVE UNIVERSITY OF KENYA

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

429. Budgetary Control and Performance

The statement of comparison of budget and actual amounts, reflects receipts budget and actual on comparable basis of Kshs.200,000,000 and Kshs.6,000,000 respectively, resulting to under-collection of Kshs.194,000,000 or 97% of the budget. Similarly, the Project expended Kshs.1,889,354 against a budget of Kshs.200,000,000, resulting to under-expenditure of Kshs.198,110,646 or 99% of the budget. Management has not provided sufficient explanation for the above significant under-performance.

The under-receipts and under-expenditure affected implementation of planned activities and programs and may have impacted negatively on intended beneficiaries.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

430. Delay in Project Completion

The Kenya Rural Transformation Centers Digital Platform Project commencement date was 24 November, 2020 with a projected end date of 15 December, 2023. The Management wrote to the World Bank on 3 April, 2023 requesting for a no cost extension of the Project which was approved and the closing date extended to 20 March, 2025. Review of the Project status as at 30 June, 2023 revealed that the Project had less than one (1) year and nine (9) months to completion period. The Project had only received 7.6% of the grant and utilized 2.4%. Major project milestones were yet to commence.

In view of the Project performance status, the government is likely to start repaying the loan before the Project objectives are achieved. The expected benefits to the public will not be realized in time and value for money to stakeholders may not be realized.

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

Conclusion

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

USAID BORESHA JAMII PROJECT NO. (72061521CA00004) - JARAMOGI OGINGA ODINGA UNIVERSITY OF SCIENCE AND TECHNOLOGY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

432. Inaccuracies in the Financial Statements

Review of the financial statements revealed the following inaccuracies:

432.1 Inaccuracies in the Statement of Receipts and Payments

The statement of receipts and payments reflects cumulative receipts and payments amounting to Kshs.1,696,400,301 and Kshs.1,653,319,239 respectively. However, the amounts differ with the receipts and payments for the year amounting to Kshs.786,379,459 and Kshs.730,809,453 respectively as there are no comparative amounts reported in the financial statements. Although Management indicated that the Project was started in the year 2021/2022, the Project's financial records were included in the implementing agencies financial statements.

432.2 Inaccuracies in the Statement of Financial Assets

The statement of financial assets and as disclosed in Note 5.A to the financial statements reflects bank balances of Kshs.43,826,973. In addition, the statement reflects a deficit fund balance brought forward of Kshs.12,488,945 which was not supported by any documentation. Management prepared the Project's financial statements for the first time in the year under review as its records were included in the University's books.

432.3 Unsupported Statement of Cash Flows

The statement of cash flows reflects adjustments of Kshs.1,304,856 and Kshs.16,071,019 as decrease in accounts receivables and accounts payable respectively. However, these balances were not supported. Further, the total payments, which comprised of compensation of employees, fringe benefits and purchase of goods and services all totalling to Kshs.825,790,115, differed with the total payments reflected in the statement of receipts and payments of Kshs.730,809,453 resulting to an unexplained variance of Kshs.94,980,662. In addition, the statement reflects an unsupported amount of Kshs.3,023,130 being cash and cash equivalents at beginning of the year.

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

433. Unsupported Compensation of Employees

The statement of receipts and payments reflects amounts of Kshs.95,685,545 and Kshs.68,177,971 under compensation of employees and fringe benefits respectively. Review of payroll provided indicated that Management had hired six hundred (600) employees in September, 2022 which scaled down to twenty-three (23) employees as at 30 June, 2023. However, except for the Chief of Party, Deputy Chief of Party and Finance Manager, no documentary evidence was provided to show how the employees were hired and their work stations.

In the circumstances, the completeness and accuracy of compensation of employees and fringe benefits totalling to Kshs.163,863,516 could not be confirmed.

434. Unsupported Purchase of Good and Services

The statement of receipts and payments reflects purchase of goods and services amounting to Kshs.559,775,871 which as disclosed in Note 3 to the financial statements includes contractual expenses totalling Kshs.215,538,268 which further includes an amount of Kshs.130,716,685 paid as salaries and employee benefits. However, Management did not provide details of the payees and explanation why the amount was paid as contractual expenditure instead of salaries and wages.

Further, purchase of goods and services includes other direct costs amounting to Kshs.317,029,181 in respect of Reproductive Maternal New-born Child and Adolescence Health, Nutrition and Water and Sanitation Hygiene costs. However, the supporting documents provided for audit reflected an amount of Kshs.323,500,266 resulting to an unreconciled variance of Kshs.6,471,085. In addition, included in the provided supporting schedule is expenditure totalling to Kshs.97,516,441 relating to salaries and other employee benefits paid to Human Resource for Health, who offer services directly to the beneficiaries in the HIV care and treatment programme. However, documentary evidence was not provided on their details.

In the circumstances, the completeness and accuracy of above mentioned amounts could not be confirmed.

435. Acquisition of Non-Financial Assets

The statement of receipts and payments reflects nil amount on acquisition of non-financial assets and accumulated amount of Kshs.3,253,990. Review of the assets register revealed that the register was not prepared and maintained according to The National Treasury template issued in July, 2020 since the assets register lacked key details such as the name of employees assigned to specific assets, depreciation, annual depreciation, accumulated depreciation, net book value, date of disposal and disposal value. Further, original logbooks for four (4) registered vehicles were not provided for audit.

In the circumstances, the ownership, accuracy and completeness of the acquisition of non-financial assets cumulative amounts of Kshs.3,253,990 could not be confirmed.

436. Unsupported Imprest and Advances

The statement of financial assets and as disclosed in Note 6 to the financial statements reflects imprests and advances balance of Kshs.1,633,335. However, the imprest schedule provided did not disclose details such as date of issue, imprest warrant number, expected date of surrender and the actual date of surrender.

In the circumstances, the accuracy and completeness of imprests and advances balance of Kshs.1,633,335 could not be confirmed.

Other Matter

437. Project Funding

The Project's funding summary indicates that the Project has an approved budget of USD 25,000,000, which is equivalent to Kshs.2,800,000,000. However, Table A on sources of funds indicates that the donor commitment was USD 18,697,190 or Kshs.2,094,085,343. However, Management has not disclosed, how the additional amount of USD 6,302,810 or Kshs.705,914,657 would be financed.

Further, the Project's financing summary indicates that the Project is to run for five (5) years from the year 2021 to 2026. It was noted that in the first year, financial operations were included in the University's financial statements and from the records an amount of Kshs.910,020,842 had been spent in the first year. The Project is now in its second year and has already spent 61% of its budgeted amounts. Management has not indicated how it intends to achieve its Disbursement Linked Indicators (DLI's) considering that the Donor had made a commitment of USD 18,697,190 or Kshs.2,094,085,343 and 61% of the Project amount has already been expended against 40% of the timelines.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

438. Non-Compliance with the Law on Ethnic Composition

Review of personnel records indicated that the Project had a total of twenty-four (24) employees out of which fifteen (15) or 63% of the total number were members of the dominant ethnic community in the county. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which stipulates that all public offices shall seek to represent the diversity of the people of Kenya in the employment of staff and no public institution shall have more than one-third of its staff establishment from the same ethnic community.

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

439. Non-Compliance with Terms of Insurance Covers

The statement of receipts and payments reflects fringe benefits for the year amounting to Kshs.68,177,971 which includes an amount of Kshs.1,011,591 being payment for Group

Life, Workmen Injury Benefit Act (WIBA) and Personal Accidents cover. Examination of the procurement process revealed that one of the appointed members of the Evaluation Committee was also a member in the Opening Committee contrary to provisions of Section 78(1)(b) of the Public Procurement and Asset Disposal Act, 2015. Appointment letters to members of the Tender Opening and Evaluation Committees were not provided for audit.

Further, there was a disparity in the expected schedule of benefits in the Local Purchase Order No. 0600 and 0601 dated 28 April, 2023 compared to the actual schedule of benefits offered by an insurance firm policy.

In addition, the Policy on excess clause indicated that the insured shall be responsible for the first Kshs.5,000 of each and every claim. However, this clause was not included by the insurer in the tender bid documents for consideration at the evaluation stage.

In the circumstances, Management was in breach of the law and the value for money obtained from insurance premiums paid could not be confirmed.

440. Delay in Recoveries of VAT

The statement of receipts and payments reflects purchase of goods and services amounting to Kshs.559, 775,871 which as disclosed in Note 3 to the financial statements includes direct costs amount of Kshs.317,029,181 which further includes an amount of Kshs.5,607,509 erroneously paid to a supplier and related to VAT that should have been retained and remitted to Kenya Revenue Authority on 27 February, 2023.

However, it was noted that there was delay by Management in obtaining a VAT exemption certificate, hence the payment of the VAT amount of Kshs.5,607,509 from the year 2021 when the goods were delivered. Though VAT was paid for by USAID, to date the amount has not been recovered from the supplier even after submission of certificate of exemption.

In the circumstances, the value for money on the VAT amount of Kshs.5,607,509 paid could not be confirmed.

441. Non-Achievement of Agreed Milestones

The Project's cooperative agreement No 72061521CA00004 dated 11 May, 2021 was modified to a Fixed Award Amount (FAA) in an Agreement dated 13 February, 2023. The new agreement had various milestones which were to be achieved to trigger disbursements of funds.

Under Milestone 2, Management was required to submit final voucher and have it marked as final under the previous cooperative agreement award structure. However, Management failed to carry out an Independent Expenditure Verification Report as detailed by the Agreement duly accepted by the official representative and prepare a Final Voucher submitted to Office of Finance Manager and Agreement Officer Representatives. The Approval was to be done by April, 2023 in order to receive funding of USD 37,761.

In the circumstances, the Project may miss funding that is linked to achievement of Milestone.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

443. As required by U.S Agency for International Development (USAID) 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 of the Project and the Project's financial statements are in agreement 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

444. Unconfirmed Capitation for Free Primary Education and Free Day Secondary Education

The statement of receipts and payments reflects amounts of Kshs.63,252,450,424 and Kshs.52,471,160 for subsidies and transfers to other Government units respectively as disclosed in Notes 7 and 8 to the financial statements. Included in the amount is Kshs.63,160,788,241 in respect of subsidies and transfers to other Government units and Kshs.11,387,068,719 in respect of Free Day Secondary Education and Free Primary Education capitation against approved budgets of Kshs.63,160,788,241 and Kshs.11,795,474,199 resulting to undisbursed funds amounting to Kshs.55,946 and Kshs.408,405,480 respectively both totalling Kshs.408,461,426. The disbursement for Free Primary Education was made manually and not through the National Education Management and Information System (NEMIS). As such, the pupils' enrolment per school could not be confirmed.

Further, field verification carried out in three hundred and twelve (312) sampled Junior Secondary Schools (JSS) located in twenty-seven (27) Counties to compare actual student population with NEMIS data used by the State Department to allocate capitation, revealed that capitation for Grade 7 learners in one hundred and twenty five (125) of the sampled schools was accurate. However, one hundred and eighty-seven (187) out of the sampled three hundred and twelve (312) Junior Secondary Schools had students that did not receive capitation. The actual enrolment of the one hundred and eighty-seven (187) JSSs was twenty-nine thousand six hundred and fifty-three (29,653) learners. However, they received capitation for twenty-two thousand three hundred and thirteen (22,313) learners, leaving seven thousand three hundred and forty (7,340) learners without funding. The State Department did not ensure that the data used for JSS capitation was verified by the respective Sub-County Offices before disbursement of funds. This would have ensured that all students are captured on NEMIS for funding of all JSS learners.

In addition, the NEMIS as configured does not have a cutoff and updates student on continuous basis making it difficult to confirm the number of students as at a specific time. It was also noted that there was congestion in Grade Seven (7) classes, with some classes having between eighty (80) to a hundred (100) learners, which was way above the required class of forty-five (45) learners, resulting in high pupil to teacher ratio and negative effect on teacher-student engagement. Similarly, the schools did not have science laboratories. It was also noted that, the system does not register students without birth certificates and does not fund students over eighteen(18) years.

In the circumstances, the accuracy, completeness and regularity of subsidies and transfers to other Government units amounting to Kshs.63,252,450,424 and Kshs.52,471,160,342 respectively could not be confirmed.

Emphasis of Matter

445. Pending Accounts Payable

Note 20.2 to the financial statements reflects pending accounts payable balance of Kshs.6,726,280 that were not settled during the year under review but were instead carried forward to the 2023/2024 financial year.

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.

446. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects receipts budget and actual amount on comparable basis of Kshs.134,821,977,311 and Kshs.129,395,568,769 respectively resulting in an under-funding of Kshs.5,426,408,542 or 4% of the budget. Similarly, the State Department spent Kshs.125,764,007,865 against an approved budget of Kshs.134,830,977,311 resulting in an under-expenditure of Kshs.9,066,969,446 or 7% of the budget.

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

My opinion is not modified in respect of these matters.

Other Matter

447. 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 explanations for failure to implement the recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

448. Failure to Return Unspent Funds to the State Department for Sports and Youth Affairs

The statement of financial assets and liabilities reflects a bank balance of Kshs.4,210,292,330 as disclosed in Note 12A to the financial statements. Included in the balance is an amount of Kshs.687,948,320 in respect of deposits. During the financial year under review, a total of Kshs.267,731,000 was received on 05 May, 2023 in the

deposits bank account of the State Department from the State Department for Sports and Youth Affairs. Out of that amount, a total of Kshs.82,921,300 was disbursed to County Directors of Education for Uasin Gishu, Mombasa and Narok for sports activities and an amount of Kshs.70,609,945 spent leaving unspent balance of Kshs.197,121,055. The State Department did not refund the unspent balance to the State Department for Sports and Youth Affairs as at closure of the financial year for onward surrender to The National Treasury for re-voting in the following financial year.

This is contrary to Regulation 117(1)(2) of the Public Finance Management (National Government) Regulations, 2015, which provides that where an A.I.E holder observes that it will not be possible to utilize all the funds allocated for a particular project in a given financial year, the A.I.E holder shall inform the Accounting Officer not later than February. The Accounting Officer will then surrender the resources to The National Treasury and The National Treasury shall ensure that funds are re-voted for the State Department in the following financial year in order to continue the implementation of the activities.

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

449. Lack of Ownership and Internal Controls on Management of NEMIS

During the previous year, an amount of Kshs.239,784,833 was spent on reengineering of National Education Management Information System (NEMIS) under the Primary Education Development (PRIEDE) project. The scope of the works for NEMIS strengthening entailed installation of one of the servers at a secondary site on an existing Government cloud infrastructure. This was to enable the server to harness the existing resources of the Government cloud such as processing and storage capabilities, load balancing, intelligent system monitoring, system scalability, data security and business continuity. The secondary site runs on VMware as the virtualization software and CISCO or DELL servers.

Management did not provide for audit purposes the ownership documents of the reengineered NEMIS, including copyright registration and reservation in accordance with Section 22 of the Copyright Act, 2001 and the signed handover documents that included instructions booklet explaining each functionality to the users of NEMIS and test environment confirmation indicating that issues pertaining to processing and storage capabilities, load balancing, intelligent system monitoring, system scalability, data security and business continuity have been addressed and resolved by the reengineered NEMIS.

Further, documentation relating to the development of reengineered NEMIS, and the structure of its administration highlighting the officers who hold different tasks and roles in the development, maintenance, administration, compliance and control of the NEMIS system was not provided for audit.

In the circumstances, value for money may not have been achieved on expenditure amount of Kshs.239,784,833 in respect to reengineering and ownership of the NEMIS.

450. Irregularities in the Construction of Competency Based Curriculum Classrooms

The statement of receipts and payments reflects transfers to other Government units an amount of Kshs.52,471,160,342 as disclosed in Note 8 to the financial statements. The following observations were made:

450.1 Unconfirmed Pricing of Competency Based Curriculum Classrooms

As previously reported, the transfers to other Government units of Kshs.52,471,160,342 included an amount of Kshs.3,997,687,865 for payments made for construction of Competency Based Curriculum (CBC) classrooms at a cost of Kshs.709,398 each across all areas in the Country. It was not clear how the amount was arrived at given that the bills of quantities and results of market surveys were not provided for audit. Further, the terrain and topographical layout of the schools across the Country varied and therefore not possible to have a standard rate.

Further, Management did not provide explanations on the specific procurement method that was used and how the various suppliers were identified. Similarly, there was no evidence that the prices had been adjusted for inflation to reflect the current market rate for acquisition of construction materials. The standard amount of Kshs.709,398 allocated was not sufficient for construction of a classroom of the required standard. Document review revealed that some critical scopes like ceiling and tiling or terrazzo on the floor were not included in the original Bill of Quantities (BoQ).

450.2 Poor Workmanship in the CBC Classroom Construction

Physical verification of sampled two hundred and fifteen (215) secondary schools in twenty-seven (27) counties funded for construction of CBC classrooms and interviews with the Management of the schools revealed that the classrooms were constructed within two (2) weeks which was not sufficient to allow concrete curing. Therefore, the potential strength and durability of concrete was not fully developed. The short construction duration and insufficient funding resulted in poor quality of the constructed classrooms. As at the time of the audit, the sampled schools had poorly constructed classrooms, with floor cracks and deep holes. The floor in some of the classrooms had completely come off, exposing the soil beneath. As a result, students had to learn in classes that had a lot of dust, exposing them to health hazards.

Further, the existing classrooms in most of the sampled schools had a ceiling and tiles or terrazzo on the floor. Physical verification revealed that in some sampled schools, the Management utilized their own funding to ensure that they constructed classrooms that matched the standard of the existing classrooms.

In addition, the audit revealed that, thirty (30) out of the two hundred and fifteen (215) sampled classrooms were not in use as at the time of the audit. Interviews with schools' Management indicated that the schools had adequate classes for their student population. In some instances, the classrooms had been converted into stores.

In the circumstances, value for money for the construction of CBC classrooms amounting to Kshs.3,997,687,865 could not be confirmed.

451. Irregularities in Human Resource Management

451.1 Non-Compliance with the One-Third of Basic Salary Rule

During the year, eighty-three (83) employees earned a net salary of less than a third (1/3) of the basic salary this is contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016. Management had not explained the failure to comply with the Policy.

451.2 Understaffing of the State Department

The staff establishment reflects staff in-post of four thousand three hundred and one (4,301) staff against an approved establishment of nine thousand five hundred and seventy-two (9,572), resulting to understaffing of five thousand two hundred and seventy-one (5,271).

In the circumstances, Management was in breach of the policy and service delivery may be affected.

452. Non-Remittance of Excess AIA Collections

The statement of comparison of budget and actual amounts reflects other receipts budget and actual amount on comparable basis of Kshs.70,000,000 and Kshs.102,651,600 respectively resulting to a surplus collection of Kshs.32,651,600 or 47% of the budget. Similarly proceeds from sale of assets actual receipts amounted to Kshs.1,434,590,231, resulting to over collection of Kshs.71,590,231 or 5% of the budgeted receipts of budget of Kshs.1,363,000,000. However, the over collection from the two revenue sources (Appropriations-in-Aid) amounting to Kshs.104,241,831 was not surrendered to the exchequer. This is contrary to Regulation 84 of the Public Finance Management (National Government) Regulations, 2015.

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

453. Non-Preparation and Submission of Financial Statements for Audit

The statement of receipts and payments reflects an amount of Kshs.52,471,160,342 in respect of transfers to other Government units as disclosed in Note 8 to the financial statements. Included in the amount is Kshs.106,200,000 for other current transfers, grants and subsidies, out of which Kshs.27,612,000 was in respect of Kenya Girl Guides Association which is a self-reporting entity. The Association had not submitted financial statements for audit to Auditor-General. This is contrary to Section 81(4)(a) of the Public Finance Management Act, 2012 which requires that, not later than three months after the end of each financial year, the accounting officer for the entity shall submit the entity's financial statements to the Auditor General and a copy of the statement to the Controller of Budget, The National Treasury and the Commission on Revenue Allocation.

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

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

Basis for Conclusion

454. Outstanding Imprests and Clearance Accounts

The statement of financial assets and financial liabilities reflects imprests and advances balance of Kshs.239,911,795 as disclosed in Note 13 of the financial statements. Included in the balance are amounts of Kshs.1,638,719 and Kshs.151,626,991 for imprests and district suspense respectively which were not surrendered during the year under review.

In the circumstances, regularity and effectiveness of imprests and district suspense management could not be confirmed.

455. Lack of Inventory Management System

As previously noted, during the year under review, Management did not maintain an inventory management system which tracks the supply of the sanitary pads. Further, it is not clear how the Management determines restocking levels for sanitary pads and the distribution management of the same.

In the circumstances, the stocks reorder levels could not be confirmed and there was risk of loss or theft of the sanitary pads.

456. Use of Non-Official Email Addresses in Official Communication

As previously noted, 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 is contrary to the 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 lead to the compromise of the State Department's data and potentially exposes the entity and the Government in matters of National security and National interests.

457. Lack of an IT Steering Committee

As previously noted, the State Department does not have an IT Steering Committee in place. This is 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.

DONOR FUNDED PROJECTS

KENYA PRIMARY EDUCATION EQUITY IN LEARNING PROJECT IDA GRANT NO. D991-KE AND CREDIT NO. 7067-KE

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

458. Inaccuracies in Cash and Cash Equivalents Balance

The statement of financial assets reflects cash and cash equivalents balance of Kshs.418,089,166 as disclosed in Note 7A to the financial statements. The following anomalies were noted;

458.1 Stale Cheques

Review of the bank reconciliation statements as at 30 June, 2023 revealed twenty-three (23) counties with outstanding amounts totalling Kshs.6,537,308, being payments in cash book not yet recorded in bank statements, out of which a total of Kshs.413,135 was in respect of stale cheques.

458.2 Unsurrendered Disbursements

The statement of financial assets reflects imprests and advances balance of Kshs.81,451,911 indicated as disclosed in Note 12A instead of Note 11A to the financial statements. Included in the balance is an amount of Kshs.80,679,131 in respect of receivables from Implementing Agencies balances as at closure of the financial year which ought to have been surrendered, re-voted and included as part of cash and cash equivalents. Subsequent review of the un-surrendered disbursements, revealed that as at 30 October, 2023, a total of Kshs.38,770,824 had been surrendered, leaving an un-surrendered balance of Kshs.41,908,306 as at the same date.

Failure to surrender unutilized disbursements is contrary to Regulation 117 of the Public Finance Management (National Government) Regulations, 2015, which stipulates that where an A.I.E holder observes that it will not be possible to utilize all the funds allocated for a particular project in a given financial year, the A.I.E holder shall inform the Accounting Officer not later than February. Sub-section 2 of the same regulations states that the Accounting Officer will then surrender the resources to The National Treasury and The National Treasury shall ensure that Funds are re-voted for the project in the following financial year in order to continue the implementation of the project.

In the circumstances, accuracy and completeness of cash and cash equivalents and imprests and advances balance of Kshs.418,807,166 and Kshs.80,679,131, respectively could not be confirmed.

Other Matter

459. 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.7,533,070,957 and Kshs.3,857,824,336 respectively, resulting to an under-funding of Kshs.3,675,246,621 or 49% of the budget. Similarly, the Project expended Kshs.3,358,283,259 against an approved budget of Kshs.11,904,566,539, resulting to an under-expenditure of Kshs.8,546,283,280 or 72% of the budget. Further, the budget was not balanced.

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 THE USE OF PUBLIC RESOURCES

Basis for Conclusion

460. Unsupported Expenditure

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects an amount of Kshs.1,704,927,926 in respect of purchase of goods and services, however the following anomalies were noted.

460.1 Training Expenses

The expenditure includes an amount of Kshs.20,442,000 in relation to training expenses. Included in the training expenses is Kshs.18,441,000 incurred on training of both low cadre and high cadre employees at a cost of Kshs.7,376,400 and Kshs.11,064,600 respectively. The training was aimed at acquisition of practical knowledge in monitoring and evaluation of education projects and programs.

However, no records were provided to confirm how the payee was sourced and contracted. Further, Management did not provide documentation to demonstrate that the participants were appointed to undertake the Project activities, hence need for the training. In addition, there was no evidence that training needs assessment had been carried out by human resource department and the process of selection of the participants was directed by the Human Resource Management Advisory Committee, contrary to the Public Service Human Resource Manual Section H.3 (3) which requires the selection of trainees for all training programmes to be based on identified needs and will emphasize on training for performance improvement that address individual, organizational and national goals.

In the circumstances, value for money may not have been achieved on the expenditure of Kshs.18,441,000 on training.

460.2 Fuel, Oil and Lubricants

The expenditure includes Kshs.5,112,860 for fuel, oil and lubricants. Included in the expenditure is an amount of Kshs.3,896,360 paid to various officers drawn from the State Department and SAGAs to cater for fuel expenses while on various official activities. However, how the approval for the program, the officers selected and their roles in the Project implementation was not provided for audit review. Further, the fuel expenses ranged from Kshs.3,000 to Kshs.61,000 however no document was provided to show how the amounts were determined.

In the circumstances, value for money may not have been achieved on the expenditure of Kshs.3,896,360 on fuel, oil and lubricants.

461. Irregularities in Scholarship Disbursements

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an amount of Kshs.1,653,355,334 in respect of other grants and transfers, being scholarship funding for Cohort 1 and Cohort 2. However, the following anomalies were noted;

461.1 Unsupported Transport Payments to Students

According to the inception report by the Associate Director of Equity Group Foundation (EGF) dated 15 November, 2022, EGF would provide transport funds to the beneficiaries at a standard rate guided by the distances covered by the student from their homes to the nearest Equity Bank Branch, and to their schools during opening days, mid-terms and closing days termly. For each term, every student travels four (4) times: opening day, midterm(to-and-fro) and closing day. Therefore, each student in Cohort 1 travelled twenty (20) times for the five (5) terms. Review of the expenditure schedules provided revealed that transport payments to twelve (12) sampled students for five terms, three (3) in 2022 and two (2) in 2023 appeared inflated as the transport per travel ranged between Kshs.4,755 and Kshs.7,715. The total amount paid to the twelve (12) students was Kshs.1,448,600. Management did not provide documentation to account for the transport costs.

461.2 Scholarship Allocation Disparities

According to the Disbursement Linked Indicator (DLI) 4 on page 85 of the Program Operational Manual for KPEEL - P176867 dated November, 2022, the gender allocation of the Elimu Scholarship is 55% for girls and the rest for boys. However, an analysis of sampled sub-counties revealed that this provision was not adhered to by thirteen (13) sub-counties and for both Cohort 1 and 2.

Further, analysis of the 2021/2022 approved allocation provided by the KPEEL Management compared to the actual beneficiaries revealed that the Foundation did not allocate the scholarships according to the criteria set in terms of slots allocated per sub-county as 10 sub-counties had over allocation of slots while the remaining 3 had under allocation of slots under cohort 1.

In addition, five (5) sub-counties had over allocation of slots while the remaining seven (7) sub-counties had under allocation of slots under cohort 2.

461.3 Failure to Recognise and Report Assets

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects an expenditure of Kshs.1,704,927,926 in respect of use of goods and services which includes other operating expenses totalling Kshs.133,340,801. Included in the expenditure is an amount of Kshs.127,342,897 paid to Equity Group Foundation for consultancy services under a contract dated May, 2022 which was renewed in May, 2023. The consultancy fee was broken down into Kshs.6,816,563 for remuneration and Kshs.120,526,334 for reimbursable. Included in the reimbursable are ten (10) laptops valued at Kshs.1,250,000. However, the laptops were not recognised and reported as assets in the financial statements of the Project.

461.4 Lack of Value for Money on Procurement of Consultancy Services

The State Department procured the services of Jomo Kenyatta Foundation (JKF) to run the KPEEL program and signed a contract with the Foundation on 28 April, 2023 to that effect. However, comparison between Equity Group Foundation and JKF revealed material variances in cost per beneficiary as detailed below;

Consultant/Implementing Agency	Beneficiaries		Total	Consultant Fee - Kshs.	Cost Per Beneficiary Kshs.
	Cohort 1	Cohort 2			
Equity Group Foundation	9,000	7,573	16,573	127,342,897	7,683.76
Jomo Kenyatta Foundation	-	3,000	3,000	51,631,999	17,210.67

The engagement and contract with the JKF did not obtain value for money and therefore, donor-funded funds meant to benefit the students were not efficiently and effectively utilized.

Further, the audit could not confirm the engagement or procurement process of Equity Group Foundation Cohort 1 as well as approval by the Statement Department to engage the services of JKF since they had a running contract with Equity Group Foundation. In addition, the audit not confirm the basis for the State Department to have two consultancies running the same program including how mentorship for the students was done by two consultancies especially in schools which were managed by the two consultancies.

In the circumstances, the effectiveness and economy in use of public resources could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

462. Failure to Hold Minimum Number of Audit Committee Meetings

During the year under review, the Audit Committee held one meeting, on 10 May, 2023 as per the minutes provided for audit review. The Committee did not adhere to the

requirement to hold a meeting at least once every three months as required by Regulation 179(1) of the Public Finance Management (National Government) Regulations, 2015.

In the circumstances, the effectiveness of internal controls and implementation of the internal audit reports could not be confirmed.

463. Lack of an IT Strategic Committee and an IT Steering Committee

The Project did not have an IT Strategic Committee and an IT Steering Committee in place.

In the circumstances, the strategic direction of the Project and development of services and operational plans could not be achieved.

464. Lack of an Information System

The Program started its operations in August, 2022 with an anticipated closure date of 2026. However, it was noted that the Project Management had not implemented an Information System since the financial records were maintained in MS Excel spread sheets which do not have the necessary backups.

GOK/UNICEF EDUCATION FOR YOUNG PEOPLE PROGRAMME

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

465. Errors in the Annual Report and Financial Statements

Review of the annual report and financial statements revealed the following anomalies;

- i. The cover page does not indicate the accounting framework on which the annual report and financial statements have been prepared;
- ii. Details on the program grant/credit number have not been indicated on the cover page of the annual report and financial statements;
- iii. The Programme funding summary does not reflect the donor commitment and amount received to date in donor currency as prescribed by the reporting template issued by the Public Sector Accounting Standards Board;

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.

466. Long Outstanding Payment in Bank Not Recorded in the Cash book

The statement of financial assets reflects cash and cash equivalents balance of Kshs.1,077,215 as disclosed in Note 5 to the financial statements. However, the bank reconciliation statement as at 30 June, 2023 reflects payments in bank statements for the

year 2016 not recorded in cash book of Kshs.503,350. Further, the details of the transactions and nature of payments were not disclosed.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.1,077,215 could not be confirmed.

467. Unsupported Accumulated Surplus

As previously reported, the statement of receipts and payments reflects an accumulated surplus balance of Kshs.325,249,171. However, the accumulated surplus of Kshs.1,077,215 was not included in the fund balance brought forward in the financial year 2021/2022 in the statement of financial assets, resulting to an unexplained variance of Kshs.324,171,956. The Programme management did not provide explanation on how the surplus was reflected in the financial statements.

In the circumstances, the accuracy, occurrence and completeness of the accumulated surplus of Kshs.325,249,171 could not be confirmed.

Other Matter

468. Prior Year Matters

Several issues were raised in the audit report of the previous year. However, Management has not resolved the issues nor given any explanation for failure to adhere to provision of IPSAS cash basis and The National Treasury's Circulars.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

469. Failure to Transfer Unspent Funds to Consolidated Fund

The statement of financial assets reflects cash and cash equivalents balance of Kshs.1,077,215 as disclosed in Note 5 to the financial statements. However, the bank balance has remained unspent for four (4) consecutive years and has not been paid back to the Consolidated Fund. This is contrary to Regulation 74(6)(c) of the Public Finance Management (National Government) Regulations, 2015 which provides that 'an 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 Programme account is paid into the Consolidated Fund'.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

470. Undisclosed Status of the Programme

According to the annual report and financial statements, the Programme started in September, 2006 with the objective of expanding and improving early childhood development and education for the most vulnerable and disadvantaged children. The

Government of Kenya was required to contribute 10% while UNICEF was to provide 90% of the funds. However, it was observed that for over two (2) years, the Programme had not been budgeted within the State Department budget with the last expenditure being incurred in the financial year 2019-2020. Further, there was no status report on the Programme implementation and therefore the extent of UNICEF contribution could not be confirmed.

In the circumstances, the status of the Programme as at 30 June, 2023 could not be confirmed.

SECONDARY EDUCATION QUALITY IMPROVEMENT PROJECT (CREDIT NO.61380-KE)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

471. Non-Itemization of Budget Line Items

Review of the approved budget for the financial year 2022-2023 revealed 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 International Public Sector Accounting Standard (IPSAS) 24 on the presentation of budget information in the financial statements.

In the circumstances, the accuracy of the budget as approved and the allocations to the various line items could not be confirmed.

472. Remittance of Excess Funds to the Foundation – Other Grants and Transfers or Payments

The statement of receipts and payments reflects other grants and transfer payments amount of Kshs.1,638,196,216 which as disclosed in Note 6 to the financial statements relates to transfers to the Foundation for Elimu scholarship. Review, of the foundation bank statement and the proposed budget and expenditure analysis of scholarship transfers revealed that the Ministry transferred excess funds to the Foundation account amounting to Kshs.17,923,635, Kshs.286,075,352 and Kshs.201,861,992 in term 2 of 2022, term 1 of 2023 and term 2 of 2023 respectively.

Management did not explain why there were unspent amounts at the end of each term given that the transfers to the Foundation account should be based on accurate proposed expenditure schedules. Further, Management did not provide evidence to confirm that these running balances accrued interest for the time they were held in that account and that the same was deposited into the State Department's bank account.

In the circumstances, accuracy and completeness of other grants and transfers or payments amounting to Kshs.1,638,196,216 could not be confirmed.

Other Matter

473. 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.8,300,000,000 and Kshs.9,867,485,986 respectively resulting to an over-funding of Kshs.1,567,485,986 or 119% of the budget. Similarly, the Project expended Kshs.6,917,986,692 against an approved budget of Kshs.8,300,000,000 resulting to under expenditure of Kshs.1,382,013,308 or 17% of the budget.

The over funding may result to incurring expenditure not within the approved budget. Further, the underperformance affected the planned activities of the Project and may have impacted negatively on service delivery to the public.

474. 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, Management had not resolved the issues nor given any explanation for the failure to implement the recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

475. Irregularities in the Operation of Elimu Scholarship Fund

The statement of receipts and payments reflects cumulative other grants and transfers/ payments amounting to Kshs.1,638,196,216 as disclosed in Note 6 to the financial statements in respect of Grants for scholarships. The following anomalies were noted: -

475.1 Failure to Meet the Target for Mentorship of Elimu Scholars

Review of the Foundation's annual report submitted for payment of consultancy fees revealed that out of the eighteen thousand (18,000) enrolled learners, only fourteen thousand four and twenty-five (14,425) or 80% underwent mentorship sessions whereas three thousand five hundred and seventy-five (3,575) or 20% did not attend any mentorship sessions for the academic year ended December, 2022. There was no evidence of action taken by Management to address this anomaly.

Further, the report indicated that the Foundation had conducted only one thousand three hundred and ninety-eight (1,398) out of the agreed target of two thousand one hundred and forty-seven (2,147) mentorship sessions of Best Me Clubs (BMCs) across the target schools as per the binding contract. No explanation was provided as to why the set targets of mentorship programs could not be met in addition to failure to provide any mitigation measures.

475.2 Increased Dropout Rate of Elimu Scholars

Review of the Foundation's annual report, for the 2022 academic year revealed increased rate of school non-attendance of two hundred and ninety (290) and one hundred and six (106) for Cohort 1 and Cohort 2 respectively, attributed to student expulsions, pregnancies, indiscipline, suspensions, dropouts and deaths. No evidence was provided of any corrective measures for the first five cases. Further, the current status of the students who are out of school due to medical or psychosocial reasons, pregnancy, indiscipline and suspension cases was not provided for audit review.

475.3 Additional Fees Charged for Elimu Scholars

The State Department for Basic Education enrolled nine thousand (9,000) cohort one (1) Elimu scholars in the year 2021 and nine thousand (9,000) Cohort two (2) in the year 2022, all totalling to eighteen thousand (18,000) students on Elimu scholarship program under the Management of the Foundation. Review of the Foundation's 2022-2023 annual reports submitted to the Ministry on Elimu beneficiaries revealed that, out of the eighteen thousand (18,000) scholars enrolled in the program for cohort 1 and cohort 2, fees and social support stipends were paid for a total of seventeen thousand seven hundred and eighty-one (17,781) scholars. No explanation was given as to why the two hundred and nineteen (219) scholars were left out.

Further, field visits to sampled schools and review of the annual reports on the implementation status of the program submitted by the Foundation revealed that, some schools charged the learners additional levies majorly for development, Parent Teacher Association (PTA), motivation and remedial activities which were not in line with the Project guidelines.

475.4 Poor Academic Performance of Elimu Scholars

Review of the annual Elimu scholarship report by the Foundation for the 2022 academic year revealed that one thousand three hundred and forty-nine (1,349) students or 15% and three thousand one hundred and fifty-one (3,151) students or 35% of the cohort one (1) and cohort two (2) respectively performed below average. Further, field verification in sampled schools revealed dissatisfaction of teachers with the performance of some scholars, a situation the teachers attributed to lack of conditional funding (i.e failure to tie continued sponsorship of scholars to performance). Further, the interviewed teachers also pointed out lack of full involvement of parents or guardians in the well-being and academic progress of the scholars.

In the circumstances, the value for money on the expenditure of Kshs.1,638,196,216 in respect of other grants and transfers/payments for the Elimu Scholarship Fund may not have been achieved.

476. Irregularities in Procurement and Construction of Classrooms

The statement of receipts and payments reflects cumulative acquisition of non-financial assets amount of Kshs.4,851,948,048 as disclosed in Note 4 to the financial statements in respect of construction of classrooms, laboratories and washroom facilities. The following anomalies were noted: -

476.1 Delay in Completion of Construction of Classrooms, Laboratories and Sanitation Facilities

The State Department signed an agreement on 26 April, 2022 with twenty-five (25) contractors for the construction of classrooms, laboratories and sanitation facilities in twenty-five (25) targeted Counties at a total cost of Kshs.6,324,559,856. The projects' completion dates were estimated to be between 9 October, 2022 and 11 December, 2022 depending on the quantity of work.

Review of status and progress reports, revealed that as at 30 June, 2023, a total of Kshs.4,040,163,268 or 64% of the contract sum had been certified and paid to the contractors. However, the average percentage of work done was 63.7% with none of the contractors having reached practical completion of their projects approximately six (6) months after the expected completion date.

Further, the status report indicates that a total of sixteen (16) classrooms, thirty-five (35) laboratories, five (5) water projects and three hundred and eighty-eight (388) sanitation blocks had not commenced as at 30 June, 2023. In addition, most of the works were far behind schedule with the lowest ranking contractor recording a progress of 9% work done.

The field verification exercise carried out in sampled Counties revealed stalled projects with most of the contractors not on site for over a year and major defects like cracked walls in most of the projects and shallow pits for the sanitation projects. Further, Clause 47.1 of the contracts provides for liquidated damages paid to the employer at the rate per day stated in the PCC for each day that the completion date is later than the intended completion date. The employer may deduct liquidated damages from payments due to the contractor. The Contract also provides for termination of contract under Clause 57.2 in case of fundamental breaches of contract which include stopping of work for twenty-eight (28) days when no stoppage of work is shown on the current program and the stoppage has not been authorized by the Project Manager. Given that there was no revision of completion dates for any of the contracts, it is not clear why these clauses were not implemented when the intended time for completion was not met.

476.2 Slow Progress of Construction of Classrooms, Laboratory and Sanitation Facilities on Re-tendered Works

The State Department re-tendered for the Construction of Classrooms, Laboratory and Sanitation Facilities in five (5) Counties of Homabay, Elgeyo Marakwet, Marsabit, Isiolo and Garissa after unsuccessful response in the first evaluation. Five (5) contractors were awarded contracts after evaluation at a total cost of Kshs.331,252,700 and an agreement signed on 20 January, 2023. The projects' completion dates were estimated between 21 August, 2023 and 28 August, 2023.

Review of status and progress reports revealed that as at 30 June, 2023, a total of Kshs.133,581,401 had been paid to the contractors which was 40% of the total contract sum. The average percentage of work done was 33% with most of the works being far behind schedule.

Further, the status report indicated that a total of five (5) class rooms, six (6) laboratories, eight (8) water projects and thirty-seven (37) sanitation blocks had not commenced as at 30 June, 2023 with the lowest ranking contractor recording a progress of 12% work done.

476.3 Un Approved Sub-Contracting of Works

Clause 7.1 of the contract agreements on subcontracting provides that the contractor may subcontract with the approval of the Project Manager and not assign the contract without the approval of the employer in writing. Field verification established that several contractors had subcontracted their works without the approval of the employer. The Project Management did not provide for audit the data of all the contractors who sub contracted works and Project Manager's approvals of the subcontracting.

In the circumstances, the value for money on acquisition of non-financial assets totalling Kshs.4,812,293,317 may not be achieved.

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

Conclusion

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

STATE DEPARTMENT FOR POST TRAINING AND SKILLS DEVELOPMENT – VOTE 1068

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

479. Unresolved Prior Year Matters

In the audit report of the previous year, several paragraphs were raised that remained unresolved as at 31 March, 2023. However, Management did not provide satisfactory explanations for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

480. Irregular Advance Payments

As reported in the previous year, the State Department made advance payments amounting to Kshs.8,080,000 to a motor vehicle dealer for the purchase of motor vehicles, which had not been delivered as at 30 June, 2022. Review of the status and progress made, revealed that the motor vehicles had not been delivered as at the time of audit in December, 2023. Management explained that a request for a refund of the deposit from the dealer has been made which has also not been received.

In the circumstances, the propriety and value for money obtained from the advance payment of Kshs.8,080,000, could not be confirmed.

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

Basis for Conclusion

481. Weak Assets Management

During the year under review, a motor vehicle was taken to a motor vehicle dealer for repairs after it was involved in an accident in May, 2022. However, no accident report was provided to ascertain the cause of the accident. Further, a visit to the garage on 11 December, 2023 revealed that although the dealer raised a quotation for repair of the vehicle totalling Kshs.764,444, the motor vehicle has not been repaired, about one and a half years since it was taken to the garage. The vehicle is exposed to vagaries of weather and vandalism or theft of parts.

In the circumstances, the existence of effective internal controls on management of assets could not be confirmed.

STATE DEPARTMENT FOR IMPLEMENTATION OF CURRICULUM REFORMS – VOTE 1069

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

482. Misclassification of Expenditure

The statement of receipts and payments reflects expenditure on use of goods and services of Kshs.113,902,281 as disclosed in Note 3 to the financial statements. Review of the expenditure revealed amounts totalling Kshs.16,346,316 was charged to incorrect expenditure items without approval of The National Treasury. This is contrary to Section 43(2) (b) of the Public Finance Management Act, 2012 which allows an Accounting Officer of a National Government entity to reallocate funds between programs or between sub votes if a request for the reallocation has been made to The National Treasury explaining the reasons for the reallocation and The National Treasury has approved the request on reallocation of funds.

In the circumstances, the accuracy and completeness of the use of goods and services expenditure of Kshs.16,346,316 could not be confirmed.

483. Inaccuracy of the Bank Balance

The statement of financial assets and financial liabilities and as disclosed in Note 6A to the financial statements reflects bank balance of Kshs.64 which includes deposits account with a Nil balance. Review of IFMIS payment details revealed expenditure transactions from deposits cash book amounting to Kshs.8,359,616 which differed with the amount of Kshs.6,980,600 disclosed in Note 6 to the financial statements, resulting in an unreconciled variance of Kshs.1,379,016. Further, although the Management explained that the funds were received from United Nations Children's Fund (UNICEF) to fund development of framework for implementation of Curriculum Based Competency (CBC) and was not budgeted, the expenditure is omitted from the statement of receipts and payments.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.64 could not be confirmed.

Emphasis of Matter

484. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.204,865,398 and Kshs.174,512,695, respectively resulting in an under-funding of Kshs.30,352,703 or 15% of the budget. Similarly, the State Department expended Kshs.174,512,631 against an approved budget of Kshs.204,865,398, resulting in an under-expenditure of Kshs.30,352,767 or 15% of the budget.

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

485. Pending Accounts Payable

Note 10.1 to the financial statements reflects pending accounts payable balance of Kshs.6,796,280. Management indicated that the payment of the bills was time barred for exchequer requisition as per the circular on end of year closure of The National Treasury. The bills have however been handed over to the State Department for Early and Basic Education for settlement.

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.

My opinion is not modified in respect of these matters.

Other Matter

486. 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 and Effectiveness on Internal Controls, Risk Management and Governance. 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 template.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

487. 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 for Conclusion

488. 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.

MINISTRY OF HEALTH – VOTE 1081

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

489. Undisclosed Bank Balances

Note 12A to the financial statements reflects bank balance of Kshs.304,951,441. However, the balance excludes an amount of Kshs.850,928,545 held in three (3) bank accounts. Further, the bank balances have not been reported separately in the respective funds financial statements. In addition, review of the bank accounts register revealed ten (10) bank accounts whose respective cash books, bank statements and certificates of bank balance were not provided for audit.

In the circumstances, the accuracy and completeness of bank balances of Kshs.304,951,441 could not be confirmed.

490. Unauthorised Development Expenditure

The statement of comparison of budget and actual amounts: development reflects actual expenditure of Kshs.30,593,615,201 against an approved budget of Kshs.41,986,549,723 on a comparable basis. Included in the actual expenditure are amounts of Kshs.30,897,854 and Kshs.112,971,802 spent under the Department of Clinical Waste Disposal System Project and Supply of Medical Equipment and Associated Services respectively totalling Kshs.143,869,656 that had not been included in the approved budget. This is contrary to Regulation 52(1)(b) of the Public Finance Management (National Government) Regulations, 2015 which states that AIE holders shall be made to understand that the limit to which they may spend is that prescribed by the Authority and not their expectations, however justified this may seem.

In the circumstances, the regularity of the expenditure of Kshs.143,869,656 could not be confirmed. Further, Management was in breach of the regulation.

Emphasis of Matter

491. Budgetary Control and Performance

The statement of comparison of budget and actual amounts combined reflects final receipts budget of Kshs.111,185,209,462 and actual on comparable basis of Kshs.78,696,295,000, resulting to underfunding of Kshs.32,488,914,462 or 29% of the budget. Similarly, the Ministry spent an amount of Kshs.78,692,449,657 out of the approved expenditure budget of Kshs.111,185,209,462, resulting in an under expenditure of Kshs.32,492,759,805 or 29% of the budget.

The underfunding and underexpenditure may have affected the Ministry's key mandate of coordinating health policy, health regulation, National Referral Health Facilities, capacity building and provision of technical assistance to the Counties.

492. Pending Accounts Payables

Note 20 to the financial statements reflects pending bills amounting to Kshs.41,169,835,759 which includes Kshs.40,218,084,659 for the previous year. However, analysis revealed payment of Kshs.1,671,543,405 towards pending bills for financial year 2021/2022 but which had not been included in the balance for the prior year.

Failure to disclose and 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.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

493. Failure to Adhere to the Executive Order No.1 of 2023 on Organization of the Government of Kenya

Executive Order No. 1 of 2023 on organization of the Government of the Republic of Kenya created two entities from the former Ministry of Health, that is the State Department for Medical Services and the State Department for Public Health and Professional Standards. Subsequently in line with Section 67(1) of the Public Finance Management Act, 2012, which states that the Cabinet Secretary, except as otherwise provided by law, shall in writing designate Accounting Officers to be responsible for the proper management of the finances of the different National Government entities as may be specified in the different designations. Two (2) Accounting Officers were designated for the State department for Medical Services and State department for Public Health and Professional Standards on 11 January, 2023 and 21 March, 2023 respectively to be responsible for the proper management of the finances in their respective Departments. However, the State Department for Medical Services (being a separate Government entity) has not prepared the financial statements in line with Section 81(1) of the Public Finance Management Act, 2012. In addition, the financial statements provided for audit indicates that they are for the Ministry of Health for a period of twelve (12) months from 1 July, 2022 to 30 June, 2023. However, the Ministry of Health ceased to exist after the issuance of Executive Order No. 1 of 2023.

Further, paragraph 1.4.14 of the International Public Sector Accounting Standards under the Cash Basis of Accounting requires presentation of individual financial statements differently upon a major restructuring of service delivery arrangements, creation of a new, or termination of a major existing, government entity.

The State department for Medical Services held that it was not allocated a new Vote Head and continued with Vote 1081 for the Ministry of Health until 30 June, 2023, hence failure to separate the budgets and the transactions for the two entities leading to preparation of combined financial statements under the name Ministry of Health.

In the circumstances, Management was in breach of the Public Finance Management Act, 2012, the Public Audit Act, 2015 and Executive Order No.1 of 2023 and did not comply with the requirements of International Public Sector Accounting Standard under the Cash Basis.

494. Non-Compliance with the One Third of Basic Salary Rule

Analysis of the staff payroll revealed that one hundred and sixty-eight (168) employees were earning less than one third of their basic salaries. This was contrary to Section 19(3) 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 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.

495. Construction of Kisii Cancer Centre

495.1 Delayed Construction of Kisii Cancer Centre

The project was to be financed through a loan whose agreements were signed on 03 June, 2015 between the Republic of Kenya (Borrower) and Arab Bank for Economic Development in Africa (BADEA) at USD 10,000,000 (or Kshs.1 Billion at the prevailing exchange rate at the time) and on 12 April, 2017 between the Saudi Fund for Development (SFD) and the Republic of Kenya at 37,500,000 Saudi Riyals (or Ksh.1 Billion, at the prevailing exchange rate at the time). The borrower was expected to provide additional funding of USD.2,800,000 (or Kshs.280,000,000 at the prevailing exchange rate at the time) bringing the total estimated project cost to Kshs.2,280,000,000. The project duration was six (6) years from 10 August, 2016 to 10 August, 2022. However, as at 30 June, 2023, construction had not commenced and total loan amount disbursed since the inception of the project has also not been disclosed. The commencement of the project has delayed for over seven (7) years.

In the circumstances, the expected value for money has not been obtained.

495.2 Expired Contract on Consultancy Services

The Ministry entered into contract for provision of consultancy services for the proposed cancer centre at Kisii Level 5 Hospital on 14 November, 2019 for a contract sum of Kshs.128,402,000. The expected consultancy period was eighteen (18) months starting December, 2019 and ending May, 2021. However, during the period under review, payment amounting to Kshs.19,220,000 was made from the Ministry as part of the counterpart funding against the expired contract which had not been renewed or extended.

In the circumstances, the regularity and value for money on the expenditure of Kshs.19,220,000 incurred on consultancy services for the proposed cancer centre at Kisii Level 5 Hospital could not be confirmed.

496. Delayed Construction of Paediatric Emergency Centre and Burns Management Centre

The statement of receipts and payments and Note 11 to the financial statements reflects acquisition of assets of Kshs.1,943,005,000. The amount includes expenditure of Kshs.377,455,655 on construction of buildings out of which Kshs.131,647,317 was paid to a contractor for construction of Paediatric Emergency Centre and Burns Management Centre located at Kenyatta National Hospital. The project which commenced in 2017-2018 financial year was expected to be completed in 2021-2022 was at 58% completion level as per the hospital project status report of June, 2023. Further, physical inspection carried out revealed that although the contractor had some presence on site, no construction works were ongoing.

In the circumstances, value for money on expenditure of Kshs.131,647,317 on construction of Paediatric Emergency Centre and Burns Management Centre could not be confirmed.

497. Failure to Operationalise Institutions

The following institutions have not been fully operationalised as at 30 June, 2023.

497.1 Mathari Teaching and Referral Mental Hospital

Paragraph 3(1) of Legal Notice 165 of 2017 states that there is established a State Corporation to be known as Mathari National Teaching and Referral Hospital. In addition, paragraph 16(2) states that the accounts of the Referral Hospital shall be audited and reported upon in accordance with the Public Finance Management Act, 2012 and Public Audit Act, 2015. However, six (6) years after the Legal Notice, the Referral Hospital had not been operationalised, despite existence of a fully constituted board.

497.2 National Spinal Injury Referral Hospital

Executive Order No.1 of 2023 on organization of the Government of Kenya listed Spinal Injury Hospital as one of the institutions under the State Department for Medical Services. However, the Hospital had not been operationalised and is managed by a Hospital Management Committee. The existence of the hospital is not supported by legislation either in form of an Act of Parliament or a legal notice.

497.3 Kenya Tissue and Transplant Authority

Paragraph 3(1) of Legal Notice 142 of 2022 established a State Corporation known as Kenya Tissue and Transplant Authority. In addition, paragraph 17(2) states that the accounts of the Kenya Tissue and Transplant Authority shall be audited and reported upon in accordance with the Public Finance Management Act, 2012 and Public Audit Act, 2015. However, the Authority had not been constituted and did not have a Board of Directors.

497.4 Kenya Institute of Primate Research

Paragraph 3(1) of Legal Notice 273 of 2017 established the Kenya Institute of Primate Research as a body corporate with perpetual succession and a common seal. In addition,

paragraph 23 (2) states that the accounts of the Institute shall be audited in accordance with the Public Audit Act, 2015. However, six (6) years after the Legal Notice the Institute had not been constituted and did not have a Board of Directors.

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

498. Procurement of Immunohistochemistry Machine

Note 11 to the financial statements reflects construction of buildings of Kshs.377,455,655 out of which Kshs.28,500,000 was for supply, delivery and installation of an immuno histochemistry machine for breast cancer at National Cancer Reference Laboratory. Review of Inspection and Acceptance Committee minutes revealed that the equipment was supplied, delivered and installed. However, the procurement documents indicating how the supplier was identified and awarded the contract were not provided for audit.

In the circumstances, the regularity and value for money on expenditure of Kshs.28,500,000 could not be confirmed.

499. Long Outstanding Deposits

Note 14 to the financial statements reflects third party deposits and retention of Kshs.301,533,549 out of which Kshs.55,247,609 relates to long outstanding deposits for over five (5) years from 2017/2018 which has remained unsettled. This is contrary to Regulation 106 of the Public Finance Management (National Government) Regulations, 2015 which states that unless otherwise exempted by an Act of Parliament, any deposit which has remained unclaimed for five (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 regulation.

500. Training of Kenyan Doctors in Cuba

Note 7 to the financial statements reflects use of goods and services of Kshs.7,339,616,756 out of which Kshs.493,954,203 was for training expenses which includes Kshs.15,168,550 incurred on thirty-five (35) Kenyan Doctors undertaking family medicine training in Cuba.

However, the following unsatisfactory matters were noted:

500.1 Lack of Approval to Train in Foreign Based Institution

Training records indicates that the Ministry entered into a contract to train fifty (50) doctors in Family medicine for two years at a cost of USD 2,147,625 equivalent to Kshs.214,762,500 without evidence that the course was not available in Kenya before granting approval to train in a foreign institution. This is contrary to Paragraph 4.2.1 of the Guidelines on Managing Training in Public Service, 2017, which provides that an approval to train in foreign-based institution will only be granted in instances where the courses applied for are not available in local institutions.

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

500.2 Training County Government Employees

Review of human resource records revealed that the trained doctors are not employees of the Ministry but are employed by various County Governments which manages their human resource matters including training. Management has not provided the criteria used in identification, selection and award of scholarship and why the training could not be done by the respective County Governments. In addition, since the Ministry does not manage the payroll for these employees, the recovery of 20% training levy for the sponsored doctors was not made, although Management had requested various counties to recover the training levy. This was contrary to Section H.5(2) of Human Resource Policies and Procedures Manual for the Public Service, 2016 which states that officers attending courses lasting more than four (4) weeks in institutions outside the country will contribute at the rate of twenty percent (20%) of their basic salary per month for the duration of the course.

In the circumstances, Management was in breach of the Human Resource Policies and Procedures Manual for the public service.

501. Outstanding Imprest

The statement of financial assets and financial liabilities reflects imprest and advances of Kshs.44,226,312, which ought to have been accounted for on or before 30 June, 2023. As at the time of audit in September, 2023, Management had not recovered the long outstanding imprest. This is contrary to Regulations 93(5) and 93(6) of the Public Finance Management (National Government) Regulations, 2015 which requires a holder of a temporary imprest to account or surrender the imprest within seven (7) working days after returning to the duty station and Accounting Officers to recover the full amount from the salary of the defaulting officers with interest at the prevailing Central Bank Rate.

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

502. Unutilised Medical Equipment

The statement of receipts and payments reflects use of goods and services amount of Kshs.7,339,616,756 as disclosed in Note 7 to the financial statements. The amount includes Kshs.2,939,233,336 on rental of produced assets out of which Kshs.2,341,127,802 was for repair and maintenance of Managed Equipment Services (MES) equipment outsourced by the Ministry. However, physical verification in the month of September, 2023 in sampled hospitals revealed that the contracts between maintenance service providers and the Ministry had expired. Therefore, some equipment including renal dialysis equipment, Intensive Care Unit (ICU) equipment, X-ray and other Imaging equipment were not functioning and had not been serviced as at September, 2023.

In addition, verification of the Microwave projects with an estimated value of Kshs.135,000,000 revealed that the microwave equipment in Narok County was still in

sealed containers. Further, the Microwave equipment in Kisumu was functioning but had a defect that had not been corrected due to the absence of a maintenance contract.

In the circumstances, value for money of Kshs.2,341,127,802 in respect of repair and maintenance of Managed Equipment Services (MES) equipment and Microwave project could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

503. Assets Management

503.1 Failure to Maintain Fixed Assets Register

Annex 1 to the financial statements reflects summary of fixed asset register of historical cost of Kshs.6,141,769,839. However, the Ministry did not maintain a fixed asset register to record the assets indicating their nature, date of purchase, amount, unique identifier number, depreciation among other details.

503.2 Undisclosed Residential Housing Units

Annex 1 to the financial statements reflects building and structures of Kshs.2,056,054,582. However, the balance excludes two hundred and thirty-five (235) housing units at Mathari Teaching and Referral Hospitals whose values have not been determined. Management indicated the housing units belong to National Housing despite being located at a parcel of land belonging to the Ministry.

503.3 Undisclosed Land and Buildings

Annex 1 to the financial statements reflects Nil land balance. However, the Ministry possess various parcels of land across the country including land on the ongoing construction of Cancer Centres in Mombasa, Nakuru and Garissa. However, a list of the parcels of land and buildings and ownership documents were not provided for audit. Further, excluded from the balance is land and buildings along Cathedral Road, Nairobi where the Ministry of Health Headquarters is located.

503.4 Encroachment of Land at Mathari Teaching and Referral Hospital

Available information confirmed that the Ministry owns a parcel of land which houses Mathari Teaching and Referral Hospital measuring approximately 34.3 hectares of undetermined value. Physical verification and explanation by Management revealed that the land was partially fenced by Nairobi Metropolitan Services (NMS). However, no documentary evidence was provided to support this explanation. Further, it was observed that an undisclosed developer had erected a temporary fence on the unfenced portion of the land.

In the circumstances, the effectiveness of internal controls in place to safeguard the assets from loss, misuse or theft could not be confirmed.

504. Payment of Salaries Outside the Payroll

The statement of receipts and payments reflects compensation of employees amount of Kshs.14,157,676,754 which includes Kshs.766,458,883 that was paid outside the Integrated Personnel and Payroll Database (IPPD) system. Management confirmed this to be payments made to Agence Française de Development (AFD) project, Cuban Doctors and Malaria vector specialists processed outside the system. This is contrary to The National Treasury directive that require personnel emoluments to be processed and paid through IPPD.

In the circumstances, existence of effective mechanisms on the payroll could not be confirmed.

505. Lack of Training Needs Assessment

Note 7 to the financial statements reflects training expenses of Kshs.493,954,203 out of which Kshs.99,936,658 was tuition fees and allowances for employees. However, it was noted that the trainings were conducted without a Training Needs Assessment as per Paragraph 3.0 of the guidelines to managing training in Public Service, 2017 which provides that “As per the Human Resource Development Policy and other Human Resource Management & Development guidelines in the Public Service, planning for training shall be guided by the outcome of Training Needs Assessment and shall be designed in line with identified performance gaps linking training to closing of such gaps. Training will be planned to upgrade core competencies, knowledge, skills and attitudes of public servants, with the aim of enhancing service delivery.”

In the circumstances, the relevance and effectiveness of the staff training undertaken by the Ministry could not be confirmed.

DONOR FUNDED PROJECTS

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

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

Other Matter

507. 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.1,182,000,000 and Kshs.651,825,579 respectively resulting to an under-funding of Kshs.530,174,421 or 45% of the budget.

Similarly, the Project spent Kshs.644,682,516 against an approved budget of Kshs.1,182,000,000 resulting to an under-expenditure of Kshs.537,317,484 or 45% of the budget.

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

508. Unutilized/Undrawn Balances

The funding summary in Note 2.7 under the project information and overall performance reflect that the project had a total donor commitment of Kshs.3,674,000,000 but had received disbursements of Kshs.2,561,814,494 as at 30 June, 2023 leading to undrawn balances of Kshs.1,112,185,506, an indication that the project had attained an absorption rate of 70% since commencement, with the project end date indicated as 31 December, 2023.

Further, from the amount received of Kshs.2,561,814,494, the project had cumulative payments of Kshs.2,550,804,104 as at 30 June, 2023 leading to the unutilized balance of Kshs.11,010,390 that is reported under Note 7 to the financial statements as total cash and cash equivalents.

Failure to absorb the funds may lead to the project not attaining its objective of focusing on public health problems affecting the Country, including infectious diseases, use of scientific evidence for policy formulation, and program implementation. In addition, failure to spend funds already released to the project may have denied the beneficiaries of the project critical services.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

509. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

511. 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 Management of 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

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

Emphasis of Matter

513. Lack of Financing Plan for Payables

The statement of financial assets reflects a bank balance of Kshs.1,121,150 as disclosed in Note 9 to the financial statements. However, and as previously reported, the pending accounts payables balance of Kshs.4,436,435 as disclosed under other important disclosures would not be fully settled by the bank balance. Management had not explained how the resulting difference of Kshs.3,315,285 was to be financed. In addition, other important disclosures reflect court cases with estimated contingent liabilities of Kshs.11,775,142.

In the circumstances, the availability of financing for pending accounts payables of Kshs.4,436,435 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

514. Recurring Bank Charges

The statement of receipts and payments reflects purchase of goods and services of Kshs.34,587 which as disclosed in Note 6 to the financial statements relates to bank charges resulting from failure to close the Project and the related project bank accounts.

In the circumstances, value for money on continued operations of the project bank accounts could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

516. As required by 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 Management of the Project and the 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

REPORTING OF THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

518. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects the final budget expenditure of Kshs.500,000,000 against the actual expenditure of Kshs.353,536,957 resulting to an under-absorption of Kshs.146,463,043 or 29% of the budget. Similarly, the project's actual receipts amounted to Kshs.151,812,000 against budgeted receipts of Kshs.500,000,000 resulting to revenue shortfall of Kshs.348,188,000 or 69% of the budget.

The under-absorption and short fall in revenue may have impacted negatively on the objectives of the Project.

519. Delayed Disbursements and Missed Project Targets

Note 12.6 to the financial statements reflects transfers to other Government entities totalling to Kshs.2,878,953,881 for the financial year 2021-2022 which includes transfers to County Governments of Kshs.1,445,456,881. However, the funds were disbursed towards the end of the financial year which delayed the implementation of their work plans. Further, the financial statements under the funding summary information reflects an amount of Kshs.1,314,888,162 as undrawn balance and Kshs.289,231,860 as unutilized funds.

In the circumstances, the objectives of the Project may not be realised.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

520. Pending Bills

Note 13.1 to the financial statements on other important disclosure reflects pending bills amount of Kshs.3,628,545 which was outstanding at the close of the 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.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

521. Failure to Update Imprest and Fixed Asset Registers

Review of imprest register and fixed assets registers from three (3) sampled projects revealed that they were not updated.

In the circumstances, the internal controls on maintenance of imprest and fixed assets registers could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

522. 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 Management of the Project and the 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

523. Unsupported Expenditure

The statement of receipts and payments reflects expenditure on compensation of employees of Kshs.60,862,539 as disclosed in Note 2 to the financial statements. The amount includes Kshs.3,462,500 which was not supported with payroll. Further, the statement reflects expenditure on purchase of goods and services and acquisition of non-financial assets of Kshs.1,199,125,156 and Kshs.365,547,978 respectively as disclosed

in Notes 3 and 4 to the financial statements. However, the expenditures include amounts of Kshs.439,567,417 and Kshs.30,440,810 which were not supported with contracts, invitations to tender, request for quotations and bills of quantities.

In addition, the expenditure on use of goods and services include an amount of Kshs.385,263,550 in respect of mass vaccination campaign which was transferred to the Mpesa holding account. However, the Mpesa statement disclosing individual transactions and reconciliation statements were not provided for audit.

In the circumstances, the completeness and accuracy of total payments reflected in the statement of receipts and payments could not be confirmed.

Other Matter

524. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.2,668,245,289 and actual on comparable basis of Kshs.1,832,873,769, resulting to underfunding of Kshs.835,371,520 or 31% of the budget. Similarly, the Project spent an amount of Kshs.2,033,780,962 out of the approved expenditure budget of Kshs.4,214,171,418, resulting in an under expenditure of Kshs.2,180,390,456 or 52% of the budget.

The underfunding and underperformance may affect the Project's key goals of preventing, detecting and responding to the threat posed by Covid-19 and strengthening national systems for public health preparedness.

525. Slow Disbursement of Grant

Paragraph 2.7 on funding summary indicates that the project duration is five (5) years from March, 2020 to March, 2025 with an approved budget of EUR 196,997,602 equivalent to Kshs.33,639,820,930. However, as at 30 June, 2023 disbursements of EUR 171,902,641 equivalent to Kshs.28,412,470,401 or 84% had not been drawn by the Project with one and a half years remaining till the Project end date.

In the circumstances, the objectives of prevention, detection and response to the Covid-19 outbreak and strengthening of national systems for public health emergency preparedness in the Country may not be achieved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

526. Budget Imbalance

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.2,668,245,289 and expenditure budget of Kshs.4,214,171,418 resulting to a budgeted deficit of Kshs.1,545,926,129 contrary to the provisions of Section 33(c) of the Public Finance Management (National Governments) Regulations, 2015 which states

that unless provided otherwise in the Act, these Regulations or any other guidelines developed in furtherance of the Act or these Regulations the budget shall be balanced.

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

527. Failure to Provide Approved Budget

During the year under review, Management provided draft budget estimates instead of the approved budget. Further, these draft budget estimates were not prepared in line with the provisions of Regulation 41(1) of the Public Finance Management (National Government) Regulations, 2015 which states that the National Government budget estimates and each County Government's budget estimates shall be prepared, accounted for and reported in accordance with the Government of Kenya budget classification and chart of accounts issued by the National Treasury.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

528. Weaknesses in Distribution of ICT Equipment and Materials

The statement of receipts and payments reflects expenditure on acquisition of non-financial assets totalling to Kshs.365,547,978 as disclosed in Note 4 to the financial statements. The amount includes purchase of Information and Communications Technologies (ICT) materials of Kshs.48,652,300 out of which Kshs.4,658,400 was for supply of desktops while Kshs.25,537,000 was for supply of barcode scanners, normal printers, printer ribbons and labels. However, the distribution lists lacked signature or acknowledgements by the recipients.

In the circumstances, the effectiveness internal controls of over issuance and distributing of Information and Communications Technologies (ICT) materials could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

529. As required by financing agreements dated 03 April, 2020, Additional financing (AF 1) financing agreement dated 09 February, 2021 and Additional Financing (AF 2) financing agreement dated 13 July, 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 Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

GLOBAL FUND TUBERCULOSIS GRANT CREDIT NO. KEN-T-TNT-2067

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

531. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.386,816,099 and actual on comparable basis of Kshs.301,839,714, resulting in an underfunding of Kshs.84,976,385 or 21% of the budget.

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

532. Pending Bills

Note 1 on Other Important Disclosures reflects pending accounts payables amount of Kshs.5,519,439 due to suppliers of goods and services. Management did not explained why the bills were not settled during the year under review. 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.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

533. Inefficient Supply of Cartridges for GeneXpert Machines and Patient Kits

Review of records indicated that a total of one hundred and eight six (186) GeneXpert machines were issued across various health facilities in the country. However, physical verification in six (6) counties in September, 2023 revealed inadequate supply of cartridges which caused the machines to produce 238,187 tests against optimal capacity of 714,240, resulting to underperformance by 476,053 tests or 67%. Further, 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. Further, there was shortage of tuberculosis (TB) patient kits for all registered patients in the six (6) counties sampled and patients were forced to share the kits as opposed to each patient having his or her own kit.

In the circumstances, the effective use of GeneXpert machines and patients Kits could not be confirmed.

534. Low Performance Results for Latent Tuberculosis Infection (LTBI)

Records provided for audit indicated that two hundred and twenty (220) healthcare workers were trained on LTBI. The LTBI policy aims at identifying, testing, diagnosing and initiating treatment to 900,000 patients with latent TB infection by the end of 2023. However, as at 30 June, 2023, six (6) months to the set timeline only a total of 459,794 patients or 51% were reported to have been initiated on treatment.

In the circumstances, the program may not achieve its target of identifying, testing, diagnosing and initiating treatment to 900,000 patients by the end of the year 2023.

535. Lack of Statistics on Health Facility Based Case Finding

During the year under review, Kshs.6,376,720 was spent on training various staff on health facility-based case finding. This policy entails finding missing people with Tuberculosis (TB) through screening all healthcare workers and all patients presenting themselves to a health facility. However, reports on the number of patients who presented themselves in various health facilities, number of trained healthcare workers in each facility and evidence that they were screened for TB was not provided for audit.

In the circumstances, it has not been possible to confirm the value for money and the effectiveness of case finding despite staffs having been trained in these approaches.

536. Failure to Operationalise Use of Insurance Cover for Drug Resistance Tuberculosis (DRTB) Patients

The annual work plan for financial year 2022/2023 was approved on 18 August, 2022 and provided for a budget of Kshs.10,675,200. This was to enrol all DRTB patients on National Health Insurance Fund (NHIF) for the eighteen (18) months period they are on treatment. However, no records were provided to support enrolment of DRTB patients to NHIF. In addition, no explanations were provided for failure to enrol the patients.

In the circumstances, DRTB patients did not benefit from the approved insurance cover and the value for money realised from the cover could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

538. As required by 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 Management of the Project and the Project'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
NO. 2065**

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

539. Unsupported Payments in Bank Reconciliation Statements

The statement of financial assets reflects bank balance of Kshs.480,041,252 as disclosed in Note 5.A to the financial statements. Review of corresponding bank reconciliation statement for the month of June, 2023 revealed payments in bank statements not yet recorded in cash book totalling Kshs.612,500. However, these payments were not supported by payment vouchers as evidence of goods supplied or services rendered and have been outstanding since financial year 2021/2022.

The Management indicated that they had instituted legal and administrative action for the recovery of the funds. However, no evidence of court case on the matter was provided for audit review and the proposed administrative action to the concerned officer has not been effected.

In the circumstances, the accuracy and completeness of bank balance of Kshs.480,041,252 could not be confirmed.

Other Matter

540. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.765,167,190 and Kshs.625,010,426 respectively, resulting to underfunding of Kshs.140,156,764 or 18 % of the budget. Similarly, the Program spent an amount of Kshs.287,262,162 out of the approved expenditure budget of Kshs.765,167,190, resulting in an under expenditure of Kshs.477,905,028 or 62% of the budget.

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

541. Slow Disbursement of Grant Funds

Paragraph 2.7 on the funding summary indicates that the project is for a duration of three (3) years from 01 July, 2021 to 30 June, 2024 with an approved budget of USD 15,733,821 equivalent to Kshs.1,702,378,631. However, as at 30 June, 2023 disbursements of USD 5,707,980 equivalent to Kshs.617,595,951 had not been received.

In the circumstances, the Program, which has only one year remaining, may not absorb the entire amount of USD 15,733,821 equivalent to Kshs.1,702,378,631. Further, the program risks 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.

542. Pending Bills

Analysis of Pending Bills as disclosed in Annex 4a indicates that the Project had pending bills totalling Kshs.24,398,008 as at 30 June, 2023. However, Management has not explained why the bills were not settled during the year under review.

Failure to settle bills in the year for which they relate may adversely affects the budgetary provisions for the subsequent year to which they form a first charge.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

543. Long Outstanding Imprest and Advances

The statement of financial assets reflects imprests and advances of Kshs.330,000 as disclosed in Note 6 to the financial statements and which relates to an imprest advanced in 2018. This is contrary to Regulation 93(5) of the Public Finance Management (National Government) Regulations, 2015, which provides that a holder of temporary imprests shall account or surrender the imprest within seven working days after returning to duty station.

In the circumstances, Management was in breach of the law and the recoverability of the imprest amounting to Kshs.330,000 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

544. Lack of an Asset Register

During the year under review, Management did not provide a fixed asset register but only presented an asset verification report, which omitted 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 internal controls on maintenance of the fixed assets register could not be confirmed.

545. Non-Existent Peer Educators

The statement of receipts and payments reflects purchase of goods and services amount of Kshs.214,469,558 as disclosed in Note 4 to the financial statements. The amount

includes training payments of Kshs.188,179,362 out of which Kshs.11,112,000 was spent on peer educators for stipends and airtime. However, field verification revealed that peer educators in four (4) facilities were not existent and were missing from the facilities employees' records.

In the circumstances, the effectiveness of internal controls on management of peer educators could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

546. 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 Management of the Program and the Program's financial statements are in agreement with the accounting records and returns.

RESILIENT SUSTAINABLE SYSTEMS FOR HEALTH (RSSH) KEN-T-TNT 2067 SUB-RECIPIENT

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

548. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.548,842,862 and actual on comparable basis of Kshs.100,414,270, resulting to underfunding of Kshs.448,428,592 (or 82%) of the budget. Similarly, the Project spent an amount of Kshs.166,022,152 out of the approved expenditure budget of Kshs.548,842,862, resulting in an under expenditure of Kshs.382,820,710 (or 70%) of the budget.

The underfunding and underperformance affected the Project's key objectives of building resilient and sustainable systems for health and enhancing the fight against new pandemics.

549. Slow Absorption of Project Funds

As disclosed in Note 2.7 of the Project information, the Project was earmarked for a duration of three (3) years from 2021/2022 to 2023/2024. Note 2.7A on funding summary indicates a donor commitment of Kshs.1,073,372,973, equivalent to USD 9,920,388 for the three years. However, only Kshs.397,645,363 equivalent to USD 3,410,213 or 37% has been drawn resulting to undrawn balance of Kshs.675,727,610 or 63%. In addition, the grant period will lapse on 30 June, 2024 implying only one year is remaining to complete

the project's planned deliverables. Further, Management did not provide any documentary evidence for review nor explain any mitigation measures that had been put in place to ensure the project realizes its objectives.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

550. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

552. As required by Financing Agreement 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 - TO REDUCE MALARIA INCIDENCE AND DEATHS BY AT LEAST 75 PERCENT OF THE 2016 LEVELS BY 2023, WORKING TOWARDS A MALARIA - FREE KENYA - KEN-M-TNT NO.2064

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

553. Misstatement of the Bank Balance

The statement of financial assets reflects bank balance of Kshs.16,581,922 and as disclosed in Note 5A of the financial statements. However, review of bank reconciliation statements revealed unpresented cheques of Kshs.18,104,073 out of which Kshs.3,424,000 were stale and had not been reversed or replaced hence understating the bank balance.

In the circumstances, the accuracy and completeness of bank balance of Kshs.16,581,922 could not be confirmed.

Other Matter

554. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.1,025,042,160 and actual on comparable basis of Kshs.638,435,888, resulting to underfunding of Kshs.386,606,272 or 38% of the budget. Similarly, the Project spent an amount of Kshs.650,809,114 out of the approved expenditure budget of Kshs.1,025,042,160, resulting in an under expenditure of Kshs.374,233,046 or 37% of the budget.

The underfunding and under-performance affected the Project's key objective of reducing malaria incidences and deaths by at least 75% of the 2016 level by 2023.

555. Slow Disbursement of Grant Funds

The funding summary Paragraph 2.7 indicates that the Project is for a duration of three (3) years from 01 July, 2021 to 30 June, 2024 with an approved budget of USD 24,222,675 equivalent to Kshs.2,616,048,900. However, as at the end of financial year 2022/2023 disbursement of USD 12,284,436 equivalent to Kshs.1,326,719,075 had not been received as at 30 June, 2023.

In the circumstances, the Project may not absorb the remaining project grant of amount USD 12,284,436 (Kshs.1,326,719,075) in the remaining period thereby failing to achieve the Project's objective.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

556. Irregular Procurement of Conference Facilities

The statement of receipts and payments reflects purchase of goods and services of Kshs.637,023,613 and as disclosed in Note 4 to the financial statements. The amount includes hospitality, supplies and service of Kshs.42,133,466 out of which Kshs.13,055,321 was incurred in the provision of conference facilities through quotations that were above the maximum threshold of Kshs.3,000,000. This was contrary to Section 105(a) of the Public Procurement and Asset Disposal Act, 2015 which requires a procuring entity to use a request for quotations from the register of suppliers for a procurement if the estimated value of the goods, works or non-consultancy services being procured is less than or equal to the prescribed maximum value for using requests for quotations as prescribed in Regulations. Further, the Second Schedule of the Public Procurement and Asset Disposal Regulations, 2020 prescribes a maximum of Kshs.3,000,000.

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

557. Failure to Disclose Pending Bills

The statement of receipts and payments reflects purchase of goods and services of Kshs.637,023,613 as disclosed in Note 4 to the financial statements. The amount includes domestic travel and subsistence of Kshs.469,988,631 out of which Kshs.48,444,000 were expenses incurred in the financial year 2021/2022. However, there was no disclosure of pending bills in the audited financial statements for the year ended 30 June, 2022.

The Management failed to explain why the above expenditure was not disclosed as pending bills in the audited financial statements of 2021/2022 in line with the accounting standards.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

559. As required by Financing Agreements 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 Management of 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

Basis for Qualified Opinion

560. Undisclosed Payments

The statement of receipts and payments reflects total payments of Kshs.897,947,749 and cumulative to-date payments of Kshs.1,222,309,015 as disclosed in Note 4 to the financial statements. However, these amounts did not include undetermined amounts paid directly by the donor to financial and monitoring and evaluation advisors. Further, grants amounting to Kshs.213,069,767 in respect of technical assistance to Counties and an amount of Kshs.31,144,186 related to programme activities implemented directly by the donor were not disclosed in the financial statements.

In the circumstances, the accuracy and completeness of the total expenditure of Kshs.897,947,749 and cumulative to-date payments amounting to Kshs.1,222,309,015 could not be confirmed.

Other Matter

561. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.1,597,554,500 and actual on comparable basis of Kshs.907,125,742 resulting to underfunding of Kshs.690,428,758 or 43% of the budget. Similarly, the Project spent an amount of Kshs.897,947,749 out of the approved expenditure budget of Kshs.1,597,554,500 resulting in an under-expenditure of Kshs.699,606,751 or 44% of the budget.

Further, the approved expenditure budget includes purchase of goods and services of Kshs.78,479,500 which was not included in the overall budget in the DANIDA Development Engagement Document. In addition, an amount of Kshs.3,348,837 in respect of support activities at the Ministry of Health remained unutilized since Project inception while an allocation of Kshs.5,000,000 to support Council of Governors' Health Team was not disbursed.

In the circumstances, the Project's objectives may not be achieved.

562. Undrawn Grant Funds

The project information and overall performance report reflects cumulative receipts amount of Kshs.2,366,888,000. The amount includes grants totalling to Kshs.147,890,996 allocated to sixteen (16) Counties which were not disbursed due to various reasons including non-compliance with the grant agreement and failure to provide supporting documents to the DANIDA-appointed auditor.

In addition, the actual undisbursed balance in the Project account at the National Treasury as at 30 June, 2023 amounted to Kshs.116,949,258 resulting in an unexplained and unreconciled variance of Kshs.30,941,738.

In the circumstances, the project's objectives may not be achieved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

563. Non-Compliance with Co-Financing Requirements

The Project information and overall performance report for the year ended 30 June, 2023 reflects an amount received to date of Kshs.1,233,112,000 out of which a balance of Kshs.897,947,749 was disbursed to forty-four (44) Counties. The Counties were required to provide counterpart funding of Kshs.360,000,000 to support outreach, operation and maintenance activities. However, three (3) Counties of Bomet, Bungoma and Taita/Taveta did not provide their counterpart funds of Kshs.21,101,000 while ten (10) Counties did not provide Special Purpose bank statements and the Integrated Financial Management Information System (IFMIS) vote books to confirm compliance with the co-financing requirements amounting to Kshs.204,001,570.

Failure by Counties to meet their counterpart funding obligation affects the sustainability of the Project which may affect the achievement of the projects objectives.

564. Failure to Submit Financial Statements

The Project information and overall performance report for the year ended 30 June, 2023 reflects cumulative amount paid to date of Kshs.1,222,309,015 out of which an amount of Kshs.322,911,266 being grant funds was disbursed to forty-five (45) Counties for the Project period from 01 January, 2021 to 30 June, 2022. However, the financial statements on the utilization of these funds were not submitted to the Auditor-General for audit. This is contrary to Section 8.3 of the DANIDA Development Engagement Document which requires the audit be undertaken by the Office of the Auditor-General in coordination with the Accounting Officer at the Ministry of Health after which the Danish Embassy should be given copies of the forty-seven (47) signed annual audit reports from the Auditor-General.

In the circumstances, Management was in breach of the law and the financing agreement.

565. Delay in Transfer of Funds to Health Facilities

Note 4 to the financial statements reflects transfers of Kshs.897,947,749 to forty-four (44) Counties for various health facilities. Review of bank statements indicated twenty (22) Counties delayed in disbursing an amount of Kshs.189,090,750 to health facilities with delays ranging from twenty-six (26) to sixty-eight (68) days. Further, as at the time of this audit, an amount of Kshs.264,071,429 remained unutilized in the County Revenue Fund account for twenty (20) Counties while four (4) counties were still holding an amount of Kshs.43,811,138 in their Special Purpose Accounts for about forty-three (43) days after receipt. This is contrary to Section 8.1 of the DANIDA Development Engagement Document, which requires grant funds be disbursed to health facilities' commercial banks within 25 days after receipt.

In the circumstances, the delays in disbursing funds to the health facilities affects project implementation and attainment of the project objectives.

566. Failure to Provide System Information

Note 4 to the financial statements reflects transfers to Counties totalling Kshs.897,947,749 out of which an amount of Kshs.100,852,500 relates to funds to support community health units. According to a DANIDA letter dated 22 January, 2022, the funds were to be channeled through level 2 and 3 link facilities on condition that the community health units have reported their activities through Kenya Health Information System (KHIS) for the last six (6) months. However, a list of the community health units and reports of activities made through the Kenya Health Information System (KHIS) were not provided for audit.

In the circumstances, the validation of the transfer of Kshs.100,852,500 to support community health units could not be confirmed

567. Irregularities in Operating DANIDA Project Bank Accounts

Note 4 to the financial statements reflects transfers of Kshs.897,947,749 to forty-four (44) counties out of which thirty-seven (37) Counties operated project accounts which did not have the name of the Project. This was contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which requires each Project to open and maintain a Project account.

In addition, ten (10) Counties made direct payments of Kshs.90,704,799 from the Project accounts for operations not related to the Project. This is contrary to Regulation 76(3) of the Public Finance (National Government) Regulations, 2015 which requires every payment or instruction for payment out of the Project account be strictly on the basis of the approved estimates of budget and financing agreement.

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

568. Implementation of Project Activities Without Performance Targets

Note 4 to the financial statements reflects transfers of Kshs.897,947,749 to forty-four (44) Counties to support operations in various health facilities. Section 4 of the DANIDA Development Engagement Document requires the Ministry of Health to measure health specific progress targets through data reported in the Kenya Health Information System (KHIS). The performance targets include utilization of outpatient services measured by the number of visits per person per year, pregnant women attending four antenatal care visits and children under one year immunized with the third dose of pentavalent among others. However, there was no evidence of measuring these performance targets in the health facilities funded by the DANIDA funds.

In the circumstances, the Project's objectives may not be achieved.

569. Unsatisfactory Implementation of Projects

Physical verification of thirty-one (31) health facilities in seven (7) sampled Counties revealed that a total amount of Kshs.155,746,536 had been disbursed to the Counties for implementation of various projects. However, included in the balance disbursed are amounts of Kshs.8,590,313, Kshs.4,259,000, Kshs.30,508,758, Kshs.11,533,279 and Kshs.545,065 which related to amounts still held in the County Revenue Fund account, projects without activity reports, unutilized funds, funds that were disbursed late and funds that were not budgeted for respectively.

In addition, it was noted that Management did not conduct monitoring and evaluation at the health facilities as such it has not been possible to establish whether the key objective of improving primary healthcare with key focus on reproductive, maternal, newborn, child and adolescent health is being achieved.

In the circumstances, effectiveness in the use of the grants for service delivery could not be confirmed.

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.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

571. 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 Management of the Project and the financial statements agree 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

Basis for Qualified Opinion

572. Unsupported Expenditure Budget Amounts

The statement of comparison of budget and actual amounts reflects total expenditure budget of Kshs.124,035,118. However, the approved expenditure budget in support of this amount was not provided for audit.

In the circumstances, the accuracy and completeness of the expenditure budget of Kshs.124,035,118 could not be confirmed.

Other Matter

573. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis amounts of Kshs.124,035,118 and Kshs.46,452,818 respectively, resulting in an under-funding of Kshs.77,582,300 or 63% of the budget. Similarly, the Programme expended an amount of Kshs.36,660,756 against a budget of Kshs.124,035,118 resulting in an under-expenditure of Kshs.87,374,362 or 70% of the budget.

The under-funding 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

574. Non-Compliance with the Legal Minimum Wages

Review of documents revealed that the County Government of Kisii engaged cleaners and watchmen as casual employees in various health facilities where they were paid wages of between Kshs.8,000 and Kshs.3,000 per month. This is contrary to Gazette Supplement No. 114 dated, Legal Notice No 125 on the Regulation of Wages Order, 2022, which set the minimum wages for cleaners and day watchmen at Kshs.8,110 and night watchmen at Kshs.9,673 per month.

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

575. Delay in Disbursement of Programme's Funds from County Revenue Fund

Review of subsequent events after 30 June, 2023 revealed that on 3 July, 2023, the Kisii County Government received an amount of Kshs.15,267,375 as grants for the implementation of the planned programmes for the financial years 2021/2022 and 2022/2023 under the Programme. However, at the time of audit in October, 2023, the funds were still being held in the County Revenue Fund account, contrary to the requirement of the agreement that such funds should be transferred to the health care facilities within twenty-five (25) days. Further, the County Government has only budgeted an amount of Kshs.2,750,000 in the financial year 2023/2024 as counterpart funding under the Programme and not an amount of Kshs.11,070,000 provided in the Memorandum of Understanding.

In the circumstances, the objectives of the Programme may not be realized within the planned time frame.

576. Unclaimed National Hospital Insurance Fund (NHIF)

The statement of receipts and payments reflects proceeds from domestic and foreign grants amount of Kshs.28,941,950 which, as disclosed in Note 1 to the financial statements, includes an amount of Kshs.10,307,450 in respect of maternity/NHIF. However, review of the NHIF statement revealed that ninety-six (96) health facilities did not claim NHIF after offering services, even though the NHIF claims were budgeted for.

In the circumstances, failure to claim the NHIF funds may have impacted negatively on delivery of primary health services to the public.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

**EAST AFRICA PUBLIC HEALTH LABORATORY NETWORKING
(EAPHLN) PROJECT CREDIT WB KE-4732 - KENYA MEDICAL
SUPPLIES AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

578. 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

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

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROL, 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 Financing Agreement 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 Management of 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

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

Other Matter

583. Unresolved Prior Year Matters

In the audit report of the previous year, a number of paragraphs were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. Although Management explained that the issues were resolved, the same have not been discussed by the oversight committees hence the issues remain unresolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

584. Undisbursed Project Grants

A Case Study on Integrated Delivery of Selected Non-Communicable Diseases in Kenya Project (PIC4C) was a Ministry of Health Project supported by World Bank piloting an integrated care for Hypertension, Diabetes, Cervical and Breast Cancer at the primary care level in the Counties of Trans-Nzoia and Busia. The Project was for a duration of four (4) years from 28 February, 2018 to 31 January, 2022 with an approved budget of USD2,500,000 equivalent to Kshs.267,389,977.

Review of records revealed that as at the completion of the Project on 31 January, 2022, the World Bank (IDA) had disbursed the total amount of USD 2,500,000 equivalent to Kshs.267,389,977 and the same had been deposited in the Project's Special Deposit Account. However, the total amount disbursed to the Project was USD 2,478,225 equivalent to Kshs.265,071,011 leaving a balance of USD 21,669.40 equivalent to Kshs.2,318,966 that is yet to be disbursed to the Project.

Review of correspondences indicate that World Bank, through its Project team leader, wrote an unreferenced letter to the Management of the Project on 18 January, 2023 acknowledging the closure of the project. In the letter, the Bank also requested the Project Management to report on whether the balance of Kshs.2,318,966 was disbursed. It remains unclear whether the Project Management reverted back to the Bank on the status of the undisbursed balance. In addition, it is not clear whether the Project is officially closed.

The continued withholding of the balance amounting to Kshs.2,318,966 (USD 21,699.40) may have impeded the Project's ability to discharge its obligations.

585. Pending Staff Payables

Note 2 on Other Important Disclosures reflects pending staff payables amount of Kshs.2,318,966 relating unpaid monthly salaries for the project staff for a period of six (6) months from August, 2021 to February, 2022. As at the time of conducting the audit in September, 2023, the bills had been pending for over twenty six (26) months. This is contrary to Section 18(2) of the Employment Act, 2007.

Further, Management risks making nugatory payments arising from legal suits from employees for non-payment of salaries and wages. In addition, non-payment or delayed payment of staff salaries and wages may damage the reputation of the Hospital and erode public trust in the Hospital.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

586. 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 SYNDEMIC DISEASES CONTROL COUNCIL

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

588. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final expenditure budget of Kshs.372,592,793 against actual expenditure of Kshs.266,537,538 resulting to underexpenditure of Kshs.106,055,255 or 28% of the budget.

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

Other Matter

589. Pending Bills

Note 13(2) on Other Important Disclosures, indicates that the Project had pending bills totalling Kshs.3,000,684 as at 30 June, 2023. Management has not explained why the bills were not settled during the year when they occurred. Failure to settle bills during the year to 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

- 590.** 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

- 592.** 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 been kept by Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR PUBLIC HEALTH AND PROFESSIONAL STANDARDS – VOTE 1083

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

593. Unsupported Expenditure on Other Grants and Transfers

The statement of receipts and payments reflects expenditure on other grants and transfers of Kshs.13,537,019 as disclosed in Note 6 to the financial statements. The amount includes expenditure of Kshs.1,038,143 on membership dues and subscriptions to an International Organization. However, the amount was not supported by a signed Memorandum of Agreement.

In the circumstances, the accuracy and completeness of expenditure on other grants and transfers of Kshs.1,038,143 could not be confirmed.

594. Undisclosed Bank Balances

The statement of financial assets and financial liabilities reflects bank balance of Kshs.53,912 as disclosed in Note 7A to the financial statements. However, analysis of bank accounts register revealed bank balances of Kshs.73,820,927 for five (5) bank accounts which were not disclosed in the financial statements. Further, the respective cash books, bank statements and certificates of bank balances indicating the account balances were not provided for audit.

In the circumstances, the accuracy and completeness of bank balances of Kshs.53,912 could not be confirmed.

Other Matter

595. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.5,212,715,604 and actual on comparable basis of Kshs.2,152,351,639 resulting to underfunding of Kshs.3,060,363,965 or 59% of the budget. Similarly, the State Department spent an amount of Kshs.2,146,845,029 out of the approved expenditure budget of Kshs.5,212,715,604, resulting in an under expenditure of Kshs.3,065,870,575 or 59% of the budget.

The underfunding and under-expenditure may have affected the State Department's key mandate and service delivery to the public.

596. Pending Accounts Payable

Note 15.2 to the financial statements reflects pending accounts payable of Kshs.88,595,209 which Management attributed to unpaid supplies.

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

597. Failure to Operationalise Institutions

The following institutions had been created but had not been fully operationalised;

- i. Kenya Health Professionals Oversight Authority contrary to Section 59(3) of the Health Act 2017 states that, the Board shall within three months from the end of the financial year to which the accounts relate, submit to the Auditor-General the accounts of the Authority. However, as at 30 June, 2023 six (6) years after the enactment of Health Act 2017, the Board of the Authority had not been constituted.
- ii. Kenya Health Human Resource Advisory Council contrary to Section 43(3) of the Health Act, 2017 states that, the Council shall within three months from the end of the financial year to which the accounts relate, submit to the Auditor-General the accounts of the Council. However, as at the time of this audit, which was six (6) years later, the Advisory Council had not been constituted.
- iii. Kenya National Public Health Institute contrary to Sections 19(2) of the Kenya National Public Health Institute Order, 2022 states that, the accounts of the Institute shall be audited and reported upon in accordance with the Public Finance Management Act, 2012 and the Public Audit Act, 2015. However, as at the time of this audit, which was one (1) year later, the Board of the Institute had not been constituted.
- iv. Counsellors and Psychologists Board contrary to Section 43(2) Counsellors and Psychologists Act of 2014 states the Board shall submit to the Auditor-General the accounts of the Board. However, as at the time of this audit, which was nine (9) years later, the Board had not been constituted.
- v. Kenya Nutritionists and Dieticians Institute contrary to Section 60(2)(g) of Health Act, 2017 states that, Kenya Nutritionists and Dieticians Institute is a regulatory body established under Nutritionist and Dieticians Act of 2007. The annual accounts of the Institute shall be prepared, audited and reported upon in accordance with the provisions of Article 226 and 229 of the Constitution and the law relating to public audit. However, as at the time of this audit, which was four (4) years later, the Institute had not submitted financial statements for audit.
- vi. Public Health Officers and Technicians Council contrary to Section 29(2) of Clinical Officers (Training, Registration and Licensing) Act, 2017 states that the Council shall submit to the Auditor-General or to an auditor appointed under this section, the accounts of the Council. However, as at the time of this audit, which was six (6) years later, the Advisory Council had not been constituted.

vii. Tobacco Control Fund contrary to Section 8(3)(d) of Tobacco Control Act, 2007 provides that the financial statements to be submitted to the Auditor General for audit. However, as at the time of this audit, sixteen (16) years later, the Fund had not been operationalized.

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

598. Failure to Surrender Imprest

The statement of financial assets and financial liabilities reflects imprest and advances balance of Kshs.5,452,698 that had not been surrendered contrary to Regulations 93(5) and 93(6) of Public Finance Management (National Government) Regulations, 2015. These Regulations requires a holder of a temporary imprest to account or surrender the imprest within seven (7) working days after returning to the duty station and Accounting Officers to recover the full amount from the salary of the defaulting officers with 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

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

STATE DEPARTMENT FOR ROADS – VOTE 1091

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

601. 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. Although the issues were subsequently presented before the Public Accounts Committee, they remained unresolved as at 30 June, 2023.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

602. Long Outstanding Deposits and Retentions Balances

The statement of financial assets and financial liabilities and Note 14 to the financial statements reflect accounts payable-deposits balance of Kshs.227,599,396 which was a decrease of Kshs.6,017,602 from the previous year's closing balance of Kshs.233,616,998.

As previously reported, the opening balance of Kshs.233,616,998 includes balances totalling to 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. Management has not explained why these deposits have not been paid into the Consolidated Fund. This is contrary to Regulation 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 five (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.

603. Non-Compliance with the One-Third of Basic Salary Rule

Review of the Integrated Payroll and Personnel Database (IPPD) records for the Department, revealed that during the month of April, 2023, one hundred and thirty-one (131) employees had their net pay below a third of their basic pay. This is 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 law.

604. Non-Compliance with the Approved Staff Establishment

As previously reported, review of the human resource records indicated that the Department had an approved establishment of two hundred and thirty-six (236) staff members across all cadres. However, the actual number in position was six hundred and fifty-eight (658) staff 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 law.

605. Maintenance of Duplicate Salary Bank Account Numbers for Staff

Review of human resource records including the bank salary compliment, for the year under review, revealed that five (5) employees had duplicate bank account numbers. Although Management has explained the State Department is in the process of cleaning up the payroll to correct the anomalies observed, this is contrary to Regulation 121(3) of the Public Finance Management (National Government) Regulations, 2015 states that at least once every month, the Accounting Officer shall certify the correctness of the payroll.

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

606. Delayed Payment of Decretal Amount

Review of payment vouchers revealed that the State Department incurred an expenditure of Kshs.550,000 being payment to the Solicitor General's Office during the year under review. The payment was in respect to an arbitration and compensation payments for contract awarded on 30 October, 2002 with the expected completion date of 24 April, 2003.

However, the contract was terminated by the then Ministry of Roads (now State Department for Roads) in July, 2005. The claimant then referred the dispute for an arbitration seeking compensation of Kshs.73,601,346. The Arbitrator released the final award on 22 February, 2013 whereby the Claimant was awarded an amount of Kshs.55,235,909 and the respondent (Ministry) ordered to pay the cost of arbitration. Review of records revealed that the State Department paid the decetal amount from the year 2013 up to 2017 and then stopped further payments. However, there has been continued interest accumulation on a reducing balance which had accumulated to an amount of Kshs.11,754,028. As at 30 June, 2023, the outstanding balance on the arbitration award was Kshs.51,582,572.

Further, the outstanding amount was not disclosed as a pending bill in the previous years' financial statements and may therefore not have been budgeted for.

In view of the above, the State department continues to accrue the principal sum awarded and interest accruing at 17% per annum as the decretal amount has been outstanding since the year 2017. Management did not provide any explanation for this unsatisfactory situation.

In the circumstances, the State Department may cause the Government to incur avoidable costs of penalties and interest on the delayed payment of the arbitration award due to its failure to settle the award as required.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

607. Lack of Detailed Petty Cash Expenditure Schedules

Review of the recurrent cash book revealed that the State Department made cash withdrawals amounting to Kshs.3,500,000. However, review of records revealed that the payment vouchers for the cash transactions did not have a detailed expenditure analysis indicating what was paid for but contained just an official form detailing the withdrawals.

In the circumstances, the effectiveness of the controls related to cash management could not be confirmed.

608. Lack of the Internal Audit Reports

During the year under review, it was observed that the internal audit function for the State Department for Roads did not have approved internal audit reports. It was therefore not possible to confirm whether the internal audit function was operational during the year or whether they were providing the assurance that the State Department's risk management, governance and internal control processes were operating effectively.

In the circumstances, the effectiveness of risk management, internal control environment and governance could not be confirmed.

DONOR FUNDED PROJECTS

EASTERN AFRICA REGIONAL TRANSPORT, TRADE AND DEVELOPMENT FACILITATION PROJECT CREDIT NO.5638-KE IDA

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of 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.200,000,000 and Kshs.51,833,339 respectively resulting to an underfunding of Kshs.148,166,661 or 74% of the budget. Similarly, the Project had an expenditure budget of Kshs.200,000,000 but spent Kshs.90,685,317 resulting in an under expenditure budget of Kshs.109,314,683 or 55% of the budget.

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

611. Undrawn Loan Balance

Paragraph 2.7 of the annual report indicates that the Donor committed Kshs.1,937,387,202 for the Project that commenced in June, 2015 and was expected to end by 31 December, 2023. However, upto 30 June, 2023 only a total of Kshs.1,288,802,895 has been drawn from the donor commitment, leaving an undrawn balance of Kshs.648,584,307 or 33% of donor commitment to be withdrawn within the remaining six months period.

This implies that the absorption rate of funds is slow, and the Project may not be completed within the remaining period of six months. Further, the loan continues to attract penalty on the undrawn balance at the rate of 0.5% per annum in accordance with Article II Paragraph 2.03 of the financing agreement.

My opinion is not modified based on the effects of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

612. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

614. 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 Management of 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 IDA CREDIT NO.6334-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

616. Budgetary Control and Performance

The statement of comparative of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.300,000,000 and Kshs.171,208,965 respectively, resulting in an underfunding of Kshs.128,791,035 or 43% of the budget. Similarly, the Project had an expenditure budget and actual expenditure on comparable basis of Kshs.300,000,000 and Kshs.140,322,864 respectively, resulting to an under expenditure of Kshs.159,677,136 or 53% of the approved budget. Management attributed the underfunding and underexpenditure mainly to lengthy approval of no objection from the Donor.

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

617. Undrawn Loan Balance

Section 2.7 of the annual report indicates that the project was to run for five (5) years from year 2018 to 2024 with an approved budget Kshs.1,086,168,320 from the Donor. As at 30 June, 2023, the Project had drawn EUR 3,231,787.34, equivalent to Kshs.368,031,532 for the four (4) years the Project has been in operation leaving an undrawn balance of Kshs.718,136,788 for the remaining one-year period. The absorption rate of the funds is slow, an indication that the Project may not be completed within the one-year remaining period.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

618. Non-Disclosure of Unresolved Prior Year Issues

During the audit of the previous year two issues were raised on lack of ownership documents for motorable transport and on low absorption rate in Project implementation under the basis for qualified opinion and under Report on Lawfulness and Effectiveness

in Use of Public Resources respectively. However, these issues remain unresolved at close of the year under review. This is contrary to Section 149(2)(I) of the Public Finance Management Act, 2012 which requires the Accounting Officers designated to resolve any issues resulting from an audit that remain outstanding. Further, Management has not disclosed any progress regarding the follow-up of auditor recommendations in the financial statements, as mandated by the recommended template from the Public Sector Accounting Standards Board.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

620. 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 Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

HORN OF AFRICA GATEWAY DEVELOPMENT PROJECT CREDIT NUMBER 6768-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

622. 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.490,000,000 and Kshs.576,493,746 respectively, resulting in excess receipts of Kshs.86,493,746 or 18% of the budget. Similarly, the Project spent Kshs.404,186,981 against an approved budget of Kshs.490,000,000 resulting to an under expenditure of Kshs.85,813,019 or 18% of the budget.

The 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

623. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

625. 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 Management of 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 ROADS

SUPPORT TO ROAD SECTOR POLICY: 10TH EDF RURAL ROADS REHABILITATION PROJECT IN KENYA NO.KE/FED/023-571 - KENYA RURAL ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

626. Irregular Expenditure

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects road works expenditure totalling Kshs.85,173,021 which was paid to three Contractors. However, review of documents revealed that the payments were made before the Contractor furnished the Authority with performance guarantee and before the submitted approval of programme of works was approved by the supervisor. This was contrary to Article 46.3 (b) and Article 46.3 (e) of the contract which states that no

pre-financing shall be granted until performance guarantee is provided and approval of the Programme of implementation of tasks by the supervisor is done.

In the circumstances, the accuracy and propriety of the payment totalling Kshs.85,173,021 could not be confirmed.

627. Non-Disclosure of Retention and Deposits Money

Note 5(d) to the financial statements reflects deposits and retention amounts totalling Kshs.35,173,631. However, the amount is not reflected in the statement of financial assets as accounts payables. Further, review of payment vouchers, bank statements and schedules provided revealed that the Authority failed to disclose retention payment made to a Contractor during the year amounting to Kshs.8,631,307.

In the circumstances, the accuracy and completeness of the retention balance of Kshs.35,173,631 could not be confirmed.

628. Funding Summary

The statement of receipts and payments reflects cumulative receipts totalling Kshs.2,595,325,822 while the project information and overall performance under funding summary reflects total cumulative funding summary cumulative amount totalling Kshs.2,595,349,588 resulting in a variance of Kshs.23,766 which was not explained.

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

629. Inaccuracies in the Statement of Cash Flows

The statement of cash flows reflects cash and cash equivalents at the end of the year of Kshs.91,712 while the recalculated balance is a negative of Kshs.88,207,499 resulting to an unexplained variance of Kshs.88,299,211.

In the circumstances, the completeness and accuracy of the statement of cash flows could not be confirmed.

630. Unsupported Prior Year Adjustments

The statement of financial assets and the statement of cash flows reflects prior year adjustment balance of Kshs.23,766. However, the supporting documents were not provided for audit review.

In the circumstances, accuracy and completeness of the prior year adjustment balance of Kshs.23,766 could not be confirmed.

Emphasis of Matter

631. Contingent Liability

As disclosed in Annex 4 to the financial statements, a contingent liability exists from a court case involving an amount of Kshs.642,516,239 in respect to a Contractor who moved to court after a contract was terminated with effect from 7 June, 2022. The

Contractor was seeking orders of the High Court restraining the Authority and the Ministry from terminating the contract for a Project. The case is pending in court.

My opinion is not modified in respect of this matter.

Other Matter

632. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. However, Management has not indicated how each of the issues raised in the previous year Auditor-General's report, was resolved, including the information required under the prescribed reporting format.

633. 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.150,000,000 and Kshs.113,207,753 respectively, resulting to an under-funding of Kshs.36,792,247 or 25% of the approved budget. Similarly, the Project expended an amount of Kshs.113,219,328 against an approved budget of Kshs.150,000,000 resulting to an under-expenditure of Kshs.36,780,672 or 25% 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

634. Lack of Itemised Budget

The budget presented for audit did not disclose details and itemization per component which hindered the assessment of financial performance and resource allocation within the Authority. This was contrary to International Public Sector Accounting Standards (IPSAS) 24 which provides guidance on how budgetary information should be presented and disclosed, including the itemization of budgetary amounts.

In the circumstances, Management did not comply with provisions of the International Public Sector Accounting Standards in budget preparation.

635. Delays in Project Implementation

635.1 Construction of Chuka - Kaanwa Road

Review of Project documents revealed that the Authority awarded a contract for construction of Chuka - Kaanwa Road at a contract sum of Kshs.233,196,528. The project was for one (1) year beginning on 7 September, 2022 and was expected to be completed by 7 September, 2023. However, physical verification carried out on 6 November, 2023 revealed that the project was still ongoing and the Contractor was still on site despite no extension granted by the Authority.

In the circumstances, value for money to be realized from the expenditure totalling Kshs.233,196,528 incurred on the Project could not be confirmed.

635.2 Delay in Construction of Kaanwa – Wakathite Road

The contract for the construction of Kaanwa - Wakathite Road was awarded at a contract sum of Kshs.221,386,000 on 7 September, 2022 for a one (1) year period to be completed on 7 September, 2023. However, physical verification carried out on 7 November, 2023 revealed that the project was incomplete and the Contractor was not on site.

In the circumstances, value for money to be realized from the expenditure totalling Kshs.221,386,000 incurred on the Project could not be confirmed.

635.3 Delay in Construction of Wakathite – Kareni Road

The contract for the construction of Wakathite – Kareni Road was awarded at a contract sum of Kshs.174,343,899 on 8 August, 2022 and was expected to complete on 7 September, 2023. However, physical verification which was carried out on 6 November, 2023 revealed that the project was still ongoing and the Contractor was still on site despite no extension granted by the Authority.

In the circumstances, value for money to be realized from the expenditure totalling Kshs.174,343,899 incurred on the Project could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

637. 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 not been kept by Management of the Project and the Project's financial statements are not in agreement with the accounting records and returns.

NUNO-MODOGASHE ROAD PROJECT – KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

638. 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

639. Payment of Approved Land Compensation

Review of the contract agreement and letter from the National Land Commission to the Authority revealed that the Authority had approved payment of land compensation amounting to Kshs.147,594,798 to the Project Affected Persons (PAPs). It was, however, noted that as at 30 June, 2023, an amount of Kshs.125,891,795 was still outstanding as disclosed under Annex 4 of the financial statements. The Management did not disclose 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.

640. Irregular Payment of Interest on Delayed Payments

As previously reported, the Authority paid the contractor for the Project an amount totalling to Kshs.82,966,925 as interest on late payments. The Management did not provide plausible 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.82,966,925 could not be confirmed.

641. Unsupported Payments Above the Contract Sum

The statement of receipts and payments reflects cumulative payments amounting to Kshs.7,592,117,176 in respect to acquisition of non-financial assets, which as disclosed under Note 4 to the financial statements includes civil works of Kshs.7,250,615,551. Further, review of the financial statements revealed an outstanding balance of Kshs.484,076,683 as disclosed under Annex 4 of the financial statements leading to a cumulative project cost of Kshs.7,734,692,234. However, audit examination of the Contract Agreement between the Authority and the contractor revealed that the project contract sum was Kshs.7,209,436,067, resulting to unexplained and unsupported over expenditure of Kshs.525,256,167. In addition, evidence of submission of quarterly reports of the varied or amended procurement contract to the Public Procurement Regulatory Authority was not provided for audit review.

In the circumstances, the value for money for the expenditure over and above the contract sum could not be confirmed.

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

Conclusion

642. 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

Unmodified Opinion

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

Emphasis of Matter

644. Pending Bills

Note 1 of other important disclosures and Annex 4 to the financial statements reflect pending accounts payable balance of Kshs.3,193,335,011 which includes acquisitions of land, construction of roads and consultancy services amounts of Kshs.2,838,826,765, Kshs.342,914,144 and Kshs.11,594,102 respectively. Although Management has committed to liaise with the line Ministry and The National Treasury for adequate budgetary allocation and timely exchequer releases for prompt payments in the subsequent financial year, the Project is at risk of incurring significant interest costs and penalties with the continued delay in making payments for 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.

645. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.5,950,829,860 and Kshs.3,818,634,603 respectively resulting to an underfunding of Kshs.2,132,195,257 or 36% of the budget. Similarly, the Project spent Kshs.3,818,634,603 against an approved budget of Kshs.5,950,829,860 resulting to an under-expenditure of Kshs.2,132,195,257 or 36% of the budget.

The underfunding and under-expenditure will delay the overall completion of the Project and may affect service delivery to the public.

My opinion is not modified in respect of these matters.

Other Matter

646. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. However, the Management has not provided an explanation on how the issues were resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

647. Project Implementation

647.1 Lot 1 - Dualling of Kenol-Sagana (A2) – 48Km Road

The Government of Kenya entered into a contract with an international contractor on 05 August, 2020 for the dualling of Kenol-Sagana (A2) road (48km) at a contract sum of Kshs.8,496,537,823 for a period of thirty-six (36) months. The commencement date of the contract was 07 October, 2020 and the expected completion date was 06 October, 2023.

Review of the monthly progress report for August, 2023 revealed that the percentage of weighted overall work completed (physical progress) stood at 100% against a planned target of 98% (including estimated preliminaries and materials on site and amounts on interest on delayed payments based on the original scope). Further, the amount certified to date for the contract as advance payment was Kshs.1,123,530,189 and for work done and materials on site was a total of Kshs.8,521,152,820 (100%) inclusive of interest on delayed payments on Interim Payment Certificate (IPC). In addition, the time elapsed was about thirty-five (35) months or 97% of the completion period. Based on the analysis, it was noted that the contract was ahead of the planned physical progress by over 2%.

However, despite the above performance, an audit inspection exercise carried out in the month of August, 2023 revealed that the surface dressing was at 54%, the laying of Asphalt Concrete (AC) was at 86% while concrete works (retaining wall) were at 21%. Further, road marking was at 53% while construction of guardrails was at 20%. The progress report indicated that out of the five (5) bridges proposed, two (2) bridges have been completed while three (3) have not been constructed.

In addition, 20Km of feeder/access roads were proposed in the Bills of Quantity (BoQ) but had not been started. However, there was a proposal to review the number of kilometers to 23.8Km within the same BoQ costs to cater for enhanced tarmac coverage.

Whereas the scope of the works entailed the construction of a Sagana Trauma Centre, the works were indicated to be ongoing at Sagana Trauma Centre within the reporting month with all columns and substructures walling completed for Phase 1 and blinding of column bases for Phase 2 done. However, the steel reinforcement for the bases and concreting of the column bases were indicated as ongoing but no meaningful progress was observed on the construction and there was no activity going on.

647.2 Lot 2: Dualling of the Sagana-Marua (A2) Road Section - 36Km

The Government of Kenya entered into a contract with another international contractor on 30 July, 2020 for the dualling of Sagana-Marua (A2) road (36km) at a contract sum of Kshs.6,115,038,571 for a period of thirty-six (36) months. The commencement date of the contract was 19 October, 2020 and therefore the expected completion date was 18 October, 2023.

Review of quarterly progress report for August, 2023 revealed that the percentage of weighted overall work completed (physical progress) stood at 80% against the programmed target of 92% (main carriageway works) and 65% against the programmed target of 85% (for all contract works). The financial progress stood at 64.31% against the planned target of 85%, as per the revised program of works. In addition, the time elapsed was 34 months or 94% of the completion period.

However, based on the analysis, it was observed that the contract was behind schedule of the planned physical progress by 11% attributed to delays in land compensation.

In the circumstances, the delay in implementation of the various project works will contribute to delay in the delivery of the overall project by the two contractors and there is a risk of cost over runs which may cause cost variations or interest on delayed payments.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

649. 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 Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

NAIROBI OUTERING ROAD IMPROVEMENT PROJECT – KENYA URBAN ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

651. Failure to Settle Pending Accounts Payables

Annex 4a of the financial statements reflects pending accounts payables of Kshs.846,198,623 which includes Kshs.839,433,031 and Kshs.6,765,592 payable for construction of civil works and consultancy services respectively. The amount for

construction of civil works decreased by Kshs.39,000,000 being part payment during the year, from Kshs.878,433,031 reported as at 30 June, 2022. However, the amount payable for consultancy services remained the same as reported in the 2021/2022 financial statements. The Project was at risk of incurring additional cost in form of interest and penalties for failure to settle the pending bills which may lead to loss of public funds.

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

652. 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

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

REPORT ON OTHER LEGAL REGULATORY REQUIREMENTS

654. 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 Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

UPGRADING OF KIBWEZI-MUTOMO-KITUI-MIGWANI ROAD PROJECT NO. BLA2016K001 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

655. Interest on Delayed Payments

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects expenditure on acquisition of non-financial assets of Kshs.167,855,694 which includes an amount of Kshs.32,107,000 which was paid as interest on delayed payments. Further, Annex 4 to the financial statements reflects

pending bills amounts of Kshs.3,384,415,397 which includes interest on delayed payments totalling to Kshs.261,293,822.

In the circumstances, the delay in payment of certified works has led to the escalation of Project costs due to interest payments which are an irregular charge to public funds.

656. Delayed Payments to Persons Affected by the Project (PAPs)

Annex 4 to the financial statements reflects a pending bills balance of Kshs.3,384,415,397 which includes amounts totalling to Kshs.1,604,681,725 for acquisition of land from persons who were affected by the implementation of the Project, which had not been paid. Further, the Project Status Report reflected a balance of compensation to Project Affected Persons (PAP) amount of Kshs.2,358,005,175, which differed with the amount reflected in Annex 4 to the financial statements of Kshs.1,604,681,725 resulting in an unexplained variance of Kshs.753,323,450. The Project risks losing funds through legal disputes with the affected persons.

In the circumstances, the accuracy and completeness of the pending bills on acquisition of land amounting to Kshs.1,604,681,725 could not be confirmed.

657. Inaccuracies in the Statement of Cash Flows

The statement of cash flow reflects total net cash flow from operating activities amount of Kshs.172,370,600 which differed with the recalculated amount of Kshs.178,439,876 resulting to an unexplained variance of Kshs.6,069,275.

In the circumstances, the accuracy and completeness of the statement of cash flow could not be confirmed.

Other Matter

658. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. However, Management has not indicated how each of the issues raised in the previous year Auditor-General's report, was resolved, including the information required under the prescribed reporting format.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

659. Non-Completion of Works

Review of Project records revealed that the Management entered into a contract with the Contractor at a contract sum of Kshs.18,404,888,139 on 20 September, 2016. The date of commencement was 16 August, 2017 a period of forty-two (42) months with expected completion date of 15 February, 2021. Further, there was an extension of three hundred

twenty-nine (329) days and therefore the revised completion date was 04 October, 2022 with the defects notification period of 12 months which was completed successfully.

Further, there was an Addendum No.3 to the contract which increased the scope of the works to be done to include Tulia-Migwani-Mbondoni Road section which varied the contract cost by Kshs.3,141,024,204, thus raising the contract total sum to Kshs.21,545,912,342. The variation order was issued on 08 March, 2021.

However, physical verification carried out on 02 November, 2023 revealed that the insurance and the performance guarantees have all elapsed and the Contractor has ceased operations and abandoned the site with about 30% of the increased scope of works as per Addendum No.3, completed. The contractor took the action due to non-payment.

In the circumstances, the value for money realized from the Project could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

661. As required by Export-Import Bank of China, 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, in my opinion, adequate accounting records have been kept by the Management of the Project and the financial statements are in agreement with the accounting records and returns.

DUALLING OF MAGONGO ROAD (A109L): PHASE II (FIDIC EPC/TURNKEY BASED) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

662. Unsupported Expenditure - Acquisition of Non-Financial Assets

The statement of receipts and payments reflects acquisition of non-financial assets amount of Kshs.202,665,451 as disclosed in Note 4 to the financial statements. Review of records revealed that the balance includes an amount of Kshs.24,431,394 in respect of retention amounts for the year under review. However, Management did not provide any evidence including the copies of interim payment certificates (IPCs) in support of the amount of Kshs.24,431,394.

In addition, Note 8 to the financial statements reflects change in retention (payments) amount of Kshs.48,568,108. However, review of records provided by Management revealed that the Project released Kshs.72,999,502 retention money during the year under review thus resulting in an unexplained variance of Kshs.24,431,394. Management did not provide any evidence including the copies of Interim Payment Certificates (IPCs) in support of the retention money paid during the financial year.

In the circumstances, the accuracy and completeness of the acquisition of non-financial assets amount of Kshs.202,665,451 and the retentions paid during the year of Kshs.48,568,108 could not be confirmed.

Emphasis of Matter

663. Pending Bills

Note 1 of other important disclosures and Annex 4 to the financial statements reflects pending accounts payable balance of Kshs.1,640,595,404. The balance includes amounts of Kshs.289,385,425, Kshs.1,319,320,454 and Kshs.31,889,525 in relation to construction and civil works, land compensation and supply of services respectively. As reported in the previous years, Management has explained commitment to liaise with The National Treasury to obtain adequate budgetary allocation to secure prompt payment of the pending 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.

664. Contingent Liabilities

Annex 6 to the financial statements on contingent liabilities register reflects claim for extension of time amount of Kshs.2,851,043,577 for associated costs that may be payable to the main contractor of the project's road works. Although Management has disclosed that the claim is yet to be determined, it represents a possible cost to the Project which could have been avoided if the project was delivered within the agreed timelines.

My opinion is not modified in respect of these matters.

Other Matter

665. Unresolved Prior Year Matters

In the audit report of the previous year, a number of issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management has not given any explanation on how the issues were resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

666. Irregular Variation of Contract Sum

Review of the contract agreement for consultancy services for supervision of the Project dated 11 June, 2018, revealed that the contract had an initial contract sum of Kshs.97,326,900. Over the past five (5) years, the contract sum has increased to

Kshs.133,048,929 translating to an increase of Kshs.35,722,029 or 37% of the original contract sum which exceeds the 15% threshold set in the law by 22%. Management did not provide any approval or justification for the contract sum variation.

This is contrary to Section 139(4)(b) of the Public Procurement and Asset Disposal Act, 2015 which states that for the purposes of this Section, any variation of a contract shall only be considered after twelve months from the date of signing the contract and shall only be considered if the following are satisfied - that the quantity variation for goods and services does not exceed fifteen per cent (15%) of the original contract quantity.

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

667. Delay in Completion of the Project

As previously reported, the Project commenced on 1 May, 2018 for a period of 24 months ending 1 May, 2020. The contractor was later awarded an interim extension of time of 933 days (54.79 months) revising the completion date to 20 November, 2022. However, the project stalled in November, 2021 as evidenced by the project briefs of August, 2022 and July, 2023 which revealed that the project progress remained at 86%. Also, the last Interim Payment Certificate (IPC) No.9 was raised in December, 2021. As at July, 2023 the time elapsed was 113.16% against a progress of 86.44% yet there was no evidence of any other extension of time.

Further, audit inspection carried out on the road project revealed that there are sections of the road where the works cannot proceed due to failure of the Authority to compensate land owners which included the left-hand side from Km 0+965 to Km 1+300 on the main carriage way and service lane as well as at Km 0+000 to 0+500 on the left- and right-hand side at the Bomu link road.

In the circumstances, the delay in completion will undermine the objectives for which the project was meant to achieve and therefore the value for money on this project could not be confirmed.

668. Additional Claims and Charges for the Road Project

Review of records revealed that the contractor has been awarded claims of Kshs.163,589,025 and Kshs.70,689,452 for price variations and interest on delayed payments respectively both totalling Kshs.234,278,477.

The project has therefore incurred an additional and avoidable cost of Kshs.234,278,477 due to cost variations and delays in payments for the contract.

Further, review of the Project briefs dated 25 July, 2023 revealed that the contractor had made a prolongation cost claim of Kshs.3,497,747,818, which is approximately 142% of the initial civil works project cost of Kshs.2,464,287,937. The claim was still under evaluation at the time of the audit in October, 2023.

In addition, during the year under review, the Project consultants raised eleven (11) monthly fee notes for the supervision of the project with a total amount of

Kshs.33,678,674. However, there was no value for money for the above fee notes totalling to Kshs.33,678,674 as the road project had stalled as evidenced by the progress reports reviewed during the audit, and therefore there was no supervision or contract administration works.

In the circumstances, the Project risks the loss of public funds due to avoidable costs arising from failure by Management to meet its obligations as per the contract agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

669. 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

670. Inaccuracies in the Surplus Balances

The statement of receipts and payments reflects comparative surplus balance of Kshs.7,111,345. However, the financial statements for the financial year 2021/2022 reflects deficit balance of Kshs.8,401,552 resulting in an unexplained variance of Kshs.15,512,897. Further, the statement of receipts and payments reflects surplus for the year of Kshs.4,775,154 which was at variance with the statement of financial assets balance of Kshs.3,582,827 resulting in an unexplained variance of Kshs.1,192,327.

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

671. Unconfirmed Transfers from Government Entities

The statement of receipts and payments reflects transfers from Government entities of Kshs.126,899,792 as disclosed in Note 1 to the financial statements, being Project receipts from the State Department for Infrastructure. Management did not maintain a separate cash book for the Project and the receipts could not be confirmed to the cash book and bank statements.

In the circumstances, the accuracy and completeness of the transfers from Government entities of Kshs.126,899,792 could not be confirmed.

672. Unsupported Acquisition of Land

The statement of receipts and payments reflects acquisition of non-financial assets balance of Kshs.1,245,774,512 which as disclosed in Note 4 to the financial statements includes acquisition of land of Kshs.16,058,817. The expenditure was in respect of compensation to the Project Affected Persons (PAPs). However, Management did not provide acknowledgement letters, receipts and payment documents from the National Land Commission to confirm transmission of the money to the intended beneficiaries. In addition, Management did not provide a policy on how the land beneficiaries were identified and prioritized, and payments were based on a list prepared by the Project engineers and contractors.

In the circumstances, the propriety and completeness of the acquisition of land expenditure of Kshs.16,058,817 could not be confirmed.

673. Unsupported Cash and Cash Equivalents

The statement of financial assets reflects bank balance of Kshs.8,351,355 as disclosed in Note 5 to the financial statements. However, bank reconciliation statements and bank confirmation certificates for the two (2) bank accounts were not provided for audit.

In the circumstances, the accuracy and completeness of the bank balances of Kshs.8,351,355 could not be confirmed.

Other Matter

674. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. However, Management has not indicated how each of the issues raised in the previous year Auditor-General's report was resolved, including the information required under the prescribed reporting format.

675. 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.1,576,899,792 and Kshs.1,264,041,974 respectively, resulting in an underfunding of Kshs.312,857,818 or 20% of the budget. Similarly, the Project expended an amount of Kshs.1,259,266,820 against an approved budget of Kshs.1,576,899,792 resulting in an under-expenditure of Kshs.317,632,972 or 20% of the budget.

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

676. Lack of Itemised Budget

The budget presented for audit lacked details and itemization of component which hindered the assessment of financial performance and resource allocation within the Project. This was contrary to International Public Sector Accounting Standards

(IPSAS 24) which provides guidance on how budgetary information should be presented and disclosed, including the itemization of budgetary amounts.

In the circumstances, Management did not comply with provisions of International Public Sector Accounting Standards in preparation and presentation of budget.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

677. Failure to Settle Pending Bills

Note 1 on other important disclosures, reflects pending accounts payable balance of Kshs.745,168,259. Management did not provide justification for the delay in settling the outstanding amounts in full despite the progress of the Project being at an average of 90% to completion and the contractual period of the Project having since expired. This is contrary to the provisions of Section 42(1)(a) of the Public Finance Management (National Government) Regulations, 2015, which states that debt service payments shall be a first charge on 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.

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

678. Delayed Completion of the Project

Review of Project documents revealed that the contract was awarded on 13 February, 2018 with an expected completion date of 13 August, 2020 which was later revised to 20 September, 2022. However, no documents were provided for audit to confirm approval for the extension. Further, physical verification in November, 2023 revealed that the Project was incomplete, one year after the expiry of extended completion date.

In the circumstances, value for money may not have been realized in the implementation of the Project.

679. Lack of Value for Money in Consultancy Services

Review of procurement documents revealed that a design consultancy services for the entire Project was awarded at a cost of Kshs.398,521,160. However, there were additional changes in the original structure and design that were introduced by the Consultant during the construction supervision and submitted to the Contractor which led to escalation of Project cost from Kshs.5,079,517,891 to Kshs.5,639,867,891 resulting in upward variation of Kshs.560,350,000 of the contract cost.

In the circumstances, value for money may not have been realized in the implementation of the Project.

680. Lack of a Procurement Plan

The statement of receipts and payments reflects Kshs.1,264,041,974 and Kshs.1,259,266,820 for total receipts and payments respectively. However, Management did not provide annual procurement plan as part of the annual budget preparation process

for audit. This is contrary to Regulation 40 of the Public Procurement and Asset Disposal Regulations, 2020 which states that the procuring entity shall prepare a procurement plan for each financial year as part of the annual budget preparation process.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

682. 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 Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

MOMBASA PORT AREA ROAD DEVELOPMENT PROJECT LOAN NO. KE – P29 & KE P32 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

683. Unsupported Expenditure on Acquisition of Non-Financial Assets

The statement of receipts and payments reflects Kshs.3,512,203,410 in respect of acquisition of non-financial assets expenditure. Included in this amount is Kshs.95,000,000 relating to land compensation for which the supporting schedule, valuation reports, beneficiary (projects affected persons) lists, and title deed were not provided for audit review.

In the circumstances, the accuracy and propriety of the expenditure totalling to Kshs.95,000,000 could not be confirmed.

Emphasis of Matter

684. 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.3,987,377,856 and Kshs.3,532,228,537 respectively resulting in an underfunding of Kshs.455,149,319 or 11% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis

of Kshs.3,987,377,856 and Kshs.3,516,238,896 respectively, resulting in an under expenditure of Kshs.471,138,960 or 12% of the budget.

The under-funding and under-performance affected the planned activities of the Project and may have impacted negatively on service delivery to the public.

685. Pending Bills

Annex 4 to the financial statements discloses that the project had a pending bills amount of Kshs.6,863,882,873. Management did not explain why the bills were not settled during the year when it occurred neither did they indicate when payments will be made. Further, the pending bills balance of Kshs.6,863,882,873 includes an amount of Kshs.813,216,495 in respect of accrued interest charged due to delay payments of pending bills for the project packages 1, 2 and 3. The Project risks incurring significant interest costs and penalties due to continued delay in payment.

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.

My opinion is not modified in respect of these matters.

Other Matter

686. Unresolved Prior Year Issues

In the previous year audit report, several issues were raised under Basis for Qualified Opinion and in the Report on Lawfulness and Effectiveness in Use of Public Resources sections. Although the project Management indicated that the issues were resolved, no evidence was provided to support this position. These issues therefore remained unresolved contrary to the provisions of Section 149(2)(l) of the Public Finance Management Act, 2012 which require the Accounting Officers designated to try to resolve any issues resulting from an audit that remain outstanding.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

687. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

689. 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 Management of 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 II (MARSABIT-TURBI ROAD) ID NO. P-Z1-DB0-027 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

690. Unsupported Transfer of Revenue

The statements of receipts and payments and as disclosed in Note 6 to the financial statements, reflects cumulative amounts for other miscellaneous payments of Kshs.18,750,099 which includes Kshs.3,341,616 described as transfer to A-I-A revenue account. However, the balance was not supported by any payment voucher and bank statements.

In the circumstances, the accuracy and completeness of the amount of Kshs.3,341,616 in respect of transfer to A-I-A revenue account could not be confirmed.

Other Matter

691. Pending Bills

Annex 4 to the financial statements reflects outstanding pending bills balance of Kshs.62,165,683. As reported in the previous year, the pending bill which relates to construction of road has been outstanding since the year 2012. Further, review of the Project's records indicate that no bills were settled during the 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 pending bills in the year to which they relate distorts the budget of the following year as they constitute a first charge on the budget.

692. Absorption of Project Funds

As disclosed under Note 2.2 of the Project information, the Project was earmarked to close on 30 November, 2017. However, Note 2.7 of funding summary indicates that the Donor had made commitment amounting to UA 125,000,000 which is equivalent to Kshs.17,985,375,000 as at 30 June, 2023. However, actual drawdowns during the Project life amounted to UA 94,060,091 equivalent to Kshs.13,533,648,013 leaving out

Kshs.4,451,726,987 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 six (6) years after the expiry of the Project.

693. Unresolved Prior Year Matters

As disclosed under the progress on follow up of auditor's recommendations section of the financial statements, the prior year audit issues remained unresolved as at 30 June, 2023. Management had not provided satisfactory reasons for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

694. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

696. As required by International Development Association (IDA), 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 Management of 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

697. Transfers from Government Entities

The statement of receipts and payments reflects transfers from Government entities amount of Kshs.5,994,715 as disclosed in Note 1 to the financial statements. However,

supporting documents provided for the audit showed that the funds were in respect of Isiolo-Nginyang Road which is not included in the project description in Annex 1 of the Financing Agreement, and neither was there an amendment to the Agreement.

In the circumstances, the accuracy and validity of receipts amounting to Kshs.5,994,715 in respect of transfers from Government entities could not be confirmed.

698. Acquisition of Non-Financial Assets

The statement of receipts and payments reflects acquisition of non-financial assets amount of Kshs.5,994,715 in respect of research, studies, projects preparation, design and supervision as disclosed in Note 4 to the financial statements. However, supporting documents including payment vouchers and invoices provided for audit review were in respect of Isiolo-Nginyang Road which is not included in the project description in Annex 1 of the Financing Agreement. In addition, Management did not provide approval on inclusion of the Isiolo-Nginyang Road in the Project under review.

In the circumstances, the accuracy and completeness of payments of Kshs.5,994,715 in respect of acquisition of non-financial assets could not be confirmed.

Other Matter

699. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.10,577,911 and Kshs.5,994,715 respectively resulting in an underfunding of Kshs.4,583,196 or 43% of the budget. Similarly, the Project spent Kshs.5,994,715 against an approved budget of Kshs.10,577,911 resulting to an under expenditure of Kshs.4,583,196 or 43% of the budget.

The underfunding and under expenditure affected the planned activities of the Project and impacted negatively on service delivery to the public.

700. Absorption of Project Funds

As disclosed under paragraph 2.2 of the project information, the Project was expected to start on 12 October, 2012 and close on 15 October, 2016. Further, paragraph 2.7 of funding summary indicates that the Donor had made commitment amounting to UA 120,000,000 which is equivalent to Kshs.18,652,080,000. However, actual drawdowns during the project life amounted to UA 82,739,351 equivalent to Kshs.12,860,508,353 leaving out an amount of Kshs.5,791,571,647 undrawn or 31% of expected funding which was not disclosed in the project financial statements. The credit thus lapsed without being fully utilized.

In the circumstances, the Project's planned deliverables earmarked for completion using the funding may not be realized.

701. Long Outstanding Pending Bills

Annex 4 to the financial statements reflects pending bills balance of Kshs.11,539,155 as at 30 June, 2023. The pending bills relates to consultancy services by two (2) firms.

However, as previously reported, the pending bills balances of Kshs.326,173 and Kshs.388,139 totalling to Kshs.714,313 in favor of one of the firms have been outstanding since the year 2016 out of which the balance of Kshs.326,173 relates to interest and penalties incurred. The balance of Kshs.10,824,843 is indicated to have been a bill incurred in June, 2020 and relates to Isiolo-Nginyang road project. The Management has not explained why the bills for the other project have been recognized in the Project's financial statements. The project therefore runs the risk of incurring significant and unquantified interest costs and penalties associated with delays in settling the 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 the budget.

702. Lack of Project Closure Report

The Project information section and overall performance for the year ended 30 June, 2023 indicates that the Project was started on 12 October, 2012 and ended on 15 October, 2016. However, no evidence has been provided for audit review in respect of extension of the project implementation period. Further, a project closure report had not been prepared and submitted for review eight (8) years after the closure period of the project.

703. Unresolved Prior Year Matters

As disclosed under the progress on follow up of auditor's recommendations section of the financial statements, the prior year audit issues remained unresolved as at 30 June, 2023. Management has not provided satisfactory reasons for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

704. 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

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

706. 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 Management of the Project and

the Project's financial statements are in agreement with the accounting records and returns.

MOMBASA-MARIAKANI HIGHWAY PROJECT (A109) ROAD LOT 1: (MOMBASA - KWA JOMVU) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

707. Unsupported Transfers from Government Entities

The statement of receipts and payments reflects transfer from Government entities of Kshs.229,341,735 as disclosed in Note 1 to the financial statements. This includes annuity fund amount of Kshs.109,483,464 and appropriation in aid amount of Kshs.18,000,000. However, copies of the exchequer notifications and receipt vouchers in respect of annuity fund and appropriation-in-aid were not provided for audit review.

In the circumstances, the accuracy of the transfers from Government entities of Kshs.229,341,735 could not be confirmed.

708. Unsupported Cash and Cash Equivalents Balance

The statement of financial assets reflects cash and cash equivalents balance of Kshs.21,270,899 and as disclosed in Note 5 to the financial statements. Included in this amount is Kshs.4,679,860 held in a local bank retention account whose certificate of bank balance was not provided for audit. The balance includes Kshs.16,591,039 held in another local bank account whose bank reconciliation statement reflects reconciled bank balance of Kshs.3,582,156,401 resulting in an unexplained variance of Kshs.3,565,565,362.

In addition, the two (2) bank accounts were maintained in commercial banks instead of the Central Bank of Kenya. Management did not provide evidence of exemption by the Cabinet Secretary. 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 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 accuracy of the cash and cash equivalents balance of Kshs.21,270,899 could not be confirmed.

709. Unsupported Deposits and Retention Monies

The statement of financial assets reflects a balance of Kshs.4,679,860 in respect of deposits and retentions and as disclosed in Note 6 to the financial statements which

represents a decrease of Kshs.7,341,570 from the previous year's balance of Kshs.12,021,430. However, the details and corresponding taking over certificates issued for the sections or part of the works completed were not provided for audit. This is contrary to the provisions of Clause 14.9 of the contract agreement between the contractor and the Authority which provides that when taking over certificate has been issued for the works, the first half of the retention money shall be certified by the engineer for payment to the contractor and that if a taking over certificate has been issued for a section or part of the works, a proportion of the retention money shall be certified and paid.

In the circumstances, the accuracy and authenticity of the retention monies paid and the balance of Kshs.4,679,860 could not be confirmed.

710. Presentation and Disclosures of the Financial Statements

Review of the financial statements submitted for audit revealed that the list of the implementation challenges and recommended steps were omitted in the summary on overall performance section. Further, the payment of retention monies of Kshs.7,341,570 for the year under review and Kshs.3,011,714 for 2021/2022 financial year were disclosed in the statement of financial assets under the represented by section as a decrease instead of disclosing the amounts as adjustments in the statement of cashflows. In addition, adjustments which included deposits and retention monies paid during the year under review were not disclosed in the statement of cashflows.

In the circumstances, the financial statements were not compliant with the format prescribed in the Annual Financial Reporting template issued by the Public Sector Accounting Standards Board.

Other Matter

711. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several paragraphs were raised under the Report on Financial Statements. Although Management indicated that some of the issues were resolved, the proof of how the issues were resolved was not provided for audit review.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

712. Delayed Project Implementation and Completion

The statement of receipts and payments reflects total cumulative receipts of Kshs.14,121,949,149 out of which Kshs.6,193,030,120 was in respect of transfer from Government entities while Kshs.7,928,919,029 was in respect of loan from external development partners. Further, the statement reflects total cumulative payments of Kshs.14,105,358,110. As previously reported, the contract was awarded to an international contractor at a cost of Kshs.6,016,868,260 on 29 July, 2016 with an order to commence works issued on 6 January, 2017. The African Development Fund (ADF) and the Government of the Republic of Kenya were jointly financing the project, the Bank

taking 97.8% of the cost while the Government of Kenya financing the remaining 2.2% including the tax elements arising during execution of the Contract.

The contract period was extended to 24 November, 2024 from the initial completion date of 3 August, 2019, occasioning the variation of the contract sum to Kshs.8,538,736,334 from the original contract sum of Kshs.6,016,868,260. However, the monthly progress report number 77, indicated that the contractor and the joint consultants requested for several extensions of time cumulatively adding up to 2,895 days.

In the circumstances, implementation of the Project was behind schedule and may lead to costs escalation and delayed realization of the expected benefits of the Project.

713. Irregular Transfer of Project Motor Vehicles

Information provided during the audit indicated that the Project Resident Engineer had nine (9) motor vehicles acquired between March, 2017 and October, 2018. However, it was noted that the vehicles were transferred to the project contractor under unclear circumstances to reduce the project cost. The value of the vehicles and the total cost reduction was not disclosed. This was contrary to the provisions of Regulation 139(1)(a) of the Public Finance Management (National Government) Regulations, 2015 which provides that the Accounting Officer of a national government entity shall 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.

In the circumstances, Management was in breach of the law and the existence of the motor vehicles is in doubt.

714. Pending Bills

Note 1 on other important disclosures reflects pending bills amounting to Kshs.2,225,743,167 as at 30 June, 2023 and as analysed in Annex 4 of the financial statements. Management did not provide satisfactory explanation for failure to settle the huge outstanding amount of pending bills.

In the circumstances, the Project risks incurring significant losses in form of interest and penalties due to continued delay in settlement of the pending bills.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

716. 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 Management of 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 ROADS PROJECT
LOAN CREDIT NO. KEN-01001-19 AND KEN-02001-19 - KENYA NATIONAL HIGHWAYS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

- 717.** 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

- 718.** 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

- 719.** 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

- 720. Inaccuracy in the Statement of Comparison of Budget and Actual Amounts**

The statement of receipts and payments reflects total payments of Kshs.4,062,426, while the statement of comparison of budget and actual amounts reflects Kshs.324,924, resulting in an unreconciled variance of Kshs.3,737,502.

In the circumstances, the accuracy and completeness of the statement of comparison of budget and actual amounts could not be confirmed.

Other Matter

721. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts of Kshs.284,774,210 against actual income of Kshs.10,615,213 resulting to an under-collection of Kshs.274,158,997 or 96% of the budget. The statement further reflects final budgeted expenditure of Kshs.144,675,076 against actual expenditure of Kshs.324,924 resulting to an under-expenditure of Kshs.144,359,152 or 99% of the budget. Further, the statement reflects a receipts budget of Kshs.284,774,210 and a payments budget of Kshs.144,675,076 resulting to a variance of Kshs.140,099,143. The use of unbalanced budget is contrary to Regulation 33(c) of the Public Finance Management (National Government) Regulations, 2015 which states that budget shall be balanced.

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

722. Pending Accounts Payable

Note 1 on other important disclosures to the financial statements reflects pending accounts payable totalling to Kshs.66,288,310 which have been outstanding for more than one (1) year. 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

723. Unexplained Over Financing of the Project

The statement of receipts and payments and other project's information indicate that as at 30 June, 2023, the Project had received total funding of Kshs.1,427,839,220 against total funding of Kshs.1,220,000,000 provided in the financing agreement leading to an over-financing by Kshs.207,839,220 which was not explained. Further, Annex 3 to the financing agreement indicated that consultancy services of Kshs.210,000,000 which was at variance with the statement of receipts and payments cumulative balance of Kshs.435,552,698 by Kshs.225,552,698. The variance has not been satisfactorily explained.

In the circumstances, Management was in breach of the financing agreement.

724. Lapse of the Loan Financing Agreement Period

The original planned duration of the Project was seven (7) years from 2012 to 2019. A 3-year extension was granted in 2019, extending the project execution period to

December, 2022. The project has not been closed and no proof of further project extension was provided.

In the circumstances, the Management is in breach of the financing agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

726. 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 Management of 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.2020 83 939) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

728. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.302,500,000 and Kshs.52,684,840 respectively resulting to an underfunding of Kshs.249,815,160 or 83% of the budget.

Similarly, the Project spent Kshs.52,684,840 against an approved budget of Kshs.302,500,000 resulting to an underexpenditure of Kshs.249,815,160 or 83% of the budget.

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

729. Pending Bills

Note 1 of other important disclosures and Annex 4 to the financial statements reflects pending accounts payables balance of Kshs.12,988,543 as at 30 June, 2023. 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.

My opinion is not modified in respect of these matters.

Other Matter

730. 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 Lawfulness and Effectiveness in Use of Public Resources. However, the Management has not provided an explanation on how the issues were resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

731. Delay in Project Implementation

The Project information at paragraph 2.2 of the financial statements indicates that the Project started on 24 April, 2017 and was expected to end on 31 December, 2021 which was revised to 31 December, 2027. Further, the funding summary at paragraph 2.7 of the financial statements reflects total donor and GoK commitments amount of Kshs.12,611,735,371 out of which Kshs.12,604,345,250 was to be received from KfW Frankfurt am Main ("KfW"). However, as at 30 June, 2023, only Kshs.126,927,012 or 1% had been drawn from the donor despite the Project having been in existence for over six (6) years. The Project is at risk of not being implemented as scheduled due to continued delay in the draw down and in view of Paragraph 3.2 of the Loan Agreement and Paragraph 3.3 of the Financing Agreement which gives right to the financier to decline disbursements after 31 December, 2021.

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 was in progress.

In the circumstances, Management was in breach of the law and value for money may not be ascertained.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

- 733.** 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 Management of the Project, and the Project's financial statements are in agreement with the accounting records and returns.

TIMBOROA-ELDORET ROAD REHABILITATION PROJECT NO. P-KEDBO-019 (LOAN NO. 2100150023344) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

- 734.** There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

735. Unresolved Prior Year Audit Issues

Various prior year audit issues remained unresolved as at 30 June, 2023. Although the issues were indicated as resolved, the Management did not provide evidence on how they were resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

- 736.** 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

738. As required by the Financing Agreement 9774KE, 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-THIKA HIGHWAY IMPROVEMENT PROJECT LOT I AND II (CREDIT NO.2100150015544) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

739. Unsupported Cash and Cash Equivalents Balance

As was reported in the previous year, the statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.11,333,783 which, as disclosed in Note 5A to the financial statements includes a balance of Kshs.4,000,000 and Kshs.7,333,783 held in Central Bank of Kenya and National Bank of Kenya - Retention Account, respectively. Although Management has explained that the amount of Kshs.4,000,000 was transferred from the Ministry of Transport and Infrastructure to the Authority in year 2010, confirmation certificate was not provided for audit review.

In the circumstances, the accuracy of cash and cash equivalents balance of Kshs.11,333,783 could not be confirmed.

740. Unsupported Pending Bills

Note 9 to the financial statements reflects a pending bills balance of Kshs.436,511,076 which comprise of Kshs.428,623,554 and Kshs.7,887,522 in respect a brought forward balance on acquisition of land and construction of police houses in Kasarani police station, respectively. However, as previously reported, the detailed analysis indicating the names of the payees and reasons for non-payment of the pending bills with respect to acquisition of land was not provided.

In the circumstances, the accuracy and completeness of the brought forward balance of Kshs.428,623,554 could not be confirmed.

Emphasis of Matter

741. Project Closure Report

As disclosed in the Project Information and Overall Performance section of the Annual report and financial statements, the Project came to an end on 22 July, 2015. However,

as previously reported, the project closure report was not provided for audit more than eight (8) years after the closure period.

In absence of any extension of the project lifespan, Management should therefore commence the process of closing the project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

742. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

744. 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 Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

ROADS 2000 PHASE TWO - CENTRAL KENYA RURAL ROADS IMPROVEMENT AND MAINTENANCE PROJECT (AFD CREDIT NO. CKE 101201B, CREDIT NO. CKE 104601J AND CREDIT NO. CKE 109401 M) - KENYA RURAL ROADS AUTHORITY

REPORT ON FINANCIAL STATEMENTS

Basis for Qualified Opinion

745. Unsupported Transfers to Other Government Entities

The statement of receipts and payments reflects an amount of Kshs.3,363,070 in respect of transfers to other Government entities. The balance was not supported with schedules and payment vouchers to confirm the date of transfer, the name of the payee and the amount. Further, there was no evidence of acknowledgement of receipt of funds by the beneficiary institutions.

In the circumstances, the accuracy, completeness and regularity of the transfers to other Government entities of Kshs.3,363,070 could not be confirmed.

746. Unsupported Cash and Cash Equivalents Balance

The statement of financial assets reflects cash and cash equivalents balance of Kshs.152,464,420 as disclosed in Note 5 to the financial statements. Review of the bank statements and cash books for each bank account operated by the Project revealed the following anomalies:

- i. Note 6 to the financial statements reflects a balance of Kshs.56,082,133 held in a retention account in a local commercial bank. However, the balance differs with the amount of Kshs.55,320,206 reflected in the respective cash book by an unexplained and unreconciled variance of Kshs.761,927.
- ii. Cash books in respect of two (2) bank accounts held at commercial banks in Nyandarua, and Kirinyaga were not provided for audit.
- iii. Certificate of bank balance as at 30 June, 2023 for a retention account and a counterpart account held in two (2) commercial banks were also not provided for audit.
- iv. Five (5) project accounts were closed during the year. However, authority from The National Treasury to close the bank accounts, bank statements and bank reconciliation statements as at the date of closure were not provided for audit.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.152,464,420 could not be confirmed.

747. Mistatement of Receipts from Government of Kenya

The statement of receipts and payments reflects Kshs.25,000,000 in respect of receipts from Government of Kenya as disclosed in Note 1 to the financial statements. This balance does not include Kshs.15,000,000 received on 21 December, 2022 through the counterpart account held in a commercial bank. Management has not explained why the amount was not reported as a receipt.

In the circumstances, the accuracy and completeness of the receipts from Government of Kenya of Kshs.25,000,000 could not be confirmed.

748. Overstatement of Roadworks Expenditure

The statement of receipts and payments reflects roadworks expenditure of Kshs.69,034,876. Review of payment vouchers presented in support of the balance revealed that, an amount of Kshs.21,741,788 was in respect of retention funds previously withheld in prior years in the retention bank account that were released during the financial year 2022/2023. The retention monies had therefore been captured as expenditure in the prior years and expensing them again during the year under review amounts to double accounting.

In the circumstances, the accuracy and completeness of the roadworks expenditure of Kshs.69,034,876 could not be confirmed.

749. Unreconciled Accounts Payable - Contractors' Retention

The statement of financial assets reflects nil balance in respect of accounts payable as at 30 June, 2023. However, Note 10 to the financial statements reflects accounts payable balance of Kshs.3,363,070 which differs with the balance of Kshs.56,082,133 reflected in Note 6 to the financial statements, being retention money held in the retention bank account. Further, Note 10 to the financial statements reflects a comparative accounts payable balance of Kshs.61,085,162 as at 30 June, 2022. The amount differs with the audited balance of Kshs.61,272,662 in the previous year's financial statements resulting in an unexplained and unreconciled variance of Kshs.187,500.

In the circumstances, the accuracy and completeness of accounts payable nil balance could not be confirmed.

Other Matter

750. Unresolved Prior Year Audit Matters

In the audit reports of the previous years, several issues were raised. However, although Management has indicated that all the prior year issues were resolved, no evidence was provided to confirm how the matters were resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

751. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

753. As required by the 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 Management of the Project and the 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

Unmodified Opinion

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

Other Matter

755. Absorption of Project Funds

According to overall project performance provided in the financial statements, the actual receipts from the donor during the project life was Kshs.7,740,565,739 leaving out Kshs.2,919,484,261 undrawn. The credit thus lapsed without being fully utilized and therefore the project's planned deliverables may not have been realized. In addition, the Management did not provide the project closure report for review.

Further, as disclosed under project information and overall performance section of the financial statements, the project cumulative receipts from external development partners and GOK was Kshs.10,844,881,397 representing 73% of the total Project commitment of Kshs.13,764,647,761. It was therefore not possible to confirm whether the project's goals were achieved with only 73% funds received.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

756. Long Outstanding Payables

Annex 4 of the financial statements reflects pending accounts payable totalling to Kshs.21,807,516 for construction of roads and land compensation of Kshs.7,821,530 and Kshs.13,985,986 respectively. The pending bills balance of Kshs.13,985,986 in respect of land compensation ought to have been settled before the commencement of the project as per the conditions set out in the Loan Agreement. Management attributed the pending bills to the outstanding GoK counterpart funds. However, Management did not provide details of the measures put in place to settle the pending bills.

In the circumstances, the Project is at risk of incurring significant interest costs and penalties due to continued delay in settlement of the outstanding payables.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

758. As required by the 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

Unmodified Opinion

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

Other Matter

760. Unbudgeted and Unsupported Pending Bills

Note 1 of other important disclosures and Annex 4 to the financial statements reflects pending accounts payable balance of Kshs.822,548,139 as at 30 June, 2023 which was not supported with a ledger and relevant documents. As previously reported, the balance is made up of previous years pending accounts payable of Kshs.29,624,000 with regard to 0.047Ha unsettled land compensation and Kshs.792,924,139 in respect to construction of civil works. However, during the year under review, the project had no budget provision, there was no financial activities and Project Management did not explain why they continue disclosing pending bills without making budgetary provision to settle the bills.

In the circumstances, the project is at risk of incurring additional cost in form of interest and penalties for failure to settle project related costs as and when they fall due.

761. 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 and Management

did not explain the failure to close the project eight (8) years after the lapse of the closure date.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

762. 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

763. 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

764. Unsupported Long Unpaid Retentions

The statement of financial assets and as disclosed in Note 9 to the financial statements, reflects third party payables - retention balance of Kshs.21,012,749 accounts payable - retention in favor of two different firms owed balances of Kshs.410,451 and Kshs.20,602,298. However, Management has not explained failure to pay the retention money some of which dates back to 2015 after the closure of the Project. Further, the retention monies was not supported with ledgers and interim payment certificates.

In the circumstances, the accuracy, completeness and existence of accounts payable balance of Kshs.21,012,749 could not be confirmed.

Other Matter

765. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final expenditure budget and actual on comparable basis of Kshs.50,000,000 and Kshs.21,569,268 respectively resulting to under-absorption of Kshs.28,430,732 or 57% of the budget.

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

766. Project Information Report

The project information at Section 2.2 of the annual report and financial statements reflects the Project end date as 30 September, 2015. However, the Project closure report was not provided for audit, eight (8) years after the expiry of the closure date. Further, the Project's certificate of completion was not provided for audit review.

In addition, the Project duration detailed on project overview report in Paragraph 2.3 does not agree with the information in Paragraph 2.2.

767. Long Outstanding and Unsupported Pending Bills

Annex 4 to the financial statements reflects a balance of Kshs.70,867,529 in respect of construction of buildings and civil works including three outstanding bills totalling Kshs.34,964,092 which date back to 2017 and 2018. However, review of Annex 4 to the financial statements revealed additional pending bill balance of Kshs.35,903,436 incurred on 08 September, 2021, which was six (6) years three (3) months after the Project end date of 30 September, 2015. Further, the pending bill was not disclosed in the audited financial statements for the year ended 30 June, 2022. 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 the budget.

768. Unresolved Prior Year Matters

As disclosed under the progress on follow-up of auditor's recommendations section of the financial statements, the prior year audit issues remained unresolved as at 30 June, 2023. Management has not provided satisfactory reasons for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

769. 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

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

771. 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 Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

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

772. Unsupported and Irregular Land Compensations

The statement of receipts and payments reflects acquisition of non-financial assets of Kshs.2,713,091,841 which includes an amount totalling to Kshs.4,500,000 that was paid to Persons Affected by the Project (PAPs) in Darajambili-Nyamatara-Kisii Town-Suneka section of the road through the National Land Commission as disclosed in Note 5 to the financial statements . However, the list of the PAPs that were compensated by the amount and an acknowledgement on the receipt of the compensation were not provided for audit. Further, acknowledgment letters from the National Land Commission on the receipt of the amount disbursed were also not provided for audit. In addition, the parcels of lands valued by National Land Commission were on KeNHA's land reserve, and by so, the occupants were encroachers and were hence not entitled to any compensation as per KenHA's Environment and Social Safeguards Policy 2019 Section 3.6.2.

In the circumstances, the accuracy and regularity of payment of Kshs.4,500,000 on compensation for land could not be confirmed.

773. Unsupported Reimbursement of VAT to the Contractors

The statement of receipts and payments reflects Kshs.2,713,091,841 in respect to acquisition of non-financial assets which as disclosed in Note 5 to the financial statements includes Kshs.227,019,880 in respect to research studies, project preparation, design and supervision which further includes payment totalling to Kshs.29,086,169 for refund of Value Added Tax (VAT) paid by the Contractors. However, the corresponding payments made by the contractors in which the VAT refund arose were not presented for audit.

In the circumstances, the accuracy and regularity of payment of Kshs.29,086,169 in respect to Value Added Tax (VAT) refund could not be confirmed.

774. Unsupported Payments for Training of Women, Youth and Persons with Disability (PWD) Contractors

Note 1 (Other Important Disclosures) reflects pending accounts payable balance of Kshs.3,341,354,966 which includes an amount of Kshs.27,362,500 paid to a consultant for capacity building and management of roads maintenance contract for youth, women

and persons with disability (PWD). However, the payment was not supported with daily attendance sheets, training programme and training report from the training consultants.

In the circumstances, the accuracy and regularity of payment of Kshs.27,362,500 could not be confirmed.

Other Matter

775. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis totalling Kshs.2,990,218,677 and Kshs.2,743,173,267 respectively, resulting to an underfunding amounting to Kshs.247,045,410 or 8% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis totalling Kshs.2,990,218,677 and Kshs.2,746,140,911 respectively, resulting to an underperformance amounting to Kshs.244,077,766 or 8% of the approved budget.

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

776. Unresolved Prior Year Matters

In the audit report of the previous year, several audit issues were raised. However, Management has not indicated how each of the issues raised in the previous year Auditor-General's report was resolved. In the circumstances, the issues remain outstanding.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

777. Delay in Completion of Installation of Weighbridge Equipment at Rongo Station

The statement of receipts and payments reflects acquisition of non-financial assets amounting to Kshs.2,713,091,841 which as disclosed in Note 5 to the financial statements includes Kshs.227,019,880 in respect to research studies, project preparation, design and supervision which further includes an amount of Kshs.65,995,181 in respect to a contract for design, supply and installation of weighbridge equipment at Rongo station. The contract was signed on 9 March, 2021 for a period of 12 months ending 8 March, 2022.

However, physical verification done on 6 November, 2023 revealed that the Contractor was still on site and the works were ongoing despite the lapse of contract period and no extension had been sought and granted by the Authority.

In the circumstances, the regularity and value for money realized from the expenditure on the Project could not be confirmed.

778. Non-Payment of Pending Bills

Annex 4 to the financial statements reflects a balance of Kshs.3,341,354,966 in respect to pending bills that were not settled in the financial year 2022/2023 but were instead carried forward to the financial year 2023/2024. The Management had not explained why the pending bills did not form a first charge in the subsequent financial year.

This is contrary to the provisions of Regulation 42(1) (a) of the Public Finance Management (National Government) Regulations, 2015, which states that debt service payments shall be a first charge on 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.

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

779. Irregular Charge of Interest on Delayed Payments

Annex 4 to the financial statements reflects pending bills for civil works totalling Kshs.2,771,768,550. Review of interim payment certificates relating to the pending bills revealed that two construction companies charged interest on delayed payments of Kshs.331,130,553 and Kshs.325,896,185 respectively all totalling Kshs.657,026,738. 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 delay in payment of certified works has made the Project costs to continue escalating with interest payments that are an irregular charge to public funds.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

780. Failure to Maintain a Fixed Asset Register

Annex 5 and not annex 4 as disclosed in the financial statements reflects a summary of fixed assets register with a closing cost of Kshs.22,813,438,364. However, the Management did not provide assets register to support the balance. This is a contravention of the provisions of Regulation 143(1) of the Public Finance Management (National Government) Regulations, 2015 which state 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, existence of effective internal controls on management of assets could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

781. As required by 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 Management of 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) –
KENYA NATIONAL HIGHWAYS AUTHORITY**

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

782. Unsupported Cash and Cash Equivalents Balance

As reported in the previous year, the statement of financial assets reflects cash and cash equivalents balance of Kshs.18,682,650. However, the balance 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.

In the circumstances, the accuracy, existence and completeness of the cash and cash equivalents balance of Kshs.18,682,650 could not be confirmed.

Other Matter

783. Project Closure Report

The Project information and overall performance indicates that the project was started on 04 February, 2005 and ended on 31 December, 2010. However, the project closure report had not been prepared and submitted for audit thirteen (13) years after the closure period of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

784. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

786. 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 Management of the Project, and the Project's financial statements are in agreement 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

787. Cash and Cash Equivalents

The statement of financial assets reflects Nil balance on cash and cash equivalents. However, the Management did not provide cash book, bank statements and bank balance certificate for the Project to support the balance.

In the circumstances, the accuracy of the Nil balance on cash and cash equivalents could not be confirmed.

788. Pending Accounts Payables

Note 1 on other important disclosures reflects pending accounts payable of Kshs.50,691,477 and Kshs.4,101,454 for construction of civil works and supply of services respectively both totalling Kshs.54,792,931. Management did not provide the project closure report to confirm the authenticity of the unpaid bills. Further, the construction of civil works billed in the financial year 2021/2022, was not disclosed as a pending bill. The origin of the bill was not explained as the project was closed on 31 October, 2015 and handed over.

In the circumstances, the authenticity of the pending accounts payables of Kshs.54,792,931 could not be confirmed.

Other Matter

789. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects that Project budgeted for Kshs.60,000,000 transfers from Government of Kenya to finance acquisition of non-financial assets. However, the project did not receive any budgetary allocation as no actual funds were received resulting to unfinanced budget.

The non-funding of acquisition of non-financial assets affected the planned activities and have impacted negatively on service delivery to the public.

790. 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. That the Project closure report was not provided for audit review. Management did not provide an explanation for the failure to close the project, eight (8) years after the closure date.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

791. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

793. As required by the Financing Agreement 9774KE, 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 Management of 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

Unmodified Opinion

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

Emphasis of Matter

795. Long Outstanding Pending Bills

Note 1 of other important disclosures and Annex 4 to the financial statements reflect pending bills amounting to Kshs.6,925,616,718. The pending bills have been outstanding for long some dating back to year 2010. Failure to settle pending bills during the year to

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

Further, pending bills balance of Kshs.6,925,616,719 includes pending payments of Kshs.3,831,471,877 owed to a company arising from court awards in determination of several disputes. Review of the records provided, revealed that delayed payments of the awards have continued to attract interests which amounted to Kshs.852,887,652 as at 30 June, 2023. In addition, there were new claims on disputes amounting to Kshs.184,626,698 recorded during the year under review.

In the circumstances, the Project continues to incur nugatory expenditures in form of interests and penalties due to continued delay in payment of court awards that could have been avoided.

796. Failure to Provide Project Closure Report

Review of the Project's financing agreement revealed that it was to end on 31 December, 2018. However, it has continued operations four and a half (4½) years after closure date and no closure report was provided for audit review.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

797. Delayed Completion of Projects

The Project Management entered into various contract agreements for construction of roads. During the year under review, the Project's status reports revealed that three (3) projects had not been completed and were behind schedule as summarized below:

Firstly, the construction of the second carriageway of the Athi River Machakos turn off section whose contract commenced on 8 March, 2017 and was expected to end on 07 December, 2017 at a contract sum of Kshs.5,288,529,208. The contract period and contract sum were varied to 28 April, 2023 and Kshs.6,229,173,463 respectively. However, the Project progress report revealed that it was 90% complete.

Secondly, completion of the dualling of Kisumu Boys' roundabout (JNA1/B1)-Mambolea Junction (JN A1/C34) road which commenced on 04 November, 2020 and was expected to end on 04 November, 2021 at a contract sum of Kshs.1,314,945,369. However, the Project progress report revealed that it was 72% complete despite the fact that the contract period had expired.

Lastly, completion of Ahero interchange at junction B1/A1 and Kericho interchange at B1/C23 Junction which commenced on 04 November, 2020 and was expected to end on 04 November, 2021 at a contract sum of Kshs.1,388,321,424. The contract period was varied to 11 January, 2023. However, the project progress report revealed that they were yet to be completed and were 96% (Ahero) and 89% (Kericho) complete respectively.

The delay in completion of the projects denied the public benefits that could have been derived from the projects.

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

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 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 Management of 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

Unmodified Opinion

800. 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

801. Unapproved Over-Expenditure

The second revised supplementary budget for the donor funded projects undertaken by the Authority reflected an approved budget of Kshs.17,500,000 for the Merille - Marsabit Road Rehabilitation Project. However, during the year under review, the Authority spent Kshs.23,108,955 on the Project resulting to an over expenditure of Kshs.5,608,955. This was in contravention of Regulation 31(2)(a) of the Public Finance Management (National Government) Regulations, 2015 which provides that the Accounting Officer is responsible, in particular for ensuring that all services which can be reasonably foreseen are included in the estimates and that they are within the capacity of the National Government entity during the financial year.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

803. 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 Management of the Project and the Project's financial statements agree with the accounting records and returns.

NAIROBI SOUTHERN BYPASS ROAD PROJECT - LOAN AGREEMENT NO.CHINA EXIM BANK PBC NO.(2011)32 TOTAL No.(183) No.14203030520112115528 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

804. 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

805. Long Outstanding Pending Bills

Annex 4 to the financial statements reflects opening pending bills payable in respect of road contractors and acquisition of land amounting to Kshs.3,623,386,920. Management explained that accumulation of pending bills was due to low Government of Kenya (GoK) development budget ceilings. However, during the year under review, Management did not budget any amount for payment of the outstanding pending bills. This is in contravention to Regulation 23(1)(a) and (b) of the Public Finance Management (National Government) Regulations, 2015. The Regulation provides that Accounting Officers shall, in accordance with Article 226(2) of the Constitution, ensure that management of their departments public finances ensures that sufficient resources have been allocated to a particular program and that most effective means of achieving desired program outcomes are used.

In the circumstances, the Project Management has not initiated effective mechanism to ensure discharge of the outstanding balance and avert probable litigation by creditor and the resultant cost and in liquidated damages.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

807. 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.

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

808. 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

809. 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 Authority's development fund 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 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 Management was in breach of the regulation.

810. Interest on Delayed Payments

Annex 4 to the financial statements reflects pending bills payable of Kshs.550,671,327. 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. Further, the donor commitment and GoK counterpart funding totalling Kshs.9,469,797,897 was fully received and paid out for the project, which was completed and handed over to the GoK in 2014.

The Project continues to incur avoidable expenditure in form of accrued interest due to delayed payment that could have been avoided had the Management made the payments as and when they were due.

In the circumstances, the interest payable charged to the Project is an irregular charge to public funds.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

812. 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 Management of 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

813. Inaccuracies in the Financial Statements

The statement of receipts and payments reflects a surplus amount of Kshs.30,825,500 which is at variance with the surplus of Kshs.28,860,722 reported under the statement of financial assets.

Further, the statement of financial assets reflects third party deposits and retention balance of Kshs.33,741,084 with the corresponding Note 10 to the financial statements. However, Note 10 to the Financial Statements relates to fund balances brought forward of Kshs.70,714,022 whereas Note 9 relates to third party deposits and retention monies.

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

814. Pending Bills

Note 1 of other important disclosures to the financial statements reflects pending accounts payables totalling Kshs.6,251,148,679 which comprises of Kshs.3,732,297,146 for construction of civil works, Kshs.2,513,169,775 for land compensation and Kshs.5,681,757 for supply of services. However, the balance differed with the total outstanding pending bills payables at Annex 4 to the financial statements of Kshs.5,801,554,707 resulting to an unexplained and unreconciled variance of Kshs.449,593,972.

Further, Annex 4 to the financial statements reflects an outstanding balance of Kshs.5,681,757 in respect of supply of services, comparative outstanding balance of Kshs.72,481,239 and payment to date of Kshs.673,970 in respect of one firm. However, review of the previous audited financial statements and Note 5 to the financial statements reflects payment to date of an amount of Kshs.26,283,934 and Kshs.66,256,843 totalling to recalculated payments to date of Kshs.92,540,777 which is at variance with reported amount of Kshs.673,970 resulting to unexplained and unreconciled variance of Kshs.91,866,807.

In addition, the outstanding pending accounts payable of Kshs.3,732,297,146 for construction of civil works and Kshs.5,681,757 for supply of services were not supported with interim payment certificates, invoices and fee notes. The unpaid Kshs.2,513,169,775 for land compensation was not supported with the approved list from the National Land Commission and compensation control ledger.

In the circumstances, the, accuracy and completeness of Kshs.6,251,148,679 in respect of outstanding pending bills could not be confirmed.

815. Variance in the Approved Budget for the Year

The statement of comparison of budget and actual amounts reflects receipt final budget and actual on comparable basis of similar amounts of Kshs.607,601,030 in respect of transfer from government entities. However, review of the documents provided for audit, including the letter from the Ministry of Roads and Transport, State department for Roads dated 29 June, 2023 forwarding the 2nd revised supplementary budget of the approved list of projects, revealed that the budget for National Urban Transport Improvement Project (Nutrip)-James Gichuru Junction-Rironi (Uhuru Highway-26kms) had an approved gross budget amount of Kshs.599,706,956. The resulting variance of Kshs.7,894,074 was not explained or reconciled.

In the circumstances, the accuracy and completeness of the amounts in the statement of comparison of budget and actual amounts could not be confirmed.

816. Unsupported Acquisition of Non-Financial Assets

The statement of receipts and payments reflects acquisition of non-financial assets amount of Kshs.568,663,315 which includes an amount of Kshs.397,803,639 in respect of rehabilitation of roads, as disclosed in Note 5 to the financial statements. However,

review of the payment vouchers provided revealed total payments of Kshs.458,151,036 resulting to unexplained and unreconciled variance of Kshs.60,347,397.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.568,663,315 in respect of acquisition of non-financial assets could not be confirmed.

817. Variances in Consultancy Fees for Design and Supervision

The statement of receipts and payments reflects acquisition of non-financial assets amount of Kshs.568,663,315 which includes an amount of Kshs.66,256,843 in respect of research, studies project preparation design and supervision, as disclosed in Note 5 to the financial statements. Review of the supporting documents including payment vouchers and fee notes revealed that the payments were in respect of consultancy services for designs, review and construction supervision of section of A-104 Highway from James Gichuru road junction to Rironi-Kenya. The contract was awarded to an International Consultant. However, review and tabulations of the fee notes and payment vouchers provided revealed total payments of Kshs.68,869,883 resulting to unexplained and unreconciled variance of Kshs.2,613,040. Further review of the fee notes revealed that, multiples of payments were made above the approved fee totalling Kshs.68,869,883 which were at variance with the total certified single fee notes of Kshs.35,705,092 resulting to an unexplained and an unreconciled variance of Kshs.33,164,791.

In the circumstances, the regularity, accuracy and completeness of the payments of Kshs.66,256,843 in respect of research, studies project preparation design and supervision could not be confirmed.

818. Unsupported Acquisition of Land

The statement of receipts and payments reflects acquisition of non-financial assets amount of Kshs.568,663,315 which includes an amount of Kshs.104,602,833 in respect of acquisition of land and compensation to Project Affected Persons (PAPs) of James Gichuru Road Projects as disclosed in Note 5 to the financial statements. However, review of the supporting documents including payment vouchers and correspondences to National Land Commission and payments to Nairobi School in respect of compensation revealed total payments of Kshs.74,000,000 resulting to unexplained and unreconciled balance of Kshs.30,602,833. Further, Annex 4 to the financial statements reflects Nil payments in respect of land compensation during the year under review.

In the circumstances, the, accuracy and completeness of the payments of Kshs.104,602,833 in respect of acquisition of land could not be confirmed.

819. Misclassification of Expenditure on Acquisition of Land

The statement of receipts and payments reflects acquisition of non-financial assets amount of Kshs.568,663,315 which includes an amount of Kshs.104,602,833 in respect of acquisition of land as disclosed in Note 5 to the financial statements. However, review of supporting documents including payment vouchers and interim payment certificate revealed total payments of Kshs.35,602,833 in respect of the construction of a dormitory

block at Nairobi School. The expenditure was wrongly classified under acquisition of land instead of construction of buildings as per the approved standard chart of accounts.

In the circumstances, regularity, accuracy and completeness of the expenditure of an amount of Kshs.35,602,833 in respect of acquisition of land assets could not be confirmed.

820. Unsupported Cash and Cash Equivalents

Note 8 to the financial statements revealed one bank account with a comparative balance of Kshs.8,112,215 had Nil bank balances as at 30 June, 2023. Management indicated that the account was closed on 18 April, 2023. However, the supporting documents including bank statements and certificate of bank balance as at the date when the account was closed were not provided for audit review.

In the circumstances, the regularity, accuracy and completeness of the balance of Kshs.70,714,022 in respect of cash and cash equivalents could not be confirmed.

821. Unsupported Third-Party Deposits Balance

As disclosed in Note 10 to the financial statements, the statement financial assets reflects third party deposits and retentions balance of Kshs.33,741,084 in respect of deposit and retention monies. However, the Management did not provide the Interim Payment Certificate (IPC) detailing the approved and outstanding retention during the project life time.

In the circumstances, the regularity, accuracy and completeness of the balance of Kshs.33,741,084 in respect of deposit and retention monies could not be confirmed.

Other Matter

822. Budgetary Control and Performance

The statement of comparison budget and actual amounts reflects final budget expenditure and actual on comparable basis of Kshs.607,607,030 and Kshs.576,897,818 resulting to under absorption of Kshs.36,975,949 or 6 % of the budget.

The under absorption of funds affected the planned activities of the Project and may have impacted negatively on service delivery to the public.

823. Absorption of Project Funds

As disclosed under Paragraph 2.2 of the Project information, the Project was expected to close on 27 August, 2023. However, Paragraph 2.7 of funding summary indicates that the Donor had made commitment amounting of XDR 143,990,000 which is equivalent to Kshs.19,140,160,545 as at 30 June, 2023. However, actual drawdowns during the Project life amounted to XDR 20,380.780 equivalent to Kshs.3,127,882,038 leaving out XDR 123,609,220 equivalent to Kshs.16,012,278,507 undrawn or 84% of the expected funding.

In the circumstances the credit may lapse without being fully utilized and the Project's planned deliverables earmarked for completion with the funding may not be realized.

824. Unresolved Prior Year Matters

As disclosed under the progress on follow up of auditor's recommendations section of the financial statements, the prior year audit issues remained unresolved as at 30 June, 2023. Management has not provided satisfactory reasons for the delay in resolving the issues.

825. Project Progress Report

The project was co-financed by the World Bank (IDA) 80% and the Government of Kenya (GoK) 20% up to 31 December, 2018. The financing agreement was cancelled in December, 2018 and thus since January, 2019 the project became a Government of Kenya funded project, 100%. However, Management did not provide project reports, including progress made on compliance with the Safe guards Instruments under the project in compliance with Section I-D of Schedule 2 to the financing agreement.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

826. Unbudgeted for Pending Bills

The statement of comparison of budget and actual amounts reflects expenditure final budget and actual on comparable basis of amounts of Kshs.607,601,031 and Kshs.576,897,818 resulting to under-absorption of an amount of Kshs.36,853,661. However, review of the Annex 4 to the financial statements revealed that the Management incurred additional pending bills of Kshs.436,824,047 and 46,803,922 in respect of construction of roads and land compensation which were not budgeted for. This is contrary to 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. The additional pending bills were not supported with Interim Payment Certificate (IPC) and approval by the National Lands Commission.

827. Unverified Cost on Land Compensation

Note 5 to the financial statement reflects non-financial assets cumulative to date amount of Kshs.24,200,617,045 which includes Kshs.10,636,560,926 in respect of land acquisition which further relates to land compensation for Project Affected Persons (PAPs) of James Gichuru Road Project. However, review of the list of beneficiaries provided in respect of the outstanding compensation revealed total claim of Kshs.12,568,789,776 with unpaid balance of Kshs.2,513,169,775 resulting total payment of Kshs.10,055,620,001, which differs with the accumulated payments of Kshs.10,636,560, 926 resulting to unexplained variance of Kshs.580,940,925. Further review of payment schedules to National Land Commission vide a letter dated 13 June, 2023 includes compensation lists of amounts Kshs.5,466,300, Kshs.31,080,400 and Kshs.9,547,940 with part payments which were not included in the list of unpaid compensation.

In addition, the schedule, includes compensation amounts of Kshs.50,864,360 and Kshs.85,584,815 which had part payments of Kshs.12,439,822 and Kshs.2,950,000 respectively resulting to recalculated unpaid amounts of Kshs.38,424,538 and Kshs.82,634,815. However, the amounts differed with the outstanding balances from the schedule provided of Kshs.2,357,648 and Kshs.80,689,325 resulting to unexplained variance of Kshs.36,066,890 and Kshs.1,945,487 respectively. The list of outstanding compensations was also not supported with the approved and verified list of beneficiaries from National Land Commission detailing the date of acquisition, size of land and beneficiary identities.

In the circumstances, the accuracy and completeness of the amount of Kshs.10,636,560,926 in respect of cumulative to date payments on land compensations could not be confirmed.

828. Delay in Project Implementation

Management entered into a contract dated 02 August, 2016 with a contractor for rehabilitation and capacity enhancement of James Gichuru Junction - Rironi (A104) at a contract sum of Kshs.16,366,586,563 (inclusive of taxes) and for a period of thirty-six (36) months plus twelve (12) months defects liability period. Further, the statement of receipts and payments reflects a cumulative to date total payments of Kshs.24,374,445,874.

Through Addendum No.3, the contract sum was varied by 24.7% (Kshs.4,048,208,434) to a new contract sum of Kshs.20,414,794,998 due to revised bills of quantities as a result of additional activities such as Gitaru full cloverleaf interchange, reconstruction of major bridges, Rironi bridge from 1 span to 2 span and introduction of retaining walls in line with urban road design philosophy.

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 defects liability period.

As at 30 June, 2023 the Contractor has to date achieved an overall physical progress of 72% and financial progress of 71% against the contractor's planned progress up to June, 2023 of 100%. Therefore, the project progress was behind schedule by 29%. The overall construction time elapsed is equivalent to 2,156 days (71 Months). The contract period was extended from 28 November, 2023 to 27 August, 2024 inclusive of 12 months of the defect liability period but the addendum approving the extension was not provided for audit review. This indicates a slow progress of implementation and consequently, inevitable extension of time as indicated.

Further, physical verification conducted in the month of October, 2023 revealed that no works were going on as the contractor had suspended work as from March, 2022 citing lack of payment. As reported previously, the Project had accrued a total of Kshs.230,382,944 as interest due to delay in payments of IPC 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 public the benefit 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.24,374,445,874 spent on the project.

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

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

830. As required by International Development Association (IDA), 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 Management of 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 AND 4571-KE - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

831. Inaccuracies in the Financial Statements

The financial statements prepared and presented for audit had the following anomalies:

- i. The statement of receipts and payments reflects comparative balance of Kshs.9,702,270 in respect of deficit for the year. However, review of the statement of assets reflects comparative balance of Kshs.2,496,331 in respect of the surplus for the year resulting to unexplained and unreconciled variance of Kshs.7,205,939.
- ii. The statement of financial assets reflects Nil balances of comparative balances in respect of deposits and retention monies. However, review of Note 10 to the financial statements reflects comparative balance of Kshs.12,198,601 in respect of deposit and retention monies not reported. Further, the decrease in deposits and retention monies was not reported in the statement of cash flows.

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

832. Unsupported Miscellaneous Receipts

The statement of receipts and payments reflects miscellaneous receipts of an amount of Kshs.2,287,195 in respect of interest income as disclosed in Note 3 to the financial

statements. However, review of the supporting schedule provided for audit revealed an amount of Kshs.2,690,817 in respect of interest income including unsupported interest expenses of an amount of Kshs.403,622. Further, bank statements confirming the receipts and expenses were not provided for audit review.

In the circumstances, the accuracy and completeness of the miscellaneous receipts amount of Kshs.2,287,195 in respect of interest income could not be confirmed.

833. Unsupported Expenditure on Refurbishment of Offices

The statements of receipts and payments reflects acquisition of non-financial assets amount of Kshs.10,283,971 in respect of refurbishment of buildings and as disclosed in Note 6 to the financial statements. Further, review of supporting documents including payment vouchers, bills of quantities, notification of tender award, acceptance of tender and contract agreement revealed that the repair and renovation of the Ministry of Public Works offices in Homabay and Oyugis was procured and implemented between September and October 2015. Further the payment voucher provided for audit review confirms that the payment was made on 22 February, 2022 which relates to the previous financial year 2021/2022.

In the circumstances, the regularity, accuracy and completeness of the expenditure amount of Kshs.10,283,971 in respect of acquisition of non-financial assets could not be confirmed.

834. Unsupported Other Grants, Transfers and Payments

The statement of receipts and payments reflects other grants, transfers and payments amount of Kshs.61,640,781 in respect of miscellaneous payments and as disclosed in Note 7 to the financial statements. Management indicated that the amount was paid to the operation account after the closure of the Project. However, supporting documents as agreement between Management, The National Treasury and the Donor on the closure of the Project and the condition of the refund of the monies in the project account revealed the Project still had a special deposit account which had balance of USD 42,172.

In the circumstances, the accuracy and completeness of payments of an amount of Kshs.61,640,781 in respect of transfers and payments could not be confirmed.

835. Unsupported Cash and Cash Equivalents

The statement of financial assets reflects Nil balance in respect of cash and cash equivalents and as disclosed in Note 8 to the financial statements. However, supporting documents including certificate of bank balance, bank statements and bank reconciliation statements as at 30 June, 2023 were not provided for audit review.

In the circumstances, the accuracy and completeness of the Nil balance in respect of cash and cash equivalents could not be confirmed.

Other Matter

836. Pending Bills

Annex 3 to the financial statements reflects analysis of pending bills in respect of road contractors totaling Kshs.3,597,877,130 as at 30 June, 2023. As previously reported, Annex 3 to the financial statements clearly shows that a total of Kshs.3,589,974,572 were contracted on 28 and 30 June, 2022 which was seven and a half (7½ years after the project end date of 30 December, 2015. Further, review of the supporting documents including two Dispute Board Arbitration reports on Mau Summit Kericho Rd and Kericho-Nyamasaria-Rd-0421 and Kericho Nyamasari Rd-0422 in respect to delays in settling outstanding payments in time revealed higher amounts awarded in two portion on foreign and local currencies to the contractor which are at variance and inconsistent with balances reflected in Annex 3 of the analysis of pending bills as detailed below.

Road	Information as per Annex 3			Information as per Dispute Board Arbitration Report			
	Date of Contract	Contract Amount	Outstanding	Date of Contract	Contract Amount	Outstanding (USD)	Outstanding (Kshs.)
RD-0421	28-6-2022	1,391,684,274	1,391,684,274	26-10-2009	6,832,657,486	4,887,199	1,076,341,681
RD-0422	28-6-2022	1,586,806,817	1,586,806,817	8-02-2010	8,006,708,791	3,575,728	1,356,180,186

In addition, supporting documents including invoices and interim payment certificates in respect to Kisumu Airport Kisian and Road Over Rail Bridge: IPC No.9 were not provided and records at Annex 3 indicate that no bills were 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.

837. Project Closure Report

The Project information at Section 2.2 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 eight (8) years after the expiry of the closure period.

838. Unresolved Prior Year Matters

As disclosed under the progress on follow up of auditor's recommendations section of the financial statements, the prior year audit issues remained unresolved as at 30 June, 2023. Management has not provided satisfactory reasons for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

839. 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

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

841. As required by International Development Association (IDA), 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 Management of 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. (KFW): 27459, GRANT NO. (KFW): 202061919) AND CREDIT NO. (KFW): 84010 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

842. Unsupported Receipts

The statement of receipts and payments reflects grants from external development partners amount of Kshs.95,391,901 as disclosed in Note 2 to the financial statements. This amount relates to a direct payment by the Development Partner-KfW to two (2) Consultants procured by the Project. Included in the amount is Kshs.7,627,258 whose supporting documents were not provided for audit.

In the circumstances, the accuracy and completeness of the grants from external development partners of Kshs.7,627,258 could not be confirmed.

Emphasis of Matter

843. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final expenditure budget and actual on comparable basis of Kshs.3,207,500,000 and Kshs.2,429,166,501 respectively resulting in an under-expenditure of Kshs.778,333,499 or 24% of the budget.

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

844. Pending Bills

Note 1 on Other Important Disclosures reflects pending accounts payable balance of Kshs.978,541,404. Management has not explained why the bills were not settled during the year when it occurred. The Project risk 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.

845. Amount Withdrawn but Unclaimed

Part B of the statement of special (designated) account for the Project reflects EUR 13,158,000 (Kshs.2,012,930,577) as amounts withdrawn and not claimed as at 30 June, 2023. This amount represents cumulative funds transferred to the local project bank account whose expenditure returns had not been submitted by the close of the financial year. However, Management did not include a disclosure Note to the financial statements or a reconciliation thereof in respect of the amount of EUR 13,158,000. The presentation and disclosure of important information about the special account reconciliation as well as the eligibility of the resultant expenditure could not be confirmed.

My opinion is not modified in respect of these matters.

Other Matter

846. Unresolved Prior Year Matters

In the audit report of the previous year, two issues were raised under the Report on Financial Statements and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not provided evidence of how the issues were resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

847. Non-Compliance with Contract Agreements – Payment of Taxes

The statement of receipts and payments reflects acquisition of non-financial assets amount of Kshs.2,421,671,271, which as disclosed in Note 5 to the financial statements includes an amount of Kshs.96,633,548 spent on research studies, project preparation, design and supervision in respect of payments to Consultants of the Project.

Review of the payment vouchers on consultancies related to the construction of Kwa Jomvu – Mariakani Lot 2 road section, revealed that two (2) consultants were paid the full amount on the invoices totalling to Kshs.87,764,644 without any evidence that they paid taxes to the relevant Authorities as provided in the contract agreement.

In the circumstances, Management was in breach of the law and the contract agreements.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

849. As required by 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 Management of 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

850. Interest on Delayed Payments

The statement of receipts and payments reflect road works expenditure controlled by the entity totalling to Kshs.24,682,041 and as disclosed in Note 3 to the financial statements. However, review of special interim payment certificate No.11, revealed that Kshs.1,414,163 was paid to a contractor for a period up to December, 2021 as interest on late payment. In accordance with the provision of the contract, interest on delayed payments is payable on local component by Government of the Republic of Kenya. Had the Management paid the contractor as stated in the contract agreement, the loss of Kshs.1,414,163 could have been avoided. No explanation was provided for failure to adhere to the contract agreement.

In the circumstances, propriety of interest payment amounting to Kshs.1,414,163 could not be confirmed.

Other Matter

851. Delay in the Disbursement of Government Counterpart Funding

As previously reported, the statement of receipts and payments, reflects a loan amount from development partner of Kshs.436,429,128 and Kshs.25,000,000 as counterpart funding from the Government of the Republic of Kenya. The total cumulative counterpart funding from the Government of Kenya was Kshs.162,500,000 which represents 41% 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.237,500,000 or 59% will be disbursed to the Project activities before closure date.

In the circumstances, failure to finance the Project activities as planned may affect the implementation process and the likelihood of pending bills.

852. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. However, Management has not indicated how each of the issues raised in the previous year Auditor General's report, was resolved, including the information required under the prescribed reporting format.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

853. Delayed Completion of the Road Project

Review of Project documents revealed that the Management entered into a contract with the Contractor for upgrading to bitumen standard of Gilgil-Machinery Road at a contract sum of Kshs.1,476,491,036 on 06 February, 2019 for a period of 24 months ending on 04 May, 2021.

However, due to the delays in implementation of the Project, the employer awarded a fourteen (14) months extension of time to the Contractor with the revised date of completion being 12 July, 2022. Further, the Contractor applied for further extension of time with the revised date of completion being 30 July, 2024 as a result of delays due to default in payments of interim certificates.

Physical verification carried out in November, 2023 revealed that the Contractor was not on site and had suspended the works due to delayed payments by the Government component.

In the circumstances, value for money realized from the Project could not be confirmed.

854. Failure to Settle Pending Bills

Annex 3 to the financial statements reflects pending bills balance of Kshs.317,673,816 that were not settled in the year under review but were carried forward to 2023/2024 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 on 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.

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

855. Lack of Itemised Budget

The budget presented for audit review lacked details and itemization per component which hinders the assessment of financial performance and resource allocation within the

Authority. This was contrary to International Public Sector Accounting Standards (IPSAS) 24 which provides guidance on how budgetary information should be presented and disclosed, including the itemization of budgetary amounts.

In the circumstances, the Management did not comply with provisions of Public Sector Accounting Standards in the preparation and presentation of the budget.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

857. As required by the Arab Bank for Economic Development in African (BADEA), 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 WESTERN BYPASS PROJECT - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

858. Unsupported Acquisition of Non-Financial Assets Expenditure

The statement of receipts and payments reflects acquisition of non-financial assets balance of Kshs.4,305,256,321 which as disclosed in Note 4 to the financial statements includes an expenditure of Kshs.11,250,000 in respect of acquisition of land.

However, documents provided for audit verification in relation to the acquisition of land revealed that there was delay in land compensation of project affected persons (PAPs) whereby as at 30 June, 2023, the total valuation of land was Kshs.1,986,684,647 of which Kshs.615,149,740 or 31% had been paid resulting to an outstanding balance of Kshs.1,371,534,907 or 69% despite the project having being completed and handed over to the Authority. Further, the valuation report of the parcels of land being acquired in respect of the outstanding balance of Kshs.1,371,534,907 and the title deeds for the land that was fully acquired were not provided for audit review.

In the circumstances, the accuracy and propriety of the payments made for land compensation of Kshs.11,250,000 could not be confirmed.

Emphasis of Matter

859. Pending Bills

The financial statements reflects pending accounts payables balance of Kshs.1,691,209,482 as disclosed in Note 1 of the other important disclosures and Annex 4 which includes amounts of Kshs.1,371,534,907 and Kshs.319,674,575 for acquisition of land and construction of roads, respectively. The delays in the payment of the pending bills may result in significant penalties and interest costs. In addition, 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.

My opinion is not modified in respect of this matter.

Other Matter

860. 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 Lawfulness and Effectiveness in Use of Public Resources. However, the Management did not provide an explanation on how the issues were resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

861. Project Implementation Status

861.1 Unexplained Change of Project Scope

The financial statements reflects an amount of Kshs.4,294,006,321 as disclosed in Note 4 being payments to the contractor in respect of construction of roads. However, review of records revealed that the Project made a payment of Kshs.10,912,500 which was a partial payment of an invoice amount of Kshs.163,148,147 in respect of works under addendum No. 3 with a contract sum of Kshs.815,740,740 while Kshs.337,500 was in respect of withholding tax all totalling to Kshs.11,250,000. Although the contractor had invoiced for Kshs.163,148,147 as per the contract agreement, the Project paid only Kshs.11,250,000, leaving a balance of Kshs.151,898,147 unpaid.

The contractor was awarded the initial contract in October, 2017 to carry out design and construction of the Nairobi Western Bypass at a contract sum of USD 170,998,693. The Western Bypass was proposed as a Class A National Trunk Highway with four (4) lanes and a median strip. The overall length of the main alignment is 16.358 km, with 17.351 km service roads (excluding ramps). The starting point of the main line was to be connected to the end of the Southern Bypass of Nairobi City, intersected with A104, with a full cloverleaf interchange located at the intersection. The end of the road was to be located at Ruaka town, connecting the starting point of the Northern Bypass, and a single-trumpet interchange was set at Km14+ 813, connected with Limuru Road and with six (6) other interchanges.

Review of information provided revealed that the Ministry of Transport and Infrastructure gave a directive to the contractor to the effect that the scope of work was appraised so that the length was appraised to 14.77 km in length, the number of interchanges appraised to 5 (Gitaru, Lower Kabete, Wangige, Kihara and Rumenye) with at-grade intersection provided at Ndenderu. The length of service roads was appraised to 18.1 km.

The effect of shortening the main alignment of the project length by 2.023 km from 16.793 km to 14.77 km means that the road would terminate at Ruaka town and not at the Two Rivers Mall to connect with the Northern Bypass. However, the financial implication of the revision has not been clearly explained and broken down per item and therefore could not be confirmed.

Further, Concessional Loan Agreement amounting to CYN 1,190,253,600 equivalent to Kshs.20,947,868,233 for implementation of the Kenya Nairobi Western Bypass was signed on 4 September, 2018 between the Kenya Government and a foreign bank.

Factors for consideration included, the Commercial Contract between the Authority and the contractor, drawdown Schedule submitted by the Borrower and recognized and accepted by the Lender, sub-contract for design acceptable to the lender duly signed by all parties and a plan for land acquisition and house demolition acceptable to the Lender. However, there was no evidence provided that these factors, and the attention of the lender was considered in revision of the scope, and that a no objection of the changes was obtained from the lender.

In the circumstances, there is a risk of legal implications by the public and other stakeholders who may not be satisfied with the project implementation.

861.2 Conflicting Information on Project Implementation for the Gitaru Interchange

Construction of the Gitaru interchange works was to be executed under the scope of the Nairobi Western Bypass Road Project which was communicated on 5 February, 2019 by the Project Management. However, the Project or employer wrote to the contractor on 27 April, 2020 and communicated that the Gitaru interchange works would be executed under the James Gichuru -Rironi A104 Project. This led to a complaint by the contractor who issued an invoice amounting to USD 152,678.78 for work already done on the section namely; concept design and traffic management plans it had developed while anticipating the execution of the works. This led to contradicting information on the status of the Gitaru interchange which remains unexecuted to-date. At the time of audit, in the Month of October, 2023, there was no sign of works on construction of the interchange.

In the circumstances there is a possibility of conflict between the employer and contractor, possible additional costs and the works at the Gitaru interchange remained undone thereby endangering the lives of road users.

861.3 Delay in Land Acquisition and Compensation of Project Affected Persons

The road project commenced on 24 April, 2019 and the works were expected to be completed by 30 September, 2023 with actual completion in the month of June, 2023. However, out of the balance of Kshs.1,986,684,647 intended for compensation of land owners (persons affected by the project - PAPs) only an amount of Kshs.615,149,740 or

31% had been paid by the time of the audit, leaving a pending amount of Kshs.1,371,534,907.

Delay in land acquisition and compensation may result in project delay since the right of way was not availed in time for construction activities to commence. This may lead to escalation of costs for delayed time, idle equipment time and disputes from aggrieved parties (uncompensated PAPs) who may seek legal redress.

861.4 Project Progress

An audit inspection visit carried out in the month of October, 2023 revealed the following observations in addition to the revised works;

(i). Unjustified Suspension of Works Under Addendum 3

Review of records revealed that in January, 2022, the contractor was informed and granted additional work included in Addendum No. 3 to the contract of an amount of Kshs.815,740,720, which included the following work items:

- a) Construction of a storm water outfall at Kanjeru from WK 0+147 LHS to the Gathara River, a 500m distance, to divert water off the A104 and prevent floods at Kanjeru;
- b) Bituminous upgrade of the 1 km Gatumumu Road from the underpass at WK 2+900 to Ramp A of the Lower Kabete Interchange;
- c) Connection of Service Road No. 1 to Gitatu 1 Interchange Ramp A; and
- d) Improvements to Service Road 18 from the Kirangari overpass to Njathaini (approximately 5.1 Km).

According to the letter Ref No. KeNHA/CRBC/W-BYPASS/510/2022 dated 19 September, 2022 by the employer, the contractor was forced to suspend pending works under addendum No. 3 due to non-payment for the work done as required by the contract. As at the time of audit and in light of the suspension, the contractor had demobilized the machines and associated equipment from the site.

(ii). Encroachment of Roads

During the audit inspection visit, cases of encroachment of road reserves were noted at Lower Kabete, Wangige, Karura Interchanges and Ndenderu Roundabout with traders having established temporary structures. Further, a road reserve had been erected on the road reserve.

(iii). Non-Provision of Footbridges and Bus-stops

During the audit inspection it was observed that in the entire length of the Western Bypass, there was only one footbridge near Gitatu which was rarely used by the pedestrians. As a result, the pedestrians along the road were endangering their lives by crossing at undesignated crossings.

This may be an indicator of poor feasibility studies done on the road by the Project Management and poor service delivery since the needs of pedestrians may not have been taken into considerations. Further, it was observed that the designated bus-stops along the road were not well marked or were not provided at all since public service vehicles and school buses usually stop on the road thus endangering the lives of other road users.

(iv). Poor Road Maintenance

Works on the Nairobi Western Bypass have been completed and road handed over to the employer. However, during the audit inspection exercise it was observed that all along the road, there were overgrown bushes, clogged drainages and worn out rip rap and soil protection works. Further, the barriers erected along the middle of the dual carriage way had been vandalized in some areas and pedestrians were crossing at undesignated crossings. In addition, the street lights erected along the road were not working in some sections resulting to poor visibility at night thus endangering the lives of road users.

The benefits to the residents of the area envisaged as well as value for money of the project may not be realized. Further, the contractor may seek legal redress for failure to honour contractual obligations by the employer.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

862. 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-DBO-040 - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

864. Pending Bills

Note1 under Other Important Disclosures and the supporting Annex 4 to the financial statements reflect pending bills balance in respect of road construction amounting to Kshs.83,344,955. Review of the Project's records revealed 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.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

865. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

867. 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 Management of 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

868. Unsupported Cash and Cash Equivalents

The statement of financial assets reflects cash and cash equivalents balance of Kshs.222,862,465 which, as disclosed in Note 7 to the financial statements includes a balance of Kshs.51,114,859 held in a local bank account whose reconciled bank balance was Kshs.3,582,156,401 resulting to an unexplained variance of Kshs.3,359,293,936.

Further, the cash and cash equivalents balance includes an amount of Kshs.73,236,684 in respect of retention monies whose bank reconciliation statement and bank confirmation statement in respect of the balance reflected a balance of Kshs.561,158,482 resulting to unexplained variance of Kshs.487,921,798. The Management explained that the unreconciled balances were as a result of the Authority comingling funds for all the

Projects undertaken by the Authority. In addition, the statement of cash flows did not reflect the total net cashflow from operating activities balance of Kshs.163,289,195.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.222,862,465 could not be confirmed.

869. Deficit Balance

The statement of receipts and payments reflects a deficit of Kshs.88,348,412 which differs with the deficit of Kshs.28,591,949 reflected in the statement of financial assets resulting to an unexplained variance of Kshs.59,756,463.

In the circumstances, the accuracy of the two deficit amounts disclosed in the financial statements could not be confirmed.

870. Presentation and Disclosure in the Financial Statements

The bank reconciliations and the Special Deposit Accounts statements were not attached to the financial statements as appendices as per the guidelines provided in the Annual Financial Reporting template (Revised June, 2023), issued by the Public Sector Accounting Standards Board.

In the circumstances, proper disclosure and presentation of the financial statements could not be confirmed.

Other Matter

871. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.3,552,000,000 against actual receipts of Kshs.2,937,729,713 resulting to underfunding of Kshs.614,270,287 or 17% of the approved budget. Similarly, the Project expended Kshs.3,026,078,125 against an approved budget of Kshs.3,552,000,000 resulting to underexpenditure of Kshs.525,921,875 or 15% of the budget.

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

872. Delayed Counterpart Funding

Review of Project documents revealed that the total counterpart funding from the Government of Kenya was Kshs.12,794,234,000, while total actual amount received was Kshs.4,453,279,942 equivalent to 34% of the total counterpart financing projection. The balance of counterpart funding of Kshs.8,340,954,058 or 66% had not been disbursed to fund the Project's activities as at 30 June, 2023, with only six (6) months to the closing date of the Project on 29 December, 2023.

In the circumstances, the underfunding of the Project affected the planned activities and may have negative impact on service delivery to the public.

873. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. However, Management did not indicate how each of the issues raised in the previous year Auditor-General's report, were resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

874. Undrawn Loan Balances

Review of documents revealed that the Project started on 20 July, 2015 and was expected to end by 29 December, 2023 with a donor commitment amounting to Kshs.49,284,758,606. However, a total of Kshs.39,639,289,420 had been drawn from the donor commitment, leaving an undrawn balance of Kshs.9,645,469,186. In accordance with Clause II (2.03) of the financing agreement, the loan will continue to attract penalty on the undrawn balance in form of commitment fees.

In the circumstances, the Project costs may continue escalating as a result of penalty payments which are irregular and avoidable charge to public funds.

875. Delay in Completion of the Project - Upgrading of Nadapal-Nakodok Road

Review of the Project documents revealed that the first amendment to the financing agreement dated 24 December, 2021 indicated that the Project closure period be revised from 31 December, 2021 to 29 December, 2023. The agreement involved Project restructuring by excluding 11KM of upgrading of Nadapal-Nakodok Road section from the original works under LOT 3 of upgrading of Kalobeyei River -Nadapal-Nakodok Road Project resulting to reduced scope of work from 88 KM to 77KM. The amendment provided that the Project construction works be undertaken by the Government of Kenya at a cost of Kshs.1,440,000,000 while the consultancy cost for supervision of the Project was to be paid by the donor at a cost of Kshs.19,200,000. However, audit inspection carried in November, 2023 revealed that works had not commenced.

In the circumstances, delayed Project may result in additional project expenses and delayed benefits of the Project to the public.

876. Failure to Settle Pending Bills

Annex 4 of the financial statements reflects Kshs.838,328,644 in respect of pending accounts payables which includes an amount of Kshs.765,416,216 which relates to pending certificates to contractors and interest on delayed payments while Kshs.72,912,428 relates to unpaid compensation to Project Affected Persons as a result of land acquisition during the construction of the roads. The Project risks incurring significant losses in form of interest and penalties due to continued delay in settlement of the pending bills.

In the circumstances, 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.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

878. 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 Management of the Project and the Project's financial statements are 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

Unmodified Opinion

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

Emphasis of Matter

880. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total budgeted receipts amount of Kshs.24,000,000 against actual receipts amount of Kshs.10,000,000 resulting to an under-funding of Kshs.14,000,000 or 58% of the budget.

Similarly, the Project expended Kshs.9,998,525 against an approved budget of Kshs.24,000,000 resulting to an underexpenditure of Kshs.14,001,475 or 58% of the budget.

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

881. Slow Absorption of Project Funds

Paragraph 2.7 of the funding summary indicates that the project was to be implemented within seven (7) years from 5 December, 2019 with the targeted completion date of 30 June, 2027. The donor made a commitment of JPY 47,800,000,000 equivalent to Kshs.49,047,624,422. As at 30 June, 2023, halfway the project period, only JPY 914,348,663 (Kshs.938,214,013) or 2% had been drawn leaving Kshs.48,109,410,409 or

98% of Donor commitment undrawn. The absorption rate of funds is slow, an indication that the project may not be completed within the remaining period.

My opinion is not modified in respect of these matters.

Other Matter

882. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under Basis for Qualified Opinion and in the Report on Lawfulness and Effectiveness in Use of Public Resources section. Although the project Management indicated the issues as resolved, no evidence was provided to support the position.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

883. Delayed Commencement of Project

Review of project records revealed that the implementing agency, Kenya National Highways Authority entered into a contract for the provision of consultancy services on 31 August, 2021 at a contract sum of USD 36,579,745 (JPY 2,270,091,056). The scope of the consultancy, was to assist in preparation of tender documents, construction supervision, facilitation of implementation of environmental and social monitoring plan and transfer of technology. The consultant was paid advance of Kshs.938,214,013 in the financial year 2021-2022. Despite the advance payments, progress made in the year under review was not supported with approved work plan, status report on the deliverables, correspondents between the consultant and the donor, detailed design and bidding documents.

In the circumstances, the value for money for advance payment to consultant could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

885. 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 Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

**BAGAMOYO - HORO HORO - 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

886. Unsupported Expenditure on Acquisition of Land

The statement of receipts and payments reflects acquisition of non-financial assets expenditure of Kshs.2,711,042,314 as disclosed in Annex 5 to the financial statements which includes an amount of Kshs.36,928,659 incurred on acquisition of land. The amount was paid to the National Land Commission (NLC) for onward transmission to the beneficiaries, for land acquired by the Project. Although Management provided the payment voucher for the amount, the supporting documentation such as acknowledgement and returns from the NLC, the valuations of the land being acquired and the eventual payees for the land acquired were not provided for audit.

In the circumstances, the accuracy and completeness of the acquisition on non-financial assets amount of Kshs.36,928,659 could not be confirmed.

Emphasis of Matter

887. Pending Bills

Note 1 of other important disclosures on pending accounts payable and Annex 4 to the financial statements reflects a balance of Kshs.3,183,107,062 in respect of pending bills. The balance includes amounts of Kshs.3,132,536,161 and Kshs.50,570,901 in relation to acquisition of land and supply of services respectively. Management did not provide any explanation for the non-settlement of the bills within the financial 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.

My opinion is not modified on the effects of the matter.

Other Matter

888. 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 Lawfulness and Effectiveness in Use of Public Resources. However, the Management has not given any explanation on how the issues were resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

889. Slow Project Implementation-Lot 1

The contract agreement for Bagamoyo - Horo Horo - 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 48 months broken down into 36 months for construction and 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, including the monthly progress report (MPR) No.10, revealed that as at 30 June, 2023, the contractor's amount certified to date was Kshs.744,572,077 including interim payment certificate (IPC) No.1 - advance payments and IPC No.2. Further, the report revealed that the amount paid to date to the contractor was Kshs.585,332,008. However, and despite the payments made and a project time elapse of 7.5 months or 20.8% of the expected contract period, the contractor had only completed 1.5% of the works. This was an indication that the project was significantly behind schedule and may not be delivered within the timelines provided in the contract agreement.

The delay in the implementation of the road 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

891. 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

Basis for Qualified Opinion

892. Inaccuracy in Cash and Cash Equivalents

The statement of financial assets and Note 5 to the financial statement reflect bank balance of Kshs.30,745 as at 30 June, 2023. However, the bank reconciliation statements and cash book provided in support of the bank balance reflected a balance of Kshs.3,613,156,401 resulting into an unreconciled and unexplained variance of Kshs.3,613,125,656.

In the circumstances, the accuracy of the cash and cash equivalents balance of Kshs.30,745 could not be confirmed.

Other Matter

893. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.102,500,000 and Kshs.2,500,000 respectively, resulting to an underfunding of Kshs.100,000,000 or 98%, mainly in respect of proceeds from borrowings - direct payments budget amount of the Kshs.100,000,000 out of which Kshs.Nil was received. Similarly, an amount of Kshs.2,469,255 was spent by the Project against an approved expenditure budget of Kshs.102,500,000, resulting to an under expenditure of Kshs.100,030,745 or 98% of the budget.

The underfunding and under-performance affected the implementation of planned activities and it was not possible to confirm whether the Project implementation was on course and whether its strategic goals would be realized.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

894. Failure to Open and Maintain a Project Bank Account

The statement of financial assets reflects cash and cash equivalents balance of Kshs.30,745 in respect of the bank balance held in a commercial bank. However, the project funds were comingled in the Kenya National Highways Authority's operational bank account instead of handling them in a separate bank account. This is contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 that 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.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

895. 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

Unmodified Opinion

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

Emphasis of Matter

897. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total budgeted receipts of Kshs.3,087,500,000 against actual receipts of Kshs.1,429,724,496 resulting in an under-collection of Kshs.1,657,775,504 or 54% of the budgeted receipts.

Similarly, the statement reflects total budgeted expenditure of Kshs.3,087,500,000 against actual payments of Kshs.1,377,538,002 resulting in an under-expenditure of Kshs.1,709,961,998 or 55% of the budgeted expenditure.

The under-collection 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

Conclusion

898. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

900. 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, In my opinion, adequate accounting records have been kept by the Project and the Project financial statements are in agreement with the accounting records and returns.

THE ESTABLISHMENT OF BUS RAPID TRANSIT LINE 5 PROJECT (EDCF LOAN AGREEMENT NO. KEN-5) – KENYA URBAN ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

902. Pending Bills

Note 1 of other important disclosures and Annex 4 to the financial statements reflects pending accounts payable balance of Kshs.14,807,013 which relate to consultancy services. The Project is at risk of incurring unquantified significant interest costs and penalties with the continued delay in making payments for 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.

903. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.629,400,000 and Kshs.174,923,629 respectively resulting to an under-funding of Kshs.454,476,371 or 72% of the budget.

Similarly, the Project expended Kshs.174,923,629 against an approved budget of Kshs.629,400,000 resulting to an under-expenditure of Kshs.454,476,371 or 72% 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

904. Delayed Commencement of Works

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects an amount of Kshs.174,923,629 in respect of acquisition of non-financial assets which relates to design, review and supervision of works. However, it was observed that there have been delays in commencement of the works for the project.

Further, the Project was for a duration of three-and-a-half ($3\frac{1}{2}$) years from June, 2022 to December, 2025 with an approved budget of the loan from the donor of USD59,000,000 equivalent to Kshs.6,498,501,900. However, as at 30 June, 2023 only an amount of Kshs.163,560,898 or 2.5% of the Development Partner's commitment of Kshs.6,498,501,900 had been received by the Project.

The low absorption of the Development Partner's loan budget was attributed to failure to commence the works component in the financial year 2022/2023 which was expected to consume the highest amount of the loan facility.

In the circumstances, there is a risk that the Project delivery will be delayed due to the delay in commencement of works which may have an impact on service delivery to the public.

905. Irregular Clause on Financing Agreement and Non-Compliance with the Public Procurement and Asset Disposal Act, 2015

The Government entered into a contract with an International Company for consultancy services for the establishment of the Bus Rapid Transit Line 5 Project on 24 May, 2022 for a period of thirty-nine (39) months from the date of commencement.

Review of Part IV and Schedule 4 of the Project's Financing Agreement revealed that suppliers other than nationals of the Republic of South Korea or judicial person incorporated and registered therein were not allowed to bid for the consultancy services. This is contrary to Section 60(1) of the Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer of a procuring entity shall prepare specific requirements relating to the goods, works or services being procured that are clear, that give a correct and complete description of what is to be procured and that allow for fair and open competition among those who may wish to participate in the procurement proceedings.

In the circumstances, the Management of the Project and The National Treasury were in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

NAIROBI INTELLIGENT TRANSPORTATION SYSTEM ESTABLISHMENT AND JUNCTIONS IMPROVEMENT PROJECT PHASE I (EDCF LOAN AGREEMENT NO. KEN-6) – KENYA URBAN ROADS AUTHORITY

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. Pending Bills

Note 13.1 and Annex 4 to the financial statements reflect pending accounts payable balance of Kshs.1,246,242 which relate to consultancy services. Failure to settle 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.

909. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.360,250,000 and Kshs.109,289,013 respectively resulting to an under-funding of Kshs.250,960,987 or 70% of the budget. Similarly, the Project spent Kshs.109,289,013 against an approved budget of Kshs.360,250,000 resulting to an under-expenditure of Kshs.250,960,987 or 70% 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.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

910. Delay in Commencement of Works

The Project was for a duration of four (4) years from 17 May, 2022 to 17 May, 2026 with an approved budget of the loan amount of USD 61,000,000 equivalent to Kshs.6,718,790,100. However, as at 30 June, 2023 only an amount of Kshs.95,289,013

or 1.4% of the Development Partner's commitment of Kshs.6,718,790,100 had been received by the Project.

In addition, the statement of receipts and payments reflects an amount of Kshs.109,289,013 in respect of acquisition of non-financial assets which as disclosed in Note 3 to the financial statements relates to design, review and supervision of works. However, it was observed that there have been delays in commencement of the works for the Project. The low absorption of the Development Partner's loan budget was attributed to failure to commence the works component in the financial year 2022/2023 which was expected to consume the highest amount of the loan facility.

In the circumstances, there is a risk that the Project delivery will be delayed due to the delay in commencement of works which may further have an impact on service delivery to the public.

911. Irregular Clause on Financing Agreement and Non-Compliance with the Public Procurement and Asset Disposal Act, 2015

The Government entered into a contract with an international Company for consultancy services for Nairobi Intelligent Transportation System (ITS) Establishment and Junctions Improvement Project on 05 May, 2022 for a period of thirty-four and a half (34.5) months from the date of commencement.

Review of part IV and schedule 4 of the Project's Financing Agreement revealed that suppliers other than nationals of the Republic of South Korea or juridical person incorporated and registered therein were not allowed to bid for the consultancy services. This is contrary to Section 60(1) of the Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer of a procuring entity shall prepare specific requirements relating to the goods, works or services being procured that are clear, that give a correct and complete description of what is to be procured and that allow for fair and open competition among those who may wish to participate in the procurement proceedings.

In the circumstances, the Management of the Project and The National Treasury were in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

AFD - ASAL RURAL ROADS PROJECT - KENYA RURAL ROADS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

914. 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.913,457,356 and Kshs.99,463,342 respectively resulting in an under-funding of Kshs.813,994,014 or 89% of the budget. Similarly, the statement reflects final expenditure budget and actual amounts on comparable basis of Kshs.46,329,425 and Kshs.5,186,581 respectively, resulting in an under-expenditure of Kshs.41,142,844 or 89% of the budget. Further, the statement reflects total budgeted receipts of Kshs.913,457,356 against total budgeted expenditure of Kshs.46,329,425 resulting to un explained budget unbalance of Kshs.867,127,931.

The underfunding and under-performance affected the planned activities of the Project 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

915. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

917. 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 been kept by the Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

SAMATAR-WAJIR ROAD PROJECT (LOAN NO.13451P, 13/779 AND 995) - KENYA NATIONAL HIGHWAYS AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

919. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.92,500,000 and Kshs.12,500,000 respectively resulting to an under-funding of Kshs.80,000,000 or 86% of the budget. Similarly, the Project had nil expenditure against an approved budget of Kshs.92,500,000 resulting to an under-expenditure of Kshs.92,500,000 or 100% of the budget. The underfunding and failure to undertake the planned activities of the Project may have impacted negatively on service delivery to the public.

920. Delayed Implementation of the Project

During the year under review, the Project received a total Government counterpart funding of Kshs.12,500,000 which matched the originally budgeted amount of Kshs.12,500,000. Records provided by the Management indicate that although the project secured the entire requested funding for the year and the funds were received by 30 September, 2022, no project activities were initiated. The funds were deposited into a current account and remained there for nine months, without accruing any interest, as no interest income has been reflected in the financial statements.

Further, the project implementation timeline was expected to be for a duration of four (4) years from 2021 to 2024 with an approved budget of USD 83,000,000 equivalent to Kshs.8,950,570,600. However, as at 30 June, 2023, the project was still in the procurement process, despite the fact that the implementation window is scheduled to conclude in eighteen (18) months.

In the circumstances, the delay in project implementation will affect service delivery to the public.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

- 921.** 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

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

STATE DEPARTMENT FOR TRANSPORT – VOTE 1092

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

923. Inaccuracies in the Financial Statements

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects goods and services amount of Kshs.117,164,990. However, included in this amount is Kshs.10,180,206 for utilities, supplies and services, out of which an amount of Kshs.1,864,400 did not relate to the vote.

Further, included in the amount is Kshs.7,492,931 for foreign travel and subsistence expenditure, out of which an amount of Kshs.2,346,302 related domestic travel.

In addition, the statement of receipts and payments reflects acquisition of assets amount of Kshs.71,434,797 as disclosed in Note 7 to the financial statements which includes an amount of Kshs.70,126,497 for research, studies, project preparation, design and supervision, out of which an amount of Kshs.5,856,240 was wrongly charged.

In the circumstances, accuracy and completeness of expenditure amounting to Kshs.23,529,377 could not be confirmed.

924. Outstanding Third-Party Deposits

The statement of financial assets and financial liabilities reflects third-party deposits and retention for five (5) agencies balance of Kshs.24,620,136. Included in this amount is Kshs.21,950,404 in respect of unclaimed Kenya Railways retirees benefits has been lying in the State Department's account at the Central Bank of Kenya for several years. However, the amount was not supported by a comprehensive list of the retirees and or beneficiaries showing amounts due to them. Further, the State Department did not explain reasons why the role of paying Kenya Railway retirees was transferred to them.

In the circumstances, the accuracy and the authenticity of third-party deposits and retention balance of Kshs.24,620,136 could not be confirmed.

Emphasis of Matter

925. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis amounts of Kshs.12,492,434,524 and Kshs.10,280,571,277 respectively resulting in an under-funding of Kshs.2,211,863,247 or 18% of the budget. Similarly, the State Department expended an amount Kshs.10,274,732,094 against an approved budget of Kshs.12,492,434,524 resulting in an under-expenditure of Kshs.2,217,702,430 or 34% of the budget. The underfunding and

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

926. Pending Bills

Note 17.2 to the financial statements reflects pending accounts payable balance of Kshs.97,487,972 compared to Kshs.23,764,146 in the year 2021/2022. No justification for huge movement from the previous year was not provided.

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.

My opinion is not modified in respect of these matters.

Other Matter

927. Unresolved Prior Year Issues

In the audit report of the previous year, several issues were raised under the Basis for Qualified Opinion and under Report on Lawfulness and Effectiveness in Use of Public Resources. However, the issues remained unresolved at the end of the year under review. This is contrary to Section 149(2)(l) of the Public Finance Management Act, 2012 which require the Accounting Officers designated to try to resolve any issues resulting from an audit that remain outstanding.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

928. Delay in Completion of the Transport Data Centre

As previously reported, the State Department through the East Africa Trade and Transport Facilitation Project MOT-IDA Credit No. 4148-KE and 4977-KE awarded 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. 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 records revealed no update on the status of this facility, yet the contract agreements had long expired. Further, the contractor and the consultant had not completed the project to warrant the issuance of a completion certificate and official hand over of the facility. Available records revealed that the contractor has been paid Kshs.120,252,245 (92% of the contract sum) while the consultant had been paid Kshs.16,792,500 (75% of the contract sum) as at 30 June, 2023.

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.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

DONOR FUNDED PROJECT

HORN OF AFRICA GATEWAY DEVELOPMENT PROJECT LOAN NO.6768-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

931. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total budgeted receipts of Kshs.300,000,000 against actual receipts of Kshs.nil thereby resulting in an under-collection of Kshs.300,000,000 or 100% of the budgeted receipts. Further, the statement reflects total budgeted expenditure of Kshs.300,000,000 against actual payments of Kshs.32,727,722 resulting in an under-expenditure of Kshs.267,272,278 or 89% of the budgeted expenditure.

The under-collection of receipts and under-expenditure is an indication that the Project may not have achieved the planned objectives which may have negatively attended service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

932. Unresolved Prior Year Matters

In the audit report of the previous year, an issue was raised under the Report on the Financial Statements. However, contrary to the Public Sector Accounting Standards Board reporting template, Management has not given the progress made in addressing the matter or given any explanation on how the above issue has been resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

933. Delay in Project Implementation

During the year under review, the approved budget for proceeds from borrowings and the budgeted project expenditure was Kshs.300,000,000. However, no receipts from borrowings were received and only an amount of Kshs.32,727,722 was spent from the brought forward balances of the Project. The cumulative expenditure to date is Kshs.35,385,793 against the expected amount of Kshs.546,300,000 thus indicating a low uptake of funds of 6.5% and the Project is in its third year of implementation.

In the circumstances, the general and specific objectives, outcome and performance of the project may not be realized in a timely way which will impact negatively on service delivery to the public.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

935. 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 Management of the Project and the financial statements are in agreement with the accounting records and returns.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR TRANSPORT

NATIONAL URBAN TRANSPORT IMPROVEMENT PROJECT CREDIT NO.5140-KE - KENYA RAILWAYS CORPORATION

REPORT ON FINANCIAL STATEMENTS

Unmodified Opinion

936. 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

937. Long Outstanding Balance on Pending Bills

Annex 4 on analysis of pending bills reflects a balance of Kshs.3,900,000 in respect of pending bills for supply of services. As previously reported, the bills were contracted on 01 December, 2018. Management did not provide a budget for settlement of the pending bills and no explanation was provided for the failure to settle the pending bills even though the Project was closed on 31 December, 2018.

In the circumstances, Management risk incurring avoidable additional costs.

938. Doubtful Achievement of Project Goals

The statement of receipts and payments reflects cumulative receipts of Kshs.117,813,333 in respect of loans from external development partners or 11% of the total donor commitment of Kshs.1,071,552,600. As previously reported, the project was closed on 31 December, 2018.

In the circumstances, the attainment of the projects' goals highlighted under project information and overall performance could not be confirmed.

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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

940. 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 Management of the Project and the Project's financial statements agree with the accounting records and returns.

MULTINATIONAL LAKE VICTORIA MARITIME COMMUNICATIONS AND TRANSPORT (MLVMCT) PROJECT – KENYA MARITIME AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

941. Cash and Cash Equivalents-Unpresented Cheques

The statement of financial assets reflects cash and cash equivalents balance of Kshs.56,379,591 as disclosed in Note 11 to the financial statements. However, the

balance includes the effect of unresolved prior year audit issue on unsupported unpresented cheques of Kshs.1,319,084, for which reconciliation or explanation was not provided for audit review.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.56,379,591 as at 30 June, 2023 could not be confirmed.

942. Ineligible Expenditures

Review of project account bank statement revealed payments amounting to Kshs.5,028,859 on 05 December, 2022 that were not recorded in the cash book or the financial statements. In addition, included in the expenditure, are payments of Kshs.5,026,654, whose supporting documents were not provided for audit review. Further, the payments were not budgeted for and were paid after the project had been cancelled.

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

Other Matter

943. Unresolved Prior Year Matters

The prior year audit issues remained unresolved as at 30 June, 2023. 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

944. Idle Bank Balances

Review of the bank statement revealed bank balances of Kshs.56,379,591 from 01 July, 2022 to 30 June, 2023. This implied that the project was holding idle balances for the Project which was in violation of Regulation 83(2)(c) of Public Finance Management (National Government) Regulations, 2015 which requires accounting officers to ensure sound cash management through avoiding accumulation of idle balances.

Further, Project guidelines, circulars, memos and/or policies providing guidance on how the unspent balances on Government counterpart funding of Kshs.56,100,274 would be spent/utilized were also not provided for audit review considering that the project end date was on 30 April, 2022.

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

945. Undrawn Loan Balance

The African Development Fund Group issued a notice for cancellation through a letter Ref: AFDB/RDGE/LTR/2022/05/059 on 17 May, 2022, indicating that the undrawn loan as at Project end date of 30 April, 2022 was USD 2,193,569.74 (UA 1,555,723.23) or Kshs.263,184,409. The undrawn balance attracted a commitment charge of 0.5% or USD 10,967.85 (Kshs.1,315,923) as at the project end date. Management was therefore in violation of Section 3.03 of the Financing Agreement between the Republic of Kenya and the African Development Fund providing that the borrower shall pay a commitment charge at the rate of 0.5% on the undisbursed portion of the loan which shall begin to accrue 120 days after the date of the signature of this agreement.

In the circumstances, the cancellation may have affected the capacity of the Project to carry out its programmes and activities.

946. Unreturned Funds to the Bank

The Special Account Statement of the Multinational Lake Victoria Maritime Communication Project and letter Ref: AfDB/RDGE/LTR/2022/05/059 from the African Development dated 17 May, 2022 which required Kenya Maritime Authority to return Kshs.187,159 (USD 1,856) or (UA 1,276.81) which no objection by the bank was not given for spending. However, as at 30 June, 2023, the funds were yet to be returned to the African Development Bank. This was contrary to the Bank (AFDB) Disbursement Handbook which requires that when a Project is closed, any balances remaining and any unjustified expenses shall be returned to the Bank.

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

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

Conclusion

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

SAFE ROADS/USALAMA BARABARANI CREDIT NUMBER KE/FED/37-778 – NATIONAL TRANSPORT AND SAFETY AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

949. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total budgeted receipts amount of Kshs.205,136,159 against actual receipts amount of Kshs.4,341,481 resulting in an under-collection of Kshs.200,794,678 or 98% of the budget. Similarly, the statement reflects total budgeted expenditure of Kshs.205,136,159 against actual payments of Kshs.53,642,156 resulting in an under-expenditure of Kshs.151,494,003 or 74% of the budgeted expenditure. Major under- expenditures of budgeted amount were noted under purchase of goods and services and acquisition of assets with variances of Kshs.136,783,892 and Kshs.13,676,189 respectively.

The under-collection of receipts and under-expenditure is an indication that the Project may have not achieved the planned objectives.

950. Undrawn Loan Balance

Section 2.7 on funding summary indicates that the project is for a duration of 4½ years from 1 March, 2020 to 31 August, 2024 and with an approved budget of EUR 5,375,000 equivalent to Kshs.685,819,635. As at 30 June, 2023, the Project had operated for 3⅓ years or 73% of the project period. However, it was noted that as at 30 June, 2023, an amount of Kshs.280,714,639 equivalent to 41% had been drawn leaving an undrawn balance of Kshs.405,104,996 or 59% to be drawn within the remaining 1.2 years to end of the project period. Further, out of the total funds drawn of Kshs.280,714,639, only Kshs.165,322,083 or 59% had been utilized as at 30 June, 2023 while the balance of Kshs.115,392,556 or 41% remained unutilized. In addition, out of the total commitment of counterpart funding amounting to Kshs.137,163,927, only an amount of Kshs.14,394,451 had been received as at 30 June, 2023 which was extremely low (10%). The absorption rate of the funds is slow, an indication that the Project may not be completed within the one-year remaining period.

My opinion is not modified in respect of these matters.

Other Matter

951. Unresolved Prior Year Issues

In the audit report of the previous year, several issues were raised under Basis for Qualified Opinion and in the Report on Lawfulness and Effectiveness in Use of Public Resources section. These issues remained unresolved contrary to Section 149(2)(l) of the Public Finance Management Act, 2012 which require the Accounting Officers designate to try to resolve any issues resulting from an audit that remain outstanding.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

952. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

954. As required by Finance 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 Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

HORN OF AFRICA GATEWAY DEVELOPMENT PROJECT (IDA CREDIT NO.6768 KE) - NATIONAL TRANSPORT AND SAFETY AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

956. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total budgeted expenditure of Kshs.629,720,000 against actual payments of Kshs.509,180,035 resulting to an under-expenditure of Kshs.120,539,965 or 19% of the budget.

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

957. 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

Conclusion

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

STATE DEPARTMENT FOR SHIPPING AND MARITIME AFFAIRS – VOTE 1093

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

960. Other Pending Payables

Note 16.4 to the financial statements reflects other pending payables balance of Kshs.1,311,736. The amount has increased from Kshs.80,786 to Kshs.1,311,736 being 152%. The amount of Kshs.80,786 brought forward in the financial statements has unexplained variance of Kshs.1,230,950 from the amount of Kshs.1,311,736 reflected in the 2021/2022 financial statements. The amount increased with no addition during the year.

Management has not provided justification for non-payment of the long outstanding pending bills which should have formed the first charge in the subsequent year's budget, and which exposes the State Department to the risk of incurring significant unquantified interest costs and penalties due to delay in settling invoiced bills.

961. Late Exchequer Releases

The statement of receipts and payments reflects transfers from The National Treasury amount of Kshs.541,258,417 and as disclosed in Note 1 to the financial statements. However, included in this amount is Kshs.72,185,907 released on 30 June, 2023 by The National Treasury and reflected in the State Department's bank account on 4 July, 2024.

In the circumstances, the citizens did not get timely provision of goods and services as intended by the National Government, due to delay in disbursements of the funds from The National Treasury.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

962. Unlawful Appointment of Bandari Maritime Academy Chief Executive Officer

Review of the payroll and human resources records revealed that a staff of the State Department was appointed in an acting capacity as the Chief Executive Officer of Bandari Maritime Academy on 5 May, 2022 on a two-year contract even though he had attained the mandatory retirement age of sixty (60) years. The officer was to exit the public service on 1 July, 2022 but was promoted and appointed on local terms by the Public Service

Commission on 5 May, 2022 from Deputy Director to a Director, Human Resources Management and Development and took over as the Chief Executive Officer (CEO) at the Academy. As at the time of audit in November, 2023, the said officer was still the acting Director/CEO the Academy.

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 six months.

Further, the Bandari Maritime Academy having been established under the Legal Notice No. 233 of 28 November, 2018 as a State Corporation, thus not an office established under the Constitution, then it is an illegality for the Public Service Commission to appoint an Acting CEO of a Semi-Autonomous Government Agency (SAGA) which is outside its mandate when there exists a Board of Directors.

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

963. Non-Adherence to the Data Protection Act, 2019

Review of the staff establishment revealed that the State Department has not appointed a Data Protection Officer as per the requirements of the Data Protection Act, 2019, to carry out the functions as provided for in Section 24 of the Act.

Further, the Ministry had not registered itself as either a Data Controller or Data Processor or both with the Data Protection Commissioner's Office in Line with Section 18 of the Act which provides; (1) Subject to sub-section (2), no person shall act as a data controller or data processor unless registered with the Data Commissioner.

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

964. Failure to Comply with Public Finance Management Regulation, 2015

Note 16.2 to the financial statements reflects pending accounts payable balance of Kshs.32,041,973 comprising of Kshs.26,209,480 accrued in the current fiscal year and historical pending bills amounting to Kshs.5,832,493. Management has not provided justification for non-payment of the long outstanding pending bills which should have formed the first charge in the subsequent year's budget, and which exposes the State Department to the risk of delayed payments, interest costs and penalties due to delay in settling invoiced bills. This is contrary to Section 42 (a) of the Public Finance Management Regulation, 2015 which requires that debt service payments shall be a first charge on 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. In addition, out of these bills, only Kshs.15,234,972 have been certified payable by the internal audit department.

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

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

Basis for Conclusion

965. Lack of an Audit Committee

Review of the human resources records provided revealed that the State Department had not yet constituted an audit committee contrary to Section 73(1)(a) of the Public Finance Management Act, 2012 which requires that every National Government entity shall ensure that it complies with this Act and has appropriate arrangements in place for conducting internal audit according to the guidelines of the Accounting Standards Board.

In the circumstances, the sufficiency and effectiveness of internal controls on management could not be confirmed.

966. Failure to Tag Assets

Annex 4 to the financial statements reflects summary of fixed assets register balances of Kshs.23,093,054 and Kshs.13,211,222 in respect to buildings and structures and office equipment, furniture and fittings respectively both totalling to Kshs.36,304,276. However, physical verification carried out in November, 2023 revealed that the assets had not been tagged or serialized for ease of identification by the Management.

In the circumstances, the existence and effectiveness of controls on custody management of Government assets could not be confirmed.

967. Excess Staff Above Approved Staff Establishment

Review of the State Department staff establishment revealed that it had fifteen (15) cadres with one hundred and four (104) members of staff in-post. However, it was noted that in the staff establishment, only ninety-three (93) cadres were approved, exceeding the approved establishment by eleven staff members.

In the circumstances, the value for the excess staff could not be confirmed.

STATE DEPARTMENT FOR HOUSING AND URBAN DEVELOPMENT –

VOTE 1094

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Emphasis of Matter

969. Long Outstanding Pending Bills

Analysis of pending bills reflects an amount of Kshs.2,079,726,669 in respect of pending bills, out of which, an amount of Kshs.1,813,999,997 was categorized as bills verified and payable. Management explained that the pending bills arose due to lack of adequate exchequer but some pending bills has been outstanding for more than ten years. Further, pending bills amounting to Kshs.265,726,672 were categorized as bills under verification a position that has remained so for long with no plausible explanation.

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. Further, the State Department is at risk of incurring significant avoidable expenditure in form of interest and penalties due to delayed payment of invoiced bills. In addition, the State Department did not disclose the pending accounts payable under other important disclosures as required by the financial reporting template issued by the Public Sector Accounting Standards Board (PSASB).

970. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis amounts of Kshs.11,768,810,347 and Kshs.9,911,378,809 respectively resulting to an under-funding of Kshs.1,857,431,538 or 16% of the budget. Similarly, the State Department expended an amount of Kshs.9,801,956,822 against an approved budget of Kshs.11,768,810,347 resulting to an under-expenditure of Kshs.1,966,853,525 or 17% of the budget.

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

My opinion is not modified in respect of these matters.

Other Matter

971. Unresolved Prior Year Issues

In the audit report of the previous year, several issues were raised under the Basis for Qualified Opinion and Report on Lawfulness and Effectiveness in Use of Public Resources. These issues remained unresolved contrary to the provisions of Section 149(2)(l) of the Public Finance Management Act, 2012 which requires the Accounting

Officers designated to try to resolve any issues resulting from an audit that remain outstanding.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

972. Rent Revenue

972.1 Under Performance in Rent Revenue Collection from Government Houses

The State Department has fifty-thousand, seven hundred and forty-nine (50,749) houses throughout the Country with an expected monthly rental income of Kshs.112,303,369 or an annual rent potential of Kshs.1,347,640,428 at full occupancy level. However, the rent collections on the Government houses for the year under review amounted to Kshs.1,037,863,565 leading to an under performance of Kshs.309,776,863 or 23% of the full potential. The State Department has not demonstrated any strategy/efforts to improve the revenue collection.

972.2 Unremitted Rent Revenue

The statement of receipts and payments reflects miscellaneous receipts amount of Kshs.1,037,863,565 which, as disclosed in Note 2 to the financial statements, is in respect of rent collections from various Government houses. However, the payroll by-products on rent deductions from Ministries, State Departments and other State Agencies showed deductions amounting to Kshs.1,052,934,555 resulting to deducted but not remitted amount of Kshs.15,070,990.

Further, the Government Housing Inventory showed that seven thousand, two hundred and sixty-five (7,265) National Government houses domiciled in the forty-seven (47) County Governments were occupied by the County Governments' staff. The monthly rent income receivable from the County Governments was Kshs.18,857,790 at full occupancy resulting to an annual rent receivable of Kshs.226,293,480 at full occupancy. However, the actual rent income received from the County Governments was Kshs.28,270,375 or 12% of the potential annual rent resulting to uncollected rent revenue of Kshs.198,023,105 or 88% of the annual rent collectable/receivable.

In addition, the County Governments payroll by-products showed rent deduction amount of Kshs.126,113,986 out of which only an amount of Kshs.28,270,375 was remitted resulting to unremitted house rent from the County Governments of Kshs.97,843,611 or 78%.

Management has not demonstrated efforts to recover the outstanding amount from the respective National and County Government entities.

973. Boarded /Alienated Government Houses

Review of records of Government houses inventory revealed that four thousand, one hundred and thirty-five (4,135) Government houses have been boarded countrywide either through demolition, transfer to other entities, natural perils (fire, flooding, condemnation, re-development) or converted to offices for other entities. The boarding of

the houses has reduced the number of Government houses resulting to revenue loss and reduced availability of houses for critical Government services. The boarded houses had an estimated monthly income of Kshs.10,406,280 at full occupancy which translates to an estimated annual rental income of Kshs.124,875,360 at full occupancy.

Further, inventory records show that a total of one thousand, five hundred and one (1,501) houses have been alienated over time with an expected monthly rent of Kshs.3,538,800 or annual rent of Kshs.42,465,600 at full occupancy.

Management did not demonstrate any effort to either recover the alienated or repair the depleted houses.

974. Compensation of Employees

974.1 Monthly Pay Below the One Third of the Basic Salary Rule

Review of the April, May and June, 2023 salary payrolls revealed that several employees were earning salaries below the recommended one third of their basic salary contrary to the provisions of Section C.1 (3) of the Public Service Commission's Human Resource Policies and Procedures Manual for Public Service, 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. Where salary deductions are recovered in excess of two thirds of the basic salary, employees may be tempted to engage in other unethical behavior which may lead to loss of funds and lower productivity. It may also subject the officers to pecuniary embarrassment.

974.2 Unutilized Staff Leave Days

Out of the eight hundred and eighty-eight (888) members of staff of the State Department, four hundred and fourteen (414) members of staff or 47% did not proceed on their annual leave during the financial year under review, contravening the provisions of Section E.3(1) of the Public Service Commission's Human Resource Policies and Procedures Manual for the Public Service, 2016 which states, *inter alia*, that annual leave is a right to every public officer and will be granted for recuperative purposes. There is therefore a possibility of reduced productivity resulting from work burn out.

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

975. Unutilized Market Projects - Economic Stimulus Project (ESP)

975.1 Fresh Produce Wholesale Market at Kombani – Kwale County

The construction of Kombani ESP market commenced in July, 2012. The market was co-funded between the European Union and Kenyan Government through the County Government of Kwale. The contract sum for the project was Kshs.23,620,000. The market was completed and commissioned on 9 December, 2021. However, physical verification of the project/market in the month of July, 2023 showed that the project was complete but was not being used by the intended beneficiaries who continued to operate along the road side.

Further, the market buildings were getting dilapidated through vandalism of mechanical fittings like the washroom basins and toilets and a wind-blown off roof. In addition, the structures were not being maintained as shrubs had sprouted and overgrown within the compound.

975.2 Produce Market at Wundanyi – Taita Taveta County

The construction of Wundanyi ESP Market commenced in July, 2012 at a contract sum of Kshs.22,700,000. Although the project had been completed, it had not been put to use. Interview with Wundanyi residents revealed that at one point the market was operational until when the County Government of Taita Taveta constructed almost a similar market within the same town and relocated the traders to the new location.

In the circumstances, the effectiveness in the use of public resources and value for money spent of Kshs.46,320,000 could not be confirmed.

976. Incomplete Projects

976.1 Establishment of Kinango Appropriate Building Material Technology Centre (ABMT) – Kwale County

The construction of Kinango ABMT in Kwale County commenced on January, 2023 at a contract sum of Kshs.4,819,455. Physical verification done in July, 2023, revealed that the project was not complete and the contractor was not on site. Management did not explain why the project was not complete despite the fact that they had received Authority to Incur Expenditure (AIE) amounting of Kshs.6,500,000. Further, it was evident that there was poor workmanship with regard to defective paint works and ceiling works.

976.2 Infrastructure Works and Water Reticulation - Barracks at State House Mombasa

The State Department awarded a contract for construction of concrete water tower, water storage tanks (8No), booster pump sets and water reticulation to the Barracks at State House, Mombasa on 9 November, 2022 at a contract sum of Kshs.9,000,000. However, physical verification of the project done in July, 2023 revealed poor workmanship in form of plaster works defects and structural defects since the water tank columns were not aligned vertically, mismatching slab sizes for the structural floor slabs and incomplete works. The contractor was not on site despite the outstanding works and full payment of the contracted sum.

976.3 Construction of Shimo La Tewa Prison Housing Project - Mombasa

The State Department awarded a contract for construction of Shimo La Tewa Prison housing project in August, 2016 at a contract sum of Kshs.173,576,615. The Project entailed construction of two (2) blocks of 100 units. Each block comprised of 32 studio units on the ground floor, 14 - two (2) bedroomed units on the first and second floors and four (4) – three (3) bedroomed units on the third floor. Review of records revealed that the contract was terminated when the project was at approximately 90% completion stage. Upon termination of the contract, the State Department re-advertised tender for completion of the remaining works.

Further, the building had been partially occupied by prison warders despite the building not having been completed and handed over to the authorities. The warders had occupied Block A and Block B carrying 32 units and 7 units respectively. This was after the occupants had installed their own doors and locks from their own resources. The building did not have utilities installation such as water and electricity and the tile works and final paintworks were yet to be done.

976.4 Stalled Economic Stimulus Project (ESP) - Fresh Produce Markets

Inspection and review of status report for ESP - fresh produce markets project showed that six projects with a contract sum of Kshs.64,000,000 had stalled at various stages. At the time of audit in December, 2023, an amount of Kshs.35,000,000 had been paid. The projects' ranged between 30% to 50% completion. Physical verification done in July and August, 2023 revealed some projects had been abandoned and the traders operated along the roadside. Further, other projects were complete, the traders were allocated the stalls, occupied the stalls and were fully functional but lacked toilets.

In addition, Subukia Market in Nakuru, although the project was done, it was not used for the intended purpose since the County Government had built a similar market opposite it. The market is currently used as a social hall. Delayed implementation of the projects denied the public benefits that could have accrued from the complete projects.

In the circumstances, the effectiveness in the use of public resources and value for money spent for housing could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

DONOR FUNDED PROJECTS

SECOND INFORMAL SETTLEMENT IMPROVEMENT PROJECT NO. P167814 CREDIT NO. 6759KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

978. 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

979. 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

981. As required by International Development Association (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 Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

**KENYA INFORMAL SETTLEMENT IMPROVEMENT PROJECT
NO. P113542 CREDIT NO. 4873KE**

REPORT OF THE FINANCIAL STATEMENTS

Unmodified Opinion

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

Other Matter

983. Failure to Close the Project

Review of records revealed that the Project was to commence on 1 July, 2011 and end on 30 December, 2020. However, as at 30 June, 2023, the Project had not been closed and several transactions were carried out during the financial year ended 30 June, 2023. No explanation was provided for the failure to close the project in accordance with the Financing Agreements.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

- 984.** 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

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

- 986.** As required by International Development Association (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 Management of the project and the 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

Unmodified Opinion

- 987.** There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

988. Pending Accounts Payables

Note 1 on other important disclosures to the financial statements reflects pending accounts payables totalling Kshs.60,853,926 as at 30 June, 2023. The balance relates to pending bills that were not paid during the year under review but were instead carried forward to the financial year 2023/2024.

Failure to settle bills during the year to which they relate adversely affects the implementation of the subsequent year's budgeted programs as the outstanding bills form a first charge to that year's budget provision.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

989. 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 for a period of three hundred and fifty (350) days or 12 months. The Project was expected to be completed in November, 2018 but this was revised to 06 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.

Further review of records revealed that the contract period has been extended by a total of 29 months with the new expected date of completion being 30 September, 2023. Audit inspection conducted on the Project in October, 2023 revealed that works on the construction of the landfill gas capture system at a cost of Kshs.37,250,000 and purchase of machinery and equipment at a cost of Kshs.89,000,000 had not started. By the end of the financial year under review, the contractor had been paid a total of Kshs.816,649,308 leaving unpaid balance of Kshs.239,829,422 out of the total contract sum.

In the circumstances, the value for money from the expenditure incurred in the implementation of this Project could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

991. 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 Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

KENYA URBAN SUPPORT PROGRAM (IDA CREDIT NO.61340 KE)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

992. Inaccuracies in the Financial Statements

The statement of receipts and payments reflects Kshs.30,709,823,476 and Kshs.30,522,309,950 for total cumulative receipts and payments respectively. However, the funding summary reflects Kshs.30,465,530,774 and Kshs.30,240,206,734 for sources and application of funds respectively resulting to unexplained variances of Kshs.244,292,702 and Kshs.282,103,216 respectively.

In the circumstances, the accuracy of the cumulative receipts and payments amounting to Kshs.30,709,823,476 and Kshs.30,522,309,950 respectively could not be confirmed.

Other Matter

993. Pending Bills

Note 1 on Other Important Disclosures reflects pending accounts payable balance of Kshs.11,682,114 owed to suppliers of goods and services. Management has not explained why the bills were not settled during the year when they occurred. Failure to settle bills during the year to which they relate to adversely affects the provisions of the subsequent year to which they will form a first charge.

994. 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 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

995. Delay in Implementation of Projects

995.1 Construction of Modern Market and Installation of High Mast Flood Lights in Kericho County

The Government entered into a contract for the construction of a modern market and installation of high mast flood lights in Kericho County. The commencement date was 4 January, 2021 for a contract period of two (2) years at a contract sum of Kshs.234,970,538.

As at the time of the audit in October, 2023, the project was at 70% complete with total payments to date amounting to Kshs.112,351,980 or 48% of the contract sum. However, the contract period had lapsed in January, 2023 and the completion of the works was nine

(9) months late. Further, audit inspection revealed that the contractor was on site with pending works which included flooring of the three (3) market buildings, painting, finishes and fixtures and installation of high mast flood lights.

995.2 Construction of Kitale Business Centre in Kitale Municipality Trans Nzoia County

The Government entered into a contract for the construction of Kitale Business Centre in Kitale Municipality. The commencement date was 28 May, 2018 for a contract period of one hundred and four (104) weeks at a contract sum of Kshs.874,280,383.

As at the time of the audit in October, 2023, the project was 91% complete with total payments to date amounting to Kshs.637,416,093 or 73% of the contract sum. An audit inspection revealed that the contractor has not been on site since August, 2023 and there were pending works including painting works, electrical works, floor finishes and external road works.

995.3 Upgrading of 64 Stadium in Municipality of Eldoret

The Government entered into a contract to upgrade the 64 Stadium in Eldoret Municipality. The contract was signed on 9 April, 2021 for a period of sixty (60) weeks at a contract sum of Kshs.1,163,563,926. As at the time of the audit in October, 2023, the project was at 60% completion level with total payments to date at 59% of the contract sum. However, an audit inspection revealed that although the contractor was on site, there were some pending works including the completion of terraces super structure and interior works, paint works, plumbing, electrical works, and completion of the running track and installation of tartan track.

995.4 Construction of Kithomboani Modern Market in Kitui Town (Multi-Year Project)

The Government entered into a contract for the construction of Kithomboani Modern Market in Kitui Town which commenced on 25 June, 2019 for a duration of one hundred and twenty (120) weeks at a contract sum of Kshs.351,585,555. An audit inspection carried out in October, 2023 revealed that the contract completion level and total payments were at 85% and 59% (Kshs.208,131,131) respectively. However, there were some pending works including flooring and painting, fitting of bulbs, fitting of doors, washrooms and power connection. Further, the project had stalled and the contractor was not on site.

995.5 Development of Afraha Stadium in Nakuru County

Review of records revealed that the contract commenced on 15 December, 2020 for a duration of sixty (60) weeks with a completion date of 9 February, 2022 at a contract sum of Kshs.651,821,905.

As at the time of the audit in October, 2023, the project was at 87% completion level with pending works which included pavilion final finishes, running track, tartan installation and completion of the underground water tank. Further, the total payments for the contract was Kshs.606,235,704 or 93% of the contract sum. Although the contractor was on site and the project had been granted an extension to be completed by 20 November, 2023,

there has been a delay of one (1) year and eight (8) months. Management did not provide an explanation why the contractor had been paid more money than the actual completed works.

The above projects were significantly behind schedule and value for money for the expenditure incurred on the projects may not be realized.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

997. 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 Management of 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

Unmodified Opinion

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

Emphasis of Matter

999. Failure to Close Project

According to the Financing Agreement No. CKE 1035.01.G Addendum No.4 dated 19 February, 2020 between the Republic of Kenya and AFD, the Project's technical completion date was 31 January, 2022 while the deadline for use of funds was to be 30 June, 2022.

During the year, no funds were received into the Project and no expenditure was made from the bank account which had a balance of Kshs.2,200,309. No handover of Project's assets or records were made to the parent entity.

The Project Management had not commenced the closure procedure and did not submit the report for audit.

My opinion is not modified on the effect of this matter.

Other Matter

1000. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. However, the Management has not resolved some of the issues or given any explanation for failure to address them.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1001. 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

1002. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1003. 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 been kept by Management of the Project and the Project's financial statements are 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

Unmodified Opinion

1004. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1005. Failure to Close the Project

Addendum No.4 to the Financing Agreement No. CKE 1035.01.G dated 19 February, 2020 between the Republic of Kenya and Agency Francaise De Development (AFD) gives the Project's technical completion date as 31 January, 2022 while the deadline for use of funds was to be 30 June, 2022.

During the year under review, no funds were received into the Project and no expenditure was made from the bank account which had a balance of Kshs.6,772. Further, no handover of Project's assets or records were made to the County Government of Kisumu and the Project Management had not commenced the closure procedures.

My opinion is not modified on the effect of this matter.

Other Matter

1006. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. However, the Management has not resolved some of 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 and Planning Circular reference No. AG.4/16/3 Vol.11(66) dated 06 July, 2022.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1007. 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

1008. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1009. 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 been kept by Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR PUBLIC WORKS – VOTE 1095

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1010. Misstatement of Proceeds from Sale of Assets

The statement of receipts and payments reflects proceeds from sale of assets amount of Kshs.20,627,460. The amount relates to rent collected from various institutions including the Higher Education Loans Board (HELB) and the Independent Electoral and Boundaries Commission (IEBC). However, the amount of rent received from the HELB amounting to Kshs.3,681,317 could not be verified since the signed Lease Agreement with HELB was not provided for audit. Further, review of records revealed that IEBC was expected to vacate the Supplies Branch Warehouses at Likoni Road, Industrial Area on or before 31 May, 2023. However, the Commission had not vacated the premises and had not paid the annual rent due of Kshs.18,203,170.

In the circumstances, the accuracy and completeness of the proceeds from sale of assets amount of Kshs.20,627,460 could not be confirmed.

Emphasis of Matter

1011. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.3,507,946,404 and Kshs.2,616,573,864 respectively, resulting in under-funding of Kshs.891,372,540 or 25% of the budget. Similarly, the State Department spent an amount of Kshs.2,614,395,906 against an approved budget of Kshs.3,507,946,404 resulting in an under-expenditure of Kshs.893,550,498 or 25% of the budget.

The under-funding and under-expenditure affected the planned activities of the State Department and may have impacted negatively on service delivery to the public.

1012. Late Exchequer Releases

The statement of receipts and payments reflects an amount of Kshs.2,595,946,404 as transfers from The National Treasury which as disclosed in Note 1 to the financial statements relates to Exchequer releases. Review of the supporting schedules and the bank statements revealed that an amount of Kshs.106,304,165 was received on 4 July, 2023 after the financial year end.

In the circumstances, the State Department may not have been able to meet its financial obligations within the current financial year due to delayed Exchequer releases which may lead to increase in pending bills.

1013. Pending Bills

Note 16.2 and Annex 1 to the financial statements reflect pending accounts payable balance of Kshs.746,098,212. The State Department 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 form a first charge to that year's budget provision.

My opinion is not modified in respect of these matters.

Other Matter

1014. 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. Although the issues were subsequently presented before the Public Accounts Committee, they remained unresolved as at the time of the audit in November, 2023.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1015. Failure to Surrender Temporary Imprests

The statement of financial assets and liabilities reflects an amount of Kshs.615,900 in relation to outstanding imprest. Review of the imprest records maintained at the State Department revealed that imprests amounting to Kshs.615,900 were issued to various officers during the year but were not surrendered as at 30 June, 2023. Management did not provide an explanation for the failure by the officers to surrender the imprest held as required. This is contrary to Regulation 93 (5) of the Public Finance Management (National Government) Regulations, 2015, which states that the holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station.

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

1016. Failure to Remit Long Outstanding Accounts Payables-Deposits Balance

The statement of financial assets and liabilities reflects accounts payables-deposits balance of Kshs.334,963,096 as disclosed in Note 10 to the financial statements. Review of the supporting schedule provided revealed that included in the balance is an amount totalling Kshs.194,635,995 which had been held as retentions or deposits between the years 2000 and 2018. However, Management did not provide explanation for holding the deposits or retentions for a long time and the failure to remit the long outstanding balance of Kshs.194,635,995 to the Consolidated Fund as required. This is contrary to Regulation 106 of the Public Finance Management (National Government) 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.

1017. Delay in Completion of Projects

1017.1 Projects Behind Schedule

Review of records on Projects being implemented by the State Department revealed that six (6) projects had delayed progress having exceeded their contractual period and therefore were significantly behind schedule as at 30 June, 2023. These Projects included footbridges at Kapkures, Kiptabir-Chebongi, Kiangonina, Chenjeni, Tharaka Nithi County Headquarters and Tana River County Headquarters with a total contract sum of Kshs.987,189,903. However, the total certified amount totaled Kshs.579,635,580 with an average project completion rate of 56%.

In the circumstances, value for money on the amount paid to the various contractors could not be confirmed due to delay in project execution.

1017.2 Proposed Headquarters for Nyandarua County at Ol Kalou

The proposed Nyandarua County Headquarters at Olkalou project was awarded at a contract sum of Kshs.617,644,564 for a duration of one hundred and four (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 an agreed amount of Kshs.24,900,855 with no further claims. The project completion was extended to 31 December, 2022 vide a letter dated 18 January, 2022.

During the year under review the State Department paid a total of Kshs.48,908,999 to the various contractors working on or assigned to the project. The following anomalies were noted;

- (i) As previously reported, there is 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) Review of the Project Implementation Status (PIS) report revealed that the project was significantly behind schedule at 53% completion more than six (6) years after the project commenced. This was as a result of engaging a contractor who could not deliver as per the contract engagement terms and this had cost the public in terms of delayed delivery of services; and
- (iv) As previously reported, available records revealed that there were additional charges related to the project totalling to 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.

1017.3 Proposed Completion of Voi Pool Housing Project

As previously reported, the Voi Pool Housing project was awarded at a contract sum of Kshs.747,290,699 for a 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. Management has explained that the variation by Kshs.330,138,896 or 44% of the contract sum was not approved by the State Department to date. As previously reported, 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, while 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.

During the year under review, an amount of Kshs.17,502,486 was paid to the Contactor thus the total amount that had been paid to the contractor as at 30 June, 2023, was Kshs.463,004,291 or 62% of the original contract sum. Review of records revealed that the project completion date had been revised twice; the latest being 31 December, 2022. The project was not complete as at 30 June, 2023 and there was no evidence of further extension of the project completion date provided.

In the circumstances, the Project is significantly delayed and the likelihood of cost escalations is high resulting to additional charge to public funds.

1017.4 Proposed Completion of Migori District Headquarters

As previously reported, the proposed completion of Migori District Headquarters Phase I project, was awarded 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.650,300,000 already paid. The following observations were made: -

- (i). The project was significantly behind schedule as the percentage of completion as at June, 2023 stood at 86%;
- (ii). As previously reported, the project stalled and the main contractor abandoned site and the project recommended for termination through mutual winding-up. An unreference 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 review; and
- (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.

1017.5 Proposed Completion of Mathare Nyayo Hospital

The proposed completion of Mathare Nyayo Hospital project was awarded at a contract sum of Kshs.1,212,414,732 with the anticipated completion date being 26 August, 2015. The completion date was revised severally with the latest revised completion date being 31 December, 2020. Although Management provided information that as at 30 June, 2023 the work progress was at 100%, payment records indicated that the State Department had made payments amounting to Kshs.693,630,000 and thus remaining with an outstanding balance of Kshs.518,784,732.

In the circumstances, the Government may incur avoidable costs of interest and penalties on delayed payments on the contract.

1017.6 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, 2022 revealed physical progress of 50% 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 review.

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, value for money for amount paid to the contractor could not be confirmed due to delay in project execution and related associated costs.

1017.7 Termination of Contracts and Related Costs - 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 amounts of Kshs.31,611,627 and Kshs.4,700,000 recoverable from the contractor as retention money and liquidated damages respectively. Management did not provide evidence to show that the State Department had made any recoveries from the contractor in the form of retention money and/or liquidated damages. Management explained that a tender advertisement for the Contractor was made by the State department for Public Works on 14 November, 2023.

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.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1018. Lack of an Audit Committee and Internal Audit

During the year under review, there was no evidence that the Audit Committee met and deliberated on the Internal Audit reports. Management provided Internal Audit reports which had not been approved and/or signed by the Audit Committee. This is contrary to Section 73(5) of the Public Finance Management Act, 2012 which states that every National Government public entity shall establish an Audit Committee whose composition and functions shall be as prescribed by the Regulations. Further, Management explained that as at the time of the audit in November, 2023, the State Department was in the process of reconstituting the Audit Committee.

In the circumstances, the effectiveness of the Audit Committee and the internal audit function could not be confirmed.

1019. Lack of a Risk Management Policy

During the year under review, the State Department did not have a Risk Management Policy in place as required. This is contrary to Regulation 165 of the Public Finance Management (National Government) Regulations, 2015 which states 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 control that builds robust business operations.

In the circumstances, the internal controls related to risk management which would assist in detection of fraud and other areas of internal control weaknesses in the operations of the State Department could not be confirmed.

1020. Assets Management

1020.1 Incomplete Fixed Asset Register

As previously reported, 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.

1020.2 Management of Assets

Review of the financial statements revealed that Management stated that Annex 4 to the financial statements on summary of fixed assets register had been prepared in conformity with Treasury circular No. 5/2020. However, the assets register provided did not contain the required details such as source of funds, tag number, date of delivery, PV number. The asset register was also incomplete in that vehicles, building and structures were not indicated.

1020.3 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 as previously reported:-

- (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. was missing;
- (ii) Vehicles financed through donor funded projects and provided by contractors through the projects with a preliminary condition to provide a vehicle were not clearly reported as financed by those specific projects;
- (iii) The State Department reported that it owns two hundred and one (201) vehicles, motorcycles and forklifts in its motor vehicle register. However, only two (2) vehicles had the original ownership documents in form of logbooks and twelve (12) motor vehicle copy of records that were provided for audit verification. In addition,

information provided from National Transport and Safety Authority (NTSA) portal indicated that eighty-three (83) vehicles and motor cycles were registered under the State Department for Public Works KRA PIN number.

- (iv) The motor vehicle register included fifty-six (56) vehicles, bearing private registration number plates, which had been funded by different projects being undertaken by the State Department. However, available information indicated that some projects had been completed but there was no official communication to facilitate change of ownership. Only two (2) motor vehicles were in the process of being transferred to the State Department for Public works; and
- (v) The motor vehicle register contained thirty-four (34) vehicles, three (3) motorcycles and four (4) fork lifts that were reported as grounded or unserviceable. The Management did not explain why the vehicles had 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.

STATE DEPARTMENT FOR IRRIGATION – VOTE 1104

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1021. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1022. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.2,581,505,302 and Kshs.2,276,937,500 respectively resulting in an under-funding of Kshs.304,567,802 or 12% of the budget. Similarly, the statement reflects final expenditure budget and actual amounts on comparable basis of Kshs.2,581,505,302 and Kshs.2,276,929,784 respectively, resulting in an under-expenditure of Kshs.304,575,518 or 12% of the budget.

The underfunding and under-performance affected implementation of the planned activities and programs 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

1023. 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

Conclusion

1024. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR ENVIRONMENT AND CLIMATE CHANGE –

VOTE 1108

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1025. Irregular Payment of Allowances

The statement of receipts and payments reflects compensation of employees amount of Kshs.1,084,881,759 which, as disclosed in Note 7 to the financial statements includes personal allowances amounting to Kshs.491,992,146 which further includes allowances totalling to Kshs.216,229,746. Included in the personal allowances balance are allowances for safety, shift, adversity, aviation support and aviation amounting to Kshs.81,232,974, Kshs.41,664,122, Kshs.51,587,754, Kshs.13,166,391 and Kshs.28,578,505 respectively. No evidence was provided to confirm that the allowances were approved by the Salaries and Remuneration Commission (SRC) as required.

In the circumstances, the propriety of compensation of employees' expenditure amounting to Kshs.216,229,746 could not be confirmed.

1026. Unsupported National Tree Planting Campaign Expenditure

The statement of receipts and payments reflects transfers to other Government entities amount of Kshs.9,944,908,503 which, as disclosed in Note 9 to the financial statements includes other capital transfers grants and subsidies amount of Kshs.2,544,298,482. However, according to the Ministry's approved 2022/2023 financial year annual work plan, Kshs.150,000,000 was to be utilized for National tree planting campaign in forty seven (47) counties, launch tree planting campaigns during the long and short rains, undertake monitoring and evaluation of tree planting campaigns in all forty seven (47) counties and organize international celebrations. However, the directorate spent Kshs.140,683,587, but no monitoring and evaluation reports on the campaign were provided for review.

In the circumstances, the propriety and occurrence of the expenditure of Kshs.140,683,587 on National Tree Planting campaigns could not be confirmed.

1027. Lack of Ownership Documents

Annex 4 to the financial statements reflects a summary of fixed assets register with a historical cost of Kshs.554,666,775 which includes land with a Nil value. However, the audit revealed that the State Department owns land on which weather stations stand but they did not have the title deeds and the buildings were not secured with perimeter fence thus exposing the land to encroachment and grabbing.

In the circumstances, the ownership and completeness of the fixed assets balance of Kshs.554,666,775 could not be confirmed.

Emphasis of Matter

1028. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.13,639,410,212 and Kshs.11,974,475,645 respectively resulting to an under-funding of Kshs.1,664,934,567 or 12% of the budget. Similarly, the State Department spent Kshs.11,946,654,133 against an approved budget of Kshs.13,705,410,212 resulting to an under-expenditure of Kshs.1,758,756,079 or 13% of the budget.

The underfunding and under expenditure affected the planned activities and may have impacted negatively on delivery of goods and services to the public.

1029. Long Outstanding Pending Accounts Payables

Note 20.1 to the financial statements reflects pending accounts payables of Kshs.522,030,199 which includes Kshs.18,599,484 owed to security and cleaning service providers for services rendered carried forward from 2021/2022 financial year that were not settled during the year under review. The delays in settling the amounts led to withdrawal of security services at the Kenya Metrological Department, which created a security threat to the strategic facility.

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.

My opinion is not modified in respect of these matters.

Other Matter

1030. Unresolved Prior Year Issues

In the audit report of the previous year, several paragraphs were raised. However, Management did not resolve and disclose the status of all the prior year matters as prescribed in the reporting requirements set by the Public Sector Accounting Standards Board. Management did not provide satisfactory explanation for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1031. Employees Serving Above Mandatory Retirement Age

Review of the staff payroll for the financial year 2022/2023 revealed that four (4) employees who had attained the mandatory retirement age of 60 years were still on payroll. The employees were serving under local agreement terms of contract for periods ranging from one to three years. This is contrary to Circular Ref. No. MPSG&AA.1/5/1/1 dated 16 February, 2023 by the Cabinet Secretary, Ministry of Public Service, Gender and Affirmative Action which suspended and revoked all existing extension services and requests.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1032. Internal Audit Function

The State Department's 2022/2023 annual internal audit work plan was not approved due to inability of the Audit Committee to meet. This is contrary to Regulation 179(1) of the Public Finance Management (National Government) Regulations, 2015 which requires the committee to meet at least once in every three months. This affected implementation of the planned activities including provision of assurance to the management on effectiveness of internal controls and management of key risks.

In the circumstances, effectiveness of internal controls and managements of risks in the State Department could not be confirmed.

1033. Lack of Equipment at Kenya Metrological Weather Stations

Physical inspection undertaken at various Kenya Metrological Department's weather stations across the Country revealed inability to report on the sunshine condition due to lack of sunshine-card recorders which are not locally available. In addition, it was observed that the Seismic Projects in Kakamega and Nakuru weather stations meant to monitor and record seismic activities were abandoned several years ago due to lack of funds to procure and install the relevant equipment.

Further, the automatic weather station installed at Nakuru Weather station has not been functional for more than a year and weather stations had no power backups despite being operational on a 24 hours basis.

In the circumstances, the effectiveness of the Kenya Metrological Department to deliver on its mandate could not be confirmed.

1034. Failure to Maintain Asset Register

In the year under review, the State Department did not maintain an asset register. This is contrary to Regulation 170(1) of the Public Procurement and Asset Disposal Regulations, 2020 which requires the Accounting Officer to maintain an asset register of assets under his or her control or possession as prescribed by the relevant laws. Management did not explained how it tracks and monitors the usage of its assets in the absence of a register.

In the circumstances, the existence of effective internal controls on management of fixed assets could not be confirmed

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

1035. Undisclosed Expenditures

The statement of receipts and payments reflects total payments of Kshs.7,223,527. The payments excluded USD 10,000 for consultancy services paid directly by the donor to a consultancy firm. Further, the Project set aside USD 50,000 for a scholarship programme. Review of records revealed that the Project Assistant and 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 audit or disclosed in the financial statements.

In the circumstances, the accuracy and completeness of the total payments of Kshs.7,223,527 could not be confirmed.

Emphasis of Matter

1036. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final revenue budget and actual on comparable basis of Kshs.12,500,000 and Kshs.5,252,850 respectively, resulting in an underfunding of Kshs.7,247,150 or 58% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.12,500,000 and Kshs.7,223,527 respectively, resulting in under expenditure of Kshs.5,276,473 or 42% of the budget.

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

My opinion is however not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1037. 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

1038. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA INSTITUTIONAL STRENGTHENING PROJECT PHASE XII (PROJECT NUMBER: KEN/SEV/86/INS/64)

Basis for Qualified Opinion

1039. Unsupported Imprest Payments to Private Company Representatives

The statement of receipts and payments and as disclosed in Note 6 to the financial statement reflects purchase of goods and services of Kshs.4,408,700. Included in this amount is domestic travel and subsistence payments of Kshs.3,785,690 which includes imprest amount of Kshs.2,424,825 paid out to private company representatives. However, the payment schedules in support of the payment did not include the participants' national identification details making it impossible to confirm the authenticity of the participants in the list.

In the circumstances, the accuracy and completeness of the domestic travel and subsistence payments amount of Kshs.2,424,825 could not be confirmed.

Other Matter

1040. Budgetary Control and Performance

The statement of comparison of budget and actual amount reflects final receipts budget and actual on comparable basis of Kshs.20,000,000 and Kshs.11,700,000 respectively resulting to underfunding of Kshs.8,300,000 or 42% of the budget. Similarly, the Project spent Kshs.12,513,518 against the approved budget of Kshs.20,000,000 resulting to under-expenditure of Kshs.7,486,482 or 37.4% of the budget.

The underfunding and under-expenditure affected the planned activities of the Project which in turn may have impacted negatively on the service delivery of the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1041. Failure to Deduct and Remit Statutory Deductions

Statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects compensation of employees Kshs.8,104,818. However, the payrolls reflected Nil statutory deductions on account of NHIF and NSSF despite the computed amount totalling to Kshs.95,900 were not remitted during the year under review contrary to Sections 15 and 22 of the NHIF Act Chapter 255 and National Social Security Fund Act No.45 of 2013 on the monthly deductions from the employee salaries or other remuneration and remittance of the contribution to the Fund on behalf of and to the exclusion of that person.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1042. Lack of Policy on Exchange Rate Used to Pay Salaries

As previously reported, the Project converted the salaries for four (4) officers using rates other than the prevailing Central Bank of Kenya exchange rates as at the time. Management did not provide a documented policy guiding the basis for determining exchange rate used for conversion from United States Dollars (USD) to Kenya Shillings. Further, it is not clear how the Project treated the exchange difference in the financial statements.

In the circumstances, the controls over exchange rates applied on conversions to the local currency are weak.

1043. Failure to Maintain a Fixed Asset Register

The financial statements presented for audit did not include a summary of the fixed assets register despite the project assets owning assets in the form of furniture and computers. Management explained that the assets were not purchased but were donations. Failure to maintain fixed asset register is contrary to Regulation 139(1) and (2) of the Public Finance Management (National Government) Regulation, 2015 which requires the 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; movement and conditions of assets can be tracked; and stock levels are at an optimum and economical level.

In the absence of fixed asset register, the assets are susceptible to pilferage/loss undetected.

1044. Lack of a Risk Management Policy

Review of project documents revealed that there was no risks management policy. This is contrary to Section 165(1)(a) and (b) of the Public Finance Management (National Government) Regulations, 2015 which requires that the Accounting Officer to ensure that the National Government entity develops risk management strategies, which include fraud prevention mechanism; and a system of risk management and internal control that builds robust business operations.

In the circumstances, Management are unable to effectively manage related project risks.

**KENYA GOLD MERCURY FREE ASGM PROJECT NUMBER
GEF/UNDP/GOK-00108253**

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1045. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1046. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.87,000,000 and Kshs.47,238,697 respectively resulting to under-funding of Kshs.39,761,303 or 46% of the budget. Similarly, the Project spent Kshs.48,718,181 out of the budgeted amount of Kshs.87,000,000 resulting to an under-expenditure of Kshs.38,281,819 or 44% 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.

1047. Pending Accounts Payable

As disclosed in Note 1 under other important disclosures, the Project had pending accounts payables totalling to Kshs.212,700. The amount had remained outstanding up to the time of audit in October, 2023. Management has not explained why the bills were not settled during the year when they occurred. Further, the Project is at risk of incurring significant interest costs and penalties with their continued delay in payment.

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.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1048. Unfulfilled Project Objectives

As reported in the last financial year 2021-2022 and reviewed in 2022-2023, the statement of performance against Project's predetermined objectives reflected underperformance in attaining the objective of establishing financing lending arrangements to provide loans for mercury free processing equipment is at 40%. Further, the objective of increasing capacity for mercury-free ASGM through provision of technical assistance, technology transfer and support for formalization was at 15%. In addition, the objective of Monitoring and Evaluation, awareness raising, capturing and disseminating experiences, lessons-learned and best practices was at 30%. The Project objectives ought to be at least at 75 % as four (4) years have already lapsed since inception and one (1) 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

Basis of Conclusion

1049. Unresolved Long Outstanding Error in the Bank Reconciliation

The statement of financial assets and as disclosed in Note 11 to the financial statements reflects cash and cash equivalents balance of Kshs.454,060. However the bank reconciliation statement revealed payments in the bank statement not in the cash book amounting to Kshs.100,550 which includes an unexplained erroneous payment of Kshs.75,150 which has been outstanding for more than a year.

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

SOUND CHEMICALS MANAGEMENT MAINSTREAMING AND UPOPS REDUCTION IN KENYA PROJECT NO.P00099820

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

1050. Inaccuracies in the Financial Statements

Review of the financial statements presented for audit revealed the following errors and variances:

- (i) Note 1 to the financial statements reflects cumulative transfers from government entities of Kshs.4,594,136 while opening balance from financial year 2021/2022 reflects Kshs.4,763,200 resulting to unreconciled variance of Kshs.169,064.
- (ii) The statement of receipts and payments reflects cumulative receipts to date of Kshs.374,911,157 while exchequer issues notification from The National Treasury reflects amount of Kshs.142,320,863 resulting to unexplained variance of Kshs.232,590,294.
- (iii) The statement of receipts and payments reflects Nil miscellaneous receipts amount while Note 4 to the financial statements reflects an amount of Kshs.5,080 under other receipts not reflected elsewhere resulting in unreconciled variance of Kshs.5,080. Further, the Project bank account statement held at the Central Bank of Kenya reflects credit entries of Kshs.4,108,000 received in July 2022 resulting in unexplained receipts of Kshs.4,108,000.
- (iv) The statement of receipts and payments reflects cumulative purchase of goods and services amounts to date of Kshs.193,572,665 while Note 6 to the financial statements reflects an amount Kshs.264,265,965 resulting in unreconciled variance of Kshs.70,693,300.
- (v) As reported in the previous year, variances were noted between the statement of receipts and payment and statement of comparison of budget and actual amounts. However, the variances have not been corrected in the financial statements for 2022/2023 financial year by way of restatements.

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

1051. Unsupported Prior Year Adjustments

The statement of financial assets and cash flow statement reflects a prior year adjustment amounting to Kshs.5,080 while Note 15 to the financial statements reflects Kshs.70,693,300 under assets resulting in unreconciled variance of Kshs.70,688,220 not explained 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 assets balances at the beginning of the period has not been adjusted by the amount of errors and journal entries signed by the Accounting Officer. This was contrary to Regulation 103 of the Public Finance Management (National Government) Regulations, 2015 that provides that journal entries prepared for all adjustments to be authorized 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 be supported by sufficient explanations, authorizations, and documentation to facilitate accounting adjustments to be understood.

In the circumstances, the accuracy and completeness of prior year adjustments balance of Kshs.70,693,300 could not be confirmed.

1052. Incomplete Financial Statements

The statement of comparison of budget and actual amounts for the year ended 30 June, 2023 reflects receipts with Nil balances against Nil actual expenditure. However, a review of IFMIS report reflects an approved budget of Kshs.30,000,000 against actual expenditure of Kshs.25,366,770 resulting to unspent amount of Kshs.4,633,230 which includes outstanding commitments of Kshs.2,798,015 and unspent balances of Kshs.1,835,215.

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

1053. Unsupported Acquisition of Non-Financial Assets

The statement of receipts and payments and as disclosed in Note 8 to the financial statement reflects acquisition of non-financial assets cumulative to date totalling to Kshs.118,540,065. However, assets valued at Kshs.23,463,400 located at Water Resource Management Authority laboratories in Nairobi and Kisumu had no values attached to each asset. Further, assets valued at Kshs.53,211,035 were acquired after the 31 December, 2021 and their supporting documents such as payment vouchers, lease agreements and contracts were not provided for audit review. Similarly, review of the letter of agreement dated 7 June, 2022 by United Nations Development Programme revealed that ownership of assets valued at USD 1,070,219 were transferred to Ministry of Environment and Forestry. However, there was no evidence of receipt of the assets.

In the circumstances, the accuracy and completeness of cumulative expenditure on the acquisition of assets amounting to Kshs.118,540,065 could not be confirmed.

1054. Poor Assets Management

The statement of receipts and payments and as disclosed in Note 8 to the financial statement reflects acquisition of non-financial assets cumulative to date totalling to Kshs.118,540,065. However, assets were not supported by a comprehensive project asset register. The register did not include assets details such as purchase/original cost, tag, asset codes for specific assets and motor vehicle registration numbers.

Further, review of the assets register revealed the following:

- (i) Assets valued at Kshs.7,594,900 were not tagged.
- (ii) Assets valued at Kshs.86,871,700 held by former officers of various County governments had no handing over report for the assets provided for audit review.
- (iii) A biomedical truck located at County Government of Nakuru had no ownership documents provided for audit.
- (iv) Assets of Kshs.6,911,958 had been allocated to former employees of the Project whose employment contracts had since ended. However, there was no asset handover report provided for audit review.

- (v) Assets valued at Kshs.560,000 were indicated as awaiting distribution out of which four (4) faulty laptops were not provided for audit verification and one was disclosed as missing.
- (vi) HP ProBook 450G6 serial no.5CD9305WDF laptop worth Kshs.125,900 acquired on 18 October, 2019 assigned to an officer was indicated as missing in the asset register supported by a police OB number 83/30/01/2023 made at Central police. However, there was no proof of surcharge for the loss.
- (vii) Two medical waste microwaves valued at Kshs.25,000,000 indicated as allocated to the former county executive committee members for Kajiado and Mombasa County Governments respectively, were not branded with donor logo and were not yet installed for use.

In the circumstances, existence and ownership of Projects' assets could not be confirmed.

Other Matter

1055. Undrawn External Assistance

Note 1(b) under other important disclosures to the financial statements reflects undrawn external assistance of Kshs.81,182,979. The Project Management indicated that the Project was completed, but did not explain the reasons for the undrawn balance of Kshs.81,182,979 representing 22% of the total Project funding of Kshs.374,911,157.

In the circumstances, the completion of the project could not be confirmed.

1056. Slow Rate of Funds Absorption

The financing agreement and other project information accompanying the financial statements reflects donor commitment, counterpart fund and in-kind contribution totalling to of USD 25,523,803 equivalent to Kshs.2,552,380,300. However, review of the project report status as at 30 June, 2023 revealed the grant and loan received amount of USD 3,092,050 equivalent to Kshs.374,911,157 representing 12% of the donor commitment having 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.

1057. Unresolved Prior Year Audit Matters

In the audit report of 2021/2022 financial year several issues were raised, however, no report or recommendations from the Project Management and oversight bodies were submitted for audit verification and clearance. Therefore, the issues remain unresolved contrary to Section 149(2)(l) of the Public Finance Management Act, 2012 which require accounting officers designated for County Government entities to try and resolve any issues resulting from an audit that remain outstanding.

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1058. Lack of Quarterly Reports from the Beneficiary Counties

Project information and overall performance under project summary of project strategies for achievement of strategic goals indicate that the Project was implemented by the respective Counties of Nairobi, Kisumu, Nakuru and Mombasa and the NGOs. However, there were no quarterly reports from the beneficiary counties on the expenditures, performance achieved and documents on how the funds were spent in the respective Counties.

In the circumstances, the effectiveness and lawfulness of the project implementation by County government may not have been achieved.

1059. Failure to Close Donor Project

Review of the signed summary of project agreement revealed that the Project had an initial start date of May 2016 and end date on 31 December, 2021. However, as at 30 June, 2023, the project had not been closed and the closure report was not provided for audit review. This was contrary to Regulation 74(6)(c) of the Public Finance Management (National Government) Regulations, 2015 that 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.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1060. Lack of Internal Audit Review

During the year 2022/2023, 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 should 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.

SYSTEM FOR LAND-BASED EMISSIONS ESTIMATION IN KENYA (SLEEK)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1061. Inaccuracies in the Financial Statements

The financial statements for the year ended 30 June, 2023 contain the following inaccuracies:

1061.1 Receipts from Transfers from Government Entities

The statement of receipts and payments reflects cumulative receipts from transfers from Government entities of Kshs.3,133,494 as disclosed in Note 1 to the financial statements. However, the re-computed cumulative to-date amount as at 30 June, 2023 is Kshs.711,394 resulting to variance of Kshs.2,422,100. Although, Management explained that the variance relates to a transfer from Government entities received in the year 2016/2017, that had been erroneously omitted in the 2020/2021 financial statements and that the omission was corrected when preparing the financial statements for the financial year 2021/2022, documents to support the corrections of the error were not provided for audit.

1061.2 Other Grants and Transfers/Payments

The statement of receipts and payments reflects cumulative expenditure on other grants and transfers/payments of Kshs.2,422,100 as disclosed in Note 10 to the financial statements. However, the recomputed cumulative balance to-date is Kshs.Nil, resulting in a variance of Kshs.2,422,100. Although, Management has explained that the amount of Kshs.2,422,100 relates to expenditure for the financial year 2016/2017, that was omitted in the subsequent financial statements and later included in the financial statements for the year 2021/2022, documents supporting the amount and subsequent journals were not provided for audit.

1061.3 Compensation of Employees

The statement of receipts and payments reflects cumulative expenditure on compensation of employees of Kshs.31,638,916 as disclosed in Note 5 to the financial statements. The amount includes cumulative expenditure on personal allowances paid as part of salary of Kshs.11,645,568 which however differ from recomputed balance of Kshs.12,325,000 resulting in unreconciled variance of Kshs.679,432.

Although, Management has explained that the amount of Kshs.12,325,000 was overstated by Kshs.679,431 and that correction was made in the year 2021/2022, a reconciliation and journal entries made to correct the error were not provided for audit

Further, expenditure on compensation of employees include basic salaries of permanent employees of Kshs.711,394. However, the supporting schedule and payment vouchers

provided for audit reflect an amount of Kshs.680,071 resulting in unreconciled variances of Kshs.31,323.

In the circumstances, the accuracy and completeness of balances reflected in the statement of receipts and payments could not be confirmed.

1062. Unsupported Pending Staff Payables Balance

Other important disclosures reflect pending staff payables amount of Kshs.421,600 which, as analyzed in Annex 4b, was payable to two (2) permanent employees: a Project Manager and Office Assistant. However, the period the services were provided is not clear as the date payable contracted is indicated as 31 December, 2019 and Management commented that the employees' contract had not been finalized. Further, the Project ended in 31 December, 2019.

In the circumstances, the validity and accuracy of pending staff payables amount of Kshs.421,600 could not be confirmed.

Emphasis of Matter

1063. Dormant Project Bank Account

The Memorandum of Understanding between the Commonwealth of Australia and GoK indicates that the project was to end not later than 31 December, 2018. Further, the project information reflected on page iv of the annual reports and the financial statements indicates that the project ended in December, 2019. However, the statement of financial assets reflects bank balance of Kshs.635,941, contrary to communication by the Principal Secretary Ministry of Environment, Climate Change and Forestry, vide letter reference number MEF/ACC/FIN/11/1 dated 9 September, 2023 requested The National Treasury to close dormant project bank accounts, including the one for SLEEK. However, there is no document confirming donor approval of project operations.

My opinion is not modified in respect of this matter.

Other Matter

1064. Undrawn External Assistance

As reported previously, Note 4b, under other important disclosures, to the financial statements reflects undrawn external assistance amount of Kshs.21,705,441. Management has indicated that the project is complete. However, it was not clear or explained how the project was completed when there was 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, 2023 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1065. Unsupported Project Outcome

During the audit, Management did not provide a final project report indicating: the details of the operation, mechanisms and processes employed by the recipient to conduct the project; a description of the recipients activities during the entire project period; and If relevant, details of progress against the project plan, including monitoring, evaluation and reporting activities specified in the project plan and valuation of the project including discussion of how successful the project was achieving the project objective. This was contrary to Clause 5.5 of the agreement on final report.

In the circumstances, the Management was in breach of the project agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1066. Poor Assets Management

Included in the Project Handover Report dated 29 July, 2022 are assets (various ICT hardware and software) which the Ministry of Environment, Climate Change and Forestry had donated to the Project. However, the Management did not provide for audit asset register, though the Project ended in 2019 as disclosed in Note 4b, under other important disclosures, to the financial statements. This was contrary to Regulation 143(1) of the Public Finance Management (National Government) Regulations, 2015, which requires an 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 effectiveness of internal controls over asset management could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1067. As required by the agreement in relation to support to the Government of Kenya for sustainability of the System for Land Based Emissions Estimation in Kenya (SLEEK) Management Unit and Scholarships between Commonwealth of Australia represented by the Environment of Energy and Energy ABN 34 190 894 983(Department), 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 Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

LAKE VICTORIA ENVIRONMENTAL MANAGEMENT PROJECT PHASE III (LVEMP) PROJECT PREPARATORY ADVANCE NO. V1570 - KE

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1068. Unsupported Expenditure

The statement of receipts and payments reflects purchase of goods and services amounting to Kshs.6,065,186 and as disclosed in Note 4 to the financial statements. Included in this balance is an amount of Kshs.3,939,300, Kshs.640,800, Kshs.800,368 relating to domestic travel and subsistence, specialized materials services and other operating payments respectively. However, these expenditure amounts were not supported by an approved annual work plan while no documentary evidence was provided for audit to demonstrate that the payments related to Project's activities.

In the circumstances, the accuracy and completeness of the total payments amounting to Kshs.6,065,186 could not be confirmed.

Other Matter

1069. Pending Bills

Notes 1 and 2 on other important disclosers to the financial statements reflect pending accounts payable and staff payables balances of Kshs.286,198 and Kshs.13,572,000 respectively relating to 2022/2023 and earlier years. However, Management did not provide the reason for non-payment of the bills or explained how the bills would 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

1070. 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

1071. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1072. 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 of the Project 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 (NO.AFR/NAP ASGM PROJECT/C/10-2016)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1073. 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

1074. 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

Conclusion

1075. There were no material issues relating to effectiveness of internal controls, risk management and governance.

GREEN GROWTH AND EMPLOYMENT THEMATIC PROGRAMME (GGETP)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1076. Unsupported Payment for Consultancy Services

As reported in the previous year, a payment of Kshs.6,115,102 was made to a local consultant for provision of consultancy services on the Nairobi City County Environmental Sustainability and Circular Economy Awareness campaign at a contract sum of Kshs.33,208,000. The payments were to be made in three phases; 30% on submission

of inception report; 40% on submission of the first draft and 30% on submission of the final report. The contract was to run for 299 days commencing on 4 September, 2020 and the Project completion period was to be on 4 July, 2021. However, the consultant did not achieve the deliverables as per the contract. Further, review of payment details revealed that the consultant had been paid a total of Kshs.29,360,699 resulting in a pending bill of Kshs.3,847,301 which was not disclosed in the financial statements.

In addition, Management did not provide the bank statements for audit to confirm this transaction.

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1077. Under-Absorption of Funds

Review of the Funding Summary section of the financial statements and Project Financing Agreement revealed that the Development Partner had committed to donate an amount of Kshs.300,000,000 for the Project. However, the Management had absorbed only Kshs.146,500,000 for the Project while an amount of Kshs.153,500,000 or 51% of total available financing was undrawn as at 30 June, 2023 when the Donor closed the funding.

In the circumstances, the non-completion of the Project may have denied the intended beneficiaries the benefits which would have accrued from the Project.

REPORT ON THE 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.

KENYA SPECIAL PROJECT ON BRSM AND SAICM (GRANT/CREDIT NUMBER: SPECIAL PROGRAMME 2ND ROUND APPROVAL PROJECT 01)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1079. Unsupported Expenditure on Domestic Travel

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects purchase of goods and services expenditure of Kshs.5,175,056. Included in the amount is Kshs.3,141,100 for domestic travel and subsistence allowances

which further included Kshs.846,400 spent on Convention held in Migori County. However, the list of approved participants to be paid indicated an amount of Kshs.385,000 resulting in expenditure of Kshs.461,400 that was not supported with approvals.

Further, amount of Kshs.614,600 was paid to participants during a workshop on support to chemicals and waste implementation in Kenya. However, the expenditure could not be matched with the activity planned under the project.

In the circumstances, the propriety, completeness and accuracy of expenditure on use of Goods and Services could not be confirmed.

Other Matter

1080. 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.4,954,453 respectively resulting to underfunding of Kshs.10,045,547 or 67% of the budget. Similarly, the statement reflects approved expenditure budget of Kshs.15,000,000 against actual expenditure of Kshs.5,552,476 resulting to under expenditure of Kshs.9,447,524 or 63% 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

Basis for Conclusion

1081. Unauthorized Extension of Project Duration

Review of Project financing agreement revealed that the Project period for the completion of activities was 31 March, 2022 while the Project Cooperation Agreement was 30 September, 2022. Examination of project records revealed that Project activities continued to 30 June, 2023 without extension of the project cooperation period. Further, the final project progress report as at 31 March, 2022 as stipulated in the amendment No.1 was not provided for audit.

In the circumstances, the Project Management was in breach of project cooperation agreement.

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

Conclusion

1082. 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/07/0SS-KE/20

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1083. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1084. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted and actual receipts of Kshs.60,000,000 and Kshs.28,283,703 respectively resulting to underfunding of Kshs.31,716,297 or 53% of the budget. Similarly, the statement reflects budgeted expenditure of Kshs.60,000,000 against actual expenditure of Kshs.2,038,300 resulting to underexpenditure of Kshs.57,961,700 or 97% of the budget.

The underfunding and underperformance resulted to delay in implementation of the planned project activities.

1085. Low Absorption of Donor Funds

Paragraph 2.7 on the funding summary reflects an amount of USD 2,491,480 equivalent to Kshs.286,520,200 as approved by the Adaptation Fund. However, the Project had received Kshs.30,590,616 (USD 249,967.50) or 10% of the budget with Kshs.255,929,584 (USD 2,241,522) being undrawn balances. The undrawn balances indicate low absorption rate of 10% against 75% lapsed project period. The Management may not utilize all the Project funds by the close date of September, 2024.

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 THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1087. Slow Implementation of the Project Annual Work Plan Activities

The National Project Steering Committee in their first meeting held on 27 April, 2022 approved the work plan, budget and the procurement plan for the first two years of Project implementation. It is not clear why the approval of the work plan, budget and the

procurement plan were done two years after the commencement of the Project on October, 2020. Further, examination of the annual work plan revealed that only one activity has been implemented as per the approved annual work plan, three years after inception of the project.

In addition, Clause Article 10 to the Grant Agreement on extension circumstances stipulates the agreement may only be extended in the event of force majeure or objectively explained circumstances. Further, the Parent Ministry is required to submit an extension request approved by the Adaptation Fund Designated Authority to the Sahara and Sahel Observatory (OSS) at least one year before the Project closing date. However, Management had not made any request for extension of the Project end date.

In the circumstances, it is doubtful that the Project would be completed within the stipulated time frame of September, 2024.

KENYA ENABLING ACTIVITIES FOR HFC PHASE-DOWN PROJECT (GRANT NO.UNEP/KEN/SEV/81/TAS/01+)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1088. Unsurrendered Imprests

The statement of financial assets reflects a nil balance in respect to imprests and advances balance. However, examination of imprest records revealed that imprests amounting to Kshs.721,300 had not been surrendered at the time of audit in September, 2023.

In the circumstances, the accuracy and completeness of the nil imprest balance could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1089. Failure to Maintain Project Bank Account

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

1090. There were no material issues relating to effectiveness of internal controls, risk management and governance.

SC REPORTING TOOL KIT PROJECT

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1091. Inaccuracy of Bank Balances

The statement of financial assets and as disclosed in Note 11.A to the financial statements reflects bank balance of Kshs.475,332. However, the statement of receipts and payments on proceeds from domestic and foreign grants excluded a balance of USD13,650 held in the donor special deposit account.

In the circumstances, accuracy and completeness of cash and cash equivalents balance of Kshs.475,332 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1092. Irregular Recruitment Process

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects expenditure of Kshs.2,157,767 on compensation of employees. Review of human resource records revealed that the Project Management recruited staff for the positions of technical expert and National IT Consultant. However, the positions were not advertised. Further, one ICT intern was recruited instead of a National IT consultant specified in the Project Financing Agreement. In addition, the qualifications of the Technical Expert and Intern could not be verified since the respective personal files lacked requisite documentation like national identity cards, professional and academic certificates.

In the circumstances, Management was in breach of the financing agreement.

1093. Purchase of Goods and Services

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects expenditure of Kshs.10,136,126 on purchase of goods and services. Included in the amount is Kshs.2,316,089 incurred by two (2) officers on foreign travel which did not relate to the Project activities. Further, the expenditure includes an amount of Kshs.2,240,000 incurred on procurement of four (4) laptops and two (2) tablets. However, procurement documents including quotations to various firms, opening and ad-hoc evaluation committee minutes were not provided for audit.

In the circumstances, value for money on expenditure on use of goods and services could not be confirmed.

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

Conclusion

1094. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1095. 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 those records of the audit. Further, adequate accounting records have been kept by the Management of 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 ENVIRONMENT AND CLIMATE CHANGE

GREEN ZONES DEVELOPMENT SUPPORT PROJECT PHASE II (CREDIT NO.P.KE-AAD-005) - KENYA FOREST SERVICE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1096. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1097. Low Absorption of Funds

Paragraph 1.7 (A) of the project information and overall performance reflects total Donor commitment of Kshs.4,999,742,000, out of which Kshs.1,900,989,676 or 38% had been

disbursed as at 30 June, 2023. The undrawn balance of Kshs.3,098,752,324 indicates low absorption level of funds against the lapsed project period of four (4) years. Management may not absorb the undrawn balance by 30 June, 2025 when the project is to end.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

- 1098.** 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

Conclusion

- 1099.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA WATER TOWERS PROJECT (GRANT NO. FED/2016/375-958) - KENYA FOREST SERVICE

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1100. Unconfirmed Remittance of Unutilized Funds

The statement of financial assets reflects remittance of unutilized funds balance of Kshs.5,811,050, as disclosed in Note 10.10 to the financial statements. However, there was no documentary evidence to support the remittance of the funds to the financier, the European Union.

In the circumstances, the accuracy and completeness of the remittance of unutilized funds balance of Kshs.5,811,050 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

- 1101.** 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

Conclusion

- 1102.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

GREEN GROWTH AND EMPLOYMENT THEMATIC PROGRAMME - NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1103. 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

1104. 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

1105. 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

1106. 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

1107. Lack of Approved Budget

The statement of comparison of budget and actual amounts reflects original and final budget amounts of Kshs.193,365,212 and Kshs.151,399,780 respectively. However, the amounts were not support with minutes of the Board approving the budget. This is contrary to Regulation 31(1) of the Public Finance Management (National Government), Regulations, 2015. The Regulation requires the Accounting Officer to ensure that the

draft estimates relating to her or his department are prepared in conformity with the Constitution, the Act and the Regulations.

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

1108. Inadequately Supported Expenditure

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.54,978,354 on purchase of goods and services. Included in this amount is Kshs.11,378,030 paid to various staff to monitor implementation and operation of projects in various parts of the country. However, the expenditure was not supported with corresponding travel itinerary detailing dates of travel, sites visited, activities undertaken by the officers and monitoring reports.

In the circumstances, it was not possible to confirm whether the amount of Kshs.11,378,030 incurred on project monitoring was a proper charge to public funds and whether value for money was obtained by the citizens.

1109. Delay in Project Implementation

Review of the Project Implementation Status (PIS) report and physical verification carried out in October, 2023 revealed that various projects were at different completion levels (mostly at 60%) despite the financing agreement having expired on 30 June, 2023. These projects include incomplete works for Construction of a Fish Cooling Facility in Ndhiwa Homabay County, drilling and equipping of boreholes in Laikipia, Garissa, Wajir, Kajiado, Taita Taveta and Kisumu, construction of dykes in Nyando, fencing and construction of basic halls in adaption villages in Kisumu and samp wells in Kitui.

Further, the project entered into a consultancy contract of Kshs.2,995,000 for adaptation fund programme documentary on 02 September, 2021 for a contract period of four (4) months. However, the completion date was extended to 31 March, 2023. In addition, expenditure records shows that the consultant had been paid Kshs.1,797,000 or about 60% of the contract price as at 30 June, 2023 although the consultancy services had not been completed by October, 2023 resulting to a delay of twenty-two (22) months.

In the circumstances, value for money spent on the projects may not have been realized by the Kenyan Citizens.

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

Basis for Conclusion

1110. Expired Financing Agreement

Review of Project records revealed that the Project started on 1 May, 2016 and was to be completed on 30 April, 2019. However, this was not achieved and the entity requested for four (4) years no cost extension ending 30 June, 2023. However, although the extended period lapsed, project status report for the month of October, 2022 indicate that project activities are still ongoing.

In the circumstances, non-completion of project activities within the agreed timelines may lead to discontinuation of donor financial support.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

Conclusion

1111. As required by the Adaptation Fund Board, 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.

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

Basis for Qualified Opinion

1112. Unsupported Cash and Cash Equivalents

The statement of financial assets reflects cash and cash equivalents balance of Kshs.25,200,693, as disclosed in Note 3A to the financial statements. However, the balance was not supported by a cash book, bank statements, bank reconciliation statements and or board of survey report.

In the circumstances, the accuracy and completeness of the cash and bank balance of Kshs.25,200,693 could not be confirmed.

Other Matter

1113. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final income budget and actual amounts on comparable basis of Kshs.26,740,694 and Kshs.1,540,000 respectively, resulting to underfunding of Kshs.25,200,694 or 94% of the budget. Similarly, the Project spent Kshs.1,540,000 against an approved budgeted of Kshs.26,740,694, resulting in an underexpenditure of Kshs.25,200,694 or 94% of the budget.

The underfunding and underexpenditure 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

Conclusion

1114. 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

1115. There were no material issues relating to effectiveness of internal controls, risk management and governance.

GCF READINESS AND PREPARATORY SUPPORT NEMA CAPACITY STRENGTHENING PROGRAMME TOWARDS ACCESSING CLIMATE FINANCE FROM GREEN CLIMATE FUND – NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1116. There were no material issues noted during the audit of the financial statements of the Programme.

Other Matter

1117. Budgetary Control and Performance

The statement of comparison of budget actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.19,459,558 and Kshs.8,824,433 respectively resulting to an under-funding of Kshs.10,635,125 or 55% of the budget. Similarly, the fund had an expenditure budget of Kshs.19,459,558 but expended Kshs.8,824,433 resulting in an under-expenditure of Kshs.10,635,125 or 55% of the budget. The underfunding and under-expenditure affected the planned activities and programs and may have impacted negatively on service delivery.

1118. Unresolved Prior Year Issues

In the audit of the previous year an issue was raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. The Management has however, not resolved the issue or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board template.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1119. 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

Conclusion

1120. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1121. As required between the Government of Kenya and the United Nations Office for Project Services (UNOPS), 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 those records 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 ENVIRONMENTAL HEALTH AND POLLUTION MANAGEMENT PROJECT (EHPMP) – NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1122. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1123. Budgetary Control and Performance

The summary statement of comparison of budget and actual amounts reflects receipt budget and actual on a comparable basis of Kshs.178,000,000 and Kshs.35,513,985 respectively, resulting in a shortfall of Kshs.142,486,015 or 80 % of the budget. Similarly, the project expended Kshs.48,909,129 against a budget of Kshs.178,000,000 resulting to an under-expenditure of Kshs.129,090,871.

The under-funding and under expenditure of the project funds affected the planned activities and programs and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

- 1124.** 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

Conclusion

- 1125.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

- 1126.** 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 those records of the audit. Further, adequate accounting records have been kept by Management of the Project, and the Project's financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR WATER AND SANITATION – VOTE 1109

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1127. Unreconciled Grants and Transfers to Other Government Entities

The statement of receipts and payments reflects grants and transfers to other Government entities amounting to Kshs.49,398,190,210 as disclosed in Note 8 to the financial statements. The grants and transfers comprised of current grants to Government agencies and other levels of Government of Kshs.4,245,826,218, capital grants of Kshs.45,032,364,270 and other capital grants and transfers of 119,999,722. However, review of the financial statements of the following agencies reflect an unexplained variances as detailed below:

Agency Name	State Department Amount (Kshs.)	State Agencies Amount (Kshs.)	Variance Amount (Kshs.)
Central Rift Valley Water Works Development Agency	670,875,000	649,781,094	21,093,906
Coast Water Works Development Agency	691,477,936	570,019,476	121,458,460
North Rift Valley Water Works Development Agency	195,250,000	200,760,998	(5,510,998)
Upper Tana Catchment Natural Resources Management Project	509,482,688	469,482,688	40,000,000
Tanathi Water Works Development Agency	308,500,000	343,440,654	(34,940,654)

In the circumstances, the accuracy and completeness of the grants and transfers to other Government entities totalling Kshs.49,398,190,210 could not be confirmed.

1128. Unexplained Variance in Proceeds from Foreign Borrowing

The statement of receipts and payments reflects proceeds from foreign borrowing totalling Kshs.23,620,622,153 as disclosed in Note 3 to the financial statements. However, the supporting schedule reflects an amount of Kshs.22,879,140,725 resulting to an unexplained variance of Kshs.741,481,428.

In the circumstances, the accuracy and completeness of proceeds from foreign borrowing of Kshs.23,620,622,153 could not be confirmed.

Emphasis of Matter

1129. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final budget and actual receipts on comparable basis of Kshs.65,743,618,322 and Kshs.51,141,753,859 resulting to an under-funding of Kshs.14,601,864,463 or 22% of the budget. Similarly, the

State Department expended Kshs.51,116,489,113 against an approved budget of Kshs.65,743,618,322 resulting to an under-expenditure of Kshs.14,627,129,209 or 22% of the budget.

The under-funding and under-performance affected the planned activities and may have impacted negatively on service delivery to the public.

1130. Pending Payables

Annex 1 to the financial statements reflects pending bills totalling Kshs.263,289,149. Management has not explained why the bills were not settled during the year when they occurred.

Further, the amount excludes pending bills that were not posted in IFMIS by the end of the financial year for Government Advertising Agency amounting to Kshs.1,181,893, for newspaper advertising space, and Kshs.1,829,339 owed to a property firm for rent between 15 May and 15 July, 2023 and Kshs.20,000,000 owed to a beach resort for conference facilities. Further, the list of pending bills had payment vouchers that had different departmental voucher numbers with the one posted in IFMIS and therefore it was not possible to confirm the accuracy and completeness of the pending bills.

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.

My opinion is not modified in respect of these matters.

Other Matter

1131. Unresolved Prior Years 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 has not resolved the issues or given any explanation for the failure to adhere to the provisions of the Public Sector Accounting Standards Board.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1132. Lack of Ownership Documents for Construction of Partakilat Water Supply Project in Narok County - Kilgoris Sub-County

As previously reported, the State Department paid an amount of Kshs.56,182,293 to a company for construction of Partakilat Water Supply Project in Narok County Kilgoris Sub-County. The State Department awarded the tender to a contractor at a contract sum of Kshs.374,678,383. The scope of works included construction of an 8-meter-high embankment small dam with a storage capacity of 300,000 cubic meters, construction of 3.3 kilometer - 160mm diameter HDPE rising water main from the dam to ground storage tank, construction of 250 cubic meters ground masonry tank with estimated prices of Kshs.3,145,424, construction of 6.8 kilometer 160/110 mm diameter HDPE water

distribution pipeline, land acquisition for dam site and some parts on a 10m high steel tower, erecting 288 cubic meters capacity steel tank on a 10metres high steel tower with estimated prices 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 that was signed on 7 December, 2020 had an expected completion date of 17 December, 2021 and works commenced on 18 December, 2020. However, the project had not been completed two (2) years after the planned completion period.

Further, records provided for audit revealed that the State Department was to acquire land on which the dam is being constructed at a cost of Kshs.14 million. However, inspection of the Project revealed that at the time of project commencement, the land owners had not legally transferred the said parcels of land and the sale agreements between the State Department and the vendors were not provided for audit.

In absence of title deeds for the land on which the dam and the tanks are being constructed, the State Department is exposed to land disputes which may arise as the dam may have been built on a private land using public resources.

1133. Incomplete Drilling of Boreholes

The statement of receipts and payments reflects acquisition of assets payments of Kshs.988,270,370 which as disclosed in Note 10 to the financial statements includes an amount of Kshs.789,443,694 in respect to construction and civil works, out of which Kshs.272,084,980 is in respect of drilling of boreholes. However, an amount of Kshs.145,544,692 or 53% was paid out as advance payments for drilling of twenty-eight (28) boreholes. The advance payments were not in the terms and conditions of the contract agreement. Further, included in the advance payment is a payment made to one contractor who was awarded a contract at a sum of Kshs.20,544,692 but was paid in full. The drilling of boreholes commenced on 18 May, 2023 and were expected to be completed on 14 November, 2023. However, review of the completion status in November, 2023 revealed that none of the boreholes had been completed and the projects were behind schedule.

In the circumstances, value for money realized from drilling twenty-eight (28) boreholes at a cost of Kshs.145,544,692 could not be confirmed.

1134. Delay in Completion of Capital Projects

1134.1 Consultancy Services on Land Degradation Assessment (LADA) and Model Projection for Degradation Security for Upper Kerio Valley and Upper Ewaso Nyiro North River Watersheds

As previously reported, the effective date of the contract for the Project was 28 October, 2020 with a commencement date of 27 November, 2020. The project was scheduled to be completed within 120 working days, by 31 May, 2021 out of which the consultant requested for an extension to 30 June, 2022. However, no evidence has been provided to confirm whether the project has been completed as at 30 June, 2022 and all the deliverables executed as per the terms of contract.

In the circumstances, the delayed project completion indicates poor planning, implementation and monitoring of the project.

1134.2 Delayed Completion of Project awarded in Financial Year 2020/2021

1134.2.1 Borehole Drilled at Muthuini Primary School in Kieni Constituency

The tender for drilling and equipping of borehole, construction of an elevated tank, plumbing works and supply of green house at Muthuini Primary School in Kieni Constituency in Nyeri County was signed on 28 July, 2021 at a contract sum of Kshs.9,389,062 with a completion date of 15 March, 2022. Physical inspection carried out in the month of August, 2023 revealed that, the contractor had abandoned the site. Further, out of the contract sum of Kshs.9,389,092, works valued at Kshs.5,646,400 had been completed resulting to incomplete works valued at Kshs.3,742,662.

In addition, the performance security of Kshs.938,906 which expired on 26 September, 2022 had not been renewed.

The delayed completion of the Project reflects poor planning, monitoring and implementation of the Project.

1134.2.2 Abandoned Borehole Project at Njiri School

The tender for drilling and equipping of borehole at Njiri High School in Murang'a County was awarded at a cost of Kshs.9,430,012 and the contract was signed on 29 July, 2021 with an expected completion date of 10 November, 2021. On 24 February, 2022, the contractor was paid Kshs.5,813,700. However, physical inspection carried out in the month of August, 2023 revealed that the contractor had abandoned the site and works valued Kshs.3,783,612 had not commenced two (2) years after commencement. Further, performance security from a bank of Kshs.943,001 which expired on 30 September, 2021 had not been renewed. The School therefore continues to incur unplanned expenditure on use of water which could have been avoided had the Project been completed as scheduled.

Delayed completion of the project indicates poor planning, monitoring and implementation of the project.

1134.3 Un-Approved Utilization of Contingency Amount and Lack of Budget for the Variation of Works Murang'a Lot 3 Irrigation Project

The statement of receipts and payments reflects grants and transfers to other Government entities totalling Kshs.49,398,190,210 which as disclosed in Note 8 to the financial statements includes Kshs.19,683,925 paid to a local company for Murang'a Irrigation Project Lot 3. The Project was scheduled to be completed within twelve (12) months on 14 April, 2021 which was extended by a cumulative sixteen (16) months with a new expected completion date of 14 August, 2023. However, the accounting officer approved extra works at a cost of Kshs.31,495,936 for which works valued at Kshs.18,871,445 were to be paid from the contingency and the balance of Kshs.12,624,491 was to be covered by additional budget allocation. However, Management did not provide evidence for the additional budget. This is contrary to Regulation 132 (1) of Public Procurement and Asset Disposal Regulation, 2020 which states that contract variations or amendments envisaged under Section 139(1)(b) of the Act for goods, works and services may either emanate from procuring entity on its own

volution or from the contractor because of circumstances that were not foreseen during project design. Regulation 132(4) of the Public Procurement and Asset Disposal Regulations, 2020 also requires that any additional funding required shall be secured and committed prior to a variation of contract under Section 139(1)(a) of the Public Procurement and Asset Disposal Act, 2015.

Further, physical inspection carried out on 09 August, 2023 revealed that the project had not been completed and there was no documentary evidence for an extension to the contract period which had expired.

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

1134.4 Delay in Completion of Kanyenyaini Irrigation Project

The tender for Kanyenyaini Irrigation project was awarded to a firm at a contract sum of Kshs.176,482,346 on 21 September, 2021 with a completion date of 21 September, 2022. The Project duration was extended to a new completion date of 20 August, 2023. However, physical inspection carried out in the month of August, 2023 revealed the following anomalies:

- i. The Project had not been completed by 20 August, 2023 and no documentary evidence of an extension was provided for audit.
- ii. An advance payment guarantee of Kshs.20,296,469 for the contract issued by a housing finance company on 17 May, 2023 had expired on 17 September, 2023 exposing the State Department to losses in the event of default.
- iii. Performance bond of Kshs.8,824,117 issued by a bank on 16 May, 2023 had expired on 14 September, 2023 and Management has not provided evidence of a valid performance bond.
- iv. No approvals was given for the over payments and there is lack of budget for the extra works. It was therefore not possible to confirm whether Management complied with the provisions of Regulation 132(1) and (4) of Public Procurement and Asset Disposal Regulations, 2020.

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

1134.5 Unsatisfactory Implementation of Sagana River Restoration Project

The statement of receipts and payment reflects acquisition of assets expenditure of Kshs.988,270,370 which as disclosed on Note 10 to the financial statements includes Kshs.117,888,926 paid during the year in respect to Sagana River Restoration Project. The contract for this project was awarded on 9 January, 2019 to two (2) international firms in a joint venture with a local company at a contract sum of Kshs.1,194,801,722 and fully funded by the Kenyan Government. The Project was expected to be completed by July, 2020.

The Project scope of works included construction of Sagana Diversion Weir, construction of two cascading 18-metre-high dams on Kahiti stream, laying of 12 kilometre of 250 to 280 mm ha UPVC water transmission line, construction of one 2,500 cubic meters

balanced tank, laying and testing of 17 kilometre of 110 mm diameter UPVC distribution line and construction of six (6 No.) distribution tanks of capacity 250 cubic metre each out of which five (5) tanks were at foundation level and one had not commenced at the time of audit.

Physical verification carried out in August, 2023 revealed that payments totalling Kshs.443,681,794 or 37% of the contract sum had been paid and the project was at 40% completion level three (3) years after the planned completion date. Further, the revised approved project extension was not provided for audit.

In addition, the State Department did not provide the ownership documents or any memorandum of understanding with the relevant agencies to confirm the ownership of the land on which the tanks were constructed.

In the circumstances, the delay in project completion is an indication that the State Department and the contractor have not complied with the terms of the contract and value for money may not be realized.

1134.6 Delay in Completion of Maragua Bulk Water Supply and Irrigation Project

The Ministry of Water, Sanitation and Irrigation signed a contract with a corporation on 14 February, 2020 for the construction of Maragua bulk water supply and irrigation project at a contract sum of Kshs.889,397,520. The works commenced on 16 July, 2020 with an expected completion date of 15 January, 2022 which was extended to 15 January ,2023. The scope of works included construction of a 14metre high composite dam, 8,000 cubic metres per day full water treatment plant at Gakoigo and laying of 4 kilometre of OD 400mm UPVC treated water main line to Maragua town.

An interim certificate of completion was issued certifying that works were inspected and certified as complete on 15 January, 2023 with a defect liability period starting 15 January, 2023 to 14 January, 2024. However, the resident engineer had compiled a list of the defects that needed to be repaired before issuance of the final certificate of completion. The Ministry issued a taking over certificate to Murang'a South Water and Sewerage Company on 8 February, 2023 requesting it to take over the daily operations of the water project. Physical verification carried out in the month of August, 2023 revealed the following.

- i. Payment certificate number 10 and 11 amounting to Kshs.243,049,149 have been pending since February, 2022 to date.
- ii. The project was complete and handed over to Murang'a South Water and Sewerage Company, though still under the defect liability period. However, treated water was not flowing well in the decanting trough but rather was overflowing on the sides of the trough. In addition, the doors of the staff houses had huge gaps at the bottom of the door which may allow pests and storm water to enter in the houses.
- iii. The signed contract agreement indicated a contract sum of is Kshs.889,397,520. However, the works were valued at Kshs.999,352,768 resulting to an over

valuation by Kshs.109,955,248 whose authority for overpayment has not been provided.

- iv. The treatment plant is constructed on a parcel of land owned by a coffee cooperative society with an understanding that water Company will have uninterrupted use of the property as per the boundaries agreed upon, without undue interference during the entire project life. However, no documentation in support of this understanding was provided for audit review. There is risk of loss of capital investments in the event that the Cooperative Society opt to sell the land on which the project stands in the future.

In the circumstances, the value for money for the amount paid to the contractor could not be confirmed due to delay in project completion and unauthorized additional costs.

1135. Irregular Payments from Equalization Funds Projects

During the year, the State Department received funds from the Equalization Fund amounting to Kshs.567,848,071, deposited in an Equalization Fund account which had an opening bank balance of Kshs.71,890,897. An amount of Kshs.595,512,434 was paid through national agencies to clear pending bills for the period 2016 to 2019 in respect of several projects including donor funded projects. However, physical verification of donor funded projects revealed that six (6) contractors were paid an amount totalling Kshs.84,994,377 from the Equalization Fund account for projects implemented by Water and Sanitation Development Project (WSDP) through Coastal Water Works Development Agency (CWWDA) for the Baricho Water Works Lot I and III project meant for protection works for the wellfield. However, the same works that were paid through the Equalization Fund were also included in the payment by WSDP Project to a local contractor contracted by CWWDA amounting to Kshs.862,444,722 for the Baricho Water Works Lot I and III projects meant for protection works for the wellfield.

In the circumstances, there is possible loss of funds totalling to Kshs.84,994,377 due to lack of clarity and overlap of payments by Coast Water Works Development Agency and also through Equalization Fund.

1136. Lack of a Valid Contract

The Ministry of Water, Sanitation and Irrigation entered into a contract on 28 October, 2020 with a local company for consultancy services to undertake Land Degradation Assessment (LADA) and model projection for degradation security for Upper Kerio Valley and Upper Ewaso Nyiro North River Water Watershed. The commencement date was 27 November, 2020, being thirty (30) days after the effective date. The contract was initially scheduled to be completed within one hundred and twenty (120) working days by 31 May, 2021 but was revised and extended to 30 June, 2022.

As at the time of audit in October, 2023, the revised contract period had lapsed and had not been extended but the consultant had achieved the expected deliverables yet Management had delayed the issue of a completion certificate and payment of IPC 3 and 4 for more than thirty (30) days after the receipt of the invoices.

Further, the period between 30 June, 2022 and 30 June, 2023, Management continued to engage the consultant without a valid contract and an amount of Kshs.5,831,100 had been paid.

In the circumstances, the continued delayed payments may lead to unnecessary interest and penalties.

1137. Overpayment to a Contractor

The Ministry of Water, Sanitation and Irrigation entered into a contract with a local company on 21 May, 2021 for the construction of Kanini Irrigation Project in Tharaka Nithi County at a contract sum of Kshs.34,409,368. The contractor handed over the project to the Ministry after inspection by the contract administration, inspection committee on 11 October, 2022 and a completion certificate issued to the contractor on 26 May, 2023. However, the State Department paid the contractor a sum of Kshs.39,910,703 resulting to an overpayment of Kshs.5,501,335 which has not been explained nor supported. As at the time of audit in October, 2023, the overpayment had not been recovered.

In the circumstances, the value for money realized from the overpayment of Kshs.5,501,334 could not be confirmed.

1138. Unauthorized Reallocations on Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets amounting to Kshs.988,270,370 which as disclosed in Note 10 to the financial statements includes Kshs.254,660,290 that comprises of Kshs.177,716,197 for drilling of unspecified number of boreholes, procurement of tonners and stationeries of Kshs.68,309,500, per diem spent on tender evaluation committee members to evaluate companies awarded to drill boreholes of Kshs.5,875,800 and hiring of helicopter from a local company for the Cabinet Secretary to attend a meeting in Wajir County amount of Kshs.2,758,793. However, these items were not budgeted for under pre-feasibility, feasibility and appraisal studies vote. Further, no authority from the Accounting Officer on the reallocation of funds and reasons for misclassification of the expenditure was provided. This is contrary to Regulation 99(1) and (2) of the Public Finance Management (National Government) Regulations, 2015 which provides that as a general rule, the classification of financial transactions in national government entity's accounts shall be based on the standard chart of accounts approved by The National Treasury and the approved estimates of expenditure shall form the basis of the accounts for the financial year.

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

1139. Over Staffing and Noncompliance with One Third of Basic Salary Rule

Analysis of payroll for the month of June, 2023 revealed that nineteen (19) employees received a net salary of less than third (1/3) of the basic salary. This is contrary to Section C 1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016. Further, it was observed that the State Department had processed salaries and allowances for five hundred and twenty-five (525) officers against an approved staff establishment of four hundred and thirty (430) officers, leading to an overstaffing by ninety-five (95) officers.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1140. Weak Internal Controls in Stores and Lack of Inventory Management

Review of the State Department stores and stock cards revealed that there is lack of stock take reports as the Department did not conduct stock take at the close of the financial year.

Further, the stock card balances as at 30 June 2023 reflected unsupported stocks issued to the users while some stock cards revealed slow movement of stocks. The low demand for the stock items by the user departments raises concerns why stock purchases was done for slow moving items at the close of the financial year. In addition, there is lack of inventory management system for recording stock received or issued. The manual stock cards are also not regularly updated.

In the circumstances, effectiveness of internal controls implemented in the stores department to safeguard against possible losses could not be confirmed.

1141. Lack of an Approved Strategic Plan

Review of strategic plan documents revealed that the State Department lacks an approved strategic plan as the plan that covered the period 2018-2022, had expired.

In the circumstances, the State Department may not effectively manage and align its activities with long-term objectives.

1142. Lack of a Comprehensive Risk Management Policy

The State Department does not have a comprehensive Risk Policy Document that provides a framework for minimizing risks by enhancing mitigative and corrective measures thereby maximizing potential opportunities. Further, risk assessment was not conducted during the year under review. As a result, there was no identification, assessment and rating of risks nor development of strategies to deal with identified risks, so as to provide reasonable assurance that the Department's objectives would be achieved.

In the circumstances, the existence of effective measures on risk management could not be confirmed.

1143. Weak Monitoring and Evaluation Culture

The annual work plan provided for the financial year revealed that Monitoring and Evaluation (M&E) reports were not prepared and submitted to the directorate responsible. In the absence of the Monitoring and Evaluation reports, it was not possible to confirm whether the programs in the work plan for 2022-2023 were effectively and efficiently implemented and whether priority areas were identified for intervention, resource allocation and reallocation.

In the circumstances, effective strategies to ensure that performance takes place according to work-plans and expected results are realized in an effective and efficient manner could not be confirmed.

1144. Grounded Motor Vehicles in Private Garages

Review of the motor vehicles' register revealed that out of the fourteen (14) vehicles that have been grounded at private garages, three (3) have been grounded for a period exceeding ten (10) years, three (3) for more than three (3) years and four (4) for a period of over one year, with no indication of repair or disposal. However, Management has not instituted proper control systems to eliminate theft, security threats, losses, wastage and misuse of the assets. 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 shall 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.

In the circumstances, the existence of effectiveness of controls on asset management could not be confirmed.

DONOR FUNDED PROJECTS

UPPER TANA CATCHMENT NATURAL RESOURCE MANAGEMENT PROJECT IFAD LOAN NO. 1-867-KE; IFAD ADDITIONAL FINANCING LOAN NO.2000002597-KE; AND SPANISH TRUST FUND LOAN NO. I-E-8-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1145. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1146. Failure to Surrender Unutilized Funds

As disclosed in Note 7.A, the statement of financial assets reflects cash and cash equivalents balance of Kshs.81,041,824. The Project had been designated as an eight (8) year project from 2012 – 2018. It was granted an additional funding and extension of thirty (30) months implementation period with completion and closure dates of 31 December, 2022 and 30 June, 2023, respectively.

After the closure of the Project's operations, the cash books reflected a bank balance of Kshs.81,041,824. However, Management did not provide reasons for failure to surrender the unutilized funds to The National Treasury.

My opinion is not modified in respect of this matter.

Other Matter

1147. Budgetary Control and Performance

The statement of comparison of budget and actual amounts for the year ended 30 June, 2023 reflects budgeted receipts of Kshs.720,000,000 and actual receipts of Kshs.469,482,688 resulting to a revenue shortfall of Kshs.250,517,312 or 35% of the budget. Similarly, the statement reflects budgeted expenditure of Kshs.720,000,000 and actual expenditure of Kshs.667,140,984 resulting to an under-expenditure of Kshs.52,859,016 or 7% of the budget.

The Project underspent by Kshs.52,859,016 which is equivalent to expected services but not delivered to the intended beneficiaries.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1148. 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

1149. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1150. As required by 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 Project Management and the Project's financial statements are in agreement with the accounting records and returns.

COASTAL REGION WATER SECURITY AND CLIMATE RESILIENCE PROJECT CREDIT NO. 5543-KE/70040-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1151. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1152. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,950,000,000 and Kshs.1,584,145,841 respectively resulting to an under-funding of Kshs.365,854,159 or 19% of the budget. Similarly, the project spent Kshs.1,520,213,013 against an approved budget of Kshs.1,950,000,000 resulting in an under-absorption of Kshs.429,786,987 or 22 % of the budget.

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

1153. Unresolved Prior Year Audit 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, the Management has not resolved the issues. No explanation for the failure to resolve the issues was provided.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1154. Avoidable Expenditure of Interest on Delayed Payments

The statement of receipts and payments reflects expenditure on acquisition of non financial assets of Kshs.1,401,963,307 as disclosed in Note 8 to the financial statements. Included in the amount is construction of civil works amounting to Kshs.876,270,013 which further include Kshs.74,306,675 is in respect of interest paid on delayed payments.

In the circumstances, value for money on the avoidable expenditure of Kshs.74,306,675 could not be confirmed.

1155. Unrecovered Funds from Terminated Contract

As previously reported, the Ministry, through the Project entered into a contract for construction of Rain Water Harvesting Facilities and Sanitation blocks, for schools in Kwale County Phase 2 at a contract sum of Kshs.55,113,821. However, the contract was terminated on 09 June, 2020. 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, 2023 revealed that the amount was yet to be received by the Ministry.

In the circumstances, delay in recovery of funds may impact on Project completion period.

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

Basis for Conclusion

1156. Weakness in Internal Controls Over Treasury and Cash Management

Review of effectiveness of internal controls on treasury and cash management revealed that bank reconciliations were not submitted to the Auditor-General on a monthly basis and monthly review of the cash book to detect and correct casting errors was not carried out. Further, segregation of duties on recording entries in cash book and the preparation of bank reconciliations were not observed while updating of transactions and clearance of overdue payments in the bank reconciliation statements was not carried out. In addition, the appointment letters for the Board of Survey Committee were not provided for audit.

In the circumstances, effectiveness of internal controls over the treasury and cash management could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1157. As required by the Financing Agreement Credit No.5543-KE/70040-KE, dated 13 January, 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 Management of the Project and the Project's financial statements agree with the accounting records and returns.

THWAKE MULTI-PURPOSE DEVELOPMENT PROGRAM PHASE 1 (AFDB LOAN NO.2100150029993, 2000200003351, AGTF NO.505020000501 AND AFDB GRANT NO.2100155025973)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1158. There were no material issues noted during the audit of the financial statements of the Program.

Other Matter

1159. 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 some of the issues or given

any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates.

1160. 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.6,705,500,000 and Kshs.5,686,470,744 respectively resulting to an underfunding of Kshs.1,019,029,256 or 15% of the budget. Similarly, the Program spent Kshs.5,688,965,351 against an approved budget of Kshs.6,705,500,000 resulting to underexpenditure of Kshs.1,016,534,649 or 15% budget.

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

1161. Pending Bills

Annex 3A to the financial statements reflects pending bills amounting to Kshs.620,662,622 (2021/2022 Kshs.444,026,590). The balance has increased by Kshs.176,636,032. However, Management did not provide for audit, explanations why the amount was not settled during the year under review. This exposes the Program to the risk of incurring interest costs and penalties with the continued delay in settling the claims as required.

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

1162. Delayed Completion of Work

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. The contract completion delayed and the contractor was granted an extension to complete the works by 5 February, 2024 and a defect liability period of one (1) year.

However, review and analysis of progress reports, and the field inspection exercise revealed that the overall physical progress of the works as at 30 June, 2023 was estimated at 86%. Further, the implementation report indicated that monthly progress was at an average of 0.9%. The time remaining as at 30 June, 2023 was only eight (8) months

translating to a total estimated work progress of 7.2% and therefore 8.8% of the work may not be complete by the extended completion date of the program.

In the circumstances, the Project may not be completed within the extended contract period.

1163. Incomplete Corporate Social Responsibility Projects

As reported in the previous year, the Program's activities included drilling and equipping of six (6) community boreholes at a cost of Kshs.4,500,000 each and rehabilitation of classrooms and health center under Corporate Social Responsibility (CSR) projects in Kitui Rural, Makueni and Mbooni Constituencies. However, physical inspection carried out in October, 2023 revealed that construction and renovation of classrooms in three (3) counties were poorly done and Kathulumbi Hospital - Maternity Wing had ceiling defects that had not been repaired.

Further, three (3) out of the six (6) boreholes done were dry and the contractor had not drilled others to substitute the dry ones.

No measures have been put in place by the Program 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 CSR activities especially boreholes as water is a priority for household and livestock use.

1164. Unremitted Value Added Tax (VAT) to Kenya Revenue Authority

During the year under review, the contractor issued Interim Payments Certificates No.05 and 06 that included Value Added Tax (VAT) of Kshs.102,500,000 and Kshs.203,979,306 respectively, all totalling to Kshs.306,479,306. However, this tax had not been remitted to Kenya Revenue Authority by 30 June, 2023.

Failure to remit the Value Added Tax (VAT) on due date will attract penalties, which will result in avoidable and ineligible cost to the Project.

1165. Interest on Delayed Payment to Contractor

Annex 3A to the financial statements reflects cumulative interest charged on delayed payments amounting to Kshs.236,011,102. However, the interest charged would have been avoided resulting in wastage of public funds. The Program Management Unit has not explained why the terms and conditions of the signed contract, could not be adhered to by making timely payments when the interim certificates are raised.

In the circumstances, value for money on the cumulative interest charged amounting to Kshs.236,011,102 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1166. Lack of Internal Audit Reports on the Program

As previously reported, the internal audit unit did not carry out an audit of internal controls, risk management, financial reports, and the implementation of the Project.

In the circumstances, 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

1167. As required by financing agreements Loan No.2100150029993, No.2000200003351, AGTF No.5050200000501 and AfDB Grant No.2100155025973 signed between the Government of Republic of Kenya and African 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 Management of the Program and the Program's financial statements are in agreement with the accounting records and returns.

KENYA ITALY DEBT FOR DEVELOPMENT PROGRAMME

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1168. There were no material issues noted during the audit of the financial statements of the Programme.

Other Matter

1169. Budgetary Control and Performance

The statement of comparison of budget and actual amount reflects final receipts budget and actual on comparable basis of Kshs.2,000,000 and Kshs.1,059,200 respectively resulting to underfunding of Kshs.940,800 or 47% of the budget. Similarly, the Programme actual expenditure amounted to Kshs.42,775,658 against the budgeted expenditure of Kshs.43,000,000 resulting to underexpenditure of Kshs.244,342.

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1170. Long Outstanding Advance

The statement of financial assets reflects accounts receivable balance of Kshs.12,991,890 and as disclosed in Note 8 to the financial statements. This amount was advanced to the Ministry of Water, Sanitation and Irrigation on 17 September, 2014 to enable the Ministry pay for an outstanding travel bill due to a service provider. This amount has remained outstanding for more than nine (9) years. This implies that the amounts advanced to the Ministry was not utilized for the intended purpose of the Programme. Further, 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 financing agreement.

In the circumstances, Management was in breach of the financing agreement.

1171. Lack of Programme Closure

Review of the Project Funding Summary reflected at Paragraph 1.7 of the preamble to the financial statements and the Programme extension letters dated 07 September, 2021 indicated that the Programme was to start in 2007 and end on 30 June, 2022. However, as at 30 June, 2023, the Programme bank account held with a commercial bank had a closing balance of Kshs.24,494,573. Further, no evidence was provided for audit review to show that the Programme closure process had been started.

In the circumstances, Management was in breach of the financing agreement and could lead to withholding of future funding by the Italian Government.

1172. Delay in Programme Implementation - Manooni Water Project

Review of records revealed that Manooni Water Project being implemented by Tanathi Water Works Development Agency at a cost of Kshs.74,541,368 was to be completed by 30 June, 2021. During the year under review, the Programme disbursed Kshs.26,346,535 being payment for certificate number four (4). However, latest progress report was not provided for audit review.

In the circumstances, failure to complete the Project may adversely affect the objectives of the Project despite substantial amount of money being invested on the Project.

1173. Lack of a Proper Inventory Management System

The statement of receipts and payments reflects purchase of goods and services amount of Kshs.16,409,123 and as disclosed in Note 3 to the financial statements. Included in the amount is printing, advertising and information supplies expenditure of Kshs.9,048,100 incurred to purchase various store items. However, review of the inventory/stores management systems and records revealed the following unsatisfactory matters:

- i. Management did not provide evidence of the existence of a physical store where deliveries are received and issued to the user departments.
- ii. There was lack of accountable documents especially S13 for issuance of goods once received in the stores.
- iii. There were no store ledger cards which would track the movement and condition of inventories and stock reorder levels; and,
- iv. There was lack of a proper electronic or manual system of managing inventory.

This is contrary to Regulation 166(4) of the Public Procurement and Asset Disposal Regulations, 2020 that provides for an effective, economic, efficient, and transparent use of Government inventory, stores and assets at all levels. The Regulation also requires that an Accounting Officer of a procuring entity take full responsibility of the management or control of inventory and assets.

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

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.

KENYA WATER SECURITY AND CLIMATE RESILIENCE PROJECT (GRANT NO. TFOA0761A AND CREDIT NO.5268/5674-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

- 1175.** There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1176. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,796,000,000 and Kshs.1,115,060,876, respectively, resulting in under-funding of Kshs.680,939,124 or 38% of the budget. Similarly, the Project spent Kshs.1,372,081,849 against the budgeted amount of Kshs.1,796,000,000 resulting in under-expenditure of Kshs.423,918,150 or 24% of the budget.

The underfunding and under-expenditure is an indication that the Project's objectives may not be achieved and may impact negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1177. Avoidable Expenditure on Claims and Interest

Review of payments to contractor revealed that, the Project incurred an expenditure of Kshs.275,774,871. The amount includes interest on late payment and claims by the contractor for idle time amounting to Kshs.60,973,613 and Kshs.214,801,257, respectively. Further, physical inspection conducted in the month of October, 2023 revealed that the overall work completion was approximately 67% based on the original bill of quantities. Although Management indicated the revised project completion date was 27 September, 2023, evidence of approved revised extension of time from was provided for audit.

Similarly, the Ministry of Water, Irrigation and Sanitation entered into contract agreement with an International Company for construction works of the Lower Nzoia Project Lot 2 Improvement of flood Mitigation Structures at a contract sum of Kshs.1,412,667,909 on 22 November, 2017. Review of payments made revealed that the contractor had been paid an amount of Kshs.7,313,052 and USD 89,401 cumulatively, being interest on late payments and additional payment amounting to Kshs.4,728,819 and USD 303,340 being claims on idle time. The Project Management has not put in place, adequate measures to prevent additional costs on claims and interests.

In the circumstances, the Project's objectives may not be achieved due to delay in project completion resulting in increase in project costs and the value for money may not be realized.

1178. Unjustified Price Adjustment

The statement of receipts and payments reflects expenditure acquisition of assets of Kshs.1,291,614,810 as disclosed in Note 8 to the financial statements which includes an amount of Kshs.754,191,068 for construction of civil works. Review of the Project documents revealed that the Ministry of Water, Irrigation and Sanitation through Kenya Water Security and Climate Resilience Project entered into contract agreement with a Company for construction works of the Lower Nzoia Project Lot 2 for Improvement of flood Mitigation Structures at a contract sum of Kshs.1,412,667,909.

The Project commenced on 12 June, 2018 with revised completion date of 23 December, 2022. The takeover certificate was issued to the Contractor on 24 March, 2023. However, payment certificate No.13 reflects cumulative payment amounting to Kshs.109,161,136 for price adjustments arising from delay in the project completion from the original amount of Kshs.25,764,633 by a unjustified variation of Kshs.83,396,502 or 324%.

In the circumstances, the Project may not realize the intended objectives and may result in continuous price escalation above the approved budget.

1179. Delay in Resettlement of Persons

The statement of receipts and payment reflects expenditure on acquisition of non-financial assets amount of Kshs.1,291,614,810 as disclosed in Note 8 to the financial statements which includes an amount of Kshs.19,652,436 paid to a Consultancy firm engaged by the Ministry of Water, Sanitation and Irrigation to provide consultancy services at a contract price of Kshs.87,028,965. The contract commenced on 25 November, 2019 for a period of twelve (12) months ending 18 November, 2020. The contract period was further extended to 30 September, 2023 without additional costs.

Physical inspection conducted in the month of October, 2023, revealed that the resettlement of the affected persons had not been completed even after payments to the consultant totalling Kshs.65,407,500 (approximately 75% of the contract price). At the time of project's commencement, the land owners had not transferred the parcels of lands for the irrigation project. It is not clear why land acquisition was not prioritized before the contract was signed. Full settlement of all affected persons has not been made seven (7) years after the project commenced.

In the circumstances, delay in the settlement process has resulted in delayed completion of the project, high constructions cost and price variations.

1180. Poor Project Management

The statement of receipts and payment reflects expenditure on acquisition of non-financial assets amount of Kshs.1,291,614,810 as disclosed in Note 8 to the financial statements which includes an amount of Kshs.311,907,123 in respect of research studies, project preparation, design and supervision. The amount further includes Kshs.204,858,666 paid to an Engineering Company for supervision and consulting services in the construction of Lower Nzoia Irrigation Project Lot 1. The contract between the Company and the Ministry was signed on 4 October, 2016 at a contract sum of Kshs.547,066,287 excluding indirect taxes amounting to Kshs.87,530,606, EUR 2,938,554 and EUR.470,168 in separate accounts all totalling EUR 3,408,722.

Physical inspection conducted in the month of October, 2023, revealed the following issues;

- i. Various addendums were raised leading to high contract price escalations. Based on Addendum No.16 signed on 18 July, 2023, the revised contract price was raised to a contract sum of Kshs.906,664,605 and indirect tax amount of Kshs.145,066,337 and EUR 4,943,349. This resulted to a significant price escalation of Kshs.359,598,318 above the contract cost of Kshs.547,066,287 being 66% of the contract price and EUR 1,534,627 above the indirect taxes amount of EUR 3,408,722 being 45% increase.
- ii. After the expiry of the contract the Ministry through Addendum No.16 extended the contract to 30 September, 2023. At the time of the field inspection in the month of October, 2023, there was no valid contract extension between the Project/ Ministry.

- iii. Due to delay in Project completion, the construction works had not been completed leading to a significant increase in construction cost of Kshs.753,826,598 (19%) from Kshs.3,873,317,854 to Kshs.4,627,144,452 for Lot 1 as per Payment Certificate No.18B.
- iv. Infrastructure to irrigate Block 6 to 14 had not been constructed, implying that massive investment done in the intake and main canal at the upstream of the scheme cannot be fully utilized to accomplish the Project objectives. The secondary canal No.8 to Bunyala had not been constructed and therefore the objective of changing to the gravity supply of water for the scheme at extra costs may also not be realized.

In the circumstances, the Project's objectives may not be achieved due to delay in project completion thus the value for money may not be realized.

1181. Lack of Supporting Documents for Payment of Compensation Funds

The statement of receipts and payments reflects expenditure on acquisition of non-financial assets amount of Kshs.1,291,614,810 as disclosed in Note 8 to the financial statements which includes an amount of Kshs.184,049,893 in respect of acquisition of land. Included in the expenditure is an amount of Kshs.221,500,000 transferred to the National Land Commission for compensating farmers displaced by Lower Nzoia Irrigation and Flood Mitigation Structures Project. However, the following supporting documents were not provided for audit; compensation schedule of Project Affected Persons, land valuation reports schedule and current land compensation status.

In the circumstances, it was not possible to confirm whether the funds were paid to the intended persons and whether value for money was obtained from the expenditure.

REPORT ON THE 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 Financing Agreement Grant No. TFOA0761A and 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 Management of 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

1184. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1185. Budgetary Control and Performance

The statement of comparison of budget and actual amounts for the year ended 30 June, 2023 reflects an approved total expenditure budget of Kshs.5,567,500,000 against the actual expenditure of Kshs.4,643,721,995 resulting to under-expenditure of Kshs.923,778,005 or 17% of the budget.

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

1186. Unresolved Prior Year Audit 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, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved some of 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

1187. Weak Implementation of Consultancy

1187.1 Lack of Consultancy Budget

The statement of receipts and payment reflects purchase of goods and services amount of Kshs.1,172,430,697 which includes consultancy costs of Kshs.945,709,878 as disclosed in Note 5 to the financial statements. Included in the amount is payment of Kshs.10,800,000 paid to an environmental consultant. However, according to the negotiation minutes, the consultant had quoted Kshs.5,400,000 but Management had only budgeted for Kshs.2,700,000. Further, according to the 2021-2022 work plan, Management revised the budget for procurement of an environmental expert to Kshs.3,681,000 resulting to over expenditure of Kshs.7,119,000. This is contrary to Regulation 128(11) of the Public Procurement and Asset Disposal Regulations, 2020 which provides that after approval of the recommendation for award by the accounting officer, the first ranked individual consultant shall be invited to negotiate the fees,

reimbursable expenses and contract terms with the evaluation committee and where negotiation fail, the second ranked individual shall be invited to negotiate the contract.

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

1187.2 Failure to Engage a Project Communication Specialist

The statement of receipts and payment reflects purchase of goods and services amount of Kshs.1,172,430,697 which includes consultancy costs of Kshs.945,709,978 as disclosed on Note 5 of the financial statements. Included in the amount is Kshs.1,955,859 paid to a project communication specialist whose services were terminated in October, 2022. The Ministry of Water, Sanitation and Irrigation entered into a contract for consultancy services with the consultant on 7 February, 2022 at a contract price of Kshs.8,769,600. The contract term was twelve (12) months with a commencement date of 1 March, 2022 and completion date of 28 February, 2023. According to the terms of reference, the project communication specialist was expected to carry out implementation of the Project communication strategy, enhance visibility and publicity of the project and its activities in consultation with project teams and relevant stakeholders.

The contract was terminated on 6 October, 2022 due to the consultants inability to deliver and the consultant was paid a cumulative amount of Kshs.1,955,859 for the months of April, May and June, 2022 and a notice of termination was issued by Management on 18 October, 2022. As at the time of audit in November, 2023, Management has not procured the services of another project communication specialist.

In the circumstances, the successful implementation of the project's communication strategy and publicity could not be confirmed.

1188. Delay in Projects Implemented by Kwale Water and Sewerage Company Limited (KAWASCO)

1188.1 Construction of Ablution Blocks for Kwale Town

The statement of receipts and payments reflects an amount of Kshs.3,431,628,644 for acquisition of non-financial assets which includes Kshs.3,296,374,116 for construction of civil works as disclosed in Note 6 to the financial statements. Included in this amount is Kshs.77,714,703 relating to construction of four (4) ablution blocks in Kwale town. However, the contract expired on 27 May, 2023 with no evidence of extension or handover with an amount of Kshs.72,973,488 or 94% of the contract price already paid. Further, the washrooms for the people with disability lacked the support rails. Further, the site locations for the ablution blocks were too close to each other hence the Company may not be able to achieve value from the commercialization. In addition, land ownership documents on which the constructions were done were not provided for audit.

1188.2 Laying of Distribution Lines from Mabokoni Reservoir to Ukunda Town and Environs

The Company awarded a contract for laying distribution lines from Mabokoni Reservoir to Ukunda Town at a cost of Kshs.729,696,970 for a period of ten (10) months from 1 October, 2021 to 30 September, 2022. The contract price was later revised to Kshs.742,498,671. However, as at the time of audit inspection in the month of October,

2023, the project overall progress of works executed was estimated at 44%. Management did not explain the reason for variation despite low performance.

1188.3 Construction of Collector and Transmission Lines, Drilling Borehole, Equipping and Auxiliary Facilities

The Company entered into a contract on 14 September, 2021 at a contract price of Kshs.688,606,879 for construction of collector and transmission line, boreholes, equipping and auxiliary facilities for a period of eighteen (18) months. However, as at the time of audit inspection in the month of October, 2023, the main concrete tank at Mabokoni reservoir was still under construction, transmission lines from the seven (7) boreholes to the Mabokoni reservoir tank had not yet been done, chlorination building house was at slab level and out of the eleven (11) boreholes to be drilled and equipped, only 6 were drilled and capped but not equipped. Further, there was no approval sought by the contractor for variations worth Kshs.6,606,008 on Bill No. 3. The overall progress of works executed was estimated at 17%.

1188.4 Construction of Six (6) Ablution Blocks in Ukunda Town

The Company entered into a contract on 15 February, 2022 for the construction of six (6) ablution blocks in Ukunda Town at a contract price of Kshs.110,332,466 with initial project completion date of 18 November, 2022. However, as at the time of audit inspection in October, 2023 the ablution block at Mvindeni site had stalled and the contractor had abandoned the site. Management has not provided evidence of efforts towards resumption of the works by the contractor. The overall progress of works executed was estimated at 78%

In the circumstances, the projects delay may result to escalated costs for completion and value for money may not be obtained.

1189. Delay in Projects implemented by Coastal Water Works Development Agency (CWWDA)

1189.1 Construction of Baricho Well-Field Protection Works

The statement of receipts and payments reflects an amount of Kshs.3,431,628,644 for acquisition of non-financial assets which includes Kshs.3,296,374,116 for construction of civil works as disclosed in Note 6 to the financial statements. Included in this amount is Kshs.791,253,843 relating to the construction of Baricho well-field protection works. The Agency entered into a contract on 17 November, 2021 executable within 12 months, from 17 November, 2021 to 16 November, 2022. As at the time of audit inspection in the month of October, 2023, the project had not been completed and the defect liability period of twelve (12) months had already commenced.

1189.2 Delay and Default in Renewal of Performance Security

The Agency signed a contract in respect of program for improvement of water services in Mombasa County and construction works for North Mainland (Nyali) phase 1 at a contract sum of Kshs.516,433,325. The contract sum was revised to Kshs.589,861,167 during the financial year 2019/2020. The project had an expected completion period of eighteen (18) months to 25 October, 2022. The completion date was later extended to 31 August, 2023.

Further, on 31 August, 2023, the contractor was issued with notice for an intention to charge liquidated damages if the contractor did not improve or accelerate the implementation of the outstanding works as from 1 September, 2023. As at June, 2023, the contractor had been paid a total of Kshs.370,912,921 through eight (8) certificates; an equivalent of 63% of the contract price.

As at the time of the audit in October, 2023, the contractor had no extension of time and the performance security of Kshs.58,986,116 had expired on 22 October, 2023.

1189.3 Construction of Mombasa North Mainland Short Term Water Distribution System

The Agency entered into a contract on 23 March, 2021 in respect of the construction of Mombasa North Mainland short term water distribution system at a contract sum of Kshs.516,433,325. This was later revised to Kshs.781,423,747. The project was expected to be completed within a period of eighteen (18) months to 25 October, 2022. The completion date was later extended to 7 October, 2023. As at the time of audit in the month of October, 2023, the contractor had been paid an amount of Kshs.370,538,351 equivalent of 47% of the contract price. However, the project completion status was at 68% at the expiry of the extended project completion date.

In the circumstances, the projects delay may result to escalated costs for completion and value for money may not be obtained.

1190. Delay in Contract Implemented by Mombasa Water Supply and Sanitation Company Limited (MOWASCO)

1190.1 Improvement of Storm Water Outlets

The statement of receipts and payments reflects an amount of Kshs.3,431,628,644 for acquisition of non-financial assets which includes Kshs.3,296,374,116 for construction of civil works as disclosed in Note 6 to the financial statements. Included in this amount is Kshs.459,091,415 for the improvement of storm water outlets and combined sewer overflows in Mombasa Island. The contract commenced on 11 May, 2021 and was expected to be completed by 19 August, 2023. As at the time of audit in October, 2023, the percentage of completion of the project was 63% and Management had not provided evidence of extension of time.

1190.2 Rehabilitation of Kipevu Waste Water Treatment Plant

The contract for rehabilitation of Kipevu Waste Water Treatment Plant (WWTP and pumping stations) was awarded to a communications company at a contract sum of Kshs.240,623,534. The contract commenced on 11 May, 2021 and it was expected to be completed by 16 August, 2023. The contract sum was varied upwards to Kshs.243,217,752 after the approval of variation order No. 1 on 22 February, 2022 for the purchase of all new motors instead of repairs as earlier envisaged.

As at the time of audit in the month of October, 2023 the percentage of completion of the project was 48% and Management did not provide evidence of extension of period.

1190.3 Construction of Ablution Blocks in Mombasa County

The contract for the construction of ablution blocks in Mombasa County was awarded at a contract sum of Kshs.196,530,590. The contract commenced on 21 October, 2021 and it was expected to be completed by 15 August, 2023. As at the time of audit in October, 2023, the percentage of completion of the project was 73% and Management had not provided evidence of extension of time.

1190.4 Rehabilitation and Extension of Mombasa Water Supply Distribution Works

The contract No. KE-MOWASCO-16769-CW-RFB for the rehabilitation & extension of Mombasa water supply distribution works Contract was awarded to a company at a contract sum of Kshs.749,200,538. The contract commenced on 11 May, 2021 and was expected to be completed by 04 September, 2023. As at the time of audit in the month of October, 2023, the percentage of completion of the project was 55% and Management had not provided evidence of extension of period.

1190.5 Rehabilitation & Extension of Sewer Networks in Mombasa West Mainland and Island

The contract for the rehabilitation and extension of sewer networks in Mombasa West Mainland and Island was awarded to a company at a contract sum of Kshs.339,307,348. The contract commenced on 15 July, 2021 and was expected to be completed by 13 August, 2023. As at the time of audit in October, 2023, the percentage of completion of the project was 68% and Management had not provided evidence of extension of period.

In the circumstances, delay in projects implementation may result to loss of funds and objectives of the project may not be achieved.

1191. Delay in Contracts Implemented by Kilifi Mariakani Water and Sewerage Company Limited (KIMAWASCO)

1191.1 Construction of Water Distribution Works Project

The statement of receipts and payments reflects an amount of Kshs.3,431,628,644 for acquisition of non-financial assets which includes Kshs.3,296,374,116 for construction of civil works as disclosed in Note 6 to the financial statements. Included in this amount is Kshs.515,809,760 relating to the construction of water distribution works. The contract period was four hundred sixty-two (462) days commencing on 25 June, 2021 to 30 September, 2022. The project was extended to 31 August, 2023. However, as at the time of audit in October, 2023, the contractor had not completed the project due to challenge of excavating the hard rock formation on line MY8 along Bofa road and lack of appropriate equipment required for the excavation. Management did not provide evidence of extension of period from 31 August, 2023.

1191.2 Abandoned and Stalled Works for Construction of Ablution Blocks

The construction of twelve (12) ablution blocks in Kilifi, Mtwapa and Mariakani was awarded for a contract sum of Kshs.151,320,458 corporation who were in Joint venture with another company. The project was expected to be completed within a period of six

(6) months. The works commenced on 1 March, 2022 with an expected completion date of 30 September, 2022. The completion date was extended to 30 November 2022. As at 30 June, 2023, the contractor had been paid an amount of Kshs.27,993,312, inclusive of an advance payment paid in February, 2023 an equivalent of 18% of the contract price. However, the contractor had not completed works and no extension of time after the contract expiry date had been given. Physical inspection done in October, 2023 revealed that construction works had started for 6 ablution blocks; 3 in Mtwapa and 3 in Kilifi but works had stalled at the walling level of super structure. Further, the contractor had abandoned the site leaving them unsecured. In addition, the contractor was given a termination notice on 5 July, 2023.

In the circumstances, delay in projects implementation may result to loss of funds and objectives of the project may not be achieved.

1192. Delay in Projects Completion implemented by Malindi Water and Sewerage Company (MAWASCO)

1192.1 Construction of Faeces Sludge Treatment Plant in Watamu

The statement of receipts and payments reflects an amount of Kshs.3,431,628,644 for acquisition of non-financial assets which includes Kshs.3,296,374,116 for construction of civil works as disclosed in Note 6 to the financial statements. Included in this amount is Kshs.226,017,053 for the construction of a faeces sludge treatment plant in Watamu town signed on 27 October, 2021. The works commenced on 19 November 2021 and a completion date planned for 23 November, 2023. As at the time of audit in the month of October, 2023, the project was 32% complete and there is a risk that, the contractor may not meet the deadline of project completion of 23 November, 2023.

1192.2 Construction of Faeces Sludge Treatment Plant in Malindi Lot 3A

The Company entered into a contract with a company on 12 October, 2021 for the construction of faeces sludge treatment plant in Malindi Lot 3A with initial project completion date stated as 18 August, 2022. However, physical inspection of the project conducted in October 2023, revealed that no works were ongoing with an overall progress of works estimated at 4%. Further, review of the project's progress reports for the period ended 30 September, 2023, revealed that the contractor lacked sufficient personnel and equipment to be able to execute the contract. In addition, deficiencies were found regarding the availability of construction materials on site. Notably, the contractor had not submitted to the consultant for approval, the plan to procure electrical works stated under Bill no. W1E with a bill of quantity valued at Kshs.52,571,616.

1192.3 Construction Works of Ten (10) Ablution Blocks

The Company signed contract with an International firm on 22 July, 2020 for construction works of ten (10) ablution blocks at a contract sum of Kshs.121,436,745 for a period of twelve (12) months. The works commenced on 17 November, 2021 with an expected completion date of 16 November, 2022 which was later extended to 15 April, 2023 and another second extension to 14 December, 2023. As at 30 June, 2023, the contractor had been paid an amount of Kshs.81,737,566 equivalent of 67% of the contract price

though according to the June, 2023 monthly progress report, the overall percentage of completion was 56.3%. At the time of physical inspection in October, 2023, the contractor had abandoned the site and the projects had stalled at various stages and some works had not started at all.

1192.4 Construction of Water Distribution Works for Malindi Town, Gongoni and Mambrui Centres

During the year under audit, the Company paid Kshs.106,333,055 to a firm for the construction of water distribution works for Malindi Town, Gongoni and Mambrui Centres Lot 1, through a contract entered on 10 December, 2020 a period of twenty-four (24) months for a total contract price of Kshs.707,473,818. However, at the time of physical inspection of the project in October, 2023, the project works at Mambrui and Malindi town had not been completed.

In the circumstances, delay in project implementation may result to loss of funds and objectives of the project may not be met.

1193. Delay in Projects Implemented by TAVEVO Water and Sewerage Water Company

1193.1 Contract for the Supply of Water to Voi, Mwatate, Wundanyi and Taveta

The statement of receipts and payments reflects an amount of Kshs.3,431,628,644 for acquisition of non-financial assets which includes Kshs.3,296,374,116 for construction of civil works as disclosed in Note 6 to the financial statements. Included in this amount is Kshs.859,714,132 for a contract awarded for the upgrade of water distribution systems for Voi, Taveta, Mwatate and Wundanyi towns. The contract commenced on 25 March, 2021 with an expected completion date of 25 December, 2023. As at the time of physical inspection in the month of October, 2023, the percentage of completion of the project was only 40% and major works of construction of chambers had not started.

1193.2 Abandoned and Stalled Works for Construction of Ablution Blocks at Voi, Mwatate, Maungu, Taveta and Wundanyi

The Company signed a contract with a local company on 18 June, 2020 for the construction works of eight (8) no. ablution blocks at a contract sum of Kshs.90,013,162. The project was expected to be completed within a period of eight (8) months with an expected completion date of 15 December, 2021. As at 30 June, 2023, the contractor had been paid an amount of Kshs.41,987,533 which is an equivalent of 47% of the contract price. According to the September, 2023 monthly progress report, the overall percentage of completion was at 56.3%. As at the time of physical inspection conducted in October, 2023, the contractor had abandoned the site and the project had stalled at 57% of completion.

1193.3 Construction of Office Block at Voi Town Lot II

The Company entered into a contract on 30 July, 2021 for the construction of office Block at Voi Town Lot II at a contract price of Kshs.78,236,141 with initial project completion date stated as 18 August, 2022. Physical inspection of the project conducted on 20 October, 2023, revealed that no works were ongoing. The overall progress of works

was estimated at 23%. In addition, the contractor lacked sufficient equipment and personnel to be able to execute the contract. The original copy of the performance guarantee and copy of the contractor's request for extension including the supervising consultant's evaluation on the request for approval, and the subsequent approved interim extension and Minutes of the tender negotiations were not provided for audit.

1193.4 Construction of Storage Warehouse for Pipes, Fittings and Portable Equipment

The Company entered into a contract with a company on 4 August 2021 for the construction of storage warehouse for pipes, fittings and portable equipment Lot I at a contract price of Kshs.32,884,390 with initial project completion date stated as 17th August, 2022. However, physical inspection of the project conducted in the month of October, 2023, revealed that works were still ongoing with an overall progress of 55%.

In the circumstances, delayed completion of the project will result in extra costs since it is not clear when the project will be completed.

1194. Delay in Project Completion Implemented by Northern Water Works Development Agency

The statement of receipts and payments reflects an amount of Kshs.3,431,628,644 for acquisition of non-financial assets which includes Kshs.3,296,374,116 for construction of civil works as disclosed in Note 6 to the financial statements. Included in this is an amount of Kshs.61,503,270 relating to drilling and equipping of four (4) boreholes in Wajir County. The Agency awarded contract for a duration of six (6) months from January, 2022 to July, 2022. Review of project documents revealed that the contract period was extended by eighteen (18) months with an expected completion date of 19 January, 2024. However, the Management did not provide evidence supporting the approval of this extension.

In the circumstances, delay in project implementation may result to loss of funds and objectives of the project may not be achieved.

1195. Delay in Projects Completion of Contracts Implemented by Wajir Water and Sewerage Company

The statement of receipts and payments reflects an amount of Kshs.3,431,628,644 for acquisition of non-financial assets which includes Kshs.3,296,374,116 for construction of civil works as disclosed in Note 6 to the financial statements. Included in this is an amount of Kshs.39,263,680 relating to the drilling of ten (10) boreholes in Lanbib and Rifiet. The works started on 15 August, 2022 for a period of twelve (12) months unto 15 August, 2023. However, the progress report provided by the project coordinator revealed that the project was to start on 29 July, 2021 and end on 31 December, 2022. The resultant variances between the two documents was not explained.

According to the work plan, the works should have been completed by 15th August, 2023. However, as at the time of audit in October, 2023, and as per the progress report, the project was 56% complete. The payments made to date out of the contract price of Kshs.39,263,680 is Kshs.22,070,655 equivalent to 56%. There was no evidence provided

on extension of time. Further, the performance security had expired and had not been renewed or extended.

In the circumstances, delay in project implementation may result to loss of funds and objectives of the project may not be met.

1196. Overpayment of Taxation on Consultancy

The statement of receipts and payment reflects purchase of goods and services amount of Kshs.1,172,430,697 which includes consultancy costs of Kshs.945,709,878 as disclosed on Note 5 of the financial statements. Included in this amount is a payment of Kshs.124,741,778 to a consulting group. However, according to the contract agreement, the contract sum was Kshs.121,096,682 resulting in an unrecovered overpayment of Kshs.3,645,096.

In the circumstances, the validity for Kshs.3,645,096 could not be confirmed.

1197. Non-Recovery of Advance Payment

During the year under review, Kilifi Mariakani Water and Sewerage Company Limited (KIMAWASCO) paid an advance payment of Kshs.15,131,958 to a contractor on 14 February, 2023. The advance was supported by a bank guarantee dated 17 January, 2023 and valid for 3 months until 27 April, 2023. However, the Company failed to secure the advance payment by ensuring that the bank guarantee covered a reasonable period within which it could be recovered. After the contractor abandoned the site, the Company was not able to recover the advance payment since the bank guarantee had already expired. Further, the termination notice dated 5/7/2023 stated that the contractor abandoned site on December, 2022. It is not clear why Company proceeded to pay the advance in February, 2023 even after the contractor had abandoned the site four (4) months prior to the date of payment.

In the circumstances, the recovery of advance payment of Kshs.15,131,958 could not be confirmed.

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

Conclusion

1198. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1199. As required by International Development Association (IDA) Financing Agreement Credit No.60229/6030 dated 21 June, 2017 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 Management of the Project and the Project's financial statements agree with the accounting records and returns.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER STATE DEPARTMENT FOR WATER AND SANITATION

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

1200. Unsupported Pending Account Payables

Note 8.1 to the financial statements on other important disclosures reflects a balance of Kshs.140,187,852 in relation to pending account payables as detailed in Annex 2 to the financial statements. The balance includes retention monies owed to contractors amounting to Kshs.115,740,344. However, Management did not provide supporting documents on how the claims were determined for audit.

In the circumstances, the accuracy and completeness of the outstanding pending account payables of Kshs.140,187,852 could not be confirmed.

Other Matter

1201. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.75,000,000 and Kshs.75,000,000 respectively. Further, the statement reflects a final expenditure budget of Kshs.75,000,000 and actual payments (acquisition of non-financial assets) of Kshs.35,755,426 leading to under-expenditure of Kshs.39,244,574 or 52% of the budget.

The under-absorption 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

1202. Avoidable Costs on the Delayed Settlement of Pending Bills

Review of records revealed that an amount of Kshs.35,755,426 was paid to a contractor as interests due to delayed payments. Further, Annex 2 to the financial statements indicates that the contractor is still owed an amount of Kshs.115,740,344 in respect of unpaid claims and interests.

In addition, the Project was expected to run from 15 April, 2011 to 31 December, 2019 and the Project has not had any activities for the last two years except settling of pending bills which had been incurred in the previous years. Management has not explained the reason for not formally closing the Project and transferring the assets and liabilities to the relevant authorities as envisaged in the financing agreement.

In the circumstances, the value for money on the interest paid on delayed payments amounting to Kshs.35,755,426 could not be confirmed.

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.

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

1204. Unsupported Expenditure on Purchase of Goods and Services

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.427,658,603 relating to purchase of goods and services which includes an advance payment of Kshs.259,300,354 to a contractor in relation to payment for works package 1. However, supporting for the amount reflected Kshs.241,450,879 resulting to an unsupported amount of Kshs.17,849,475.

In the circumstances, the accuracy and validity of the expenditure on purchase of goods and services could not be confirmed.

1205. Understatement of Expenditure on Compensation to Employees

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects compensation of employees amount of Kshs.9,200,094. However, examination of the schedule provided to support the amount reflects an amount Kshs.10,239,385 resulting to an unexplained variance of Kshs.1,039,291.

In the circumstances, the completeness and accuracy of expenditure on compensation to employees amount could not be confirmed.

1206. Misstatement of Cash and Cash Equivalents

The statement of financial assets reflects and Note 9 to the financial statements bank balances Kshs.946,612,298. The balance includes a balance of Kshs.26,237,108 in Kenya Commercial Bank. However, examination of cash book revealed a balance of Kshs.26,727,158 resulting in an unreconciled variance of Kshs.490,050. Further, the balance of Kshs.26,737,108 includes unexplained adjustment of Kshs.512,592.

In addition, the bank balance of Kshs.946,612,298 includes an amount of Kshs.872,270,760 which further includes unsupported adjustment of Kshs.243,690.

In the circumstances, the completeness and accuracy of bank balance of Kshs.946,612,298 could not be confirmed.

Other Matter

1207. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.2,290,000,000 and Kshs.1,487,835,321 respectively resulting to an under-funding of Kshs.802,164,679 or 35 % of the budget. Similarly, the Project expended Kshs.560,546,402 against an approved budget of Kshs.2,290,000,000 resulting to an under-expenditure of Kshs.1,729,453,598 or 76 % of the budget.

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

1208. Pending Accounts Payable

Note 11 to the financial statements reflects pending accounts payable amounting to Kshs.19,924,752 which have been outstanding in the years between 2017 and 2019. However, in support of the balance were not provided for audit. Further, no explanation was provided for non-settlement of the payables.

In the circumstances, the pending bills are likely to attract interest and penalties which may not be a proper charge to public funds. In addition, in absence of supporting documents, they may be non-existent.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1209. Delay in Project Completion

The statement of receipts and payments and as disclosed in Note 4 to the financial statements, reflects an amount of Kshs.497,703,818 on purchase of goods and services. The amount includes expenditure of Kshs.51,919,834 incurred on project management consultancy services. Review of records revealed that Management entered into a contract for consultancy at a contract sum of Kshs.68,345,002 and EUR 1,209,318. 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. The project completion date was extended to 31 October, 2022 and further to 31 July, 2023.

At the time of audit, Management had paid an amount of Kshs.51,919,834 bringing the cumulative expenditure to Kshs.74,757,412 and EUR 785,580.70 (91.79%). The Project was therefore behind schedule.

In the circumstances, the delayed completion of the project denies the public from enjoying the benefits derived from the project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1210. There were no material issues relating to effectiveness of internal controls, risk management and governance.

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

1211. 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

1212. Unconfirmed Transferred Project Assets

Annex 3 of the financial statements on Schedule of Fixed Assets Register reflects assets totalling Kshs.228,908,309 transferred to the Implementing Agency - Lake Victoria North Water Works Development Agency, after the closure of the Project. The assets comprise of office furniture and equipment, computers and accessories, and motor vehicles worth Kshs.3,778,930, Kshs.9,392,464 and Kshs.215,736,915 respectively. However, no documentary evidence was provided to confirm the transfer of the assets to the Implementing Agency, contrary to Regulation 74(6)(b)(c) of the Public Finance Management (National Government) Regulations, 2015 which provide that whenever projects are completed, the project assets shall be handed over to the accounting officer in accordance with the financing agreement and when no time frame is provided, the assets shall be handed over within three (3) months from the date of closure of the project.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

- 1213.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

- 1214.** 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 Management of the Project and the Project's financial statements agree with the accounting records and returns.

KENYA TOWNS SUSTAINABLE WATER SUPPLY AND SANITATION PROGRAM - CREDIT NO. P-KE-E00-011 (AfDB LOAN NO.200200000501) – ATHI WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

- 1215.** There were no material issues noted during the audit of the financial statements of the Program.

Other Matter

1216. Budgetary Control and Performance

The statement of comparison of budget and actual amounts for the year ended 30 June, 2023 reflects final receipts budget of Kshs.3,194,516,759 and actual on comparable basis of Kshs.2,031,809,471 resulting to underfunding of Kshs.1,162,707,288 (or 36% of the budget). Similarly, the project spent Kshs.1,982,192,759 out of the approved expenditure budget of Kshs.3,194,516,759 resulting in an under expenditure of Kshs.1,212,324,391 (or 38% of the budget).

The under-funding and under-expenditure affected the planned project's activities and may impacted negatively on service delivery.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1217. Stalled Projects

1217.1 Construction of Kitui and Matuu Towns Last Mile Connectivity of Water and Sanitation Project

The contract for construction of Kitui and Matuu Towns Last Mile Connectivity of Water and Sanitation Project, was awarded to a contractor at contract sum of Kshs.860,005,431. The contract was to commence on 11 March, 2020 with an expected completion date of 11 March, 2022. As at 14 March, 2022 the value of works done was Kshs.243,256,721. Review of the documents provided for audit revealed that the contractor had abandoned site and the contract was in the process of being terminated due to slow execution of works.

Further, as at March 2022, the contractor had been paid an amount of Kshs.478,350,899 which included advance payment of Kshs.153,344,130. However, Athi Water Works had performance security bond which could not guarantee the recovery of the paid amounts. Physical verification carried out in October, 2023 revealed that the project had stalled.

In the circumstances, the value for money for the expenditure amount of Kshs.478,350,899 may not be realized.

1217.2 Changamwe Re-pooling Sewer Network

As reported in the previous year's report, the contract for construction of Changamwe Re-pooling Sewer Network, was awarded to a company at a contract sum of Kshs.204,483,295. The contract commencement date was 14 December, 2018 with an expected completion date of 14 June, 2020, which was later extended to 14 January, 2021. As at 30 June, 2023, 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 on a lawsuit by the contractor against the Athi Water Works Development Agency (AWWDA) for breach of contractual agreement that restrained the Agency from evicting the Contractor from the construction site and appointing another contractor to proceed with the implementation of the works, pending the hearing and determination of the suit. As at the time of the audit the matter has been referred to arbitration.

Further, physical verification carried out in October, 2023 revealed that manholes constructed had been vandalized and filled with litter, an indication that the project will require additional costs. In addition, the piping works were done for about 3km out of the expected 15km, while the overall work completed was estimated to be about 15%. It is therefore not clear if the works will be completed due to the ongoing lawsuit.

In the circumstances, the value for money for the expenditure amount of Kshs.72,816,261 may not be realized.

1218. Slow Implementation of Projects

1218.1 Makutano Water Supply and Sewerage Project

The statement of receipts and payments as disclosed in Note 8 to the financial statements reflects an amount of Kshs.965,526,309 with respect to the acquisition of non-financial assets-AWWDA which includes Kshs.888,530,439 for construction of civil works, out of which Kshs.167,947,888 was paid to a contractor for the construction of Makutano Water Supply and Sewerage Project. The contract for the works was awarded to a contractor at a contract sum of Kshs.689,651,518 with a commencement date of 09 September, 2020 and an expected completion date of 08 April, 2021 which was later extended to 31 December, 2023.

However, physical verification of the project done in October, 2023, revealed that the overall project progress was at 63% against a time-lapse of 95% or about 2 months to the end of the project duration. It is unclear when the project will be completed as some work components in the waste stabilization pond such as anaerobic pond and maturation pond had not started.

In the circumstances, the value for money for the expenditure amount of Kshs.167,947,888 may not be realized.

1218.2 Machakos Water Supply Project

Further, the acquisition of non-financial assets-TAWWDA expenditure of Kshs.351,157,378 includes an amount of Kshs.299,379,178 for the construction of civil works as disclosed in Note 8.1, to the financial statements, out of which Kshs.163,551,943 was paid to a firm for the construction of Machakos Water Supply Project.

However, review of the project documents and physical inspection done in October, 2023 revealed that the overall project progress was at 57% and some work components including source works, raw water mains, rising mains, gravity transmission mains and electrical mechanical water supply had not been completed with the delay being attributed to a lawsuit filed by Project Affected Persons (PAPs) which required all project works to be stopped. The case was set aside on 29 January, 2021 and a resumption order was issued to the Contractor on 08 March, 2021 except for the Miwongoni dam site.

As reported in the previous year, even though the AWWDA is undertaking engagements with (PAPs) in a bid to acquire land for the dam site and the National Land Commission (NLC) is 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 amount of Kshs.163,551,943 may not be realized.

1218.3 Machakos Sewerage Project

Further, the amount of Kshs.299,379,178 for the construction of civil works as disclosed in Note 8.1 to the financial statements includes Kshs.89,367,307 paid to a Contractor for

the construction of the Machakos Sewerage Project. However, review of the project documents and physical inspection done in October, 2023 revealed that some work components including sewage treatment plant, consumer connections sewer, electro-mechanical sewerage and rehabilitation works were ongoing or not started due to delays in acquisition of the sewer treatment plant land. The projects overall progress was at 55% as at June, 2023 with a revised extension of completion date to 14 June, 2024.

In the circumstances, the value for money for the expenditure amount of Kshs.89,367,307 may not be realized.

1218.4 Construction Works for Water Distribution for Malindi/Watamu Project

The statement of receipts and payments as disclosed in Note 8.2 to the financial statements reflects an amount of Kshs.158,969,243 in respect to acquisition of non-financial Assets-CWWDA which includes Kshs.30,057,160 paid to a contractor for the construction of water distribution line for Malindi/Watamu. The contract sum was Kshs.288,793,278 effective 26 August, 2020 and the expected completion date was 26 February, 2022 which was later extended to 25 November, 2022. As at the time of the audit in October, 2023 the works were substantially complete. However, physical verification carried out in October, 2023 revealed that the water pipeline constructed especially in the Mkaomoto and Gede areas has been encroached on by residents and may result in illegal connections and damage to the pipeline.

Further, the contract's bills of quantities include nine thousand one hundred (9,100) meters of consumer connections to the newly constructed line, however, only two thousand three hundred and eight two (2,382) meters representing 26% of total works have been connected as at the time of the audit. Review of documents provided for audit revealed that the Contractor and Malindi Water and Sewerage Company (MAWASCO) were having challenges identifying and connecting existing customers on the old pipeline to the new pipeline due to illegal connections since the said customers were not in the MAWASCO database. Measures being taken if any to prevent encroachment of the pipeline and ensure connections for those not in the database was not provided for audit review.

In addition, though the project was 93% complete with the last Interim Payment Certificate (IPC) No.6) having been paid to the contractor on 27 June, 2023, no Certificate of Partial Completion (CPC) had been issued as at the time of audit in October, 2023.

In the circumstances, the value for money for the expenditure amount of Kshs.30,057,160 may not be realized.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1219. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1220. As required by the provisions of the Financing Agreement - Credit No: P-KE-E00-011 dated 9 January, 2017 between the African 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 Program and the Program'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

Unmodified Opinion

1221. There were no material issues noted during the audit of the financial statements of the Programme.

Other Matter

1222. Unresolved Prior Year Matter

As previously reported, title deed for parcels of land valued at Kshs.7,325,775 had not been acquired. Further, Annex 4(c) to the financial statements shows an analysis of other pending payables on land acquisition. This relates to various parcels of land whose value had been paid to a sum of Kshs.15,826,526 or 60% of the payable amounts for each parcel. The Management explained that these parcels of land are pending succession suit in court and that the balance will be paid upon finalization of the transfer of ownership. However, the matter had been outstanding for a long period and no progress had been achieved from the prior years.

In the circumstances, the matter remains unresolved.

1223. Outstanding Pending Bills

Note 1 of other important disclosures and Annex 4a to the financial statements reflects pending account payables balance of Kshs.546,814,650 as at 30 June, 2023. Further, Annex 4c reflects land acquisition pending payables balance of Kshs.1,593,828 that had been outstanding for a period of more than three (3) years.

In the circumstances, the nonpayment of pending bills would indicate inadequate funding or disputed amounts in implemented works and services.

1224. Budgetary Control and Performance

The statement of budget and actual amounts reflects budgeted receipts and expenditure of Kshs.3,030,974,000 against actual receipts and payments of Kshs.1,501,552,313 resulting to budget shortfall and under-expenditure of Kshs.1,529,421,687 or 50% of the budget.

The underfunding and 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

Basis for Conclusion

1225. Delayed Completion of Projects

Physical verification of eight (8) water infrastructure projects with a total contract sum of Kshs.5,720,431,921 revealed that the projects were delayed due to various reasons.

Further, review of records including contract agreements for the works being implemented by both Tana Water Works Development Agency and Northern Water Works Development Agency indicated that contract agreements for the implementation of the Projects were signed in 2018 and early 2019 with various revised completion dates. However, the completion dates of 7 out of the 8 projects had since expired without completion. In addition, the remaining project's scope of works may not be achieved within the remaining time frame. Furthermore, the Mandera Water Supply project had stalled with a dispute lodged by the contractor in court.

In the circumstances, there is risk of the projects not being completed successfully thereby denying the public the benefits that were to arise from them.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1226. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1227. 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 Management of the Programme, and the Programme's financial statements agree with the accounting records and returns.

**KENYA TOWNS SUSTAINABLE WATER SUPPLY AND SANITATION
PROGRAM CR.NO. P-KE-E00-011 (AFDB LOAN NO.200020000501) –
CENTRAL RIFT VALLEY WATER WORKS DEVELOPMENT AGENCY**

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1228. There were no material issues noted during the audit of the financial statements of the Program.

Other Matter

1229. Budgetary Performance and Control

The statement of comparison budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.2,664,000,000 and Kshs.2,276,266,082 respectively resulting to an under-funding of Kshs.387,733,918 or 15% of the budget. Similarly, the Project expended Kshs.2,287,942,664 against an approved budget of Kshs.2,664,000,000 resulting to an under-expenditure of Kshs.376,057,336 or 14% of the budget.

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

1230. Unresolved Prior Year's Audit Issues

In the audit of the previous year, several paragraphs were raised under the Report on the Financial Statements. However, the issues remained unresolved as Parliament has not deliberated on the same.

In the circumstances, the issues remain outstanding.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1231. Lack of a Project Designated Bank Account

The statement of financial assets reflects a nil bank balance. However, the program's cash book, bank reconciliation statements and certificate of bank balance were not provided for audit. Further, as reported in the previous years, the Program does not maintain a designated bank account and its activities funded by GoK are undertaken through the implementing Agency (Central Rift Valley Water Works Development Agency) bank account. This is 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 project Management was in breach of the law and further it was not possible to confirm the nil bank balance.

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

Basis for Conclusion

1232. Delayed Projects Implementation

Review of records provided on ten (10) projects revealed the following matters affecting successful implementation of the projects as shown 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	As previous reported Advance payment of Kshs.22,861,999 paid to the contractor attached by Kenya Revenue Authority leading to project stoppage which remains unresolved.
2.	Kabarnet Last Mile Connectivity	113,331,422	93,187,633	Kshs.45,122,857 or 39% of the contract relates to discretionary expenditure. Retention of Kshs.2,833,286 paid before completion of all works and lapse of default liability period. Variation of Kshs.7,022,368 paid without following proper procedures.
3.	Acquisition of Land	132,096,056	122,560,948	Land acquired without seeking the approval of the land commission. Further, land valued at Kshs.28,877,000 differed with the negotiated price of Kshs.71,610,980 resulting to excess payments of Kshs.42,733,980. As previously reported, 32.17 acres valued at Kshs.61,784,802 remain 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.95,766,392 not supported by a valid bank guarantee. The recoverability of the advance is therefore doubtful. The project has stalled.

No.	Particulars	Contract Value (Kshs.)	Payments to Date (Kshs.)	Comments
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	484,572,959	Project variation of Kshs.72,569,718 not supported by relevant approvals and with no objection letter from donor.
7.	Cheparareira Sewerage Project	217,096,202	176,927,655	Variations of Kshs.13,741,053 not recommended by the tender evaluation committee.
8.	Malaba Water Supply Project Lot 1	654,336,922	280,920,770	Lack of access and wayleaves for sections of the project are delaying implementation.
9.	UngunjaSega Ukwala Water Supply & Sanitation Project	1,053,018,445	794,467,617	Payments made in excess of bills of quantity price Kshs.24,510,076 and change of scope variation of Kshs.81,974,434
10.	Kiptogot Kolongo Water Supply	1,200,043,073	1,013,926,204	Variations of Kshs.90,476,269 and change of scope Kshs.59,259,939 made without following due process. Pending works of Kshs.85,156,407 remain incomplete and unfunded.

Failure to implement projects as planned may have negatively impacted on delivery of goods and services to the residents of Kenya.

1233. Delay in Program Funding

The Program 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, 2025. However, out of the total donor commitment total loan balance of Kshs.15,953,306,157 only Kshs.9,679,866,018 (or 61%) has been disbursed leaving a balance of Kshs.6,273,440,139 undrawn. Equally, out of the total Government of Kenya counterpart funding balance of Kshs.2,073,227,699 only Kshs.569,059,620 (or 27%) leaving undrawn balance of Kshs.1,504,168,049.

In the circumstances, the delay in funding will negatively affect the implementation and overall achievement of the Program's objectives considering the limited period remaining before its closure. The project may not be able withdraw and absorb the remaining funding within the remaining period.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1234. 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 Program'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

1235. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1236. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.564,549,595 and Kshs.471,581,158 respectively, resulting to an underfunding of Kshs.92,968,437 or 16% of the budget. Similarly, the Project spent Kshs.422,078,996 against the budgeted amount of Kshs.564,549,595 resulting to an under absorption of Kshs.142,470,599 or 25% 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.

1237. Unresolved Prior Year Matters

In the audit report of the previous year, an issue was raised under the Report on Lawfulness and Effectiveness in Use of Public Resources. 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

Conclusion

1238. 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

1239. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1240. As required by 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 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 Management 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

1241. 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 is no documented movement between the closing fund balance of Kshs.14,190,152 as at 30 June, 2020, and the reported balances as at 30 June, 2023, 30 June, 2022 and 30 June, 2021 financial years. Although the Management indicated 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, 2023 reflected in the financial statements could not be confirmed.

1242. Unsupported Cash Movement

The statement of financial assets reflects a nil cash and cash equivalents balance as at 30 June, 2023 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 spent given that the Project did not record any receipts or payments in 2020/2021, 2021/2022 and 2022/2023 financial years.

Under the circumstances, the accuracy and completeness of the reported cash balance could not be confirmed.

1243. Inaccuracies in the Presentation of the Financial Statements

The header of the financial statements indicates Kisii Water Supply and Sanitation Projects Annual Reports and Financial Statements, instead of Kisii Water Supply and Sanitation Project Annual Report and Financial Statements. Further, the pages in roman numbers are incomplete and are not sequentially numbered.

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

Other Matter

1244. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects nil budget and nil actual receipts and payments. 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 and workplans were not provided for audit review. In addition, the Management did not indicate how the Project would be funded after the initial financier declined to finance 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

1245. 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, Management was in breach of the law.

1246. 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 Bunyonyu Dam Water Project increased to EUR.90,000,000 equivalent to Kshs.10.8 billion from its original cost estimated at EUR.551,475,000 equivalent to Kshs.66,103,000. 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, 2023 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

1247. 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

1248. Unsupported Cash and Cash Equivalents, Failure to Open Bank Account and Maintain a Separate Cash Book

The statement of financial assets and as disclosed in Note 8 to the financial statements reflects an amount of Kshs.16,934,723 under cash and cash equivalents. The bank balance was not supported by cash book, bank account or bank reconciliation. In addition, 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 is contrary to Regulation 76(1) of 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. Section 6.1 (d) of the Financing Agreement states that the receipt 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 cash and cash equivalents of Kshs.16,934,723 could not be confirmed and the Management was in breach of the law and the Financing Agreement.

1249. Unsupported Accumulated Surplus

The statement of receipts and payments reflects an amount of Kshs.4,299,033,002 and Kshs.4,283,698,279 under cumulative receipts and cumulative payments respectively, resulting to a cumulative surplus of Kshs.15,334,723. However, the cumulative surplus differs with the reported bank balance of Kshs.16,934,723 by Kshs.1,600,000. The Management did not provide evidence for the accumulated surplus as there was no separate cash book to support the reported receipts and payments.

In the circumstances, the accuracy of the accumulated surplus and cash and cash equivalents balance could not be confirmed.

Other Matter

1250. 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 Lawfulness and Effectiveness in Use of Public Resources. However, the Management has not resolved any of the issues or provided any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury and Planning Circular reference No. AG.4/16/3 Vol.11(66) dated 6 July, 2022 which required the Accounting Officer to clear the audit issues raised in the previous year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1251. Lack of Land Ownership Documents

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an amount of Kshs.196,477,340 in respect of acquisition of non-financial assets (rehabilitation of civil works). This amount was paid to a foreign contractor at a contract sum of Kshs.1,189,805,385 in respect of the expansion of Kericho Water Supply systems.

Review of engineer's progress report indicated that works were deemed substantially complete on 30 September, 2022 and that the project was currently under defect liability period which expired on 30 September, 2023. Physical verification of the project in the month of October, 2023 revealed that the project had been commissioned and operational. However, no ownership documents were provided for the land on which the treatment plant stands.

In the circumstances, the ownership of the parcel of land on which the treatment plant stands could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1252. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1253. 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 Management of 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

1254. Failure to Open a Separate Project Bank Account

The statement of financial assets reflects cash and cash equivalents balance of Kshs.58,975,106 and as disclosed in Note 5A to the financial statements. However, the balance was not supported with a bank statement and a corresponding bank reconciliation statement. Further, the Project's implementing agency does not operate a separate bank account for the Project but instead manages the Project funds in the Agency's bank accounts together with other Agency funds.

In the circumstances, the cash and cash equivalents balance of Kshs.58,975,106 could not be confirmed.

Other Matter

1255. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted expenditure amount of Kshs.25,500,000 against actual expenditure of Kshs.12,429,692 resulting to an underexpenditure of Kshs.13,070,308 or 51% 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

Conclusion

- 1256.** 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

- 1257.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

- 1258.** 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 Management 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

- 1259.** There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1260. Budgetary Control and Performance

The Project spent Kshs.26,015,413 against an approved budget of Kshs.48,246,475 resulting to under-absorption of Kshs.22,231,062 or 46% of the budget. The under-expenditure affected the planned activities of the Project and may have impacted negatively on service delivery to the public.

1261. 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, 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

Conclusion

1262. 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

Conclusion

1263. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1264. As required by Financing Agreement Loan BMZ No.2020.82.527/KV 26833 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 Management of 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 PROJECT (CREDIT NUMBER CKE-1074) - ATHI WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1265. Non-Disclosure of the Government of Kenya Funding

The financial statements under review did not include the portion for the Government contribution to the project which was budgeted as Kshs.1,249,000,000 whereas the actual amount received for the year total Kshs.775,161,950. Management did not provide satisfactory explanation for the non-disclosure of the receipts.

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

Other Matter

1266. 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.

1267. Budgetary Control and Performance

The statement of comparative of budget and actual amounts reflects a final receipts budget and actual on comparable basis of Kshs.2,650,857,539 and Kshs.2,960,119,931 respectively resulting to an overfunding of Kshs.309,262,392 or 12% of the budget. Similarly, the Project expended Kshs.2,959,012,281 against an approved budget of Kshs.2,650,857,539 resulting to an over expenditure of Kshs.308,154,742 or 12% of the budget.

This is contrary to Regulation 44(2) of the Public Finance Management (National Government) Regulations, 2015 which states that National Government entities shall execute their approved budgets based in the annual appropriations, and the approved annual cash flow plan with exception of unforeseen and unavoidable spending dealt with through the Contingencies Fund, or supplementary estimates.

The overfunding and over expenditure of the Project affect other priority projects and may impact adversely the delivery of the priority projects to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1268. Failure to Maintain Separate Bank Account

The Management did not maintain a separate project bank account for the Government of Kenya contribution to the Project. However, the funds received were credited to the Agency'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 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 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, Management was in breach of the law.

1269. Low Utilization of Kigoro Water Treatment Plant

The Project was awarded to a construction company at a contract sum of EUR 32,272,190 or equivalent to Kshs.1,116,019,524 inclusive of tax. The contract commencement date was 16 May, 2016 with the completion date of 16 May, 2018.

However, physical inspection done in 4 October, 2023 revealed that the plant was only operating at 30% supplying water to the Ngethu Treatment Plant for a period of thirty-six (36) months since its completion date but continues to incur a monthly estimated cost of operations of Kshs.10,500,000 which includes cost of electricity in running and maintenance of the electro mechanical equipment of the plant. Further, the contractor charged EUR 341,166.01 equivalent to Kshs.53,000,000 additional charges due to delay in the implementation of other complementary phases.

In the circumstances, the value for money realized from the project could not be confirmed.

1270. Delay in Compensation of Persons Affected by the Project (PAPs)

Review of the documents provided revealed that fourteen (14) land owners are yet to be fully compensated for land acquired by Athi Water Works Development Agency for the development of the Project, while nineteen (19) land owners for way leave are pending compensation. The reasons provided for the delay include a lack of ownership records and family disputes. This has caused significant delays in project implementation which may lead to escalation in cost and lack of value for money.

1271. Delay in Completion of Ablution Blocks

The statement of receipts and payment reflects the acquisition of non-financial assets payments totalling Kshs.2,958,437,322. The balance includes an amount of Kshs.2,860,664,794 for construction of civil works as disclosed in Note 8 to the financial statements, out of which Kshs.50,414,880 was paid to a contractor for the construction of ten (10) sanitation blocks within Nairobi informal settlements in Kawangware, Mukuru kwa Reuben, Kibera, Huruma and Mathare. The contract was awarded to a contractor at an original contract price of Kshs.70,631,818. The date of commencement was 18 May, 2018 for one (1) year period ending 17 May, 2019. However, the project experienced delays in its implementation which led to an extension of the contract period to 14 December, 2022. Further, the cost increased to Kshs.85,823,573, an increase by 22% of the initial contract sum.

Review of project progress reports revealed that as at 30 June, 2023, the project progress was estimated at 86% completion while the project contract period had lapsed. Further, available information revealed that the project had been subcontracted to another company to complete after the main contractor experienced cash flow challenges. However, at the time of the audit in October, 2023, construction of five (5) of the blocks in New Blue Kibera, Fort Jesus Kibera, Dam Site Kibera, Kambi Safi in Mathare, and

Madoya in Huruma were incomplete. Further, several project sites lack sewer and water supply connections thus affecting the efficiency of the bio-centers.

In the circumstances, there was undue delay in implementation of the project leading to an escalation of costs, implying that the public may not get value for the money.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1272. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1273. As required by the Agence Francaise 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 Management of the Project and the Project's financial statements agree 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

Unmodified Opinion

1274. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1275. Unresolved Prior Year Issues

In the audit report of the previous year, several paragraphs were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in the Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not resolved the issues nor given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board template.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1276. 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

1277. 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) FOR THE YEAR ENDED 30 JUNE, 2023 - ATHI WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1278. There were no material issues noted during the audit of the financial statements of the Program.

Other Matter

1279. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,760,802,082 and Kshs.1,646,991,676 respectively resulting in underfunding of Kshs.113,810,406 or 6% of the budget. Similarly, the statement reflects budgeted expenditure of Kshs.1,760,802,082 against actual expenditure of Kshs.1,626,499,677 resulting to an under expenditure of Kshs.134,302,404 or 8% of the budget.

The underfunding and under expenditure affected implementation of 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

1280. Delayed Payments

The contract for construction of Nairobi Informal Settlements Water and Sanitation Intensification Works was signed on 7 September, 2022 at a contract sum of Kshs.298,935,863 with a commencement date of 31 October, 2022 and completion date of 30 April, 2024. The works involved construction of twenty five (25) ablution blocks in selected areas and ten (10) pilot fresh life toilets in Mukuru estate.

Clause 14.2 of the General conditions to the contract provides for advance payment of up to twenty percent (20%) of the total accepted amount upon request by the contractor to facilitate smooth implementation of works. Further, the advance payment facility should be paid to the contractor within twenty-eight (28) days upon request in accordance with clause 14.8 of the contract. However, advance payment of Kshs.59,787,172 requested on 11 November, 2022 by the contractor was not paid as at 30 June, 2023, more than seven (7) months after the request was made.

Delay in processing of the advance payment to the contractor exposes the Government to additional interest and penalties of Kshs.8,370,204 at the rate of two percent (2%) per month charged on the unpaid amount of Kshs.59,787,172 for the seven months (7) period in which the payment has been outstanding.

In the circumstances, the Management was in breach of contractual obligations and the delayed payment will continue to attract unnecessary interest charge leading to lack of value for money.

1281. Avoidable Interest Charges

The statement of receipts and payments reflects acquisition of non-financial assets amounting to Kshs.1,604,956,330 which as disclosed in Note 8 to the financial statements reflects Kshs.326,812,648 in respect of measured works on construction of East and West of Nairobi Reticulation Sewers component. Records provided for audit indicate that the contract was awarded to an engineering firm on 29 July, 2021 at a contract sum of Kshs.1,278,465,431.

However, additional interest accumulation on late or non-payment charges amounting to Kshs.20,052,643 in excess of the contract value have been occasioned by failure to pay the contractor in accordance with contract terms and conditions that require payments to be made within fifty six (56) days upon presentation of Interim Payment Certificates (IPCs) and concurrence to pay. No reasons were given why these avoidable expenditures were incurred given that the Donor, AfDB, pays the contractors promptly after the payment request is submitted.

The payment of interest as a result of delayed payments leads to loss of Government funds which could have been avoided.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1282. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1283. 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 Management of the Project and the Project's financial statements agree with the accounting records and returns.

BURA REHABILITATION DEVELOPMENT PROJECT - NATIONAL IRRIGATION AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1284. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1285. Budgetary Control and Performance

The statement of comparative budget and actual amounts for the year ended 30 June, 2023 reflects budgeted receipts and actual on a comparable basis of Kshs.1,254,951,706 and Kshs.672,153,611 respectively resulting in a shortfall of Kshs.582,798,095 or approximately 47% of the approved budget. Similarly, the statement reflects actual on comparable basis expenditure of Kshs.851,727,344 against an approved budget of Kshs.1,254,951,706 resulting in an under-absorption of Kshs.403,224,362 or approximately 32% of the budget.

The under-funding and under-performance affected the planned activities and may have impacted negatively on service delivery to the stakeholders.

1286. 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

Basis for Conclusion

1287. Delayed Completion of Project

The Project goals were the rehabilitation of irrigation works and provision of equipment, extension services and credit to allow reliable irrigation of 15,000 acres. The planned completion time of the Project was ten (10) years commencing from 27 May, 2013 to 13 December, 2023. The project had three (3) major components;

Phase 1: Construction of diversion facilities at Korakora site, riverbank protection works and sedimentation basin (90% complete)

Phase 2: Construction and lining of connecting canal with discharge capacity of 11m³/sec and 26.3 km in length (38% complete).

Phase 3: Rehabilitation and lining of existing irrigation infrastructure (0%).

However, the following anomalies were noted.

- i. The contract for Phase 1 was awarded on 4 June, 2019 to a limited company for contract sum of Kshs.1,786,927,859 for a period of twelve (12) months. The completion date was revised to 30 December, 2022 from 23 June, 2022. Review of Phase 1 progress as of 30 June, 2023 revealed that total certified works as per the current IPC No. 6 was Kshs.1,489,615,052 or 83% against total payments of Kshs.1,467,202,128 or 82% of the contract sum.
- ii. The contract for Phase 2 was awarded on 10 March, 2021 to a joint venture between two companies for a contract sum of Kshs.1,764,278,550 and commenced on 7 April, 2021 for a duration of eighteen (18) months and was expected to be practically completed on 7 October, 2022 but was further extended to 22nd May, 2023. Review of phase 2 progress as at 30 June, 2023 revealed that total certified works as per the current IPC No. 5 was Kshs.703,414,938 or 40% against total payments of Kshs.476,837,755 or 27% of the contract sum. This, therefore indicated that the project was behind schedule.
- iii. Phase 3 of the project that entailed rehabilitation and lining of existing irrigation infrastructure had not begun, as at the time of physical inspection in the month of October, 2023, hence the project is behind schedule

In the circumstances, the project has not met its strategic goals and hence value for money to the public may not be obtained.

1288. Failure to Open and Maintain a Project Bank Account

The statement of financial assets reflects bank balance of Kshs.911,897,623 as disclosed in Note 11 to the financial statements. However, the Project does not have a separate account, but continued to receive the counterpart funds through the National Irrigation Authority's development bank account number. This is contrary to Regulation 76 (1) of the Public Finance Management 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.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1289. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1290. As required by OPEC, KUWAIT and BADEA Loan Agreements between the OPEC Fund for International Development, Kuwait Fund for Arab Economic Development and The Arab Bank for Economic Development in Africa respectively 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.

MWEA IRRIGATION DEVELOPMENT PROJECT – LOAN AGREEMENT NO. KE-P27 - NATIONAL IRRIGATION AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1291. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1292. Budgetary Control and Performance

The statement of comparison budget and actual amount reflects final budget and actual on comparable basis of Kshs.1,967,494,463 and Kshs.1,069,436,721 respectively resulting to an under-funding of Kshs.898,057,742 or 46% of the budget. Similarly, the Project spent Kshs.976,765,902 against an approved budget of Kshs.1,967,494,463 resulting to an under-expenditure of Kshs.990,728,561 or 50% of the budget.

The under-funding and under-performance affected the planned activities and may have impacted negatively on service delivery to the stakeholders.

1293. Unresolved Prior Year Audit Issues

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 USE OF PUBLIC RESOURCES

Basis for Conclusion

1294. Long Outstanding Pending Bills

Note 7 of other important disclosures reflects pending accounts payables balance of Kshs.803,087,704 as disclosed under Annexure 4a. Included in this amount is Kshs.5,720,737 payable to Project Affected Persons (PAPs) which has been outstanding for more than a year and other, interim payment certificates worth Kshs.797,366,967 payable to an international firm, two (2) constructions companies and a consultant were outstanding as at 30 June, 2023 out of which Kshs.494,849,993 was outstanding for more than a year. The Management did not provide satisfactory explanation for the delay in payment although the donors remitted funds to pay the contractors promptly after a payment request was submitted.

The Project risk additional charges of penalties and interest and legal litigations by lack of compensation to the displaced persons.

1295. Avoidable Interest on Delayed Payments

Review of the interim payment certificates totalling to Kshs.727,369,361 includes an amount of Kshs.40,599,359 being interest for delayed payments for package 1 contract for construction of the Thiba Dam and appurtenant facilities. The payments had been delayed for more than twenty-eight (28) days contrary to the contract agreement which resulted in extra charges totalling to Kshs.40,599,359.

The Project Management risk incurring additional costs in case of claim of penalties and interest from the contractor.

1296. Slow Project Implementation

The National Irrigation Authority entered into contract under Lot 1 for construction and civil works for irrigation facilities with a Contractor at a contract sum of USD 8,519,610 equivalent to Kshs.920,117,880. The construction commenced on 22 March, 2021 and was expected to be completed on 3rd October, 2023. As at 30 June, 2023, the completion status of the project was 33%. Physical inspection conducted in the month of October, 2023, had completion status of 35% casting doubt on timely completion of the project.

Further, the Authority entered into a contract under Lot 2 for civil works of drainage facilities and other works at contract a sum of USD 6,487,899.83 equivalent to Kshs.700,693,182. The works commenced on 22 March, 2021 and were expected to be

completed by 4 October, 2023. As at 30 June, 2023 the completion status of the project was at 47%. Physical inspection conducted in the month of October, 2023, had completion status of 50% casting doubt on timely completion of the project.

In the circumstances, the project may not be completed on time casting doubt on whether the public will obtain value for money.

1297. Failure to Open and Maintain a Project Bank Account

The statement of financial assets reflects bank balance of Kshs.105,390,602 as disclosed in Note 11A to the financial statements. The balance comprises of Kshs.4,899,293 and Kshs.100,491,309 in accounts belonging to the Authority. The Project does not have a separate account, but continued to receive the counterpart funds through the National Irrigation Authority's development bank account. This is contrary to Article I Section 1.2 (j) of the Subsidiary Loan Agreement between the Government of Kenya and National Irrigation Authority that requires the Project to open a separate bank account for the purpose of receiving and accounting for counterpart funds.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1298. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1299. As required by Loan Agreement No. KE-P27 between the Japan International Corporation Agency (JICA) and the Republic of Kenya, except for the matters under Other Matter and the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources sections of my report, 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 of 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

Unmodified Opinion

1300. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1301. Pending Accounts Payables

Note 1 on Other Important Disclosures reflects pending accounts payable of Kshs.186,824,079 as at 30 June, 2023 out of which Kshs.538,349 includes a claim by a consultant that has remained outstanding for over three (3) financial years. Management did not provide satisfactory explanations for failure to settle the claim. This exposes the Project to the risk of incurring interest costs and penalties with the continued delay in settling the claims as required 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.

1302. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final budget and actual receipts on comparable basis of Kshs.346,250,000 and Kshs.30,427,736 respectively, resulting to an underfunding of Kshs.315,822,264 or 91% of the budget. Similarly, the Project spent Kshs.29,459,951 against an approved budget of Kshs.346,250,000 resulting to an under-expenditure of Kshs.316,790,049 or 91% of the budget. The significant under-absorption is an indicator that the Project's implementation is behind schedule with only five (5) months remaining to the closure of the Project in November, 2023.

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

1303. 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 Circulars.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1304. Failure to Open and Maintain a Project Bank Account

The statement of financial assets reflects cash and cash equivalents balance of Kshs.36,511,532 as disclosed in Note 11 to the financial statements. However, the Management does not have a separate Project account, and continued to receive the counterpart funds through the National Irrigation Authority'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 Central Bank of Kenya.

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

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

Conclusion

1305. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1306. As required by Credit Facility Agreement between the Government of Spain and the Republic of Kenya, except for the matters under Other Matter and the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources sections of my report, 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 Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

IMPROVEMENT OF DRINKING WATER AND SANITATION SYSTEMS IN MOMBASA: MWACHE PROJECT (CREDIT No. AFD LOAN NO.CKE 1103 01 C) – COAST WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1307. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1308. 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.897,596,864 and Kshs.81,445,674 respectively resulting to underfunding of Kshs.816,151,190 or 91% of the budget.

Similarly, the statement of receipts and paymentss for the year ended 30 June, 2023 reflects total cumulative receipts to date as Kshs.478,649,971. The amount includes Kshs.400,853,423 equivalent to EUR 3,215,124 being receipts from the AFD. The total amount received to date from AFD accounts for only 2.8% of the donor project funds

commitment of Kshs.14,025,996,000. No explanation was provided for non-receipt of the funds as per the signed financing agreement that is due to expire on 1 March, 2024.

The underfunding affected the planned activities of the Project and may impact negatively on service delivery to the public.

1309. 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. Although Management has indicated the status of the issues as resolved, no evidence was provided to support that position.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1310. Slow Implementation of the Mwache Project

The statement of receipts and payments and as disclosed in Note 8 to the financial statements reflects an amount of Kshs.318,922,083 in respect of acquisition of non-financial assets which includes a balance of Kshs.250,083,716 in respect of research, studies, project preparation, design & supervision.

Review of records revealed total expenditures of Kshs.49,182,760 in respect of consultancy services for preparation of preliminary design, tender documents, safeguards for Environmental and Social Impact Assessment (ESIA). Further, the consultancy services related to resettlement action plans (RAP) reports and construction supervision of Mwache Water treatment plant. In addition, expenditure amounting to Kshs.41,860,520.80 was spent on consultancy services for preparation of detailed designs, tender documents, safeguards (ESIA AND RAP) reports and construction supervision of Mwache dam transmission pipelines and associated terminal reservoirs. However, the water treatment plant and the transmission pipeline works had delayed and may not be completed within the contract period of 19 December, 2025 and 30 September, 2024 respectively. The delay was necessitated by the need to allow the completion of the Dam to avoid running the water treatment plant when there is no production.

Review of records revealed that an expenditure of Kshs.68,838,368 was incurred for emergency works for increasing water availability in Likoni. Review of the project site minutes in respect of the project revealed that there was slow progress in project implementation that Management attributed to cashflow problems.

In the circumstances, delays in project implementation may lead to cost overruns.

1311. Lack Motor Vehicles Ownership Documents

The statement of receipts and payment reflects payments for acquisition of non-financial assets amounting to Kshs.318,922,083. The expenditure includes a payment of Kshs.68,838,368 to a contractor which further includes an interim payment certificate

No.3 which was a direct payment of Kshs.9,034,000 for purchase of two (2) vehicles registration numbers KDL 279G and KDL 280G. However, insurance documents provided for audit indicated that the vehicles were not insured in joint ownership as per the contract agreement signed with the contractor. Management explained that the vehicles will be registered jointly on expiry of the contract which was not satisfactory since it was contrary to the signed agreement. Further, the logbook in support of ownership of one (1) vehicle was not provided for audit and the vehicle was not physically available, hence, its existence could not be confirmed.

In the circumstances, the regularity of the expenditure of Kshs.9,034,000 and the existence and ownership of the vehicles could not be confirmed, raising doubt on the value for money on the expenditure.

1312. Special Accounts Statement

The statement reflects an amount of EUR 2,000,000 (equivalent to Kshs.233,400,000) reflected under amounts withdrawn and not yet claimed, whose expenditure returns had not been submitted to The National Treasury as at 30 June, 2023. Failure by the implementing agency to submit expenditure returns since the previous financial year is contrary to the financing agreement.

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

Conclusion

1313. 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

1314. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1315. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final budget and actual receipts on comparable basis of Kshs.98,500,000 and Kshs.77,500,000 respectively, resulting to an underfunding of Kshs.21,000,000 or 21% of the budget. Similarly, the Project spent Kshs.3,481,289 against an approved budget of Kshs.98,500,000 resulting to an under-expenditure of Kshs.95,018,711 or 96% of the budget.

The under-funding and under-expenditure affected the planned project's activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1316. 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

1317. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1318. As required by the African Water Facility Special Fund Grant Agreement No.5600155005153 dated 30 July, 2020 between the African 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 Management of the Project and the Project's financial statements agree with the accounting records and returns.

BUSIA-PORT VICTORIA HOUSEHOLD SANITATION PROJECT GRANT/CREDIT NO.02HS/LVNWWDA/BUSIA/054 - BUSIA WATER AND SEWERAGE SERVICES COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1319. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1320. Failure to Close the Project

Records available indicate that the Project was to commence on 25 September, 2020 and end on 31 December, 2021. However, as at 30 June, 2023, the Project had not been closed. No explanation was provided for the failure to close the Project in accordance to the provisions of the Financing Contract.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1321. 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

1322. Lack of Internal Audit Reports

There were no internal audit reports provided for the Project during the financial year under review contrary to Section 155(1) (a) of the Public Finance Management Act, 2012, which states that, a County Government entity shall ensure that it complies with this Act and has appropriate arrangements for conducting internal audit according to the guidelines issued by the Accounting Standards Board.

In the circumstances, effectiveness of internal controls, risk management and overall governance could not be confirmed.

NAMBALE-MJINI-MAYENJE WATER PROJECT GRANT/CREDIT NUMBER 08W/BUSIA/BUSIA/97 – BUSIA WATER AND SEWERAGE SERVICES COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1323. Unsupported Expenditure

The statement of receipts and payments reflects an amount of Kshs.1,094,498 in respect of purchase of goods and services as disclosed in Note 2 to the financial statements. However, out of the amount, expenditure totalling Kshs.733,000 was not supported by payment vouchers and related documents.

In the circumstances, accuracy, completeness and propriety of expenditure of Kshs.733,000 could not be confirmed.

Other Matter

1324. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts of Kshs.18,640,493 against actual income of Kshs.8,067,759 resulting to an under-collection of Kshs.10,572,734 or 57% of the budget. The statement further reflects

budgeted expenditure of Kshs.18,640,493 against actual expenditure of Kshs.5,922,711 resulting to an under-expenditure of Kshs.12,717,782 or 68% of the budget.

The under-funding and under-expenditure may have affected the planned activities and impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1325. 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

1326. Lack of Internal Audit Function

During the year under review, the Project did not have an internal audit function. This was contrary to Section 155(1) of the Public Finance Management Act, 2012 which states that, a County Government Entity shall make appropriate arrangements for conducting internal audit according to the guidelines issued by the Accounting Standards Board.

As a result, internal controls, risk management and overall governance were not effective.

NAIROBI WATER AND SANITATION PROJECT (CREDIT NO. CKE113501H) - ATHI WATER WORKS DEVELOPMENT AGENCY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1327. Inaccuracies in the Financial Statements

The statement of receipts and payments reflects acquisition of non-financial assets amount of Kshs.134,327,477 which as disclosed in Note 8 to the financial statements includes Kshs.50,569,054 in respect of consultancy services for Kabete, Olesereni, West and South Nairobi water and sewerage project. However, payments to a contractor during the year, totalling Kshs.7,374,863 were reflected in the ledger as Kshs.6,357,640, resulting to an unexplained variance of Kshs.1,017,223.

Further, the statement of comparison of budget and actual amounts reflects loans and grants final budget of Kshs.1,330,000,000 for the year ended 30 June, 2023. However, the approved budget reflects approved amount of Kshs.1,317,500,000 resulting in an unexplained and unreconciled variance of Kshs.12,500,000.

In the circumstances, the accuracy of the statement of receipts and payments and statement of comparison of budget and actual amounts could not be confirmed.

Other Matter

1328. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipt budget and actual on a comparable basis of Kshs.1,330,000,000 and Kshs.337,392,995 respectively, resulting in an underfunding of Kshs.992,607,005 or 75% of the budget. Similarly, the Project expended Kshs.213,997,744 against an approved budget of Kshs.1,330,000,000 resulting in an underexpenditure of Kshs.1,116,002,256 or 84% of the budget.

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1329. Failure to Remit Statutory Taxes

During the year under review, the Management paid Kshs.6,578,165 to two firms for consultancy services for Kabete Olesereni, West and South Nairobi Water and Sewerage components of the Project. Review of the records revealed that, withholding tax of Kshs.259,642 in respect of the payments made had not been remitted to the Commissioner of Domestic Taxes on due date. This is contrary to Section (5)(a) of Income Tax Act CAP 470 which stipulates that where a person deducts tax he shall on or before the twentieth day of the month following the month in which the deduction was made, remit the amount so deducted to the Commissioner.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1330. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1331. As required by Agreement between the Agence Francaise De Development (AFD) 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 Management of the Project and the Project's financial statements agree with the accounting records and returns.

STATE DEPARTMENT FOR LANDS AND PHYSICAL PLANNING – VOTE 1112

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1332. Incomplete Fixed Asset Register

Annex 3 to the financial statements on summary of fixed asset register reflects total assets balance of Kshs.5,743,505,494. Review of the asset register revealed that the land valued at Kshs.1,297,261,745 excluded thirty-four (34) parcels of land from various counties that had not been valued. Further, assets valued at Kshs.4,691,752,469 were not supported by detailed schedule.

In addition, review of the physical fixed asset register revealed that it was incomplete as it did not indicate details of the assets owned and dates of acquisition, while four (4) vehicles were not supported by ownership documents.

In the circumstances, the accuracy and ownership of assets balance of Kshs.5,743,505,494 could not be confirmed.

1333. Unsupported-Long Outstanding Legal Costs

Note 16.3 on other important disclosures reflects contingent liabilities amounting to Kshs.19,543,057,083. The amount relates to legal cases lost by the State Department. However, some of the outstanding legal costs have been pending for more than two financial years and the State Department did not explain the delays in payments.

Further, status of one court case with an award of Kshs.711,588,204 was not supported by the case files. Although Management explained that the award amount had been paid by Ministry of Roads and Transport, no evidence was provided to support this fact.

In the circumstances, the accuracy and regularity of contingent liabilities balance of Kshs.19,543,057,083 could not be confirmed.

Emphasis of Matter

1334. Pending Bills

Note 16.2 on other important disclosures to the financial statements revealed that the State Department had pending bills amounting to Kshs.627,915,455 which were not paid in the year under review but were carried forward to 2023/2024 financial year. Management had not explained why the bills were not settled during the year when they occurred.

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

1335. Delayed Exchequer Releases

The statement of receipts and payments reflects Exchequer releases amounting to Kshs.4,232,634,611 as disclosed in Note 1 to the financial statements. Included in this amount is Kshs.160,058,055 and Kshs.77,416,347 received on 26 June, 2023 and 05 July, 2023 respectively being late releases. The delayed exchequer releases affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect to these matters.

Other Matter

1336. Unresolved Prior Year Issues

In the audit report of the previous year, several issues were raised under the Basis for Qualified Opinion and under Report on Lawfulness and Effectiveness in Use of Public Resources. These issues remained unresolved contrary to the provisions of Section 149(2)(l) of the Public Finance Management Act, 2012 which require the Accounting Officers designated to try to resolve any issues resulting from an audit that remain outstanding.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1337. Use of Expired Contract in Payments

Review of contract documents provided for audit, revealed that the contract for provision of clearing and forwarding services between the Kenya Postal Corporations and State Department for Lands and Physical Planning of 3 February, 2020 expired on 31 January, 2021. The Department continued to rely on the expired contract in the year under review for the services and paid an amount of Kshs.2,784,000 for services rendered. This is contrary to Section 149(2)(d) of the Public Finance Management Act, 2012 that requires that the accounting officer shall ensure all contracts entered into by the entity are lawful and are complied with.

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

1338. Avoidable Expenditure

The State Department was ordered by the court on 25 September, 2015 to pay decretal sum of Kshs.240,000,000 for Malindi Land case No. 120 of 2011. However, the State Department delayed payment resulting in accrued interest amounting to Kshs.57,565,282 which could have been avoided had Management made payments as and when they were due.

In the circumstances, the accrued interest is an irregular charge to public funds.

1339. Compensation of Employees

Review of the personnel records revealed the following anomalies;

1339.1 Non-Compliance with Law on Fiscal Responsibility Principle Wage Bill

The State Department reported total exchequer receipts of Kshs.4,232,634,011 out of which, an amount of Kshs.2,545,151,617 or 60% was spent on compensation of employee's. This is contrary to Regulation15(2) of Public Finance Management Regulations, 2015 which requires that compensation of employees (including benefits and allowances) shall not exceed 35% of the National Government's equitable share of the revenue.

1339.2 Non-Compliance with the One-Third of Basic Salary Rule

Sampled monthly payrolls revealed that one hundred and sixty-five (165) employees were earning salaries below the recommended one third of their basic salary contrary to Section19(3) of the Employment Act, 2007 that requires all deductions made by an employer from the wages or salaries of his employees at any one time shall not exceed two thirds of such wages or salaries.

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

1340. Delayed Development Projects

The State Department for Lands and Physical Planning entered into various development contracts for construction of lands offices in various Counties. Review of implementation of the projects revealed that though the extensions of the contract period were approved as at the time of audit, the contractual period for all the projects had elapsed by 30 June, 2023 indicating that the projects were significantly behind schedule and incomplete. The projects were at various completion level of between 12% and 90%.

Delayed implementation, may result to increased project costs due to litigation for breach of contract, and variations of contract sums. The delayed implementation of the projects also denied the public benefits that could have accrued from the complete projects.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1341. Lack of Risk Management Policy and ICT Steering Committee

During the year under review, the State Department did not have a Risk Management Policy and an ICT Steering Committee. Further, Management did not provide a risk assessment outlining the risk identified and mitigation measures put in place as envisaged in the Public Finance Management Act, 2012.

In the circumstances, the existence of an effective risk management system and oversight could not be confirmed.

RECEIVER OF REVENUE – REVENUE STATEMENTS - STATE DEPARTMENT FOR LANDS AND PHYSICAL PLANNING

REPORT ON THE REVENUE STATEMENTS

Unmodified Opinion

1342. There were no material issues noted during the audit of the revenue statements of the State Department.

Emphasis of Matter

1343. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects that the State Department budgeted to collect revenue amounting to Kshs.1,417,900,194. However, although the State Department achieved the overall revenue estimates, four (4) revenue streams with a budgeted revenue of Kshs.1,048,907,552 did not achieve targets resulting to a variance of Kshs.519,477,218 or 50%.

However, Management has explained that the items that registered significant under collection of revenues was due to use of the previous performance which were boosted by a one-off incidence where the State Department was contracted.

The under-collection of revenue affected the planned activities and has impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

1344. Unresolved Prior Year Issues

In the audit report of the previous year, two issues were raised under Other Matter and under Report on Effectiveness of Internal Controls, Risk Management and Governance. The issues remained unresolved contrary to the provisions of Section 149(2)(l) of the Public Finance Management Act, 2012 which require the Accounting Officers designated to try to resolve any issues resulting from an audit that remain outstanding.

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. Lack of Land Valuation Index

Examination of the State Department records revealed that it does not have an approved valuation index/valuation zonal rate to guide in the valuation and formulating policies in respect of budgeting for compulsory acquisition of land for public purpose projects. In the absence of a valuation index, the State Department has continued relying on estimated rates in land valuation and formulation of policies.

In the circumstances, the Ministry risks losing revenue in the absence of an updated land valuation index to guide in land valuation.

1347. Delayed implementation of Ardhisasa - Land Management Information System/Digital Platform

The Ministry of Lands and Physical Planning launched the Ardhisasa digital platform on 27 April, 2021 in a bid to integrate Information Communication Technology (ICT) for efficiency and effective management of the land administration. However, review of the State Department's records revealed that they operate eighty-three (83) land registries which are also revenue collection stations out of which only sixteen (16) were operating on the cashless Ardhisasa platform. This is an indication that services are not fully digitized and full migration to Ardhisasa platform has not been achieved.

In the circumstances, the effectiveness of the revenue collection system could not be confirmed.

STATE DEPARTMENT FOR INFORMATION COMMUNICATION TECHNOLOGY AND DIGITAL ECONOMY - VOTE 1122

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1348. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1349. Pending Accounts Payable

Annex 1 to the financial statements reflects pending accounts payable totalling to Kshs.464,897,210 as at 30 June, 2023. However, the annex reflects an opening balance of Kshs.21,954,928 while the audited financial statements for 2021/2022 reflects a closing balance of Kshs.178,918,663 resulting to a variance of Kshs.156,963,735 which was not explained or reconciled. The Management did not explain why the bills were not settled during the year when they occurred.

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.

1350. Budgetary Control and Performance

The summary statement of appropriation reflects final receipts budget and actual on a comparable basis of Kshs.14,485,293,970 and Kshs.11,681,365,783 respectively resulting to an under-funding of Kshs.2,803,928,187 or 19% of the budget. Similarly, the State Department expended Kshs.11,681,207,871 against an approved budget of Kshs.14,485,293,970 resulting to an under-expenditure of Kshs.2,804,086,099 or 19% 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 these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1351. Unsurrendered Authority to Incur Expenditure

Review of the financial records of the State Department revealed that Authority to Incur Expenditure (AIE) of Kshs.14,966,364 was issued to the National Land Commission (NLC) in the financial year 2019/2020. The funds were to be utilized for purchase of ICT Networking and Communication Equipment. However, the NLC did not provide expenditure returns for audit review. Management has explained that they have been

various correspondences with Management of NLC requesting for the returns without success.

In the circumstances, the value for money on the expenditure of Kshs.14,966,364 on acquisition of ICT networking equipment could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1352. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER STATE DEPARTMENT FOR INFORMATION COMMUNICATION TECHNOLOGY AND DIGITAL ECONOMY

EASTERN AFRICA REGIONAL TRANSPORT, TRADE AND DEVELOPMENT FACILITATION PROJECT IDA CREDIT NO. 5638-KE (MICT) - INFORMATION AND COMMUNICATION TECHNOLOGY (ICT) AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1353. Misstatement of Government of Kenya (GoK) Counterpart Expenses

The statement of receipts and payments reflects GoK counterpart expenses of Kshs.39,723,088, while the supporting payment documents shows a corresponding amount of Kshs.29,549,949, resulting in an unreconciled variance of Kshs.10,173,139.

In the circumstances, the accuracy and completeness of GoK counterpart expenses of Kshs.39,723,088 could not be confirmed.

1354. Unsupported Cash and Cash Equivalents Balance

The statement of financial assets reflects cash and cash equivalents balance of Kshs.14,111,176 which, as disclosed in Note 9.1 to the financial statements, includes Kshs.11,526,659 in respect of GoK counterpart funds held in an account at Citibank. However, the correctness of the latter balance could not be verified since Information and Communication Technology (ICT) Authority did not open and maintain a separate program operating account as required. Instead, two (2) bank accounts maintained at Citibank and Kenya Commercial Bank (KCB) respectively, which were not dedicated project accounts, were used for receipts and payments of counterpart funds. Further, the account at Citibank had closing cash book and bank balances of Kshs.18,438,683 and

Kshs.67,896,121, while the account at KCB had corresponding balances of Kshs.243,222,551 and Kshs.68,236,104 respectively. In addition, a separate cash book for counterpart funds was not maintained.

In the circumstances, the accuracy and completeness of the GoK counterpart balance of Kshs.11,526,659 could not be confirmed.

Other Matter

1355. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.727,000,000 and Kshs.324,973,944 respectively, resulting in an underfunding of Kshs.403,026,056 or 55% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.727,000,000 and Kshs.460,815,056 respectively, resulting in an underexpenditure of Kshs.266,184,944 or 37% of the budget.

The underfunding and under-expenditure affected the Project's 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

1356. Irregular Variation of Contract

The statement of receipts and payments reflects a balance of Kshs.406,232,384 in respect of rehabilitation costs/maintenance of buildings. Out of the balance, an amount of Kshs.376,203,680 was in respect of a contract for supply, installation, testing commissioning, training, warranty, and maintenance of two (2) optical fibre networks (backbone access) along the Eldoret, Ndapal, Nakodok Road. Review of financial records revealed that the contract was awarded on 03 June, 2020 at a contract sum of USD 6,797,104 (equivalent to Kshs.354,488,355). According to the contract addendum No.3 of 02 February, 2023, the contract sum was varied by an amount of USD 2,160,500.90 (equivalent to Kshs.172,969,700), resulting to an amended contract sum of USD 8,957,605.87 (approximately Kshs.527,458,051) which was a variation of 49% of the original contract sum. However, this contract variation exceeded 25%, contrary to Section 139(4)(e) of the Public Procurement and Asset Disposal Act, 2015, which provides that any variation of a contract shall only be considered if cumulative value of all contract variations do not result in an increment of the total contract price by more than 25% of the original contract price. Further, Section 139(6) of the Act stipulates that where the variations result in an increment of the contract price by more than twenty-five percent, such variations shall be tendered for separately.

In addition, the performance security in form of bank guarantee was not adjusted after the variation, contrary to the requirement of the contract agreement that a 10% performance security of the contract price should be provided by the supplier in the form of a Bank guarantee.

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

1357. Irregular Payment of Retention Monies

The statement of receipts and payments reflects rehabilitation costs/maintenance of buildings balance of Kshs.406,232,384 which, as disclosed in Note 7 to the financial statements, includes rehabilitation costs of Kshs.30,000,000 paid to a company as retention monies upon completion of rehabilitation of Eldoret - Nadapal Optic Fibre cable. However, Management did not maintain a separate retention monies account as required by financial regulations and contract terms, and also did not provide the project contract file for audit to support the payment.

In the circumstances, the accuracy and completeness of rehabilitation costs balance of Kshs.30,000,000 and the regularity of the amount as a retention monies payment to the contractor could not be confirmed.

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

Conclusion

1358. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1359. 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 Management of the Project and the Project's financial statements agree with the accounting records and returns.

HORN OF AFRICA GATEWAY DEVELOPMENT PROJECT IDA - P161305 CREDIT NO. 6768-KE – INFORMATION AND COMMUNICATION TECHNOLOGY (ICT) AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1360. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1361. Budgetary Control and performance

The statement of comparison of budget and actual amounts reflects total actual receipts of Kshs.25,380,617 against estimated amounts of Kshs.160,000,000 resulting in a

shortfall of Kshs.134,619,383 or 84%. Similarly, the Program had an approved total expenditure budget of Kshs.160,000,000 against the actual expenditure of Kshs.52,762,464 translating to 33% budget utilization. Management has attributed the low absorption rate to delay in procurement of consultancy services.

In the circumstances, low absorption of funds affects implementation of the Project's planned programmes and activities and leads to delay in project completion.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1362. Irregular Payment of Value Added Taxes

Review of financial records confirmed that the Project incurred expenses of Kshs.738,065 in respect of Value Added Taxes (VAT). This was contrary to Section 54 of the Project Implementation Manual which stipulates that the Project was exempted from VAT requirements whereby The National Treasury had granted Authority implementing agencies not to pay VAT on goods, works or services directly linked to the Project.

In the circumstances, Management was in breach of the requirements of the Project Implementation Manual.

1363. Amounts Withdrawn and not Claimed

The statement of special (designated) account reflects amount withdrawn and not claimed totalling EUR 670,508.11 (Approximately Kshs.87,957,257). The Implementing Agency has not provided reasons for not claiming the expenditures to confirm its eligibility contrary to the financing agreement.

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

Conclusion

1364. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1365. 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 Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR BROADCASTING AND TELECOMMUNICATIONS – VOTE 1123

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1366. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1367. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget of Kshs.6,544,438,947 and actual on comparable basis of Kshs.5,679,274,096 resulting in receipts shortfall of Kshs.865,164,851 or 13% of the budgeted receipts. Similarly, the statement reflects actual expenditure of Kshs.5,632,703,843 against approved budget of Kshs.6,544,438,947 resulting to an under-expenditure of Kshs.911,735,105 or 14% 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.

Other Matter

1368. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under report on Lawfulness and Effectiveness in use of Public Resources paragraph. Although the Management indicated that some of 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, 2023. This is contrary to Section 149(2)(l) of the Public Finance Management Act, 2012 which require accounting officers designated for national Government entities to try to resolve any issues resulting from an audit that remain outstanding.

1369. Pending Accounts Payable

Note 19 to the financial statements reflects pending accounts payable balance of Kshs.1,451,012,668 which were not settled during the year under review and instead carried forward to the subsequent financial year. No justification was provided for the failure to settle the pending bills in the year of their occurrence. This is contrary to the provisions of Section 42(1)(a) of the Public Finance Management (National Government) Regulations, 2015, which states that debt service payments shall be a first charge on 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.

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1370. Incomplete Fixed Asset Register and Non-Tagging of Assets

Annex 3 to the financial statements reflects total historical cost carried forward of Kshs.254,484,111. However, audit review revealed that there was no regular updating of the assets register since some laptops owned by the State Department could not be traced to the register. Further, the assets were also not tagged for ease of identification and disposal of obsolete assets have not been addressed. This is contrary to the provisions of Regulation 143(1) of the Public Finance Management (National Governments) Regulations, 2015 which states that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession.

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

1371. Non-Compliance With the One Third of Basic Salary Rule

The Statement of receipts and payments reflects compensation of employees' balance of Kshs.466,696,853 as disclosed in Note 5 to the financial statements. However, review of payroll revealed that several employees earned a net salary of less than one third (1/3) of their basic salary. This is contrary to the provisions of Section C. 1(3) of the Human Resources Policies and Procedures Manual for Public Service, May 2016 issued by the Public Service Commission.

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

1372. Partial Recovery of Expenditure Incurred on Advertising, Awareness and Publicity

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.778,506,823 as disclosed in Note 6 to the financial statements. The expenditure includes printing, advertising and information supplies and services cost totalling to Kshs.495,389,974 relating to payments by the Government Advertising Agency (GAA) to four (4) newspapers for printing and inserting of 'MyGov' publications. However, review of contract documents revealed that the revenue realized from advertisements placed on "My Gov" publications did not fully cover the amounts paid to the four (4) newspapers.

In the circumstances, the value for money realized from the expenditure of Kshs.495,389,974 could not be confirmed.

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.

STATE DEPARTMENT FOR SPORTS AND THE ARTS – VOTE 1132

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1374. Undisclosed Accumulated Rent

The statement of receipts and payments reflects use of goods and services of Kshs.96,322,088 which as disclosed in Note 6 to the financial statements include Kshs.43,361,434 in respect to rentals of produced assets. However, review of rental records revealed that the State Department has leased office space from four (4) land lords for its various departments whose accumulated rents arrears amounting to Kshs.84,162,347 had not been disclosed as part of pending bills in the financial statements. Further, failure by the State Department to honor its rental obligations as they fall due, is a breach of the lease agreement that threatens the continuance and renewal of occupancy of the respective office premises.

In the circumstances, the accuracy and completeness of the pending accounting payable balance of Kshs.152,517,830 could not be confirmed.

Emphasis of Matter

1375. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.13,918,712,513 and Kshs.12,181,832,178 respectively resulting to an underfunding of Kshs.1,736,880,335 or 12% of the approved budget. Similarly, the State Department spent an amount of Kshs.12,204,472,670 against an approved budget of Kshs.13,918,712,513 resulting to an underexpenditure of Kshs.1,714,239,843 or 12% of the budget.

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

1376. Pending Accounts Payables

I draw attention to Note 19.2 and Annex 1 to the financial statements, which reflects pending accounts payables totalling to Kshs.152,517,830 (2022 - Kshs.59,840,391) as at 30 June, 2023. However, Management did not explain why the bills were not settled during the year when they occurred. Further, 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 to adversely affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of these matters.

Other Matter

1377. Unresolved Prior Year Matters

In the audit report of the previous year, a number of paragraphs were raised. However, Management has not resolved and disclosed all the prior year matters as provided by the Public Sector Accounting Standards Board templates. Management has not provided satisfactory explanation for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1378. Anomalies in Construction of Stadia

1378.1 Construction of Kirigiti Stadium in Kiambu County

The State Department awarded two (2) contracts valued at Kshs.745,264,822 and Kshs.345,766,644 and the construction of proposed Kirigiti Stadium in Kiambu County, totalling to Kshs.1,091,031,466. The first contract was varied by Kshs.148,750,152 from initial contract price of Kshs.596,514,670 to Kshs.745,264,822 representing 25% increase from the contract price and which was not supported with approval documents. Further, the second contract for additional works was awarded at Kshs.345,766,644 through direct procurement method to the same contractor without justification. The use of the procurement method did not meet the provisions of Section 103(2) of the Public Procurement and Asset Disposal Act, 2015. Physical verification conducted on 11 September, 2023 revealed that phase 1 of the project was completed while Phase 2 works were incomplete and the project had stalled due to non-payment to the Contractor. No explanation was provided for the failure to pay all certified certificates.

In the circumstances, the regularity and value for money realized from the expenditure of Kshs.1,091,031,466 incurred on the Project could not be confirmed and Management was in breach of the law.

1378.2 Construction of Wanguru Stadium in Kirinyaga County

The State Department awarded two (2) contracts valued at Kshs.387,053,751 and Kshs.309,420,000 and totalling to Kshs.696,473,751 for the construction of proposed Wang'uru Stadium in Mwea, Kirinyaga County. Initial contract was varied by Kshs.76,553,751 from the contract price of Kshs.310,500,000 to Kshs.387,053,751 representing 25% increase from the contract price and which was not supported with approval documents.

Further, the second contract, for additional works was awarded to the same contractor at Kshs.309,420,000 through direct procurement method without justification. The use of the direct procurement method did not meet the provisions of Section 103(2) of the Public Procurement and Asset Disposal Act, 2015. Physical verification done on 11 September, 2023 revealed that the project was complete but had not been handed over to the State Department for use by the public and no explanation was given for the anomaly.

In the circumstances, the regularity and value for money to be realized from the expenditure of Kshs.696,473,751 incurred on the Project could not be confirmed and Management was in breach of the law.

1378.3 Construction of Jamhuri Posta Grounds in Nairobi County

The State Department awarded three (3) contracts worth Kshs.1,190,971,897 for the construction of proposed Jamhuri Posta Sports Ground in Nairobi County. The amount includes two (2) contracts worth Kshs.175,000,000 and Kshs.406,361,187 and totalling to Kshs.581,361,187 for additional works which were awarded through direct procurement method without justification. The use of direct procurement method did not meet the provisions of Section 103(2) of the Public Procurement and Asset Disposal Act, 2015.

Further, the cost of the two (2) contracts for additional works exceeded the engineer's valuations of Kshs.150,000,000 and Kshs.374,273,915 resulting to an increase of Kshs.25,000,000 and Kshs.32,087,272 respectively. This was contrary to Regulation 90(1)(cii) of the Public Procurement and Asset Disposal Regulations, 2020 which requires an Accounting Officer to satisfy that the offer is at the prevailing real market price before use of direct procurement method. Physical verification which was done on 11 September, 2023 revealed that electricity had not been connected to the floodlights and the contractor had not handed over the project to the State Department for commissioning for public use. No explanation was provided for the delay.

In the circumstances, the regularity and value for money to be realized from the expenditure of Kshs.1,190,971,897 incurred on the Project could not be confirmed and Management was in breach of the law.

1378.4 Upgrading of Jomo Kenyatta Show Ground Stadium in Kisumu County

The State Department undertook the upgrading of Jomo Kenyatta Show Ground Stadium in Kisumu County at a Cost of Kshs.350,000,000. The project was completed in 2020 but the contractor had not handed over the stadium to the State Department, instead, the County Government of Kisumu had taken possession and uses the facilities. No explanation was provided for the delay. Further, physical verification conducted on 26 September, 2023 revealed instances of vandalism where some metal covers for storm water drainage were missing.

In the circumstances, the value for money obtained from the expenditure of Kshs.350,000,000 could not be confirmed.

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

Basis for Conclusion

1379. Lack of an Audit Committee

Review of internal audit documents revealed that the State Department had not established an Audit Committee contrary to the provisions of Regulations 174 (1) of the Public Finance Management (National Government) Regulations, 2015 which provides

for the establishment of an Audit Committee. As such 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.

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

1380. Lack of an Offsite Data Storage Facility, Continuity Plan and Disaster Recovery Plan

Review of the Information Communication Technology (ICT) Systems revealed that the State Department does not have a secure offsite storage facility for its data, an ICT Continuity Plan and a Disaster Recovery Plan. This may lead to loss of data confidentiality, integrity and availability in case of a disaster.

In the circumstances, effectiveness of internal controls on existence of data confidentiality, integrity and availability could not be confirmed.

STATE DEPARTMENT FOR CULTURE AND HERITAGE – VOTE 1134

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1381. Unsupported Other Revenues

The statement of receipts and payments reflects other revenues amount of Kshs.455,368,469 being appropriations in aid collected during the year by Kenya Cultural Centre, Kenya National Library Service, Bomas of Kenya and National Museums of Kenya. However, the four (4) entities reported collections totalling Kshs.840,605,366 resulting in an unreconciled and unexplained variance of Kshs.385,236,897.

In the circumstances, the accuracy and completeness of the other revenues amount of Kshs.455,368,469 could not be confirmed.

1382. Pending Accounts Payable

As previously reported, Annex 1 to the financial statements reflects pending accounts payable balance of Kshs.48,170,705 as at 30 June, 2023. The balance includes Kshs.14,596,148 for supply of various services which has been outstanding since 2019/2020 financial year and no explanation was provided for the delay in settling the amount. The pending accounts payables balance also includes Kshs.10,650,723 relating to expenditure committed after 31 May without written approval of the Accounting Officer contrary to Regulation 51(1) of the Public Finance Management (National Government) Regulations, 2015. This Regulation provides that all commitments for supply of goods or services shall be done not later than 31 May each year except with the express approval of the Accounting Officer in writing.

In the circumstances, the completeness and accuracy of the balance of Kshs.48,170,705 in respect to pending accounts payable could not be confirmed.

Other Matter

1383. Unresolved Prior Year Matters

In the audit 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, Report on Effectiveness of Internal Controls, Risk Management and Governance. However, 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.3/88 Vol.VII(28) of 09 May, 2023.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1384. Unregistered National Social Security Fund (NSSF) Office Lease

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an amount of Kshs.229,964,563 in respect to purchase of goods and services. The amount includes rental of produced assets expenditure of Kshs.50,928,660 which in turn includes Kshs.10,600,000 paid to NSSF being rent for leased office space by the State Department. However, the lease had not been registered with the Lands Registrar contrary to Section 54(5) of the Land Registration Act, 2012.

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

1385. Irregular Procurement of Goods from Non-Prequalified Suppliers

The statement of receipts and payments reflects an amount of Kshs.229,964,563 in respect to purchase of goods and services which includes hospitality, supplies and services amount of Kshs.43,199,236 as disclosed in Note 5 to the financial statements. However, the later amount includes an expenditure of Kshs.2,709,580 incurred on procurement of attires and medals for heroes from non-prequalified suppliers. Further, the Management did not demonstrate that they sought in writing to use another State Organs' registration list of all registered persons in the category as required by Section 56(1) of the Public Procurement and Asset Disposal Act, 2015.

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

1386. Irregular Direct Procurement of Services

The hospitality, supplies and services amount of Kshs.43,199,236 also includes Kshs.3,238,000 incurred on accommodation services procured through direct procurement method without justification. Further, the procurements did not meet the conditions set out under Section 103(2) of the Public Procurement and Asset Disposal Act, 2015 and Regulation 90(1)(c) of the Public Procurement and Asset Disposal Regulations, 2020 which stipulates that procurement method shall not be used to avoid competition.

In the circumstances, the regularity and value for money on the expenditure of Kshs.3,238,000 could not be confirmed and Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1387. Internal Audit Function and Audit Committee

Review of the overall internal control environment of the State Department revealed that the internal audit charter detailing the scope, responsibilities and purpose of the internal audit function dated 30 August, 2022 was yet to be approved by the Ministerial Audit

Committee. Further, the Annual Work Plan for the financial year 2022/2023 was for the fourth quarter only ending 30 June, 2023 and had also not been approved by the Ministerial Audit Committee.

In the circumstances, the effectiveness of the internal controls and risk management put in place by the Management could not be confirmed.

1388. Weak Controls in ICT Department

Review of the State Department's information technology systems revealed that the server could easily be accessed and the ICT function did not maintain the server's access logs.

This is contrary to Regulation 110(1) of the Public Finance Management (National Government) Regulations, 2015 which states that the accounting officer for a National Government entity shall institute appropriate access controls needed to minimize breaches of information confidentiality, data integrity and loss of business continuity.

In the circumstances, data confidentiality could easily be compromised.

STATE DEPARTMENT FOR ENERGY – VOTE 1152

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1389. Inaccuracies in Tax Receipts

The statement of receipts and payments reflects an amount of Kshs.3,055,936,591 in respect to tax receipts and as disclosed in Note 1 to the financial statements. The amount includes Kshs.20,504,819 disbursed for the Kenya Electricity Modernization Project (KEMP) in the financial year 2021/2022. However, the State Department erroneously transferred the amount to Kenya Power and Lighting Company on 27 June, 2022 and the Company refunded back the money on 31 January, 2023 but was erroneously receipted into the tax receipts account.

In the circumstances, the accuracy and completeness of the tax receipts amount of Kshs.20,504,819 could not be confirmed.

1390. Inaccuracies in Compensation of Employees

The statement of receipts and payments reflects compensation of employees' expenses totalling Kshs.319,472,251 and as disclosed in Note 7 to the financial statements. However, the Integrated Personnel and Payroll Database (IPPD) and supporting payment vouchers reflected an expenditure of Kshs.305,716,900 in respect of compensation of employees, resulting to unexplained variance of Kshs.13,755,354.

In the circumstances, the accuracy and completeness of the compensation of employees' amount of Kshs.319,472,251 could not be confirmed.

Emphasis of Matter

1391. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final revenue budget of Kshs.54,804,757,336 against actual receipts of Kshs.31,060,714,201 resulting to an underfunding of Kshs.23,744,043,135 or 43% of the approved budget. Similarly, the State Department spent Kshs.30,933,935,857 against an approved budget of Kshs.54,804,757,336 resulting to an under-expenditure of Kshs.23,870,823,479 or 44% of the approved budget.

The under-funding and under-performance affected the planned activities and may have impacted negatively on service delivery to the public.

1392. Unbudgeted Purchase of Motor Vehicles

The statement of receipts and payments reflects acquisition of assets expenditure balance of Kshs.15,253,159,000 and as disclosed in Note 11 to the financial statements. Included in the balance is an amount of Kshs.82,600,000 incurred on purchase of vehicles and other transport equipment. However, review of the IFMIS-Generated trial

balance, Item Code 3110700 on purchase of vehicles and other transport equipment revealed Nil expenditure indicating that the funds used were obtained from another vote head.

1393. Pending Bills

Annex 2 to the financial statements reflects pending bills balance of Kshs.949,489 as at 30 June, 2023, which was not settled during the year under review but was carried forward to 2023/2024 financial year. Failure to settle bills during the year for which they relate distorts the financial statements and adversely affects the budgeting provision for the subsequent year as they form a first charge.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1394. Irregular Utilization of the Fund Monies

During the year under review, the State Department received funds from Petroleum Development Fund amounting to Kshs.400,000,000, although, the State Department has no responsibility in the oil and petroleum industry. This is contrary to Section 4(4) of the Petroleum Development Fund Act No.4 of 1991 (Revised 2012), which provides that there shall be paid out of the petroleum development funds such monies as are necessary for the development of common facilities for distribution or testing of oil products and matters relating to the development of the oil industry.

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

1395. Long Outstanding Accounts Payable

The statement of financial assets and financial liabilities reflects third party deposits and retentions totalling to Kshs.114,572,535 as disclosed in Note 13 to the financial statements. Review of the analysis provided at Annex 5 of the financial statements revealed that the bulk of the retention fees have been outstanding for a long period of time with some dating back to the financial year 2017/2018. This is contrary to Regulation 106 of the Public Finance Management (National Government) Regulations, 2015 which states that unless otherwise exempted by an Act of Parliament, any deposit which has remained unclaimed for five (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 Regulation.

1396. Irregular Procurement of Rehabilitation and Corrective Maintenance of Solar PV Panels

The statement of receipts and payments reflects an expenditure of Kshs.1,335,459,925, and as disclosed in Note 8 to the financial statements in respect to use of goods and services. Included in this expenditure is an amount of Kshs.29,742,488 on rehabilitation

of solar PV panels in fifty-one (51) institutions including schools, health facilities, police stations and administrative offices in ASALS which had been previously installed by the State Department for Energy. Review of records provided for audit revealed that the State Department used restricted tendering method contrary to the Second Schedule of the Public Procurement and Asset Disposal Regulations, 2020 which puts a ceiling of Kshs.20,000,000 for procurement of services through restricted tendering under Section 102(1)(b) of the Act.

In addition, the State Department exceeded its budget by 58% against the budgeted amount of Kshs.12,500,000 contrary to Section 53(9) of the Public Procurement and Asset Disposal Act 2015, which states that an Accounting Officer who knowingly commences any procurement process without ascertaining whether the goods, works or service is budgeted for, commits an offence under this Act.

In the circumstances, the regularity of the expenditure of Kshs.29,742,488 could not be confirmed. Further, Management was in breach of the law.

1397. Anomalies in Contract for Exploratory Coal Diamond Core Drilling Services in Kwale County

Contract for exploratory coal diamond core drilling services was awarded to a local contractor at a cost of Kshs.322,839,600 on 29 June, 2015. The contract involved drilling of fifty-four (54) wells across nine (9) coal blocks in Kwale county for initial period of eighteen (18) Months. The contract expired on 28 December, 2016 and the works had not started despite the contractor having been paid an advance payment of Kshs.32,283,960 on 30 June, 2015.

Three (3) Addendums were signed extending the contract at no cost up to 27 March, 2021. At the expiry of the contract, the contractor had been paid Kshs.78,255,890 which is 24% of the contract sum, including an advance payment of Kshs.32,283,960. Further, only five (5) wells had been completed representing 9% of the works, which indicates that the contractor had been overpaid. Additionally, the advance payment guarantee expired on 31 October, 2020 while the performance bond expired on 27 November, 2020, before recovery of advance payment. Therefore, recoverability of the advance payment is in doubt.

On 30 May, 2023 the Contractor issued the Ministry with a financial claim of Kshs.205,256,535 in respect of prolongation cost, manpower costs and 13% interest citing delays on part of the Ministry on procession of the drilling sites and payment. The Ministerial Tender Committee on 31 July, 2023 recommended that the dispute under the contract be referred for arbitration. No information was provided on the value of works performed under the contract as at the time of the expiry of the contract. Although the State Department wrote to the Attorney General on 25 September, 2023 for guidance, no evidence was provided that the arbitration process had started.

In the circumstances, the recoverability of the advance payment amount of Kshs.32,283,960 and value for money on Kshs.78,255,890 incurred could not be confirmed.

1398. Poor Workmanship in Construction, Testing and Commissioning of Domestic Biogas Digesters

The State Department procured works for the construction of 303-10 M³ Biogases in various Counties from various contractors and a total of Kshs.45,137,576 had been paid as at 30 June, 2023. Further, a status report for the biogas projects as at 30 June, 2023 was not provided for audit. Field verification of the projects revealed the following unsatisfactory issues: -

- i. A contract for construction of sixty (60) Biogases in Tharaka Nithi and Meru counties was awarded to a local company on 30 March, 2022 at a contract sum of Kshs.10,800,000. The contract duration was for twenty-two (22) weeks from the date of site possession. Records indicate that the contract lapsed on 8 September, 2022 and an extension was granted upon request on 7 December, 2022. A second extension was granted up to 07 March, 2023 and a third one up to 07 June, 2023. On 07 June, 2023 the contractor requested for an extension of the contract for a further seventy-six days to ensure that the works were completed. However, no evidence was provided indicating that the request was approved. As at the time of audit in December, 2023, the contractor had completed fifty-two (52) out of sixty (60) Biogases representing 87% of the scope of works in the contract.
- ii. No billboard or plate indicating the details of the work had been put in place in any of the sites in Meru County despite a provision of Kshs.14,000 per bill board in the contract. Further, four (4) expansion chamber cover slabs in Meru county had not been cast while six (6) chambers in Meru, Tharaka Nithi, Makueni and Taita Taveta counties had cracks posing safety risks to the users.
- iii. In Meru and Makueni Counties, poor quality gas cookers had been installed. Some had malfunctioned while other burners were worn out due to corrosion, within a year of use. In addition, eleven (11) completed Bio digesters in Makueni, Taita Taveta, Nyamira and Tharaka Nithi counties were not working. Most water traps installed in the piping system were not functioning effectively causing most of the Biogas to malfunction or not to work optimally.
- iv. In Makueni and Taita Taveta counties, six (6) biogases had gas leakages, while two (2) biogases pressure gauges were not working, thereby affecting the functioning of the biogases. Further, two (2) biogases in Makueni and Nyamira counties had been abandoned.
- v. One biogas in Taita Taveta County had never been used due to cracks which had not been repaired as at the time of inspection in September, 2023.

In the circumstances, the value for money on expenditure of Kshs.45,137,576 spent on the project could not be confirmed.

1399. Delay in Implementation of Green Climate Fund Project

A grant agreement for Green Climate Fund between Government of Kenya and Federal Republic of Germany was signed on 16 September, 2021. The project was to be

implemented in two phases. Phase I was to be implemented from 6 September, 2021 to 25 March, 2023. Under phase I, the donor was to fund EUR 8,153,172 while the recipient was to provide a co-funding of EUR 1,037,140. Phase 2 of the project was to be implemented from 26 March, 2023 to 31 December, 2024. The donor was to provide a grant of EUR 11,756,828 under the phase.

Under paragraph 4 of the agreement, the recipient was to make necessary budgetary allocation for the project.

Review of the project revealed that implementation period for Phase I of the project had lapsed, yet the project had not started. No justification was given for the delay in implementation of the project. Additionally, there was no evidence of any budgetary allocation and work plans for the project in financial year 2021/22 and 2022/23.

In the circumstances, the delayed implementation of the Project will impact negatively on the realization of the project objectives.

1400. Wasteful Expenditure on Recruitment of Project Accountant

During the year under review, the process for recruitment of a Project Accountant was concluded with the Interview Committee recommending two (2) candidates for consideration for appointment. This entire process costed the State Department an amount of Kshs.1,431,400. However, as at the time of the audit in December 2023, the position had not been filled, despite the expenditure of Kshs.1,431,400 having been incurred in respect of the process.

In the circumstances, the value for money on the funds incurred on the recruitment of the project accountant could not be confirmed.

1401. Overpayment to Kenya Electricity Generating Company Limited, (KENGEN)

Review of exchequer requisitions, notifications and receipts revealed that the State Department received an amount of Kshs.1,977,214,777 meant for KENGEN during the financial year. However, an amount of Kshs.1,982,927,709 was disbursed to KENGEN resulting to an overpayment of Kshs.5,712,937. This is contrary to Regulation 54(1) of the Public Finance Regulations (National Government), 2015 which states that except as provided for in the Act and these Regulations, an Accounting Officer of an entity may not authorize payment to be made out of funds earmarked for specific activities for purposes other than those activities.

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

1402. Procurement Irregularities

The State Department incurred expenditure totalling Kshs.14,608,276 in respect of four (4) tenders for procurement of various goods and services from unregistered suppliers. This is contrary to Section 57(1) and (2) of the Public Procurement and Asset Disposal Act, 2015 which states that the head of the procurement function of a procuring entity shall maintain and update lists of registered suppliers, contractors and consultants in the categories of goods, works or services according to its procurement needs and

submission of names shall be continuous and the registration list shall be updated periodically respectively.

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

1403. Non-Compliance with Approved Staff Establishment

As previously reported, the State Department had exceeded its establishment by ninety-eight (98) members of staff. Whereas the approved establishment had a provision of a total of one hundred and fifty-nine (159) members of staff (Comprising of 95 technical staff and 64 support staff) the State Department had a total of two hundred and fifty-seven (257) members of staff (71 technical staff and 186 support staff) as at 30 June, 2023. Section A.15 of the manual of Human Resource Policies and Procedures Manual for the Public Service 2016 outlines the functions of the Ministerial Human Resource Management Advisory Committees (MHRMAC) which entail among others, making recommendations to the Authorized Officer regarding Establishment and Complement control.

The variance between the in post and the approved establishment was occasioned by a review of the State Department's organizational structure and Staff Establishment by the Public Service Commission in 2021, where a decision on the optimal staff establishment of 159 members was communicated vide a letter ref. PSC/EMCS/14/TY/(2) dated 12 May, 2021. The State Department appealed the decision of the Public Service Commission vide a letter ref. dated 27 September, 2021, but no response had been received by the Ministry as at the time of audit in December, 2023.

In the circumstance, Management was in breach of the Human Resource Policies and Procedures.

1404. Non-Compliance with the Executive Order No.2 of 2018

As previously reported, review of procurement records indicated 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 Quotations (RFQ) are shared with bidders in the procurement module in 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 no manual submissions are allowed.

In the circumstances, Management was in breach of the Executive order.

1405. Anomalies in Framework Agreement on Development of Sustainable Green Industries

As previously reported, the Ministry entered into a Framework agreement with an Australian Company for development of sustainable green industries in the country on 4 November, 2020. However, the Agreement gave the private company exclusive rights to undertake the following; -

- i. Enter upon any land in liaison with landowners specified in each Authority, sink any well on the land, make geological surveys and geophysical surveys on the land and do all things necessary in connection with the survey, investigation, test or measurement.
- ii. Further, the company had exclusivity in utilisation of all unencumbered geothermal concessions in the Republic of Kenya at the date of this Agreement, geothermal Development Company Limited's geothermal concessions in the Republic of Kenya which are not subject to commercial financing arrangements at date of this Agreement and a first option to apply for geothermal concessions that become unencumbered during the term of this Agreement. In addition, other potential geothermal resource systems in the Republic of Kenya with potential capacity of 100MW or more.

However, review of the execution of the Agreement implementation 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 Section 80 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 and 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. This is contrary to Section 83 (1) 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.
- iii. 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. 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. However, the Government appointed its representatives on 17 November, 2020, 13 days after the Agreement. In addition, 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 and the law.

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

Conclusion

- 1406.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECTS

KENYA ELECTRICITY MODERNIZATION PROJECT (KEMP) (IDA CR. NO.5587 KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1407. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1408. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts of Kshs.184,000,000 and actual receipts of Kshs.16,935,727 resulting to underfunding of Kshs.167,064,273 or 91%. Similarly, the Project budgeted for Kshs.184,000,000 for purchase of goods and services but incurred an expenditure of Kshs.37,663,878 resulting to under absorption of Kshs.146,336,122 or 80%. Management attributed or the under absorption to slow implementation of the consultancies. However, there were pending bills totalling to Kshs.51,040,247 relating to consultancy services and no plausible reason was given as to why the pending bills were not settled in the year yet there was adequate budgetary allocation.

The under absorption of funds may have affected service delivery to the intended beneficiaries of the project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1409. Unsupported Pending Bills

Annex 4A to the financial statements reflects pending bills balance of Kshs.74,035,202 which includes Kshs.51,040,247 payable to an International Company for design, supply, installation, testing and commissioning of SCADA/EMS Extension to Energy and Petroleum Regulatory Authority (EPRA). A letter from EPRA dated 22 December, 2022 indicates that the contract for the SCADA was entered between Ministry of Energy and the contractor on 31 March, 2020. However, corresponding procurement records and contract documents were not provided for audit review. Further, the Management did not explain the reason for failure to settle these long outstanding bills despite having adequate budget in the year under review.

In the circumstances, the pending bills balance of Kshs.74,035,202 could not be ascertained and Management was in breach of the law.

1410. Non-Remittance of Taxes to Kenya Revenue Authority (KRA)

Records held at the State Department for Energy indicate that the State Department withheld taxes from consultants amounting to Kshs.12,812,739 but which had not been remitted to Kenya Revenue Authority (KRA) as at 30 June, 2023. This is contrary to the provisions of Section 42A(4C) of the Tax Procedures Act, 2015 which states that a person who is required under this section to withhold tax commits an offence if the person fails to withhold the whole amount of the tax which should have been withheld or fails to remit the amount of the withheld tax to the Commissioner by the twentieth day of the month following that in which the deduction was made.

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

1411. Inadequate Contracts Management and Implementation

The Project entered into a contract for Development of National Specifications and Standardization with a local private firm on 26 January, 2022 at a contract sum of USD 448,931.60 inclusive of all taxes. The consultant was sourced through Quality and Cost-Based Selection Method for a contract period of nine (9) months commencing 15 days from the date of the contract. Documents review indicate that as at 30 June, 2023, only 35% of the consultancy (Inception and Interim report) had been completed and a total of USD 157,125.9 (Approximately Kshs.19,861,386) paid under the contract. Clause 24.1 of the special conditions of the consultancy contract provides that the consultant was to ensure that a professional liability insurance with a minimum coverage of not less than the total ceiling amount of the contract was in place prior to commencing the services. However, no evidence was provided that the consultant provided an insurance cover which left the project exposed to professional liability risks.

With the contract having expired in November, 2022 and project closed on 30 June, 2023, there is no indication that the objectives of Part D(1)(b) of the project, as outlined in the project financing agreement, will be attained. No explanations were provided for failure to execute the contract to completion.

Annex 4(b) to the financial statements reflects pending payables to Energy and Petroleum Regulatory Authority (EPRA) of Kshs.3,164,126.70 which relates to reimbursements due to EPRA, being 10% of total contract sum for a consultancy on Study on the Level of Customer Satisfaction in the Electricity Sector in Kenya.

However, the consultancy on the Study of the Level of Customer Satisfaction in the Electricity Sector in Kenya was not within the scope of the project activities described in Part D.1(a), D.1(b) D.1(c) and D.1(e) of the financing agreement and no subsidiary agreement was provided for audit review to support the consultancy.

In the circumstances, Management was in breach of the financing agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1412. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA OFF-GRID SOLAR ACCESS PROJECT (KOSAP) CREDIT NUMBER 6135-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1413. 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

1414. Ineligible Expenditure

The statement of financial assets reflects imprests and advances balance of Kshs.37,624,046 as disclosed in Note 5 to the financial statements. Review of expenses schedule revealed that the activities were outside the project scope of implementation, support and capacity building as outlined in the financing agreement. Further, the activities were not part of the approved annual work plan for the Project.

In the circumstances, Management was in breach of the Financing Agreement guidelines.

1415. Deviation from Loan Guidelines

The training plan provided for audit indicates that a total of twenty-three (23) participants were appointed for the Climate Change and Risk Management Programme. However, as per the payment vouchers reviewed a total of forty-four (44) staff attended the programme contrary to the requirements of the financing agreement. This resulted to an additional expenditure of Kshs.4,047,750. No-objection letter in support of the change in number of attendees as required by the donor was not provided for audit.

In the circumstances, the value for money on expenditure of Kshs.4,047,750 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1416. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1417. As required by the Financing Agreement No. 2015(10) dated 31 August, 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 Management of the Project, and financial statements are in agreement with the accounting records and returns.

KENYA OFF GRID SOLAR ACCESS PROJECT (KOSAP-SNV) CREDIT NUMBER 6135-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1418. 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

1419. Non-Adherence to the Terms of Contracts

Review of the records provided for audit; revealed the following anomalies;

- i. An amount of Kshs.55,323,198 of unutilized funds disbursed in the ex-ante component to various Solar Service Providers (SSPs) and Clean Cooking Solutions Providers (CCSPs) remained outstanding after the expiry of their contracts contrary to the provisions of the contract that all unexpended money will be returned to the Ministry through KOSAP Facility Manager.
- ii. The Ministry of Energy entered into a contract for consultancy services for Results Based Financing (RBF) and Debt Facilities Management, for implementation of Part 2 of KOSAP Financing agreement, with an International Organization on 23 November, 2018. The contract was for 57 months expiring on 23 October, 2023. Review of the contract revealed that the SSPs were to utilize an amount of

Kshs.1,200,000,000 and CCSPs were to utilize an amount of Kshs.500,000,000. However, the total contracts entered between the Ministry and SSPs and CCSPs were for amounts of Kshs.680,496,219 and Kshs.199,451,408 respectively resulting to unawarded amounts of Kshs.519,503,781 and Kshs.300,458,592 for SSP's and CCSPs respectively. This was contrary to the provision of contract terms of reference which states that the facilities manager should aim to have awarded all funds within the first three years of the project and to have disbursed all the funds not later than one year before the end of the Project to allow sufficient time for monitoring and evaluation and Project wrap-up.

- iii. The Ministry made variations of Clean Cooking Solutions agreements in May, 2023 which varied the KOSAP Service Territories and sales date which will be accepted for incentives from 31 December, 2022 to 30 April, 2023. It was not possible to ascertain how sales from service territories not in the contract from January, 2023 to April, 2023 will be eligible as the amendment was done past the period and the process of variation could not be confirmed.

In the circumstances, Management was in breach of the terms of the Contract.

1420. Non-Compliance with the Provisions of the Project's Financing Agreement

Review of Schedule 1 of the financing agreement revealed that the Ministry of Energy and Petroleum (MOEP) was tasked with the implementation of Part 2 of the Project which entailed; Solar Service Providers (SSP) Facility Sub-Projects Debt Facility Sub-Projects, and Clean Cooking Solution Providers (CCSP) Facility Sub-Projects. However, no Project Implementation Manual (PIM) was provided for audit in respect of the three facilities implemented under Part 2 of the Project.

Further, although Management provided PIMs prepared by the Consultant and used in the implementation of the three facilities under Part 2 of the Project, no evidence was provided to demonstrate that the PIMs had been adopted by the recipient and that they were in form and of substance acceptable to the financier.

In the circumstances, Management was in breach of the financing agreement.

1421. Long Outstanding Receivable

Review of records in respect of the Debt Facility revealed that a debtor signed an SSP debt facility on 29 September, 2020 for a committed facility of Kshs.50,000,000 at 18% interest per annum. The first disbursement of Kshs.19,245,512 was made on 11 November, 2020 and the loan was to mature on 30 March, 2023. The debtor defaulted on the obligation of paying both the principal amount of Kshs.14,434,134 and interest due totalling to Kshs.4,584,123 up-to 30 June, 2023. No evidence was provided by Management on the action taken to recover the outstanding principal, interest and default interest of 3% p.a. Further, the Debt Facility Manual requires that an Independent Verification Agent (IVA) was to verify sales by the borrower to confirm validity of the use of funds. However, Management did not provide evidence that the verification was done.

In the circumstances, the value for money on the amount of Kshs.19,245,512 disbursed under the SSP programme the recoverability of the funds could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1422. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER STATE DEPARTMENT FOR ENERGY

BOGORIA SILALI GEOTHERMAL PROJECT (LOAN NO.2013.66.103) - GEOTHERMAL DEVELOPMENT COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1423. 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

1424. Commingling of Funds

As previously reported, several payments relating to the Project were made outside the account contrary to the Financing Agreement and Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015 which requires a Project account to be opened, maintained, and operated in the name of the Project for which it is opened.

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

1425. Stalled Geothermal Development Site at Silali

As previously reported, the amended Loan Agreement between the German Development Bank (KfW) and the Government of Kenya for steam field development at Bogoria Silali Block was signed on 26 August, 2020. The Agreement provided that the loan would finance drilling exploration and appraisal wells carried out by the Company and mobilization and demobilization of drilling rigs for up to 20 wells in the Bogoria Silali Block. However, review of the Project status revealed that drilling had been carried out in only two (2) of the prospected areas namely Korosi and Paka and no work had commenced at the Silali prospective site. Management indicated that Geothermal Development Company Limited (GDC) had requested for approval and authorization for

geothermal development and associated projects from the County Government of Turkana vide a 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, 2023. Which has occasioned the delay in commencement of drilling activities at the Silali.

In the circumstances, the objectives of the Project may not be achieved and value for money on the expenditure incurred may not be realized.

1426. Unprocedural Investment of Project Funds

As previously reported, an amount of Kshs.17,900,000 was invested a call account at a local bank on 24 June, 2022. The funds were drawn from a Land Compensation account at the bank. Review of the status revealed that the whole amount of Kshs.17,900,000 was returned to the Land Compensation account on 19 September, 2022, out of which, Kshs.12,900,000 was deposited to the Escrow call account leaving a balance of Kshs.5,000,000 which was incurred on land compensation payments.

Further, the balance of Kshs.12,900,000 was later withdrawn from Escrow call account on 17 February, 2023, out of which, an amount of Kshs.11,655,546 was invested in a fixed deposit account. However, Management did not seek the approval of the Cabinet Secretary to The National Treasury and the Company Board of Directors as required by Section 28 of the Public Finance Management Act, 2012.

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

1427. Undisbursed Domestic and Foreign Grants

The statement of comparison of budget and actual amounts reflects a budgeted amount of Kshs.431,000,000 in respect of proceeds from domestic and foreign grants. However, the amount was not disbursed because several conditions were not fulfilled before the final disbursement of the grant. Therefore, the programmed activities of the Project could not be implemented as planned during the year.

In the circumstances, Management was in breach of the conditions of the financing agreement.

1428. Delays in Project Implementation

Review of the Project performance revealed that drilling activities were ongoing and production of steam had been successful. However, the Project's milestones were behind the estimated timelines and hence the Project was unlikely to meet the set targets by June, 2024 when the Project is set to be completed. Management attributed the delays to funding deficiencies where only an amount Ksh.10,859,863,000 or 14% of the budgeted funding of Ksh.76,173,144,000 had been disbursed with only one (1) year remaining to the completion date.

In the circumstances, the objectives of the Project may not be achieved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1429. There were no material issues relating to effectiveness of internal controls, risk management and governance.

MULTI-NATIONAL KENYAN SECTION OF INTERCONNECTION OF ELECTRIC GRIDS OF NILE EQUATORIAL LAKE COUNTRIES PROJECT CREDIT NUMBER 2100150022643-KE - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED (KETRACO)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1430. 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

1431. Misclassification of the Project

Note 2.7 under fund summary reveals the project financing was for a duration of 7 years from 20 September, 2017 however, the completion date was not determined. Approved budget of UAC 39,770,000 equivalent to Kshs.5,727,214,601 (1 UA: Kshs.156.456-June 2023). The Government of Kenya counterpart funding as at 30 June, 2023 was Kshs.2,893,618,283 however, during the year under review, it was not possible to confirm if the project is donor funded since it has been funded by GOK from 2017 to date. Further, there was no evidence of renewal of the loan agreement, considering it expired more than five years ago as at the financial statements date.

In the circumstances, the value for funds spent so far on the project may not be confirmed.

1432. Outstanding Arbitration on Terminated Contract

As reported in previous years, an arbitration case was filed on 1 April, 2016 between the KETRACO and a foreign contractor for the termination of contract for works not finalized. The tribunal issued an award in favour of the contractor on 30 July, 2019 amounting to EUR 37,365,691 equivalent to Kshs.4.5 billion. However, Management was of the opinion that the decision to be against public interest and sought assistance from Attorney General's office in setting aside the Tribunal's award. However, the award was upheld by the High Court of Kenya on 16 February, 2020.

The company's appeal at the Supreme Court against the award was dismissed after the Court of Appeal had upheld the Tribunal's award. As a result of the court case and the final ruling by the Supreme Court on petition no 17(E024) of 2021 delivered on 7 October, 2022, the appeal was dismissed, and the costs awarded to the respondent (the contractor).

In the circumstances, the ruling raised the financial obligation of KETRACO to the contractor from Kshs.4.5 billion to Kshs.9.2 billion.

1433. Expiry of Loan Agreement

As reported in the previous year, the loan agreement between the Company and the African Development Bank expired on 31 December, 2017. However, the project stalled at 61% level of completion since termination of the contractor for non-performance in April 2016. Further, no funds have been received from the bank since 2016. There was no evidence of renewal of the loan agreement or other services of the funds identified.

In the circumstances, it has not been possible to confirm whether or when the Project will be completed.

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.

MULTINATIONAL KENYA-TANZANIA POWER INTERCONNECTION PROJECT (KENYAN COMPONENT) (ADF LOAN NO.2100150032846) - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED

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. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a total receipts budget of Kshs.841,500,000 against actual receipts of Kshs.658,178,483 resulting to underfunding of Kshs.183,321,517 or 22% of the budget. Similarly, the statement also reflects a total expenditure budget balance of Kshs.841,500,000 against actual expenditure of Kshs.658,178,483 resulting to under absorption of Kshs.183,321,517 or 22% of the budget.

Further, the Project received and spent unbudgeted transfers from KETRACO of Kshs.95,934,149 during the period under review.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public. In addition, it was not possible to confirm whether the unbudgeted receipt of Kshs.95,934,149 was approved..

1437. 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.3,871,646,477 (2022 - Kshs.3,455,587,779) as disclosed on Annex 3 of the financial statements. However, payments totalling Kshs.3,171,488,743 were made over the years leaving an unpaid balance of Kshs.700,157,734 as at 30 June, 2023.

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

Basis for Conclusion

1438. Failure to Operate a Separate Bank Account for the Project

The statement of financial assets and liabilities reflects a Nil balance for cash and cash equivalents as disclosed in Note 6 to the financial statements. However, review of records revealed that the project funds were commingled with other projects funds in a single bank account. Further, no cash book that was maintained for processing and recording financial transactions for the project. This is contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015, states 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, Management was in breach of the law.

1439. Erroneous Compensation for Wayleaves

The statement of receipts and payments reflects acquisition of non-financial assets of Kshs.656,121,008 which includes payments for wayleaves of Kshs.81,234,957 as disclosed Note 5 to the financial statements. Review of the wayleaves payment records revealed an erroneous payment of Kshs.1,750,457 to three (3) parcel owners. The error occurred during the initial survey based on geo-referenced Registry Index Maps (RIMs) which had erroneously identified parcels as affected by wayleave. However, re-survey, based on picked existing boundary marks/beacons identifies other three (3) parcels as the ones affected and not the initial three (3).

Management issued refund notice of the erroneous payment to the landowners as required by Section 116 of the Land Act, 2019. This section states that "If a person has received any money by way of compensation awarded for an interest in the land being acquired, either in error or before it has been established that some other person is rightfully entitled to the interest, the Commission may, by notice in writing served on that person, require that person to refund to the Commission the amount received, and the amount shall be a debt due from that person to the Commission". No evidence of the refund of the erroneous payments to the parcel owners was provided for audit review.

In the circumstances, Management did not achieve value for money from the expenditure of Kshs.1,750,457 on wayleaves compensation.

1440. Acceleration and Variation of the Project Cost

The statement of receipts and payments reflects acquisition of non-financial assets of Kshs.656,121,008, which as disclosed in Note 5 to the financial statements, includes consultancy fees/external procurement GoK amount of Kshs.54,141,717. Review of records revealed that the payment was in respect of acceleration of the project completion date by a period of five (5) months from 19 September, 2021 and 30 April, 2021. However, the main factors for the delay are attributed to the delay in acquiring wayleaves, long negotiation for land compensation and protracted legal cases. Management did not provide justification of accelerating of the works without first addressing the root causes of the delay.

In addition, review of Addendum No.3 dated on 20 January, 2021 revealed that the acceleration of the contract period resulted in the payment of additional costs of USD 9,986,787 equivalent to Kshs.1,248,348,375 towards the mobilization and deployment of additional human, equipment and technical resources as tabulated below:

No.	Description	Cost (USD)
1	Mobilization and Maintenance of Additional Resources to Accelerate Foundation Work	3,265,966
2	Mobilization and Maintenance of Additional Resources to Accelerate Tower Erection work	2,629,163
3	Mobilization and Maintenance of Additional Resources to Accelerate Stringing Work	2,455,891
4	WHT (3%)	258,279
5	VAT (16%)	1,377,488
	Total	9,986,787

Although the variations were in line with the Financing Agreement, it did not achieve its intended objective of completing the projects by 30 April, 2021.

In the circumstances, value for money on the additional expenditure of USD 9,986,787 (Kshs.1,248,348,375) on the project could not be confirmed.

1441. Long Outstanding Wayleave Compensation

As disclosed in Annex 4 to the financial statements, the expected/budgeted compensation to person affected by the project amounted to Kshs.1,179,735,582 for wayleave acquired

since inception of the Project. However, as at 30 June, 2023 wayleave payments amounting to Kshs.942,671,013 had been paid leaving a balance of Kshs.237,064,569. However, the origin build-up and the aging analysis of the balance was not provided for audit review.

Delay in settling pending bills may result to wasteful expenditure on interest, penalties and litigation costs.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1442. Automation of the Financial Reporting Process

As previously reported, 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.

In the circumstances, the effective of the internal controls around the manual intervention processes could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1443. 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 Management of 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 – KENYA POWER AND LIGHTING COMPANY PLC

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1444. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1445. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total income and expenditure budgeted and actual on comparative basis amounts of Kshs.669,944,000 and Kshs.316,926,000 respectively resulting in an underfunding and underutilization of Kshs.353,018,000 or 53% of the budget.

The underfunding and 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

Basis for Conclusion

1446. Delay in Completion of Works

Paragraph 1.7 of the project information and overall performance on the funding summary reflects that the project is expected to end in June, 2024. As at 30 June, 2023, the Project had utilized a total of Kshs.13,275,038,000 equivalent to 84% of the overall budget. However, the total number of customers connected under Lot 2 and 4 was 209,700 or 61% of targeted connections. However, contracts between the Company and private contractors signed on 10 December, 2015 provided for an 18 months implementation after signing dates, which has since lapsed.

The project Management explained that the contracts for the two lots were terminated due to non- performance and guarantees en-cashed. The matter is currently under arbitration.

The project objectives were yet to be realized and value for money on incomplete connections could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1447. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1448. As required by the African Development Fund, 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 Management of 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

1449. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1450. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a receipts budget of Kshs.1,907,327,000 and actual on comparative basis of Kshs.1,482,088,000 resulting in underfunding of Kshs.425,239,000 or 22% of the budget. Similarly, the Project spent Kshs.1,482,088,000 against an approved budget of Kshs.1,907,327,000 resulting in an underexpenditure of Kshs.425,239,000 or 22% of the budget.

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

1451. Project Implementation and Performance

Paragraph 1.7 of the project information and overall performance in respect of Project's funding summary statement indicates that the donor and the Government of Kenya had made funding commitments of USD 134,640,000 equivalent to Kshs.14,384,526,000 and USD 63,841,089,000 equivalent to Kshs.6,593,297,000 totalling to USD 198,481,089 equivalent to Kshs.20,977,823,000 in loan and counterpart funding respectively. However, as at 30 June, 2023, the Project had utilized a total of Kshs.19,517,931,000 or 93% with the Project closure on 31 December, 2022.

The Project failed to realize and utilize the remaining funding commitments of Kshs.1,461,267,000 which may have negatively impacted on service delivery to citizens.

1452. Pending Bills

Note 11.1 to the financial statements reflects pending accounts payables balance of Kshs.174,151,000 as at 30 June, 2023. According to the Management, the bills relate to outstanding invoices with respect to retention which were in various stages of payment as at the end of the financial year but could not be processed due to unavailability of United States Dollars (USD) in the market. However, the project risked incurring significant interest costs and penalties with the continued delay in payment. 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

1453. Unsupported Counterpart Funds

Review of the Project's funding summary revealed that the Government of Kenya (GoK) counterpart funding amounted to USD 63,841,089 or Kshs.6,593,297,000. However, the Loan agreement provides that the GoK will provide counterpart funding of USD 19,200,000 or Kshs.1,982,912,640 for settlement of Project's local costs and implementation of the Environmental and Social Management Plan. As at 30 June, 2023, the project received a total amount of USD 49,801,776 or Kshs.5,143,377,000 against

the GoK counterpart funding commitment of USD 19,200,000 or Kshs.1,982,912,640 provided for in the Loan Agreement. Although Management provided a request letter to the Ministry of Energy for additional counterpart funding, no corresponding approval from The National Treasury was provided for review. In addition, no amendment to the Financing Agreement was provided to indicate an increase in the GoK counterpart funding and change of scope of the project to include low voltage electricity systems and connection of three hundred thousand (300,000) new customers.

In the circumstances, the completeness of the Government of Kenya (GoK) counterpart funding of USD 63,841,089 or Kshs.6,593,297,000 and the legality of the amount utilized to date of USD 49,801,776 or Kshs.5,143,377,000 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1454. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1455. As required by the 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 Management of 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

1456. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1457. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects actual receipts of Kshs.2,632,500,000 against final budget of Kshs.2,229,336,412 resulting in a shortfall of Kshs.403,163,588 or 15% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.2,632,500,000 and Kshs.2,749,553,429

respectively resulting to an unapproved over-expenditure of Kshs.117,053,429 or 5% of the budget.

The underfunding affected the planned activities and may have impacted negatively on service delivery to the public while the over expenditure was incurred irregularly.

1458. Pending Bills

Note 8 and Note 9 to the financial statements reflect pending accounts payables amounting to Kshs.582,732,913 and Kshs.15,040,812 in respect of goods and services and project affected persons respectively. Review of the pending bills listing, and related documents revealed that expected and certified compensation to landowners for wayleaves since inception of the Project amounted to Kshs.2,647,620,564 at the close of the year under review. Management has cumulatively paid Kshs.2,632,579,752 leaving an unpaid amount of Kshs.15,040,812. Failure to settle the amount was attributed to lack of budgetary allocation from The National Treasury and lengthy land valuation negotiations which resulted to absentee landowners coupled with various court injunctions on disputed cases. It was not clear what measures Management has put in place to obtain funding, identify absentee landowners and finalize court cases to successfully implement the Project and deliver services to Kenyan citizens.

Failure to settle bills during the year in which they relate to adversely affects the budgetary provisions in the subsequent years as they form a first charge.

1459. Undrawn Fund Balance

As reported previously, the project had an approved budget of USD 441,000,000 (Kshs.46,976,378,400), UA 75,000,000(Kshs.10,930,800,000), EUR 54,556,082 (Kshs.7,715,849,226) from International Development Association (IDA), African Development Fund (ADF) and Agence Francaise de Development (AFD) respectively, and a Government of Kenya counterpart funding of Kshs.8,585,000,000, all equivalent to Kshs.74,208,027,626. However, as at 30 June, 2023, undrawn balance was Kshs.23,529,760,133 or approximately 32% with total pending bills of Kshs.582,732,913. With the deadline for utilization of funds set for 31 January, 2024, having been extended by nineteen (19) months from the initial date of 30 June, 2022. It is likely that the Project funding of Kshs.23,529,760,133 which had not been drawn may not be absorbed as at the time project closure.

In the circumstances, the significant undrawn balance of Kshs.23,529,760,133 may result in funds being locked in the current project whereas these funds could have been utilized on other projects to deliver services to Kenyans.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1460. 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

Conclusion

1461. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1462. 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 Eastern Electricity Highway Project and the Project's financial statements are in agreement with the accounting records and returns.

RURAL ELECTRIFICATION IN FIVE REGIONS PROJECT (CREDIT NO.11/597KE, CREDIT NO.1407PKE) - RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1463. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of the Matter

1464. Low Absorption of Project Funds

Paragraph 2.7 on funding summary indicates that the Project is for duration of eleven (11) years and three (3) months from 23 September, 2013. The Paragraph, further, indicates that both the Donors and the Government of Kenya had made commitments amounting to Kshs.5,828,101,800 (USD 57,000,000). However, the actual amount received during the Project's implementation period totalled to Kshs.3,802,776,075 (USD 37,191,910) of the funding, leaving a balance of Kshs.2,025,325,725 (USD 19,808,090) or 35% of Donor commitment undrawn. This is despite the project having been ongoing for nine (9) years and ten (10) months leaving a variance of implementation period of one year and five (5) months only. Further, with the Project's closing date of 30 December, 2024, the credit may lapse without being fully utilized and the objectives and planned deliverables may not be realized.

Management has not provided any documentary evidence to demonstrate mitigation measures against credit lapse before implementation of all project activities.

My opinion is not modified with respect to this matter.

Other Matter

1465. Delayed Project Implementation

Review of financial records provided for audit revealed 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.5,828,101,800. According to the agreements, the projects were to commence in September, 2013 with an expected completion date of 30 December, 2024. The statement of receipts and payments indicates that an accumulated amount of Kshs.3,802,776,075 had been incurred on the projects, which amounts to 65% 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 considering the fact that the financing agreements will lapse on 30 December, 2024. Review of the project implementation status revealed that out of total budgeted project cost of Kshs.5,828,101,800, projects with a total cost of Kshs.1,523,144,961 (26%) had not been started and projects worth Kshs.1,132,879,233 (19%) were in progress.

In the circumstances, delay in project implementation has affected the project's planned activities and therefore impacting negatively on service delivery to the public.

1466. Pending Accounts Payable

Note 1 on Other Important Disclosures to the financial statements reflects pending accounts payable totalling to Kshs.132,925,013 as at 30 June, 2023. Management did not provide any 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.

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

1467. Commingling of Funds

The statement of receipts and payments reflects total receipts of Kshs.1,022,602,398 comprising of Kshs.972,645,431 and Kshs.49,956,967 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. Review of records revealed that Project funds were commingled in the Corporation's bank accounts where project payments and receipts are recorded. No

evidence of exemption by the Cabinet Secretary against opening a project account was provided for audit review.

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

Basis for Conclusion

1468. Control Weaknesses in Management of Inventories

The statement of receipts and payments reflects acquisition of non-financial assets amount of Kshs.1,022,602,398 which as disclosed in Note 8 to the financial statements includes purchase of goods expenditure of Kshs.1,004,316,220. However, evidence of any periodic inspections and quarterly audit of the plant and materials within the custody of the contractors was not provided for audit review. This was contrary to Clause 21 of the particular conditions of contract, between the employer and the contractor which provides that the employer shall reserve the right to conduct periodic inspections of the storage premises as well as quarterly audits on the plant and materials.

In the circumstances, effectiveness of controls in inventories management could not be confirmed.

OLKARIA-LESSOS-KISUMU TRANSMISSION LINES CONSTRUCTION PROJECT (JICA LOAN NO. KE-P28) - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1469. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1470. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total income budget of Kshs.1,625,000,000 against actual receipts of Kshs.746,139,944 resulting to underfunding of Kshs.878,860,056 or 47% of the budget. Similarly, the statement reflects total expenditure budget balance of Kshs.1,625,000,000 against actual expenditure of Kshs.811,941,887 resulting to under absorption of Kshs.813,058,113 or 50% of the budget.

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

1471. Slow Absorption of Project Funds

As disclosed in Paragraph 2.7 of the project information and overall performance, the project was for a duration of five (5) years from 2016 to 2021. However, as at 30 June, 2023, the Project had received Kshs.17,916,886,490 out of the expected total funding of Kshs.17,995,549,011, leaving an undrawn balance of Kshs.78,662,522. The credit has lapsed without being fully utilized and the Project's planned deliverables earmarked for completion using the funding may not be realized. Management has not provided for audit, documentary evidence to show that the closure process has been initiated or any mitigation to secure an extension of the Project from the Donor.

1472. Long Outstanding Wayleave Compensation

As disclosed in Annex 3B to the financial statements, the expected compensation to landowners amounted to Kshs.5,575,586,293 for wayleave acquired since inception of the project in February, 2016. The amount certified amounted to Kshs.3,291,317,807 and the amount paid to date amounted to Kshs.3,263,970,064 leaving a balance of Kshs.27,347,743. 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 way leave compensation has negatively affected the Project's planned activities thus impacting negatively on service delivery to the public.

1473. Pending Bills

As disclosed in Annex 3A to the financial statements, the Project Management contracted works and services amounting to Kshs.15,963,092,974. The amount certified payable as at 30 June, 2022 amounted to Kshs.11,128,470,706 out of which Kshs.9,978,579,339 was paid leaving a balance of Kshs.1,149,891,367 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.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1474. Avoidable Exchange Loss Due to Late Invoice Settlements

The statement of receipts and payments reflects acquisition of assets balance of Kshs.721,139,944 comprising of consultancy fees of Kshs.91,395,336 and transmission equipment of Kshs.629,744,608 as disclosed in Note 6 to the financial statements. Interviews with Management of the Project and review of related documents revealed that the payments were made to contractors for works and services rendered.

However, in all cases, approval of invoices for payment delayed beyond forty-five (45) days and with some taking over one (1) year resulting to foreign exchange loss of equivalent to Kshs.14,995,944. This is contrary to the provisions of Appendix 1 of the contract agreements signed on 10 March, 2015 between the Management of Kenya Electricity Transmission Company (KETRACO) and the contractors on terms and procedures of payment which clearly stated that payments be made to the contractor within forty-five (45) days on receipt and approval of invoices from the contractors. It is also contrary to Section 68 (2) (d) of Public Finance Management Act, 2012 which provides that it is the responsibility of the accounting officer to ensure that all contracts entered into by the entity are lawful and are complied with.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1475. Automation of 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.

In the circumstances, the manual intervention may result in errors in the Project financial statements.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1476. 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 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 with the provisions of the agreement. Further, the Project expenditure does not include non-eligible items and the Project's statement of expenditure is in agreement with the underlying records and returns.

In addition, 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

1477. There were no material issues noted during the audit of the financial statements of the Projects.

Other Matter

1478. Delays in Project Implementation

Kenya Electricity Transmission Company Limited is responsible for implementing the Project on behalf of the Government of Kenya. These responsibilities entail selection of suppliers and contractors, and supervision of construction of power transmission lines which are structured in four lots comprising Lots 1A, 1B, 3A, and 3B for an aggregate sum of USD 61,600,000. The works on the four lots were expected to be complete by 1 April, 2023. However, as at the time of the audit in October, 2023, the projects were incomplete and were yet to be commissioned.

Continued delay in implementation of the projects would result in increased cost of the loan based on the terms and conditions of the financing agreement which provides for administrative charges comprising of annual commitment fee at 0.5%, Management fee of 0.50% per annum for noncompliance and an interest of 2% on the advanced payments based on the number of days elapsed.

In addition, the contract for Lot 3B works comprising of 132/33KV substations at Machakos, Konza, Kajiado and Namanga was awarded to an Indian Company on 16 April, 2013 at a contract sum of USD 17,265,725.78, with an expected completion date of 30 October, 2016. The contract sum was revised to USD 21,199,561.18 following signing of addendum II, after an earlier first revision.

Further, the cost implication of the advance payments, interest accrued on time basis, administration costs, and reasons for frequency amendments or variations to the contract were not explained by Management. It was also not confirmed whether feasibility studies on the projects were conducted before implementation.

In the circumstances, the Project deliverables may not be realized and hence delay delivery of benefits to the intended beneficiaries.

1479. Pending Accounts Payable

As previously reported, other important disclosures under Note 1 (Annex 3 A) to the financial statements reflect pending accounts payables totalling to Kshs.54,179,761 which includes Kshs.40,729,501 which had been long outstanding. According to Management, the amount was awaiting GoK disbursement to be settled. However, communication with The National Treasury was not provided to indicate reasons for

nonpayment or expected date of settlement. 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.

1480. Other Pending Payables

As previously reported, other important disclosures under Note 2 (Annex 3 B) to the financial statements reflect pending accounts payables totalling to Kshs.73,501,859. The amount has increased from Kshs.37,878,102 to Kshs.73,501,859 being 94%. The amount relates to compensation of landowners 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 landowners, the Kenya Electricity Transmission Company and the County Government of Kajiado.

In the circumstances, delayed resolutions of compensation may hinders timely delivery of projects objectives.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1481. Additional Costs Occasioned by Delays in Contract Implementation

The Management signed a contract with an Indian Company on 16 April, 2013, for construction of electricity transmission substations of 220KV at Turkwel Ortum and Kitale, at a contract price of USD 20,578,723 revised to USD 18,100,120 by the Export-Import (EXIM) Bank of India with the difference of USD 2,478,602 borne by the Government of the Republic of Kenya (GoK). The project was to be implemented for a period of eighteen (18) months from the commencement date. Review of the documents relating to contract implementation provided for review revealed that the initial contractor's contract was terminated after an amount of USD 13,263,260.35 had been paid. A new contractor, also from India was awarded the tender to complete construction of the substations at a cost of USD 8,319,773.32 to be completed by 31 March, 2023 raising the Contract price to USD 21,583,032.67. An addendum extending the project to 31 August, 2023 was subsequently signed.

Arising from the revision of contract price by the financier and the new contract occasioned by the termination of the initial contractor, were additional costs amounting to USD 3,482,913.67 equivalent to Kshs.489,431,219, to be borne by GoK. However, approval of The National Treasury for the additional costs and reasons for revision of the contract price by the EXIM Bank of India were not provided for audit.

In the circumstances, the value for money obtained from the additional costs amounting to Kshs.489,431,219 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1482. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1483. As required by Dollar Credit Line Agreement dated 16 November, 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 Management of the Projects and the Projects' financial statements are in agreement with the accounting records and returns.

ETHIOPIA - KENYA ELECTRICITY HIGHWAY PROJECT (ADB LOAN NO.2000200003502 - MARIKANI SUBSTATION PROJECT ID NO: P-ZI-FA0-162) - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1484. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1485. Pending Bills - Supply of Goods

The Project Management entered into contracts for works and supply of goods amounting to Kshs.4,064,995,682 as disclosed in Annex 3A. The amount paid as at 30 June, 2023 amounted to Kshs.1,847,850,354. Though Management had cleared all the pending bills at the time of audit in October, 2023, a contractor had made interest claims as penalties for delayed payments amounting to Kshs.4,611,496.

In the circumstances, failure to settle bills in the year which they relate to distorts the financial statements and may adversely affect the budgetary provisions in the subsequent years as they form a first charge.

1486. Low Absorption of Funds

The Project implementation timeline was expected to be three and half years commencing June, 2019 and expected completion date of December, 2023 with total funding of EUR. 26,510,000 equivalent to Kshs.4,064,995,682. However, as at 30 June, 2023, only Kshs.1,847,850,354 had been drawn leaving a balance of Kshs.1,870,633,910 or 45% of the Project funding undrawn with only six months

remaining. The Project may not absorb all its funds denying citizens the benefits of the Project.

In the circumstances, the Project may not absorb all its funds and the public may not obtain value for money from the resources already allocated to the Project.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1487. Project Commitment without Funding

As previously reported, 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 is 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 is therefore apparent that the procurement for the Project was done way before the financing agreement was signed which is 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.

1488. Lack of Reconciliation on Mariakani Project Financing

Review of records revealed that since inception the Project has been funded from two sources; advance payment made from the Ethiopia - Kenya Highway Project savings and all additional payments being made from receipts from the supplementary loan. However, Management has not provided for audit verification a statement reconciling the funds received and the account balances from the two sources of financing.

In addition, the Project funds were commingled with other projects funds in a single bank account and in the cash books that were maintained for processing and recording financial transactions for the Project. 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, Management was in breach of the law.

1489. Delay in Project Deliverables

Review of Project deliverables revealed that the Project was behind schedule with respect to the completion of the engineering at 99%, procurements at 98%, construction at 93% and testing and commissioning at 0%.

As at 30 June, 2023 the activities executed were valued at Kshs.2,194,361,772 compared to the donor commitment of Kshs.4,064,995,682 or 54% of the committed funding. This was despite having the completion date reviewed to December, 2023.

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.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1490. Lack of Automation of the Financial Reporting Process

As previously reported, 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 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 MODERNIZATION PROJECT (IDA CREDIT NO. 5587-KE) – RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1491. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1492. Delay in Project Funding

As disclosed in paragraph 2.2 of the Project information and overall performance, the Project was earmarked to close on 30 June, 2023, following a one (1) year and six (6) months extension of the initial end date of 30 December, 2021.

However, Table A on sources of funds, in paragraph 2.7 on funding summary, indicates that the Donor had made commitment amounting to Kshs.1,013,000,000, equivalent to USD 10,000,000, which comprised IDA grant of Kshs.759,750,000, and IDA loan of Kshs.253,250,000 while GoK counterpart fund amounted to Kshs.100,000,000 equivalent to USD 1,000,000. However, actual drawdowns during the Project life amounted to Kshs.571,887,939, equivalent to USD 5,036,553, leaving Kshs.602,809,888, equivalent to USD 5,963,447 or 54% of Donor commitment) undrawn. The undrawn amount comprised of IDA grant of Kshs.378,648,864 (USD 3,737,897), IDA loan of

Kshs.124,166,024 (USD 1,225,600) and GoK counterpart fund Kshs.99,995,000 (USD 999,950).

In addition, addendum IV dated 14 July, 2023 provided an amount of Kshs.132,463,585 for remaining works, but the source of the financing was not indicated.

In the circumstances, planned deliverables earmarked for completion may not be realized thereby affecting service delivery to the public.

1493. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis amounts of Kshs.450,000,000 and Kshs.395,690,355 respectively, resulting to an underfunding of Kshs.54,309,645 or 12% of budget. Similarly, the Project spent Kshs.395,690,000 against an approved expenditure budget of Kshs.450,000,000, resulting to an under-expenditure of Kshs.54,309,645 or 12% of the budget.

The underfunding and under-expenditure affected the implementation of planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis Conclusion

1494. Delays in Project Implementation

Audit inspection conducted in October, 2023 revealed that three (3) out of the six (6) Projects under implementation were yet to be completed.

The three (3) Projects were located in Mageta, Takawiri and Ngodhe. The Project at Mageta had a contract sum of USD 218,392 and Kshs.13,679,667. The audit observed that lighting fixtures were yet to be installed, civil works had not been done and the paint on ceiling board was peeling off.

Secondly, the Project at Takawiri had a contract sum amounting to USD 411,638 and Kshs.3,757,854. However, it was observed that no workers were on site; civil works were yet to be done; some solar panels were yet to be fixed; windows were broken and the floor was cracked; lighting fixtures had not been installed while the perimeter wall had not been constructed.

In addition, the Project at Ngodhe whose contract sum amounted to USD 339,355 and Kshs.2,753,560 had no workers on site; civil works were yet to be done; solar panel was damaged and one was missing, an indication of vandalism; windows were broken and the floor was cracked; lighting fixtures were not installed and perimeter fence had not been constructed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1495. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NAIROBI RING TRANSMISSION LINE PROJECT (AFD CREDIT NO. CKE 6012.01, 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

1496. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1497. Idle Bank Balances

The statement of financial position reflects bank balance of Kshs.1,200,769,059 as at 30 June, 2023. Review of records revealed that out of the opening bank balance of Kshs.2,105,417,426 only an amount of Kshs.904,648,367 was utilized during the year under review to finance project activities leaving a balance of Kshs.1,200,769,059 as idle bank balance. 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.

1498. Pending Bills - Goods and Services

As reported in the previous year, the Project Management contracted works and services at a contract sum of Kshs.11,088,185,255 and as disclosed in Annex 2A to the financial statements. The amount certified as payable amounted to Kshs.9,923,753,556 out of which an amount of Kshs.9,775,516,837 has been cumulatively paid leaving a balance of Kshs.148,236,719 as pending bills. The unpaid bills are likely to attract interest and penalties and/or litigation and related legal expenses which are wasteful expenditure.

Failure to settle bills during the year in which they relate 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

Basis for Conclusion

1499. Irregularities in Acquisition of Non-Financial Assets

The statement of receipts and payments reflects acquisition of non-financial assets amount of Kshs.744,818,368 as disclosed in Note 12.6 to the financial statements. However, the following unsatisfactory matters were observed:

1499.1 Lack of Value for Money on Repair Works at a Substation

The amount of Kshs.744,818,368 includes an expenditure of Kshs.21,999,721, being the repair cost of two transformers that, as explained by Management, were acquired in the year 2012 through a contractor whose contract was terminated before installing them. The transformers were then taken over by Kenya Electricity Transmission Company Limited (KETRACO) which stored them for ten (10) years before transferring them to a new contractor who installed them at a Sub-Station. However, when the transformers were tested after installation, they were found to be defective despite the fact that they had not been used, necessitating their repairs which were done by the new contractor through Variation Order Number 8. Further, no explanation was provided on why KETRACO waited for ten (10) years before procuring a new contractor after termination of the first contract.

In the circumstances, value for money on the expenditure of Kshs.21,999,721 on repair cost of the two transformers could not be confirmed.

1499.2 Unjustified Variation of an Earthing System

The amount of Kshs.744,818,368 includes expenditure related to a contract variation amounting to Kshs.10,781,072 that was spent on installation of Earthing System at a Power Station. However, Management did not provide a satisfactory reason why the earthing system which is an integral part in the construction of a power station, was not provided for in the original bill of quantities, necessitating Variation Order Number 8.

In the circumstances, value for money on the expenditure of Kshs.10,781,072 spent on installation earthing system could not be confirmed.

1499.3 Delay in Project Implementation

The Project Implementation report indicated that the project was behind schedule with respect to the completion of two Sub-Stations being at 99% and 90% respectively. This was despite having the completion date reviewed three times from May, 2020 to November, 2022.

In the circumstances, the delays in completion of the Project may result in escalation of project costs and withdrawal of funding by financiers.

1500. Long Outstanding Wayleave Compensation

As reported in the previous year, the expected compensation to landowners for the wayleave acquired since inception of the project in October, 2012, amounted to

Kshs.2,524,757,331 as disclosed in Annex 2B to the financial statements. However, out of the balance, Kshs.2,408,253,991 has been paid leaving an outstanding balance of Kshs.116,503,340 remaining unpaid. Management has attributed the failure to pay the outstanding amount to 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.

1501. Failure to Approve Budget

The statement of comparison of budget and actual amounts indicates that during the year under review, the Project received Kshs.11,970,578 and spent Kshs.916,618,945, without receipt and expenditure budgets. This was contrary to Regulation 76(3) of the Public Finance Management (National Government) Regulations. 2015, which requires every payment or instruction for payment out of the project account to be strictly on the basis of the approved estimates of budget and financing agreement.

In the circumstances, the regularity of the expenditure of Kshs.916,618,945 could not be confirmed and Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1502. Failure to Automate the Financial Reporting Process

During the audit it was observed that the financial reporting process continued to have significant manual intervention. While the sub ledgers 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.

In the circumstances, the manual processing of financial records exposes the Project's reporting process to a greater risk of errors.

POWER TRANSMISSION SYSTEM IMPROVEMENT PROJECT CREDIT NUMBER 2100150023752 - KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1503. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1504. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts of nil and actual receipts of Kshs.53,462,938 resulting in overfunding of Kshs.53,462,938. Similarly, the statement reflects budgeted expenditure of nil and actual expenditure of Kshs.81,315,653 resulting in over-expenditure of Kshs.81,315,653. However, approval or authority for over-expenditure was not provided for audit.

The regularity of the over-expenditure amount of Kshs.81,315,653 could not be confirmed.

1505. Pending Accounts Payable

Note 13.1 to the financial statements reflects pending accounts payables totalling to Kshs.306,174,078 which was the same balance in the 2021/2022 financial year. Management has not explained why the bills were not paid during the year in which they occurred. The Project is therefore at 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.

1506. Other Pending Payables

Note 13.2 to the financial statements reflects other pending accounts payables balance of Kshs.72,826,790. The amount relates to compensation of landowners for wayleaves. Management attributed failure to pay the amount due to absentee owners and lengthy land negotiations between Management and landowners.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1507. Failure to Maintain Separate Project Bank Account

The statement of financial assets reflects bank balance of Kshs.7,885,292. However, the Corporation maintains two (2) bank accounts in two (2) commercial banks for the purpose of setting way leaves and taxes for all the Projects under its control. This made it difficult to separate and trace the cash balances for each of the Projects. This is contrary to Regulation 76(1) of the Public Finance Management (National Government) Regulations, 2015. The Regulation states 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, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1508. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1509. 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 Management of 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

1510. Unbudgeted and Undisclosed Commercial Loan Repayment

The statement of receipts and payments and Note 10.8 to the financial statements reflects payments on purchase of goods and services totalling to Kshs.758,184,000. Included in these payments is Kshs.564,582,000 in respect of other operating expenses, out of which payments totalling to Kshs.416,492,101 was in respect of principal loan repayment. Review of records revealed that Management took a post import loan facility and overdraft of Kshs.3 billion from a local bank during the 2011/2012 financial year to facilitate procurement of drilling materials and equipment.

The overdraft was later converted to an eight (8)-year term loan with approval from The National Treasury on 24 August, 2017. However, the loan repayment was not budgeted for during the year under review. In addition, the outstanding loan was not disclosed in the Notes to the financial statements as required in the reporting guidelines and templates issued by the Public Sector Accounting Standards Board.

In the circumstances, the accuracy and regularity of expenditure amounting to Kshs.416,492,101 could not be confirmed.

Emphasis of Matter

1511. Undrawn Donor Funds

Paragraph 1.7 of the project information and overall performance indicates that the Project commenced in 2012 with an initial donor funding of USD 343,589,000 equivalent to Kshs.31,518,951,000 from seven (7) financiers. All financiers signed different financing agreements with the Government of Kenya which set up the terms and conditions of

drawing down the funds to the project. However, out of the seven (7) financiers, the Project Management was only able to complete drawing all the committed funds from three (3) financiers. Failure to fully draw committed funds from the remaining four (4) financiers before the lapse of the financing agreement deadline resulted to undrawn funds totalling to USD 111,608,000 equivalent to Kshs.38,872,247,000. This may have negatively impacted on achievement of the project objectives.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1512. Commingling of Funds

The statement of financial assets and Note 10.12 to the financial statements reflects a balance of Kshs.8,003,000 in respect of cash and cash equivalents. Included in this balance is Kshs.6,827,000 in respect of bank balances. Review of cash books and bank statements revealed that the project funds were commingled in several bank accounts maintained by the Company for all projects 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. In addition, a separate cash book for the project was not maintained.

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

1513. Irregular Inter-Project Borrowing

The statement of receipts and payments and Note 10.12C to the financial statements reflects a receipts totalling to Kshs.429,201,000 in respect of borrowings. Review of records revealed that Management utilized the funds meant for Bogoria - Silali Geothermal Project for Company operational activities. However, Management did not provide an inter-project borrowing policy to guide on the borrowing and the recovery of the borrowed funds. As at 30 June, 2023, Management had borrowed a total of Kshs.1,089,418,528 from other projects without a laid down plan on how the funds were to be refunded.

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

1514. Delay in Project Completion

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. Whereas 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 the implementation status of the IPPs and GDC deliverables in September, 2023 revealed that only one power plant (Sosian Energy plant) was in operation while the other two (QPEA GT Menengai LTD and Or Power 22) were yet to start the construction of the remaining power plants. Management attributed the delay to the following reasons:

- 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 the time of audit in September, 2023.
- 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) which was in operation.
- 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 were 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 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 is not clear 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.

In the circumstances, value for money on expenditure of Kshs.69,055,342,000 incurred on development of steam wells and associated infrastructure could not be confirmed.

1515. Long Outstanding Pending Bills

Annexes 2A and 2B to the financial statements reflects pending bills totalling to Kshs.509,425,000 which includes bills from suppliers of goods and services totalling to Kshs.492,997,000 and staff pending bills totalling to Kshs.16,428,000. However, review of an ageing analysis provided for audit revealed that pending bills totaling Kshs.263,783,905 had been outstanding from the financial year 2021/2022 and earlier years.

Further, review of expenditure records revealed that invoices for the year under review were paid before settlement of the pending bills outstanding from previous years. The Management did not provide an explanation for failure to prioritize payment of pending bills during the year under review.

In the circumstances, Management was in breach of regulations and policy guidelines.

1516. Long Outstanding Imprest

The statement of financial assets and Note 10.13A to the financial statements reflects imprest and advances balance of Kshs.1,176,000. Review of imprest and advance records revealed that the imprests amount has been outstanding for a long time out of

which a balance of Kshs.469,000 has been outstanding for more than six (6) years contrary to Regulation 93(5), (6) and (7) of the Public Finance Management (National Government) Regulations, 2015. Even though Management explained that some of the officers had since left the Company and legal action was being considered to recover the amounts, no evidence of the legal action was provided.

In the circumstances, recovery of the imprest and advances is doubtful and Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1517. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1518. 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 Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

50MW 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

1519. Disputed Ownership of Land for the Solar Power Plant

Review of the financial records of the Project revealed that the Rural Electrification and Renewable Energy Corporation incurred a total cost of Kshs.16,826,400 in the implementation of the 50 MW Solar Power Plant in Garissa. However, the land on which the Project is located has been claimed by a Community Trust Help Group which had instituted a legal suit against the Corporation seeking compensation for the two hundred and twenty (220) acres of land. The court dismissed the case on 24 April, 2023.

Management explained that compensation for the land, whose amount was not quantified was to be paid through the County Government of Garissa which has been rejected by the Community Trust Help Group who are seeking to have the compensation paid directly to them by the Corporation.

In the circumstances, the ownership of the solar power plant valued at Kshs.16,826,400 could not be confirmed since it is located on a disputed parcel of land.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1520. Long Outstanding Pending Bills

Note 1 under other important disclosures to the financial statements reflects pending bills balance of Kshs.16,826,400 brought forward from 2021/2022 financial year. However, Management had not explained why it had not cleared the pending bills five (5) years since commissioning of the Project in 2018.

In the circumstances, Management risks future litigations and avoidable costs of interest and penalties.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1521. 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

1522. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1523. Low Project Performance

Review of the Project Financing Agreement and the Project supporting documentation revealed that the Project 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. However, this has been revised to 31 May, 2025 through unreference letter dated 26 June, 2023 from the financier.

In addition, a total of Kshs.110,868,972 which represents 3.17% of the total funds committed for the Project was drawn by November, 2020. These funds have remained unutilized since then until the current financial year 2022/2023 when Kshs.8,048,620 was

spent on facilitation during survey and design in four (4) Counties namely Turkana, Marsabit, Samburu and Isiolo.

No Project activities were reported in the balance of the ten (10) Counties, yet the extended project completion date is less than two years from now. It is imperative to note that this unutilized money has not earned any interest to date yet the financier continues to charge interest on the drawn amount which now amounts to Kshs.102,811,952.

The continued delay of the project implementation has since led to downscaling of the envisaged project outputs. On inception, the Project funds under Rural Electrification and Renewable Energy Corporation Component were to finance 59 number mini-grids but this number has since been reduced to 31 number as at 30 June, 2023 due to rise in installation costs and the reluctance by the financier to provide extra funds beyond the agreed USD 20 million.

In the circumstances, the Project performance against then loan advanced may not achieve the targeted benefits that were planned.

1524. Non-Implementation of Project Activities

During the year under review, Kshs.8,048,620 was spent on facilitation during survey and design in four Counties out of the Project funds received totalling to Kshs.110,868,972 in the financial year 2020/2021. The amount has not earned any interest to date yet the financier continues to load interest on the drawn interest on the drawn down amount. The continued accrual of unqualified interest against the loan and the non-utilisation of the Project funds means the Project as of now is a loss to the public and is an inefficient utilisation of public resources.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1525. Lack of Environmental Impact Assessment of the Project Sites

Review of the documents provided for audit revealed that the Rural Electrification and Renewable Energy Corporation components of the KOSAP projects were yet to receive or apply to National Environment Management Authority (NEMA) for an Environmental Impact Assessment License and conduct the procedures required for obtaining of the License as per the NEMA Act, 1988.

Further, there is public interest on one hand where the community needs protection against potential harm to the environment through contamination or pollution, and on the other, there is the Government interests which are environmental and economic but may also have an element of private commercial interest. Further, the consultant may have been paid for the initial sites targeted but since these have been downscaled, public funds may not have been prudently used on environmental social impact reports of sites that will not be constructed.

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

1526. Non-Acquisition of Project Land

Review of the documents provided, revealed that there was an issue with compulsory land acquisition on the sites where Rural Electrification and Renewable Energy Corporation is to build the mini-grids as the Ministry of Energy does not have adequate funding to complete the payments for the lands required for the projects.

Premised on that disclosure in the quarterly report provided for audit review, with the fact that Rural Electrification and Renewable Energy Corporation also does not have a budget line for acquisition of land for Projects purposes, there may be an inordinate delay in the process of acquisition. This is contrary to Section 5(4) of the Community Land Act, 2016 read together with Article 40(3) of the Constitution, which states that no interest in, or right over community land may be compulsorily acquired by the State except in accordance with the law, for a public purpose, and upon prompt payment of just compensation to the person or persons, in full or by negotiated settlement.

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

1527. Ineffective Project Management

The Donor funded projects that are currently under implementation by Rural Electrification and Renewable Energy Corporation are extremely behind schedule putting to risk the donor commitments that have been advanced as they may lapse before the monies are fully drawn for the benefit of the Project beneficiaries. The Business Development Manager who currently oversees the management of the projects may not be adequately facilitated in terms of staffing and resourcing to carry out the project supervision. There is need to create a dedicated project team to manage and supervise the project from the departments involved in project implementation. This project team also needs to comply with Section 151 of the Public Procurement and Asset Disposal Act, 2015 on complex and specialized contract implementation team to avoid duplicity.

KENYA ELECTRICITY EXPANSION PROJECT (OFID CREDIT NO.1487P) - RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1528. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1529. Low Budget Absorption

As disclosed in paragraph 2.7 of the Project Information and Overall Performance on the Project's funding summary, the Donor had made a commitment of USD 15,000,000 equivalent to Kshs.1,500,000,000. However, with the Project targeted completion date set for 30 December, 2023, actual drawdowns amounted to USD 9,373,500 equivalent to Kshs.1,109,159,289 leaving Kshs.390,840,711 (or 26%) of Donor commitment undrawn. In addition, over 95% of the project duration has passed and the credit is set to lapse before full utilization of the credit, thus the project's planned activities may not be realized.

Management did not provide documentary evidence for audit review indicating any mitigation measures which had been taken to secure an extension of the project from the Donor.

In the circumstances, the Project objectives may not be achieved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1530. Delay in Implementation of the Project

The statement of receipts and payments reflects cumulative payments of Kshs.1,109,159,289 in respect of acquisition of non-financial assets, representing approximately 82% of the total contracted value of works totalling Kshs.1,355,607,840 for the three (3) lots under the project. The contracts were signed in June, 2020 and the works were expected to be completed by June, 2022. In addition, the project was set to close on 30 December, 2023. However, over 26% of the contract have not been executed despite contract period having lapsed.

In the circumstances, it could not be confirmed whether the Project objectives would be achieved within the remaining time.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1531. 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

1532. Unaccounted for Long Outstanding Imprests

The statement of financial assets and liabilities reflects imprests and advances of Kshs.4,220,762 which includes Government imprests of Kshs.2,062,058 as disclosed in Note 10 to the financial statements. However, the amount relates to an imprest advanced to an officer on 26 February, 2020 who deserted duty before surrendering the imprest.

In the circumstances, accuracy of the imprest balance of Kshs.2,062,058 could not be confirmed and its recoverability is doubtful.

1533. Unsupported Transfers to Other Government Entities

The statement of receipts and payments reflects transfers to other Government units amount of Kshs.2,424,570,558 as disclosed in Note 6 to the financial statements. However, supporting schedules amounting to Kshs.2,403,070,558 for ten (10) entities were not provided resulting to unsupported transfers amounting to Kshs.21,500,000.

In the circumstances, the accuracy and completeness of transfers to other Government entities amount of Kshs.21,500,000 could not be confirmed.

Other Matter

1534. Delay in Payment of Court Awards

Note 17.7 to the financial statements reflects contingent liabilities amounting to Kshs.4,025,950,000 relating to two cases that have been awarded to the plaintiffs and which Management has not settled the decretal amounts. Although, as indicated in Annex 5 to the financial statements, the Management explained that the matters have forwarded to Solicitor General for legal advice.

In the circumstances, the State Department risks being charged interest for non-payment.

1535. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.8,781,474,021 and Kshs.5,832,533,610 respectively resulting to an under-funding of Kshs.2,948,940,411 or 34% of the budget. Similarly, the State Department spent Kshs.5,432,573,308 against an approved budget of Kshs.8,781,474,021 resulting to an under-expenditure of Kshs.3,348,900,713 or 38% of the budget.

The underfunding and under expenditure affected the planned activities and may have impacted negatively on delivery of services to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1536. Irregular Engagement of Temporary Employees

The statement of receipts and payments reflects compensation of employees' expenditure of Kshs.1,488,966,267 out of which an amount of Kshs.367,330,176 relates to payments for temporary employees. However, documents provided for audit revealed that the State Department has been engaging casuals for more than three months on renewable terms. This is contrary to Section 37 of the Employment Act, 2007 which requires conversion of the casual employment to contract.

Further, during the year under review, Management requested approval to engage casual workers at various farms/institutions. Review of casuals' records at the various farms/institutions revealed that in various months, Bachuma/Border points engaged seventeen (17) casuals above the approved numbers while AHITI Kabete engaged five (5) more casuals than the approved number. Although Management has explained that this was due to shortage of staff at the various stations, no evidence of approval to engage additional casual labourers was provided audit.

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

1537. Failure to Settle Pending Bills

Note 17.2 to the financial statements on analysis of pending bills reflects bills totalling Kshs.196,150,451. However, review of the aging analysis provided revealed that bills amounting to Kshs.32,106,769 owed to various suppliers had been brought forward from the financial year 2021 – 2022. This is contrary to Regulation 42 (1)(a) of the Public Finance Management (National Government) Regulations, 2015 which provides that debt service payments shall form a first charge in the subsequent financial year.

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

1538. Animal Health and Industry Training Institute (AHITI) Nyahururu Stalled Project

During the financial year 2021/2022, the Management awarded a contract for construction of boundary wall, entrance gate, driveway, landscaping and toilet block at AHITI Nyahururu at a contract sum of Kshs.8,863,275 for a contract period of one year. Physical inspection of the project in August, 2023 revealed that the works had stalled due to lack of funding in 2022/23 financial year to enable completion of the Project.

In the circumstances, the public may not obtain value for money on the stalled Project and delays in completion may lead to cost escalations.

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

Basis for Conclusion

1539. Failure to Provide Adequate Resources to the Eldoret Butterfat Station

As previously reported, the Eldoret Butterfat Station had inadequate funding and low staffing level thus hindering operations of the station.

In the circumstances, the Station may not achieve its mandate.

1540. Failure to Establish Audit Committee

The State Department did not establish an audit committee during the year under review. This is contrary to Regulation 174(1) of the Public Finance Management (National Government) Regulations, 2015, which requires that every National Government entity to establish an audit committee whose composition and functions shall be as prescribed by the regulations.

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

1541. Lack of Land Ownership Documents - AHITI Nyahururu

AHITI Nyahururu is located on 100 acres of land allocated by the Management of KALRO on 26 August, 2004. However, as at the time of audit ownership had not been transferred to the State Department for Livestock Development and therefore the Institute does not have a valid ownership document for the land.

In the circumstance, the ownership of the Institute land could not be confirmed.

1542. Un-updated Fixed Assets Register

Annex 2 to the financial statements reflects a summary of fixed assets register having an historical cost balance of Kshs.6,051,171,865 as at 30 June, 2023. However, the assets registers provided for audit did not disclose the values of land owned by the State Department and details of four (4) photocopier machines. Further, the register included fifty-two (52) office equipment, furniture and fittings, laboratory items and fifty (50) grounded motor vehicles that were either obsolete, unserviceable, expired items, or not in good working condition which had not been disposed of as at the time of the audit.

In the circumstances, the effectiveness of assets management systems could not be confirmed.

DONOR FUNDED PROJECTS

KENYA LIVESTOCK COMMERCIALIZATION PROJECT (LOAN NUMBER 2000003565 AND 2000003566)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1543. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1544. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.953,030,000 and Kshs.752,006,082 respectively resulting to an under-funding of Kshs.201,023,918 or 21% of the budget. Similarly, the Project expended Kshs.544,742,070 against an approved budget of Kshs.953,030,000 resulting to an under-expenditure of Kshs.408,287,930 or 43% of the budget.

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1545. 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

Conclusion

1546. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1547. As required by Financing Agreement Loan Number 2000003565 and 2000003566 between International Fund for Agricultural Development (IFAD) 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 Management of 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

1548. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1549. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.121,683,928 and Kshs.92,145,975 resulting to underfunding of Kshs.29,537,953 or 24% of the approved budget. Similarly, the Project spent an amount of Kshs.104,857,947 against an approved budget of Kshs.121,683,928 resulting to an under-expenditure of Kshs.16,825,981 or 16% of the budget.

In addition, Note 6 to the financial statement reflects Kshs.38,232,400 in respect of transfers to other Government entities. However, the approved budget was Kshs.26,279,028 thereby resulting to an over-expenditure of Kshs.11,953,372 that was not approved contrary to Regulation 44(2) Public Finance Management Act, (National Government Regulations) 2015 that 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.

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

Conclusion

1550. 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

1551. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1552. 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 Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

DE-RISKING, INCLUSION & VALUE ENHANCEMENT OF PASTORAL ECONOMIES (DRIVE) PROJECT (CREDIT NO:7139-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1553. 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

1554. Delay in Establishment of the Project Implementation Structure

The project financing agreement was signed on 29 June, 2022 which required the formation of a Project Steering Committee and Project Technical Committee within three months after effective date of the agreement. However, during the year under review both committees did not meet. This is contrary to Section 1A Sub-Section 3(a) of Schedule 2 of the financing agreement, which states that the Steering Committee should hold Bi-annual meetings whereas, the Technical Committee is required to meet monthly.

The Project Management did not comply with the financing agreement on holding regular meetings.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1555. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR THE BLUE ECONOMY AND FISHERIES – VOTE 1166

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1556. Presentation and Disclosures in the Financial Statements

The statement of receipts and payments reflects transfers to other government units amounting to Kshs.4,880,593,092 which as disclosed in Note 5 to the financial statements, includes amounts of Kshs.1,320,489,659 and Kshs.1,622,723,001 in development expenditure incurred under Kenya Aquaculture Business Development Programme (ABDP) and Kenya Marine Fisheries Socio-Economic Development Project (KEMFSED), respectively. However, the amounts relates to disbursements by donor through the State Department for projects, and thus do not meet the criteria for categorization as Government entities. Similarly, assets acquired under the project and cash and balances, if any, as at 30 June, 2023, have been excluded from the State Department's assets register and cash balances respectively. In addition, documents supporting expenditure on the projects such as expenditure returns, schedules and ledgers were not provided for audit.

In addition, the transfers include recurrent expenditure of Kshs.10,673,433 incurred in respect of Kenya Fisheries Advisory Council. However, the Council was yet to be established and operationalised. The expenditure, therefore, could not have been incurred for the purpose of the Council.

In the circumstances, the accuracy and completeness of the transfers to other government units amounting to Kshs.2,953,886,120 could not be confirmed.

1557. Unsupported Balances

The statement of financial assets and financial liabilities reflects a balance of Kshs.102,000,000 in respect of accounts receivables - district suspense and clearance accounts as disclosed in Note 9 to the financial statements. However, no evidence was provided to support the balance. Further, the statement reflects prior year adjustments of Kshs.11,140,494 as disclosed in Note 11 to the financial statements, which comprises of Ksh.10,945,239 and Ksh.195,255 relating to bank account balances and cash in hand respectively. However, no supporting documents were provided for audit to support the adjustments.

In the circumstances, the accuracy and completeness of the accounts receivables -district suspense and clearance accounts and prior year adjustments balances of Kshs.102,096,244 and Kshs.11,140,494 respectively could not be confirmed.

1558. Unauthorized Re-Allocations

The statement of receipts and payments reflects Kshs.1,096,585,570 in respect of use of goods and services, as disclosed in Note 4 to the financial statements. Further, the

statement reflects expenditure of Kshs.408,054,221 in respect of acquisition of assets as disclosed in Note 7 to the financial statements. Review of expenditure documents provided in support of the amount revealed payments totalling to Kshs.12,812,656 incurred on domestic travel and subsistence but charged to various account items under use of goods and services such as other operating expenses, communication, supplies and services; foreign travel and subsistence; rentals of produced assets; office and general supplies and services; routine maintenance of other assets, fuel, oils and lubricants. However, no request for approval for reallocation was sought and granted by the Accounting Officer and The National Treasury as provided for under Section 43 (2)(b) of the Public Finance Management Act, 2012.

Additionally, an amount of Kshs.77,214,482 allocated for purchase of office furniture and general equipment; purchase of specialized materials and services; construction of civil works; refurbishment of buildings; and, research, studies, project preparation and supervision was utilized on domestic travel and subsistence allowances without requisite approval. Further, Kshs.1,495,000 and Kshs.450,000 allocated to purchase of specialized plant, equipment and machinery, and purchase of motor vehicles and other transport equipment respectively, was utilized for purchase of office and general supplies and services and purchase of office furniture. However, no approval was provided to support the reallocations.

In the circumstances, the accuracy and completeness of expenditure on use of goods and services and acquisition of assets of Kshs.12,812,656 and Kshs.1,495,000 respectively, could not be confirmed.

1559. Inaccuracies in Social Security Benefits Payments

The statement of receipts and payments reflects expenditure of Kshs.22,969,157 in respect of social security benefits as further disclosed in Note 6 to the financial statements. Review of documents provided in support of the benefit payments revealed that the amount includes gratuity payments of Kshs.3,147,336 for three (3) employees which was not paid out during the year. However, the amount was included in the financial statements as payments, thereby, overstating social security benefits payments by a similar amount.

In the circumstances, the accuracy and completeness of the social security benefit amount of Ksh.22,969,157 could not be confirmed.

1560. Inaccuracies in the Fixed Assets Balances

The summary of fixed assets register disclosed in Annex 1 to the financial statements reflects total assets valued at Kshs.7,566,933,065 on historical costs. However, review of the assets register maintained at the State Department revealed the following:

- i. The register reflects that the State Department has twenty-five (25) parcels of land. However, ownership documents such title deeds, lease titles and allotment letters were not provided for audit.

- ii. Analysis of the Asset register revealed that twenty-five (25) parcels of land and seventeen (17) buildings are owned by the State Department. However, the register was not updated to include relevant details like date of acquisition and cost.
- iii. During the year under review, the State Department spent Kshs.1,320,489,635 and Kshs.1,622,723,001 in respect of Aquaculture Business Development Program (ABDP) and Kenya Marine Socio-Economic Development Project (KEMFSED) respectively. However, assets acquired under the two projects were not included in the State Department's Assets Register.

In the circumstances, the accuracy, and completeness of the fixed assets balance of Kshs.7,566,933,065 could not be confirmed.

1561. Inaccuracies in Pending Accounts Payables

Note 14.2 to the financial statements on other important disclosures reflects an amount of Kshs.166,386,002. The amount includes payables totalling to Kshs.112,169,310 carried forward from prior years. However, a schedule provided in support of the payables reflected bills totalling to Kshs.58,637,681 were outstanding from 2021/2022 and earlier years.

In addition, according to the note, only bills amounting to Kshs.57,678,019 were settled during the year against the balance of Kshs.112,169,310 indicated as outstanding at the beginning of the year which ought to have been settled as a first charge in the year under review. Further, review of the schedules supporting the amount revealed that the total balance for the pending accounts payables is reflected as Kshs.166,386,002. However, recasting of the amounts totalled to Kshs.136,386,002 resulting to an unexplained and unreconciled variance of Kshs.30,000,000. Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provision of the subsequent year as they form a first charge.

In the circumstances, the accuracy and completeness of pending accounts payables balance of Kshs.166,386,002 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1562. Delay in Establishment of Kenya Fisheries Advisory Council

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects transfers to other government entities amounting to Kshs.4,880,593,092. Included in this amount is Ksh.10,199,733 transferred to Kenya Fisheries Advisory Council (KFAC). However, the expenditure was incurred at the State Department since the Council was yet to be established and operationalized. The justification for allocation and expenditure for an entity which is yet to be established was not provided.

In addition, utilization of the transferred amount was not confirmed since no financial statements for the Council were prepared and submitted to the Auditor-General for audit.

In the circumstances, the regularity of transfers and expenditure for the Council could not be confirmed and Management was in breach of the law.

1563. Irregular Payment of Security Services

The statement of receipts and payments reflects expenditure on use of goods and service amounting to Kshs.1,096,585,570. As disclosed in Note 4 to the financial statements, the amount includes Kshs.21,230,161 incurred on other operating expenses. Review of the expenditure documents for the amount revealed that an amount of Kshs.2,216,000 was paid to a private company for the provision of security services to Kenya Fisheries Services (KFS) offices at NHIF building. However, Kenya Fisheries Services is a semi-autonomous Government agency and ought to have met the cost from its budget.

In the circumstances, the regularity of the expenditure of Kshs.2,216,000 incurred on other security services could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1564. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REVENUE STATEMENTS - STATE DEPARTMENT FOR BLUE ECONOMY AND FISHERIES

REPORT ON THE REVENUE STATEMENTS

Basis for Qualified Opinion

1565. Presentation and Disclosures of the Revenue Statements

The revenue statements for the year under review excluded requisite statements comprising of the statement of financial assets and liabilities, the statement of comparison of budget and actual amounts and the statement of arrears of revenue as required by the financial reporting guidelines and templates issued by the Public Sector Accounting Standards Board (PSASB).

Further, the statement of receipts and disbursements reflects Nil balances in all revenue classes for non-tax receipts in the prior year 2021/2022. However, as previously reported, revenue amounting to USD 119,282 (approximately Kshs.16,750,055), relating to security and electricity charges for vessels which docked at the Liwatoni fishing port had been long outstanding, some dating back to August, 2020. Although, Management had written demand letters to the operators, no

response had been received and ships were still docked at Liwatoni and accumulating more charges. In addition, accumulated charges and fees was not being assessed and reported in the financial statements.

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

1566. Delay in Remitting Revenue to the Receiver of Revenue

The statement of receipts and disbursements reflect other receipts amount of Kshs.130,311,440. Included in the amount is Kshs.204,890 which was banked in the month of August, 2023. According to Management, the amount comprised of Kshs.75,740 and Kshs.129,150 collected at Sagana NADC and Sagana NARDTC during the year under review but was deposited on 09 August, 2023 and on 10 August, 2023 respectively, over a month after the closure of the financial year.

Similarly, revenue amounting to Kshs.1,632,045 received in June, 2023 and recorded in the ledger on various dates was banked on 03 July, 2023, which was long after it was received.

Further, documents such as receipt books and cash books to confirm that the revenue amount related to the year under review were not provided for audit.

In the circumstances, the accuracy of the receipts totalling Kshs.130,311,440 could not be confirmed.

1567. Unsupported Cash Book and Bank Balances

During the year under review, Management maintained a bank account in which revenue collected from licenses, training and sale of fish fingerlings and fish feed was deposited. Review of the monthly bank statement balances and cash book balances revealed differences between the two sets of records. However, bank reconciliation statements for the balances were not provided for audit. Further, a reconciliation of amounts collected from various revenue points against banking made in respect of the collections was not provided for audit.

In the circumstances, the accuracy of the receipts and disbursements for the year under review could not be confirmed.

Other Matter

1568. Unresolved Prior Year Audit Matters

In the audit of the previous year, several issues were raised under Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not indicated how the issues were resolved or explained the failure to adhere to the provisions of the Public Sector Accounting Standards Board reporting template and The National Treasury Circular AG.3/88/VoL.II (28) dated 9 May, 2023.

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.

DONOR FUNDED PROJECTS

KENYA MARINE FISHERIES AND SOCIO-ECONOMIC DEVELOPMENT PROJECT CREDIT NO. 65400-KE

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. Delay in Utilization of Funds by The County Project Implementation Unit (CPIU), Community Based Organizations (CBOs) and the Common Interest Groups (CIGs)

During the year under review the Project disbursed funds amounting to Kshs.1,010,609,349 to the five (5) County Project Implementation Units. In addition, the Project had an opening balance of Kshs.159,202,615 resulting to funds available for

utilization by the CPIUs amounting to Kshs.1,169,811,964. However, CPIUs only spent Kshs.500,559,109 resulting to an under-absorption of funds by Kshs.669,252,856.

The under-absorption of funds has denied the public the opportunity to benefit from the activities that would have been undertaken from the funds disbursed.

AQUACULTURE BUSINESS DEVELOPMENT PROGRAMME (IFAD LOAN NO.2000002052 & 2000002614)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1574. 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

Basis for Conclusion

1575. Non-Utilization of Projects

The Programme had undertaken the construction of Uhuru Business Park in Kisumu at contract price of Kshs.13,500,036. Project report dated 29 March, 2023 by the State Department for Public Works Architectural Department indicated that the project was complete. However, physical verification in the month of September, 2023 revealed that the facility was not in use.

Further, physical verification of a classroom and laboratory at Ramogi Institute of Advanced Technology in Kisumu in the month of September, 2023 revealed that the facility was constructed at a contract sum of Kshs.9,699,035. Project Quantity Surveyor report dated 19 June, 2023 indicated that the project was 95% complete. In addition, the contractor had been paid a total of Kshs.9,266,545 or 95% of the contract sum and the project was not in use.

In the circumstances, value for money on the above delayed projects could not be achieved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1576. Lack of an Internal Audit Report

Review of the internal controls of the Programme, revealed that no internal audit was conducted during the year under review and therefore no internal audit report was provided for audit review. This was contrary to Schedule 3, on Special covenants,

Section 12.0(a) (xxiii) part 3 which states that the Ministry shall designate one of the internal auditors on secondment from The National Treasury to audit the Programme Coordinating Unit and periodically visit and review the internal audit processes performed by internal auditors at the Programme Counties.

In the circumstances, the Programme did not benefit from the assurance and advisory services from the internal audit function.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1577. As required by 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 Management of the Project and the Project's financial statements are in agreement with accounting records and returns.

STATE DEPARTMENT FOR CROP DEVELOPMENT – VOTE 1169

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1578. Inaccuracies of Expenditure on Compensation of Employees

The statement of receipts and payment, and as disclosed in Note 5 to the financial statements, reflects an amount of Kshs.906,819,870 in respect to compensation of employees. Included in this amount is Kshs.428,998,000 in respect of basic salaries of permanent employees. Comparison of monthly payroll basic salaries against the corresponding ledgers for the period between July, 2022 and June, 2023 revealed the following unreconciled variances:

Month	Payroll Basic Salaries (Kshs.)	Ledger Basic Salaries (Kshs.)	Variance (Kshs.)
July	38,074,296	39,072,966	998,670
August	37,559,977	39,549,761	1,989,784
September	37,842,154	39,049,851	1,207,697
October	37,842,465	40,142,141	2,299,676
November	36,616,002	37,644,430	1,028,428
December	36,778,961	42,707,973	5,929,012
January	37,275,549	40,405,087	3,129,537
February	36,798,700	38,043,587	1,244,887
March	36,850,893	36,704,875	146,018
April	36,913,692	29,744,715	7,168,977
May	37,634,158	27,872,710	9,761,448
June	37,324,169	18,059,903	19,264,266

In the circumstances, the accuracy and completeness of basic salaries of permanent employees amount of Kshs.428,998,000 could not be confirmed.

Emphasis of Matter

1579. Long Outstanding Fertilizer Subsidy Pending Accounts Payable

Note 19.2 to the financial statements, as analyzed in Annex I to the financial statements, reflects pending accounts payable balance of Kshs.12,058,660,230. The balance comprises Kshs.3,481,702,255 and Kshs.8,576,957,975 in respect to supply of goods and services and historical pending bills respectively. The balance of Kshs.8,576,957,975 in respect to historical pending bills includes an amount of Kshs.8,494,698,701 in respect of fertilizer subsidy which has been outstanding for a long period as analyzed below:

Payee	Services	Amount (Kshs.)
National Cereals and Produce Board (Fertilizer Subsidy)	KCB Loan-Debts owed in Respect of the National Fertilizer Subsidy Programme	5,035,626,732
Export Trading Company	Debt owed in respect of the National Fertilizer Subsidy Programme	1,749,041,690
National Cereals and Produce Board	Reimbursement of Fertilizer Subsidy	1,680,864,781
Export Trading Company	Legal Costs Payable	29,165,499
Total		8,494,698,701

Further, pending accounts payable of Kshs.5,035,626,732 relates to a loan facility obtained by National Cereals and Produce Board in October, 2019 to finance GoK subsidized fertilizer program which has continued to attract high interests and penalties.

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.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1580. Construction of Laare Ultra-Modern Miraa Market Shed in Meru County

The State Department signed a Contract for construction of Laare Ultra-Modern Miraa Market Shed at a cost of Kshs.23,502,066. The project is situated approximately 10 kms from Maua Town off Meru - Maua Road, Meru County. The project commenced on 03 October, 2020 and was to be completed by 03 October, 2021.

The Contractor was paid first certificate of Kshs.11,683,432 and raised a second payment certificate of Kshs.3,586,462 which is a pending bill in the period under review. Audit inspection carried out on 07 August, 2023 revealed that there is no valid contract since the addendum had lapsed. Further, the construction had stalled due to delayed payment of Kshs.3,586,462 for the work done and increased cost of materials. Further, the amount claimed by the supplier was not included in the list of pending bills as at 30 June, 2023.

In the circumstances, the project has not achieved its intended purpose and value for money has not been realized on the expenditure of Kshs.11,683,432 paid since the contract duration has lapsed and Construction of Laare Ultra-Modern Miraa Market Shed is still incomplete.

1581. Drying and Storage Facility

1581.1 Construction of Mwendi - Urithi Lailuba Grain Drying and Storage Facility in Meru County

The State Department signed a contract on 31 January, 2022 for the construction of Mwendi - Urithi Lailuba Grain Drying and Storage Facility in Lailuba, Tigania East Constituency, Meru County at a contract sum of Kshs.53,075,681. As at 30 June, 2023, the contractor had submitted a certificate for Kshs.8,771,722. Physical verification of the project on 7 August, 2023 revealed that the construction project was incomplete and the contract period had expired. Further, the contractor had moved out of site and only Bill number 1 of Bill of Quantity had been fully completed. In addition, civil works under Bill numbers 2, 3, 4, 5 and 6 totalling Kshs.39,672,861 had not been started.

In the circumstances, the project has not achieved its intended purpose since the contract duration has lapsed and the contractor has abandoned site.

1581.2 Construction of Mbeu Muungano CBO Drying and Storage Facility in Meru County

The State Department entered into a contract at a contract sum of Kshs.49,565,595 on 31 January, 2022 for Construction of Mbeu Muungano CBO Drying and Storage Facility in Urru, Tigania West Constituency, Meru County. The project commenced on 01 April, 2022 with a completion date of 01 October, 2022. Audit inspection of drying and storage facility carried out on 08 August, 2023 revealed that a portion of the land where the drying and storage facility is being constructed had an ongoing court case or dispute. Further, the construction works had stalled with works totaling Kshs.48,229,035 under Bills 1, 2, 3, 4, 5 and 6 not having been started.

In the circumstances, the project has not achieved its intended purpose since the contract duration has lapsed and construction works stalled.

1581.3 Construction of New Progressive Farmers' Cooperative Society Drying and Storage Facility in Uasin Gishu County

The State Department entered into a contract on 31 January, 2022 for construction of New Progressive Farmer's Cooperative Society Drying and Storage Facility in Uasin Gishu County at a contract price of Kshs.52,437,808 for a contract period of six (6) months commencing 01 March, 2022. The contractor was paid an advance payment of Kshs.3,903,776. The contractor requested for a four (4) months extension of time that would have revised the completion date to 02 January, 2023. However, no evidence of approval of the extension was provided for audit.

Audit inspection on 10 August, 2023 revealed that the standard grain store was not complete. In addition, supply of a 7 tons mobile dryer worth Kshs.4,000,000 and tractor and trailer (a tractor of nominal power-50HP) worth Kshs.5,500,000 which were independent of the construction works had not been procured.

In the circumstances, the project has not achieved its intended purpose since the contract duration has lapsed and construction works stalled.

1582. Inadequacies in Sifted Maize Subsidy Programme

The statement of receipts and payments reflects total payments amounting to Kshs.46,692,429,277 which includes expenditure of Kshs.3,999,095,569 in respect to sifted maize flour subsidy programme. However, review of records and documents relating to the programme revealed the following unsatisfactory matters:

1582.1 Unsupported Procurement of Millers

Review of letter Ref No: MOA/B.1/36AVOL.XXVII (120) dated 19 July, 2022 indicates that, to operationalize the sifted maize subsidy programme, a multi-agency taskforce was formed which comprised of Ministry of Agriculture, The National Treasury, Cereal Millers Association and other Small and Medium Scale Millers Association. Further, Sub County Oversight Subsidy Maize Flour Programme Committees were formed which included Kenya Bureau of Standards and Kenya Revenue Authority, and National Cereals and Produce Board, and each of the County Security Intelligence Infrastructure to oversee the successful implementation of the programme.

However, advertisement to procure, minutes and correspondences with Cereal Miller's Association were not provided for audit. Further, negotiation of payment of pending bills, identification and contracting of the participating millers, number of millers who signed the contract and whether both big and small millers participated in the subsidy could not be confirmed.

1582.2 Contingent Liabilities on Maize Flour Subsidy Program

Information available indicates that a Miller who had not been paid had on 15 March, 2023 issued a Notice to sue the State Department. The Miller was seeking payment of the outstanding amounts with interest at a rate of 12% from August, 2022 until payment is made in full. On 24 April, 2023 the Miller issued a seven (7) day notice to commence the process of arbitration with the Nairobi Center for International Arbitration. Further, a letter dated 18 May, 2023, the Miller wrote to the Registrar, Nairobi Centre for International Arbitration with request for arbitration and nominated an arbitrator to hear and determine the case.

In the event that the expected liability crystallizes, the State Department is likely to incur additional costs on interests and penalties.

1582.3 Lack of an Approved Supplementary Budgets on Maize Flour Subsidy Under Article 223 of the Constitution

The National Treasury vide Letter Ref. No.RES 1169/22/01 'A' (7) date 21 July, 2022 to Ag. Principal Secretary for State Department for Crop Development approved additional funding amounting to Kshs.9,123,069,047. The approval was in response to a request by the State Department vide letter Ref. No. MaddOA/LCD/9/12/1 dated 18 July, 2022 to cater for implementation of the Maize Flour Subsidy Programme.

Further, The National Treasury granted approval to the State Department to spend additional Kshs.4 billion under Article 223 of the Constitution in the implementation of the

Maize Flour Subsidy programme pending regularization in the FY 2022/2023 Supplementary Estimates No.1.

Information available indicates that the State Department paid Kshs.3,999,095,569 for Maize Flour Subsidy Programme during the year under review. Further, the State Department had pending bills amounting to Kshs.3,023,029,818 owed to maize millers as at 30 June, 2023. However, a supplementary budget intended to appropriate the funds expended under Article 223 of the Constitution was not approved by Parliament.

In addition, the funds for the programme were approved under Article 223 of the Constitution. Consequently, the State Department was required to submit to The National Treasury details of actual expenditure not later than two months after the first payment to facilitate The National Treasury to submit a report to parliament. However, evidence that the State Department and The National Treasury complied with the requirements of Article 223 of the Constitution was not provided for audit review.

1582.4 Failure to Quantify Contracted Quantities

Examination of sampled pending bills amounting to Kshs.253,615,616, as detailed in Appendix I, revealed that the Management did not specify contracted quantities were or capped amounts in the contracts. Therefore, millers delivered any quantity depending on their capacity without ascertaining the availability of the funds resulting to pending bills and litigations for interest on delayed payments occasioned by delayed payments. This was contrary to Regulation 35(1) of the Public Procurement and Asset Disposal Regulations, 2020 which requires that where the Accounting Officer appoints an Ad hoc Inspection and Acceptance Committee in accordance with Section 48(1) of the Act, the Accounting Officer shall take into account among other things that the technical person referred to in paragraph (3) shall issue a certificate to the Accounting Officer confirming the right quality and quantity of goods, works or services.

In the circumstances, the effectiveness and value for money on expenditure on sifted maize subsidy programme could not be confirmed.

REPORT ON THE 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.

DONOR FUNDED PROJECTS

KENYA CEREAL ENHANCEMENT PROGRAMME-CLIMATE RESILIENT AGRICULTURAL LIVELIHOOD WINDOW (KCEP-CRAL) EU GRANT No.2000000623, GRANT No.2000001522, GRANT No.2000003493, GRANT No.2000001122 AND IFAD LOAN 2000001121

REPORT ON FINANCIAL STATEMENTS

Unmodified Opinion

1584. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1585. Delayed Disbursement of Funds

The statement of receipts and payments reflects loans from external development partners totalling to Kshs.1,852,133,972 as disclosed in Note 3 to the financial statements. Review of records revealed that disbursement for fourth quarter activities amounting to Kshs.100,440,770 was disbursed in June, 2023 but was received in the Project Bank Account on 03 July, 2023.

Delay in the release of funds affected the planned activities and may have impacted negatively on delivery of goods and services to the public.

1586. Budgetary Control and Performance

The statement of comparison of budget reflects final receipts budget and actual on comparable basis of Kshs.2,820,000,000 and Kshs.2,193,893,990 resulting in underfunding of Kshs.626,106,010 or 78% of the budget. Further, the statement reflects final payments budget and actual amounts of Kshs.2,820,000,000 and Kshs.1,928,715,131 respectively resulting to an under-expenditure of Kshs.891,284,869 or 32% of the budget.

The underutilization of funds affected the planned activities and may have impacted negatively on delivery of goods and services to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1587. Failure to Transfer Counterpart Funds

Review of the financial statements and documents provided for audit revealed that the Republic of Kenya did not transfer Kshs.20,000,000 being counterpart funding for the financial year ended 30 June, 2023. This is contrary to Section 2 of the Financing Agreement between International Fund for Agricultural Development and the Republic of

Kenya that stipulates that the recipient shall provide counterpart financing for the programme to cover taxes and duties.

In the circumstances, the Management was in breach of the financing agreement.

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.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1589. As required by the International Fund for Agricultural Development (IFAD), 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 Management of 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 (DRSLP) IN THE HORN OF AFRICA (ADF LOAN NO.2100150028345)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1590. 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

Basis for Conclusion

1591. Delayed Completion of Drilling and Development of Community Boreholes in Marsabit County

The Programme Management awarded a contract for the drilling and development of two (2) community boreholes, at a contract sum of Kshs.15,569,806 for a contract period of four (4) months with the commencement date being 15 November, 2020. The boreholes were to be drilled at Kubi Bagassa and Qachacha in Saku Sub-County in Marsabit County. Review of records and physical verification carried out in the month of September, 2023 revealed that Kshs.9,469,016 or 61% of the contract sum had so far been paid. However, test pumping, supply and installation of grundfos solar pump, construction of water kiosk with reinforced platform for a water tank, construction of a

cattle trough, and fencing of a quarter acre land had not been done and the contractor was not on site at Kubi Bagassa Community borehole while the borehole at Qachacha community was dry. The Management explained that the delay at Kubi Bagassa Community borehole was occasioned by the drilling of the borehole to a depth of 405 Metres for which installation of the pump was not possible. The works are behind schedule and no evidence of extension of contract period was provided by Management for audit verification.

In the circumstances, stakeholders may not obtain value for money on the costs incurred on the Project and further delays may lead to cost escalations.

1592. Stalled Construction of Kurungu Livestock Market Yard in Samburu County

The Programme Management awarded a contract for construction of Kurungu livestock market yard at a contract sum of Kshs.11,959,011. The contract period was for four (4) months, with commencement date being 16 December, 2020. The physical inspection of the works in the month of September, 2023 however, revealed that the contractor had abandoned the site, while the construction of the kiosk, ramp and offices were incomplete. Further, examination of payment records revealed that Kshs.7,482,192 or 63% of the contract sum had been paid to the contractor.

In the circumstances, stakeholders may not obtain value for money for the resources already spent on the Project and the objectives of the Project may not be achieved.

1593. Stalled Drilling and Development of Three (3) Boreholes in Isiolo-County

The Programme Management awarded a contract for drilling and equipping of three (3) community boreholes at Longopito, Kipsing and Matundai in Isiolo County, at a contract sum of Kshs.20,172,199. The contract period was for four (4) months with the commencement date being 1 December, 2020. Physical inspection carried out in the month of September, 2023 however, revealed that the Longopito borehole works were incomplete and the contractor was not on site. The Kipsing and Matundai boreholes were abandoned and the boreholes had run dry. Further, examination of payment records revealed that Kshs.10,003,345 or 50% of the contract sum had been paid. The Management explained that the Longopito borehole was abandoned due to vandalism by unknown people but no explanation has been provided for the failure by the contractor to secure the site and make good the damages.

In the circumstances, stakeholders may not obtain value for money for the resources already spent on the Projects and the objectives of the Projects may not be achieved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1594. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1595. As required by African Development Bank and African Development Fund, 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;
- 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 Management of 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.

SMALL-SCALE IRRIGATION AND VALUE ADDITION PROJECT - ADF LOAN NO. 2000130014530 AND GRANT NO. 5570155000751

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1596. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1597. Delay in Overall Project Completion

The Government of Kenya entered into the agreement with the African Development Bank for the implementation of the Small-Scale Irrigation and Value Addition Project (SIVAP) which commenced on 1 July, 2016 with the closing date expected to be on 30 June, 2022. The Project Management sought for a one year no-cost extension to 30 June, 2023 for which a no objection was granted. However, as at the time of audit in the month of September, 2023, several projects had not been concluded and about 35% of the Loan amount had not been absorbed.

The delay in completion and the slow rate of absorption of funds implies that some activities may 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

1598. Terminated and Abandoned Projects

Review of contracts and payment records revealed that the Project Management had awarded multiple contracts for various civil works. However, review of the projects' status reports and physical inspection of the works in September, 2023 revealed payment amounting to Kshs.263,651,215 as at 30 June, 2023 relating to seventeen (17) contracts with combined contract sum totalling Kshs.391,072,333. Further, it was observed that these projects had been terminated and some abandoned for various reasons. Although, the Project Management has explained that some of the works have been re-advertised and new sites identified to replace the dried-up boreholes and shallow wells in Tana River region with the intention of ensuring that the beneficiary communities received value for the investments, the costs incurred did not translate to benefits to the public.

In the circumstances, value for money on the expenditure of Kshs.263,651,215 on the terminated and abandoned projects may not be achieved.

1599. Delay in the Implementation of Rubiru Irrigation Scheme

The Project Management awarded a contract for the construction of Rubiru Irrigation Scheme in Murang'a County on 4 January, 2022 at a contract sum of Kshs.538,793,797. The contract was for an initial contract period of one year which was extended to 30 June, 2023. However, review of records and physical inspection of the project in the month of September, 2023 revealed that the Project was incomplete and was at an estimated level of completion of 80% and a total of Kshs.284,775,327 had been paid. Although, Management explained that the delay was occasioned by denied wayleave for water pipes, the correspondences provided indicate that the wayleaves were sought by the Project Management on 30 October, 2023 long after the commencement of the works and expiry of the contract period and evidence that the intended recipient received the request was not provided for audit verification.

In the circumstances, stakeholders may not obtain value for money on the expenditure incurred on the Project.

1600. Incomplete Works in the Rehabilitation of Access Roads

The Project Management team entered into a four-months contract with a firm for the rehabilitation of the Kindaruma-Kwa Kyumbo-Kithyoko road in Machakos County on 11 August, 2022, at a tender sum of Kshs.19,657,223. The contract included the rehabilitation of Kangonde- Kyondoni catchment rural access roads and rehabilitation of Kasuongove-Mikuyuni-Ngungi (5.3 Kilometres) access road. According to the project status report as at 30 June, 2023, the project was marked complete and a total of

Kshs.19,655,957 had already been disbursed for it. However, physical verification of works revealed that the excavation and filling of gabion boxes, culverts and drainage works along the Kangonde-Kyondoni catchment rural access roads had not been carried out, while the grading of the existing carriage way to camber was only partially executed, covering the stretch from Kindaruma to Kauwongo seasonal river, instead of the 8km road length provided for in the bill of quantities.

Further, excavation and refilling of gabion boxes and culverts and drainage works along the Kasuongove-Mikuyuni-Ngungi (5.3 Kilometres) access road were not completed as specified in the bills of quantities.

In the circumstances, stake holders may not obtain value for money from these projects.

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

Conclusion

1601. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1602. As required by African Development Bank and African Development Fund, I report based on my audit, that:

- i. The Project's funds have been used in accordance with the conditions of the loan and 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 loan and 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 Project activities;
- iv. Adequate internal control to monitor expenditure and other financial transactions and ensure safe custody of assets exist;
- v. Ledgers and fixed assets register for the Project'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 Project, so far as appears from the examination of those records; and,
- viii. The Project financial statements are in agreement with the accounting records and returns.

CAPACITY DEVELOPMENT PROJECT FOR ENHANCEMENT OF RICE PRODUCTION IN IRRIGATION SCHEMES IN KENYA (PROJECT NUMBER 1161001009)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1603. 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

1604. 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

Conclusion

1605. 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

1606. 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

1607. Non-Remittance of Counterpart Funds

The statement of receipts and payments and as disclosed in Note 11.1 to the financial statements reflects transfer from Government entities - Counties and National Government amounting to Kshs.590,369,039. Review of the transfers from other Government entities revealed that the National and County Governments had not

remitted counterpart funds amounting to Kshs.159,606,369 and Kshs.592,876,249 respectively contrary to the financing agreement.

In the circumstances, the non-remittance of the counterpart funding may have impacted negatively on the implementation and development of the Programmes hence affecting delivery of goods and services to the public.

1608. Non-Implementation of Component Three Project

Review of project documents and the County project implementation status reports in the various sampled Counties revealed that amounts totaling Kshs.227,716,690 had been disbursed to various Counties for implementation of Component Three Projects with a budget amount of Kshs.412,108,985. However, one of the project - Limuru Dairy UHT in Kiambu County with a contract sum of Kshs.99,861,000 and a planned completion date of 20 July, 2021 had not commenced despite funds being available.

In the circumstances, the value for money on the disbursements amounting to Kshs.99,861,000 towards the projects could not be ascertained.

1609. Delays in Commissioning of Projects

The Programme implemented various multi-community investment projects in the twenty-one (21) participating Counties. However, twenty-two (22) Multi-Community Investments projects amounting to Kshs.1,105,544,711 had been completed but not yet commissioned and handed over to the community by the respective Counties.

In the circumstances, the delay in commissioning of the projects is negatively affecting delivery of goods and services to the public.

1610. Delayed Micro Project Funding

Migori County Project Steering Committee had approved one hundred and seventy-two (172) micro projects Community Investment Groups (CIGs) and Vulnerable and Marginalized Groups projects with a budgeted amount of Kshs.55,930,700. The projects were to be implemented in the fourth and last phase of NARIGP. Review of the micro project records revealed that an amount of Kshs.20,131,800 was disbursed to fifty-five (55) micro groups as budgeted. However, the County Government of Migori disregarded the approved groups list and initiated formation of new CIGs which has delayed the projects' implementation. No explanation was provided for the change in groups to be funded in the last phase.

In the circumstances, the County project steering committee was in breach of the project implementation plan and therefore causing delays.

1611. Delayed Absorption of Funds

The statement of receipts and payments and as disclosed in Note 11.6 to the financial statements reflects transfer to County Governments amount of Kshs.3,771,481,061. Examination of the respective bank accounts in the month of September, 2023 revealed that funds totalling to Kshs1,163,012,972 for twenty-one (21) Counties had not been

absorbed yet the project has a closing date of 31 March, 2024. No clear explanation was given as regards to the delayed absorption of funds.

The under absorption of funds has denied the public the opportunity to benefit from the activities that would have undertaken from the funds disbursed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1612. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA CLIMATE SMART AGRICULTURE PROJEC (IDA CREDIT NO. 5945-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1613. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1614. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total final receipt budget and actual receipts amounting to Kshs.5,595,694,774 and Kshs.2,665,710,653 respectively resulting to underfunding of Kshs.2,929,984,121 or 52% of the budget.

The underfunding may negatively affect achievement of the planned objectives of the Project hence affecting delivery of goods and services to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1615. Un-Approved Workplans

The Project's Annual Work Plans and Budgets (AWP&Bs) for the year under review were not approved by National Project Steering Committee This is contrary to Annex 3 to the Kenya Climate Smart Agriculture Project Appraisal Documents which requires the National Project Steering Committee to approve the Projects Annual Work Plans and Budgets. Further, review documents revealed that the National Project Steering Committee did not hold any meeting in the year under review. The last meeting was held on 19 December, 2019 to approve the 2020/2021 Work Plan.

In the circumstances, Project's Annual Work Plans and Budgets (AWP&Bs) for the year under review were irregularly implemented and the Project Management was in breach of the Project Appraisal Document.

1616. Consultancy Services for Project Completion Report

The statement of receipts and payments reflects purchase of goods and services totalling to Kshs.1,483,368,564. The amount includes consultancy and training expense of Kshs.934,788,826 as disclosed in Note 3 to the financial statements. The consultancy and training expenses includes an expenditure of Kshs.42,369,109 incurred on consultancy services for project completion report. However, no documentary evidence in the form of contracts, recommendations and agreements were provided to confirm that the consultant had the requisite experience in World Bank funded projects and an experience of five years. Further, Management did not negotiate fees charged by the Consultant. This is contrary to Clause 2.29 of the World Bank Procurement Guidelines,

In the circumstances, the value for money on the procurement of the consultancy services was not achieved.

1617. Failure to Remit Counterpart Funds by Selected Counties

Review of project documents and records maintained at sampled County Project Offices revealed that Busia County, Bomet County and Siaya County had not remitted counterpart funds amounting to Kshs.120,554,295, Kshs.1,887,950 and Kshs.44,676,011 respectively, all totalling to Kshs.167,118,256. This contravened 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.

1618. Delayed Upgrading of Biricha Irrigation Water Project and Construction of Water Storage Tanks in Mugunda Ward

The County Government of Nyeri entered into contract on 26 July, 2021 for the upgrading of Biricha Irrigation Water Project and Construction of Water Storage Tanks in Mugunda Ward. Review of documents revealed that the contractor was paid Kshs.18,321,908. However, the contract was terminated on 19 January, 2023 due to fundamental breach of the contract by the contractor. Management has not initiated modalities of completing the remaining works.

In the circumstances, value for money has not been achieved from the Water Project.

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

Conclusion

1619. 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

1620. There were no material issues noted during the audit of the financial statements of the Program.

Other Matter

1621. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.1,290,000,000 and Kshs.517,596,718 respectively resulting to an underfunding of Kshs.772,403,282 or 60% of the budget. Although the Management explained that the underfunding was as a result of budget cuts during the supplementary budget II, this affected the overall planned activities of the program.

In the circumstances, the underfunding affected the planned activities and may have impacted negatively on delivery of goods and services to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1622. Stalled Works at the Regional Pastoral Center - Narok

The Project Management awarded a contract for renovation and rehabilitation of the incubation Centre for the Regional Pastoral Training Centre in Narok County for a contract period of six months at a contract sum of Kshs.8,318,517. Review of Project status report revealed that the works had stalled at 25% level of completion and the contract had been terminated with Kshs.1,024,353 having been paid. No satisfactory explanation was offered by Management on the measures it intends to take to ensure the project is completed and put to use.

In the circumstances, the stakeholders may not obtain value for money on the resources already spent on this Project.

1623. Idle Equipment

Review of expenditure records revealed a payment of Kshs.3,598,500 in respect of equipments procured and delivered to four (4) institutions which included a solar panel to the University of Eldoret, pre-fabricated cold room to Naivasha DTI, Horizontal feed mixer to RIAT University Kisumu and pelleting machine to RIAT University Kisumu at amounts of Kshs.294,000, Kshs.2,610,000, Kshs.195,000 and Kshs.499,500 respectively.

However, physical verification of the equipments in the month of September, 2023 revealed that the equipments had not been installed or commissioned. Although Management explained that the reason for non-use of some equipments was due to

undergoing renovations of the buildings in which they were to be installed while others are awaiting for a three-phase power installation, the equipments were idle and not in use.

In the circumstances, stakeholders may not obtain value for money from the resources utilized if these equipments are not put to use.

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

Conclusion

1624. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1625. 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. Goods and services financed have been procured in accordance with the Loan Agreement and the Fund's rules and procedures;
- iii. Necessary supporting documents, records and accounts have been kept in respect of all Program activities; and
- iv. Adequate internal control to monitor expenditure and other financial transactions and ensure safe custody of assets exists.
- 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.

AGRICULTURAL SECTOR DEVELOPMENT SUPPORT PROGRAMME II (SIDA GRANT NO: 51110109)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1626. 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

Basis for Conclusion

1627. Failure to Remit Counter Part Funding

The statement of receipts and payments reflects cumulative receipts from Government of Kenya to 30 June, 2023 totalling Kshs.1,837,352,697 out of the total commitments of Kshs.2,092,500,000 made by the Government of Kenya and the County Governments resulting to an undrawn balance of Kshs.255,147,303. Further, the statement of comparison of budget and actual amount reflects a final budget of Kshs.90,000,000 from the Government. However, only Kshs.2,000,000 was received from the Government of Kenya resulting to underfunding of Kshs.88,000,000 or 98%. At close of Audit in October, 2023, it was not clear how the Programme intends to achieve 100% of the counterpart funding as the Programme is set to end on 29 February, 2024.

The underfunding of the programme may affect planned activities of the Programme and therefore negatively impacting on delivery of goods and services as envisioned.

1628. Delay in Operationalization of Banana Ripening Chamber, Feed Miller and Mixer in Taita Taveta

The Programme had procured two banana ripening chamber containers for TATABA Cooperative in Taita Taveta. However, physical inspection in October, 2023 revealed that the banana ripening chamber containers had been installed but were not in use. Further, the warrant period for the chambers had lapsed before they had been put into use.

In addition, the installation of the banana ripening chamber, animal feed miller and mixer was done before power connection was done thus making the machines stay for more than two years without being operationalized.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1629. There were no material issues relating to effectiveness of internal controls, risk management and governance.

EMERGENCY LOCUST RESPONSE PROJECT (IDA CREDIT NO. 6648-KE AND NO. 70530-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1630. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1631. Budgetary Control and Performance

The statement of comparison budget and actual amounts reflects final expenditure budget and actual on comparable basis of Kshs.2,056,380,000 and Kshs.1,331,223,566, resulting to an under-expenditure of Kshs.725,156,434 or 35% of the budget.

The underperformance affected implementation of planned activities and programs and impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1632. Expired Pesticides

The statement of receipts and payments reflects Kshs.1,382,445,039 in respect of cumulative purchase of goods and services expenditure. The expenditure includes purchase of 22,000 litres of Fenitrothion 96% ULV active ingredient on 22 February, 2021 at a cost of Kshs.274,560,000. However, 9,450 litres of the Fenitrothion 96% ULV active ingredient valued at Kshs.117,936,000 expired on 15 March, 2022 while still in the Project store.

In the circumstances, the effectiveness in use of public resources in procurement of pesticides amounting to Kshs.117,936,000 could not be confirmed.

1633. UnProcedural Fund Disbursements to Counties

According to Project Appraisal Document (PAD) No. PAD3904, disbursements to the counties should be directly from the Designated Account (DA)-B to County Project Accounts through the County Revenue Fund (CRF) and Special Purpose Account (SPA). During the financial year under review, funds to the counties were disbursed in two tranches of Kshs.471,382,048 and Kshs.699,559,575 on 13 January, 2023 and 28 April, 2023 respectively. However, contrary to stipulations of the PAD, funds amounting Kshs.699,559,575 were disbursed from designated account DA-B to Exchequer Account (Treasury). The funds were then transferred to National SPA at the Central Bank of Kenya Account through the State Department for Crop Development from where the funds were directly transferred to the county project accounts.

In the circumstances, The National Treasury and the Project Management were in breach of the Project Appraisal Document.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1634. Lack of Risk Management Policy and Disaster Recovery Plan

The Project has not put in place risk management policy, strategies and risk register to mitigate against risk and disaster recovery plan. It was therefore not clear how risk exposure were managed. This is contrary to Regulation 165 (1) (a) and (b) of the Public Finance Management (National Government) Regulations, 2015, which requires Accounting Officer to ensure that National Government entity develops risk management strategies which include fraud prevention mechanism.

Further, in the absence of a disaster recovery/business continuity plan, the project lacks a blueprint for identifying, preventing, and mitigating against disasters and ensuring that its operations are not interrupted.

In the circumstances, the effectiveness of risk management structures of the project could not be confirmed.

MULTI-NATIONAL RURAL LIVELIHOOD'S ADAPTATION TO CLIMATE CHANGE IN THE HORN OF AFRICA (RLACC) (ADB/ADF GRANT NO.5550155001201)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1635. 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

1636. Unutilized Simailele Irrigation Scheme in Turkana County

Review of project records revealed that a contract for the construction of Simailele Irrigation Scheme in Turkana County was awarded on 25 October, 2017 at a contract sum of Kshs.213,748,220. Physical inspection of the project in September, 2023 revealed that although the irrigation scheme was completed and handed over to the community, it was not being utilized or maintained as the Management was unable to resolve internal wrangles, leading to the collapse of the irrigation scheme.

Further, during the year under review, the Programme awarded a contract for the construction of feeder canals for improved irrigation water management and distribution at a contract sum of Kshs.6,475,975. Although the feeder canals were constructed, the canals have since silted back with soil and other debris, and the envisioned farming activities were not taking place.

In the circumstances, stakeholders and target beneficiaries have not obtained value for money from the resources already spent on this project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1637. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1638. As required by African Development Bank and African Development Fund, except for the matter 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 the Project 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.

Further, goods and services financed have been procured in accordance with the Protocol of Grant Agreement, the Bank's and Fund's rules and procedures necessary supporting documents, records and accounts have been kept in respect of all Project activities, adequate internal control to monitor expenditure and other financial transactions and ensure safe custody of assets exist and ledgers and fixed assets register for the Project's assets are maintained as required.

In addition, 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. Adequate accounting records have been kept by the Project and the Project's financial statements are in agreement with the accounting records and returns.

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

1639. 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

1640. Unsurrendered Bank Balance

The statement of financial assets and as disclosed in Note 5A to the financial statements reflects a bank balance of Kshs.619,758. This balance was not refunded to the donor. This was contrary to Regulation 74(6)(d) of the Public Finance Management (National Government) Regulations, 2015 which requires that an accounting officer of a National Government entity 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, and Clause 6 of the Financing Agreement of 2018.

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

1641. Expenditure Incurred Without Authority to Incur Expenditure

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects purchase of goods and services expenditure of Kshs.11,721,781. Included in this amount is Kshs.10,705,286 which relates to domestic and subsistence allowance out of which an amount of Kshs.5,178,050 were allowances incurred after the project end date of December, 2022. However, the expenditure was not supported with an Authority to Incur Expenditure (AIE) resulting to the expenditure being declared as ineligible expenses. This was contrary to Regulation 52(1)(a) of Public Finance Management (National Government) Regulations, 2015 which states that no public officer can spend or commit funds until he or she has been properly authorized by means of an authority to incur expenditure and could lead to possible ineligible expenses.

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

1642. Unapproved Project Extension

Review of request of no cost extension dated 7 February, 2022 revealed that the Project closing date was revised to 31 December, 2022, though the Project had not been closed as of 30 June, 2023. The Project assets had not been handed over nor the project closure report prepared and submitted. Instead, financial statements for the twelve (12) months to 30 June, 2023 were prepared and submitted for audit against six (6) covered by approved no cost extension. This was contrary to Regulation 74(6)(b) of the Public Finance Management (National Government) Regulations, 2015 which requires that an accounting officer of a National Government to ensure that whenever projects are completed, the project assets including buildings, plant, vehicles, furniture, fittings and equipment are properly recorded and handed over to the accounting officer in accordance with the financing agreement.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1643. 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 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 circumstance, weaknesses in the internal control and risk management system for the Project may not be addressed in a timely manner.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1644. As required by Grant Agreement AGRA Grant Number 2018 KE 005 dated 26 August, 2019 between the Alliance for a Green Revolution in Africa (AGRA), 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 Supporting Agricultural Input and Output Marketing Policy and Regulatory Reforms to Improve the Enabling Business Environment for Agriculture in Kenya and the Project's financial statements are in agreement with the accounting records and returns.

BUILD RESILIENCE FOR FOOD AND NUTRITION SECURITY IN THE HORN OF AFRICA (BREFONS) CREDIT NUMBER: 2100150042746

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1645. 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

1646. Delayed Counterpart Funding

Review of the Program agreement and the approved budget revealed that, despite the commencement of the Program, the Government has not provided its share of counterpart contribution as required in the loan agreement.

In the circumstances, Management was in breach of the loan agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1647. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1648. As required by the African Development Fund, 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 controls to monitor expenditure and other financial transactions and ensure safe custody of assets exist;
- 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.

NATIONAL AGRICULTURAL VALUE CHAIN DEVELOPMENT PROJECT (CREDIT NO. IDA-7064-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1649. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1650. Non-Utilization of Project Funds

The statement of receipts and payments and as disclosed in Notes 11.5, 11.6 and 11.7 of the financial statements reflects transfers to other State Departments, transfers to

County Governments and other capital grants and transfers amounts of Kshs.63,800,000, Kshs.1,612,625,497 and Kshs.30,000,000 respectively all totalling Kshs.1,706,425,497. Review of the respective summary of expenditure revealed that the funds were not utilized. No clear reasons were submitted for audit review for the non-utilization of these funds.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1651. Non-Remittance of Counterpart Funds

The statement of receipts and payments and as disclosed in Note 11.1 to the financial statements reflects a Nil balance in transfer from Government entities - Counties and National Government indicating that there was no counterpart funding. This is contrary to paragraph 23 of the Project Appraisal Document that provides that the estimated project cost considers counterpart funds equivalent to Kshs.3 Billion (USD 25 million).

In the circumstances, Management was in breach of the financing agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1652. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OTHER DONOR FUNDED PROJECTS IMPLEMENTED BY AGENCIES UNDER THE STATE DEPARTMENT FOR CROP DEVELOPMENT

CENTRE OF EXCELLENCE IN SUSTAINABLE AGRICULTURE AND AGRIBUSINESS MANAGEMENT CREDIT NO.5798-KE - EGERTON UNIVERSITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1653. There were no material issues noted during the audit of the financial statements of the Centre.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1654. 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

1655. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1656. As required by International Development Association 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 Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

REVITALISING IRISH POTATO PRODUCTION FOR COVID-19 AFFECTED SMALL - SCALE PRODUCERS PROJECT (IFAD GRANTS NO. 2000003589 AND 200000396600) - AGRICULTURE AND FOOD AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1657. Unsupported Expenditure

The statement of receipts and payments reflects an expenditure of Kshs.242,099,000 under purchase of goods and services which, as disclosed in Note 8 to the financial statements, includes an amount of Kshs.12,553,749 incurred on capacity building. The latter amount includes an expenditure of Kshs.1,981,400 incurred on the project launch in Meru County out of which Kshs.1,500,000 was spent on refund of farmers fares. However, details of the beneficiaries paid were not provided for audit review. Further, an amount of Kshs.234,900 was also not accounted for.

In the circumstances, the accuracy, completeness and validity of the expenditure totalling Kshs.1,734,900 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1658. Failure to Formally Close the Project

The Financing Agreement and letter of extension approval from IFAD dated 07 September, 2022 states that the project completion date was 15 September, 2022 and closing date was 31 December, 2022. This was to ensure the remaining vulnerable Irish

potato farmers are fully supported and grant allocation is fully absorbed. However, the statement of financial assets as at 28 February, 2023 reflects cash and cash equivalents balance of Kshs.1,208,000 and a pending bill balance of Kshs.432,000. Management did not provide an explanation for failure to fully absorb the grant allocation, settle the pending bill and formally close the project.

In the circumstances, Management was in breach of the law and the financing agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1659. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1660. As required by International Fund for Agricultural Development (IFAD), I report based on my audit, that proper accounting records have been kept. The financial statements agree with the accounting records and 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 Project. Further, services financed during the year were procured in accordance with the terms and conditions of Financing Agreement, all supporting documentation, records and accounts have been maintained in respect of all Project activities, National laws have been complied with and financial and accounting procedures approved for the project were followed and used and special account has been properly maintained for the Project in accordance with the provisions of Financing Agreement.

STATE DEPARTMENT FOR CO-OPERATIVES – VOTE 1173

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1661. There were no material issues noted during the audit of the financial statements of the State Department.

Other Matter

1662. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.22,960,394,787 and Kshs.14,677,769,139 respectively resulting in a shortfall of Kshs.8,282,625,648 or 36% of the budget. Similarly, the State Department spent Kshs.14,674,154,461 against approved budget of Kshs.22,960,394,787 resulting to under absorption of Kshs.8,286,240,327 or 36% of the budget.

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

1663. 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 Lawfulness and Effectiveness in Use of Public Resources. The issues remain unresolved, as the report has not been discussed in the Parliament.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1664. 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

1665. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR TRADE – VOTE 1174

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1666. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1667. Budgetary Control and Performance

The statement of comparison budget and actual amounts combined reflects final receipts budget and actual on comparable basis of Kshs.4,217,801,817 and Kshs.3,743,252,118 respectively resulting in an underfunding of Kshs.474,549,699 or 11% of the budget. Similarly, the State Department spent Kshs.3,722,021,599 against the approved budget of Kshs.4,217,801,817 resulting to under absorption of Kshs.495,780,220 or 12% of the budget. Management explained that the underperformance was occasioned by non-release of donor funds under Kenya Youth Employment Opportunities Project.

The underfunding and under expenditure may have negatively impacted on service delivery to the public.

1668. Unresolved Prior Year Matters

1668.1 Loss of Motor Vehicles

Annex 3 to the financial statements reflects summary of fixed assets register balance of Kshs.373,754,651 which includes historical cost for transport equipment amounting Kshs.16,301,895. As previously reported, included in the balance are two (2) vehicles, of unknown value, that were reported stolen at Thika Police Station and Kabete Police Station on 27 August, 2007 and 9 February, 2013, respectively. Although the Management indicated that the issues are still under investigations and awaiting conclusion and recommendations of the investigating agency, the matter has taken too long to conclude.

In the circumstances, the accuracy of the non-current assets could not be confirmed.

1668.2 Land Without Ownership Documents

As previously reported, information available indicates that the State Department owns a Complex located in South C, Nairobi. The complex is built on a parcel of land measuring approximately seven (7) acres of unknown value whose title ownership documents were not provided for audit.

In the circumstances, the ownership of the parcel of land could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1669. Pending Accounts Payable

Note 16.1 to the financial statements reflects pending accounts payable balance of Kshs.30,105,866 that were not settled during the year under review but were instead carried forward to the 2023/2024 financial year.

No 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 as they form a first charge.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1670. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR INDUSTRY – VOTE 1175

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1671. Transfer to Other Government Entities

The statement of receipts and payments and as disclosed under Note 6 to the financial statements reflects Kshs.2,402,549,809 in respect to transfers to other Government Units. Included in this amount is Kshs.221,899,811 in respect to Appropriation-In-Aid (AIA). However, examination of receiving entities records revealed AIA collection of Kshs.1,084,520,355 during the year resulting to unreported amount of Kshs.862,620,544. Further the excess AIA was not surrendered to the exchequer contrary to Regulation 84 of the Public Finance Management (National Government) Regulations, 2015.

In the circumstances, the accuracy and completeness of the transfers to other Government Units amount of Kshs.2,402,549,809 could not be confirmed.

Emphasis of Matter

1672. Pending Bills

Notes 17.1 to the financial statements reflects pending bills amounting to Kshs.106,695,480 which comprises of Kshs.58,716,112 for the State Department and Kshs.47,979,368 for Kenya Industrial Training Institute which were not settled in the year under review but were carried forward to the 2023/2024 financial year. The pending bills balance includes an amount of Kshs.32,210,566 which relates to 2021/2022 and earlier financial years.

The State Department is at risk of incurring interest and penalties with the continued delay in settling the long outstanding bills. Further, 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.

1673. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.3,950,805,540 and Kshs.3,479,827,738 respectively, resulting in an underfunding of Kshs.470,977,802 or 12% of the budget. Similarly, the State Department expended Kshs.3,523,564,441 against an approved budget of Kshs.3,950,805,540 resulting to an under-expenditure of Kshs.427,241,099 or 11% of the budget.

The budget underperformance and under expenditure affected the planned activities and may have impacted negatively on service delivery to the citizens.

My opinion is not modified in respect of these matters.

Other Matter

1674. 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 Effective of Internal Controls, Risk Management and Governance. The issue had been addressed. However, the Management is awaiting recommendations of the Parliamentary Committee.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1675. 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

Conclusion

1676. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECT

KENYA INDUSTRY AND ENTREPRENEURSHIP PROJECT (CREDIT NO. IDA 6268-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1677. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1678. Budgetary Control and Performance

During the year under review, the project had an approved receipts budget of Kshs.438,380,000 out of which Kshs.400,000,000 was the donor component and Kshs.38,380,000 was the Government (GoK) component. The project however, received amounts of Kshs.38,383,800 from GoK and Kshs.162,459,347 from the donor totalling to Kshs.200,843,147. This resulted to an underfunding of Kshs.237,536,853 or 46% of the budget.

Further, the project had an approved expenditure budget of Kshs.438,380,000 but the actual expenditure was Kshs.246,990,190 resulting to an under-expenditure of Kshs.191,389,810 or 56% of the budget.

The underfunding and under-expenditure impacted negatively on the planned goals and objectives of the project and may have resulted to delayed provision of services to the citizens.

1679. Unresolved Prior Year Audit Matters

In the audit report of the previous year, some issues were raised under 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 deliberated on them.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1680. Delay in Project Implementation

Review of the Project implementation status revealed that the Project Management had contracted various consultants in the year 2020/2021 for initial contracts ending at different dates with the last one ending in February, 2023 at total contract price of Kshs.700,699,602. It was however observed that as at 30 June, 2023, a total payment of Kshs.331,875,790 had been made but the projects' implementation status could not be ascertained. In March, 2023 the Accounting Officer extended the contract periods through addendums for twelve months to December, 2024. However, the extension procedures and the measures put in place to complete the projects were not explained or provided. In the circumstances, the Project had not realized the intended objectives in accordance with the Financing Agreement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1681. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR MICRO, SMALL AND MEDIUM ENTERPRISES (MSME) DEVELOPMENT – VOTE 1176

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1682. Cash and Cash Equivalents Balance

The statement of financial assets and financial liabilities and as disclosed in Note 7A to the financial statements reflects bank balance of Kshs.49,717,415. The balance comprises of recurrent bank balance of Kshs.2,813,284 and bank balance for Kenya Industrial Estate (KIE) and Micro and Small Enterprises Authority (MSEA) of Kshs.46,904,131. However, the cash book balance in support of the recurrent bank account reflects nil balance resulting in unreconciled balance of Kshs.2,813,284. Further, the KIE and MSEA balance of Kshs.46,904,131 was not supported with certificate of bank balance.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance could not be confirmed.

Emphasis of Matter

1683. Budgetary Control and Performance

The statement of comparison budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.633,620,281 and Kshs.647,149,858 respectively resulting in an over collection of Kshs.13,529,577. The over collection is attributed to miscellaneous revenue over performance where the actual collection was Kshs.257,604,131 against the budgeted collection of Kshs.210,700,000. Further, the Department spent Kshs.644,336,574 against an approved budget of Kshs.633,620,281 resulting to over-expenditure of Kshs.10,716,293 or 2% of the budget.

This is contrary to Regulation 44(2) of the Public Finance Management (National Government) Regulations, 2015 which states that National Government entities shall execute their approved budgets based in the annual appropriations, and the approved annual cash flow plan with the exception of unforeseen and unavoidable spending dealt with through the Contingencies Fund, or supplementary estimates.

The overfunding and over-expenditure of the State Department affects other priority projects and may impact adversely on the delivery of the priority projects 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

1684. Irregular Advance Payment for Fuel, Oils and Lubricants

The statement of receipts and payments reflects expenditures on use of goods and services and routine maintenance of Kshs.55,266,832 and Kshs.694,766 respectively. As disclosed in Note 4 to the financial statements the expenditure on use of goods and services includes expenditure on fuel, oil and lubricants of Kshs.2,286,472. However, review of records revealed that expenditures on fuel, oil and lubricants and routine maintenance totalling Kshs.2,981,238 were paid in advance. This is 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 of a procuring entity or an officer authorized by him or her in writing except where so specified in the tender documents and contract agreement. Such an advance payment shall not be paid before the contract is signed.

Further, the signed contracts between the State Department and the respective suppliers were not provided for audit.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1685. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OTHER DONOR FUNDED PROJECT IMPLEMENTED BY AGENCY UNDER STATE DEPARTMENT FOR MICRO, SMALL AND MEDIUM ENTERPRISES (MSME) DEVELOPMENT

KENYA YOUTH EMPLOYMENT AND OPPORTUNITIES PROJECT (CREDIT NO. IDA 5812-KE) – MICRO AND SMALL ENTERPRISES AUTHORITY (MSEA)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1686. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1687. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,170,100,000 and Kshs.763,589,176 respectively resulting to shortfall of Kshs.406,510,824 or 35% of the budget.

The receipts shortfall 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

1688. 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

1689. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENT

1690. 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 Management of the Project and the Project's financial statements agree with the accounting records and returns.

STATE DEPARTMENT FOR INVESTMENT PROMOTION – VOTE 1177

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1691. There were no material issues noted during the audit of the financial statements of the State Department.

Other Matter

1692. Budgetary Control and Performance

The statement of comparison budget and actual amounts: combined reflects final receipts budget and actual on comparable basis of Kshs.2,213,879,964 and Kshs.895,765,598 respectively resulting in a shortfall of Kshs.1,318,114,366 or 59% of the budget. Similarly, the State Department spent Kshs.894,575,248 against approved budget of Kshs.2,213,879,964 resulting to under absorption of Kshs.1,319,304,715 or 60% of the budget.

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1693. 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

1694. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR LABOUR AND SKILLS DEVELOPMENT - VOTE - 1184

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1695. There were not material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1696. Pending Bills

Note 17.2 and Note 17.4 to the financial statements reflects pending accounts payable and other pending payables balance of Kshs.95,705,717 and Kshs.57,013,392 respectively both totalling Kshs.152,719,109. Although Management explained that the pending bills arose due to a lack of budgetary provisions, no explanation was provided for procuring goods and services without adequate budget allocations.

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.

My opinion is not modified in respect of this matter.

Other Matter

1697. 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 the Effectiveness of Internal Controls, Risk Management and Governance. However, the Management did not provide satisfactory explanations for the delay in resolving the prior year audit issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1698. 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 for a duration of seventy-eight (78) weeks. However, the total amount certified and paid at the time of the audit was an amount of Kshs.244,023,001. Further, physical verification done in October, 2023 revealed that the project had stalled and 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.

1699. Stalled Construction of the Research Institute Office Complex for the Directorate of Occupational Safety and Health Sciences

As previously reported, the project was awarded to a local contractor on 3 May, 2019 at a contract sum of Kshs.114,039,118 for a duration of thirty-two (32) weeks. However, the total amount certified at the time of the audit was an amount of Kshs.95,291,477. 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. This is contrary to Section 139(4)(b) of the Public Procurement and Asset Disposal Act, 2015 which caps contract variation at 15%. Physical verification done in October, 2023 revealed that construction works had stalled as a result of non-payment of dues to contractors.

In the circumstances, value for money for the expenditure of Kshs.95,291,477 could not be confirmed. Further, Management was in breach of the law.

1700. Long Outstanding Imprests and Advances

The statement of financial assets and financial liabilities reflects accounts receivables-outstanding imprest and clearance account balance of Kshs.4,992,113. As disclosed in Note 11 to the financial statements, the balance includes foreign missions imprests amounting to Kshs.4,903,435 which according to aging analysis have been outstanding for more than one year and no recoveries have been made.

In the circumstances, the recoverability of imprests amounting to Kshs.4,992,113 could not be confirmed.

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

Basis for Conclusion

1701. Lack of a Functional Audit Committee

As previously reported, the State Department did not have an Audit Committee during the year under review. This is contrary to 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 State Department did not benefit from the assurance and advisory services from the internal audit function as well oversight from the Audit Committee.

1702. Incomplete Fixed Assets Register

Annex 4 to the financial statements reflects fixed assets with a balance of Kshs.154,523,028 as at 30 June, 2023. However, the opening fixed assets reflects a balance of Kshs.129,669,831 which varies with the previous year audited balance of Kshs.355,181,084 as at 30 June, 2022, resulting in an unexplained variance of Kshs.225,511,253. Further, as previously reported, the fixed assets register provided was incomplete; some assets lacked corresponding values, dates of purchase, and details of physical locations for ease of verification and traceability. In addition, the State

Department has various parcels of land and motor vehicles whose ownership documents were not provided for review.

In the circumstances, the ownership, existence and completeness of the fixed assets balance of Kshs.154,523,028 could not be confirmed.

DONOR FUNDED PROJECT

KENYA YOUTH EMPLOYMENT OPPORTUNITIES PROJECT - 58120-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1703. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1704. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final receipts budget and actual amounts on comparable basis of Kshs.217,180,000 and Kshs.124,152,544 respectively resulting to an under funding of Kshs.93,027,456 or 43% of the budget. Similarly, the statement reflects a final expenditure budget amount of Kshs.217,180,000 against actual expenditure of Kshs.135,871,106 resulting in an under expenditure of Kshs.81,308,894 or 37% of the budget.

The underfunding and under-expenditure may have negatively impacted on service delivery to the public.

1705. Unresolved Prior Year's Audit Issues

In the audit of the previous year, three (3) issues were raised under the Report on the Financial Statements which remained unresolved as at 30 June, 2023. However, the issues were not included in the financial statements under prior year Auditor-General's recommendations as provided by the Public Sector Accounting Standards Board templates.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1706. 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

Conclusion

1707. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1708. 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 Management of the Project, and the Project's financial statements are in agreement with accounting records and returns.

OTHER DONOR FUNDED PROJECT IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR LABOUR AND SKILLS DEVELOPMENT

KENYA YOUTH EMPLOYMENT AND OPPORTUNITIES PROJECT CREDIT NUMBER: IDA-5812-KE - NATIONAL INDUSTRIAL TRAINING AUTHORITY

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1709. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1710. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.241,739,202 and Kshs.183,403,784 respectively resulting to underfunding of Kshs.58,335,418 or 24% of the budget.

Similarly, the Project spent Kshs.86,707,727 against an approved budget of Kshs.241,739,202 resulting in an underexpenditure of Kshs.155,031,475 or 64% of the budget.

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

1711. Non-Payment of Pending Bills

Annex 4 to the financial statements reflects pending bills balance of Kshs.9,526,965 which includes stipends to beneficiaries for youth of Kshs.2,034,270 relating to financial year 2018-2019. 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.

1712. Unresolved Prior Year Audit Matters

Annex 1 to the financial statements reflects prior year audit issues raised. However, the issues remained unresolved as at 30 June, 2023. The Project Management explained that the issues have been internally resolved but awaiting invitation by the Public Accounts Committee for final resolution.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1713. 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

1714. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1715. As required by Financing Agreement between the International Development Association (IDA) and the Kenya Government, 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 Management of the Project and the Project's financial statements agree with the accounting records and returns.

STATE DEPARTMENT FOR SOCIAL PROTECTION AND SENIOR CITIZEN AFFAIRS – VOTE 1185

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1716. Unaccounted for Balances in Holding Accounts

The statement of financial assets and financial liabilities reflects bank accounts balance of Kshs.1,076,221,281, as disclosed in Note 11A to the financial statements. However, the balance excludes bank balances in six (6) holding accounts of service providers totalling Kshs.1,465,059,078.

Management did not provide an explanation for the failure to include the amount of Kshs.1,465,059,078 in the cash and cash equivalents balance. Further, no bank reconciliation statement was provided for the balances held in different holding accounts accumulated over several years. In addition, no interest income was earned from the balances held in the holding accounts.

In the circumstances, the accuracy and completeness of the bank balances of Kshs.1,076,221,281 could not be confirmed.

1717. Unsupported Third-Party Deposits and Retention

The statement of financial assets and financial liabilities reflects accounts payable balance of Kshs.281,439,797 relating to third-party deposits and retentions as disclosed under Note 13 to the financial statements. However, a detailed schedule and ledger for the deposits and retentions were not provided for review.

In the circumstances, the accuracy and completeness of the third-party deposits and retentions balance of Kshs.281,439,797 could not be confirmed.

Emphasis of Matter

1718. Long Outstanding Pending Accounts Payables

Note 16.2 and 16.4 to the financial statements reflects pending accounts payables of Kshs.4,409,115 and other pending payables of Ksh.6,935,510 respectively both totalling Kshs.11,344,625 carried forward from 2021/2022 financial year that were not settled during the year under review.

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.

My opinion is not modified in respect of this matter.

Other Matter

1719. 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 Lawfulness and Effectiveness in Use of Public Resources. Although the Management has indicated that some of the issues have been resolved under progress on follow-up of the auditor's recommendation section of the financial statements, the matters remained unresolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1720. Failure to Remove Undeserving Program Beneficiaries from Payroll

The statement of receipts and payments reflects transfers to other Government entities of Kshs.28,720,045,285, which as disclosed in Note 7 to the financial statements, includes other current transfers, grants and subsidies of Kshs.26,483,080,241 for various cash transfer programmes. However, verification of the transfers revealed that included in the cash transfer payroll is an amount of Kshs.214,416,000 for eight thousand nine hundred and thirty-four (8934) beneficiaries whose money was returned by the payment service provider to the holding accounts of the State Department for the beneficiaries who failed to access funds in their accounts for over twelve (12) months as a result of the death of the beneficiary or other reasons. This is contrary to Paragraph 1.3.6 of the Service Providers contract, which states that a beneficiary will be removed from the payroll if he fails to transact from the account for four cycles (8 months) unless he shows proof of life. The payment service providers will hold the money for another four (4) months after which the money will be clawed back to the Ministry Project Account in the event the beneficiary will not have shown proof of life.

Management did not provide satisfactory reasons for the failure to exit the beneficiaries from the Program.

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

1721. Earnings Below the Statutory Minimum

The statement of receipts and payments reflects compensation of employees amount of Kshs.1,788,851,168 as disclosed in Note 5 to the financial statements. However, review of the payroll data for June, 2023, revealed that one hundred and twenty-six (126) employees earned net salaries less than one-third of their basic pay. This is contrary to Paragraph 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 (2/3) of their basic salaries and Heads of Human Resource Units should ensure compliance.

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

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

Basis for Conclusion

1722. Incomplete Fixed Assets Register

Annex 4 to the financial statements reflects summary of fixed asset register balance of Kshs.1,300,321,326 which includes a Nil balance in respect of land. However, review of the records revealed that the State Department has thirty-six (36) parcels of land spread across the Country, which have not been included in the financial statements. Further, ownership documents and valuation reports were not provided for review.

In the circumstances, the ownership, completeness and accuracy of the fixed assets balance of Kshs.1,300,321,326 could not be confirmed.

1723. Encroachment of Land for Children Institutions

A physical inspection carried out in September, 2023 on parcels of land for children remand homes, rehabilitation centers, and rescue centre revealed a lack of ownership documents and have been encroached as indicated below:

1723.1 Getathuru National Reception, Assessment and Classification Centre

The Getathuru Center, situated in Nairobi County's Westlands Sub-County along Lower Kabete Road occupies about 17 hectares. However, a Chinese Construction Company was given about 5 hectares to set up their building site as they built the Redhill-Waiyaki Way By-Pass. The Company built a double permanent perimeter wall on the property as a residence and a yard for machinery. However, no lease agreement was provided, making it impossible to determine the terms under which they are using the property as well as absence of evidence of receipt of revenue from the Company by the State Department. Further, it was not explained why the Construction Company continued to use the property about three (3) years after the bypass had been completed.

1723.2 Wamumu Rehabilitation School

Wamumu Rehabilitation School occupies approximately 74.6 hectares of land, out of which, approximately 40.5 hectares of land was allocated to KEMRI and approximately 26 hectares is in the process of being allocated to a group calling themselves "Watu wa Mihiriga Kenda" (translated to mean people from the nine clans). However, no approval documents were provided for the allocation. In addition, documents provided revealed that no correspondence between the Rehabilitation Center, the Director of Children Services and the County Coordinator for Kirinyaga National Lands Commission, involved the Principal Secretary of the State department for Social Protection, an indication of the irregular transfer of the parcel of land.

1723.3 Nairobi Remand Home

The Center occupies approximately 6.2 hectares of land in Nairobi County's Westlands Sub-County along Lower Kabete Road. An inspection carried out in September, 2023 revealed that Kenya Power and Lighting Company had built a substation on about half (0.5) an acre of the land. However, no lease agreement was provided for review.

1723.4 Othaya Rehabilitation School

Othaya Rehabilitation School has approximately 9.8 hectares of land. However, the land has not been fenced and Othaya County Level 4 Hospital and a Church occupy approximately 0.8 hectares. Documents and approval for the developments on the parcel of land were not provided for verification.

1723.5 Kabete Rehabilitation School

Kabete Rehabilitation School located in Nairobi City County along Lower Kabete Road is approximately 28.6 hectares. However, a private developer who claims to have been granted ownership of the property following a contentious court case has encroached and alienated about 5 acres of the land. The litigation file was also not provided for audit inspection to determine the status of the case.

1723.6 Muranga Children's Remand Home

The Muranga Remand home occupies approximately 0.9 hectares parcel of land. However, the Remand home has no fence and has been encroached upon by private developers who have put up permanent buildings on the land.

1723.7 Thika Rescue Centre

Thika Rescue Center occupies approximately 10.1 hectares. However, the parcel of land has not been fenced. Management has not taken measures to safeguard the public land from encroachment and alienation.

In the circumstances, the effectiveness of control systems put in place by Management for assets and preventative mechanisms to eliminate theft, security threats, losses, wastage and misuse of assets as provided for in Regulation 139(1) of the Public Finance Management (National Government) Regulations, 2015 could not be confirmed.

DONOR FUNDED PROJECT

KENYA SOCIAL AND ECONOMIC INCLUSION PROJECT CREDIT NUMBER: 6348-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1724. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1725. Unresolved Prior Year Audit Matters

In the audit report of the previous year several issues were raised. Management has 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

1726. 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

1727. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1728. 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 Management of the Project and the financial statements of the Project are in agreement with the accounting records and returns.

OTHER DONOR FUNDED PROJECT IMPLEMENTED BY AGENCY UNDER THE STATE DEPARTMENT FOR SOCIAL SECURITY AND SENIOR CITIZEN AFFAIRS

KENYA SOCIAL AND ECONOMIC INCLUSION PROJECT NO. P164654 IDA CREDIT NO. 63480KE AND GRANT NO. TF0A9527 – NATIONAL DROUGHT MANAGEMENT AUTHORITY (NDMA)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1729. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1730. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final budget and actual amounts for grants from external development partners, loan from external partners and miscellaneous receipts totalling Kshs.251,000,000 and Kshs.150,663,260 respectively resulting to a shortfall of Kshs.100,336,740 or 40% of the budget.

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

1731. Unresolved Prior Year Audit Matters

Annex 1 to the financial statements reflects prior year audit issues raised. However, the issues remained unresolved as at 30 June, 2023. The Project Management explained that the issues have been internally resolved but awaiting invitation by the Public Accounts Committee for final resolution.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1732. 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

1733. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1734. 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 Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR MINING - VOTE 1192

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1735. Directly Expensed Imprests

The statement of financial assets and financial liabilities reflects cash and cash equivalents balance of Kshs.2,191,744. Review of the reconciliation statements revealed reconciling payments totalling Kshs.11,527,734 which were described as daily subsistence allowances, transport and entertainment allowances that were paid on 30 June, 2023. This implied that the allowances were outstanding as at the closure of the financial year. However, the payments were not reflected as outstanding imprest as at 30 June, 2023. In addition, the reconciliation statement for July 2023 indicated that the items had been cleared. However, the imprest register did not reflect the dates the imprests were surrendered, and their supporting documents were not provided for audit verification.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.2,191,744 could not be confirmed.

1736. Misclassification of Expenditure

The statement of receipts and payments reflects an expenditure of Kshs.170,076,662 in respect of use of goods and services. As disclosed in Note 3 to the financial statements, the amount comprises expenditure incurred on utilities supplies and services, communication supplies and services, domestic travel, foreign travel, printing and advertising, training, hospitality, specialized materials and services and other operating expenses. Review of the expenditure records revealed that Kshs.8,899,987, Kshs.16,444,096, Kshs.7,000,288 and Kshs.740,000 in respect of acquisition of assets, domestic travel and subsistence, communication supplies and services and utilities supplies and services respectively all totalling Kshs.33,034,371 though charged under different sub-votes. No documentary evidence was provided to confirm that approval for reallocation was sought from The National Treasury.

In the circumstances, the accuracy, validity and completeness of expenditure on use of goods and services and acquisition of assets could not be confirmed.

1737. Unsupported Expenditures

The statement of receipts and payments reflects and as disclosed in Notes 3 and 5 to the financial statements, Kshs.170,076,662 and Kshs.83,049,149 in respect of use of goods and services, and acquisition of assets respectively. However, expenditure of Kshs.7,536,576 on foreign travel and subsistence disclosed in Note 3 to the financial statements included payments totalling Kshs.1,141,422 which were not supported with air tickets, boarding passes, passports and after training or workshops for foreign travel. Additionally, expenditure of Kshs.2,734,396 incurred on local travel but charged to foreign

travel was not supported with work tickets and reports for after training, workshops, filed visits to assess mining activities and sensitization.

Further, Note 3 to the financial statements reflects domestic travel and subsistence of Kshs.53,068,012. However, payments totalling Kshs.6,705,636 were not supported with evidence of travel, back to office reports and expenditure schedules. Additionally, an amount of Kshs.3,387,800 paid as imprest claims to several officers was supported by work tickets of vehicles whose capacity did not match the number of officers travelling.

In addition, training expenses of Kshs.2,476,453 were not supported by an approved training plan, attendance registers, training timetable and certificates of attendance and need assessment reports which informed the trainings. The hospitality supplies and services amount of Kshs.13,316,655 includes Kshs.1,980,061 which was not supported with payment vouchers and expenditure returns from regional offices.

Additionally, an amount of Kshs.5,225,644, Kshs.2,202,420 and Kshs.303,252 incurred on fuel, routine maintenance for vehicles and routine maintenance other assets respectively, under acquisition of assets all totalling Kshs.7,731,316, through Authority to Incur Expenditure (AIE) payments, were not supported with expenditure returns, and payment vouchers for audit review. In addition, payments of Kshs.5,410,065 described as district expenditure in the ledger were not supported by returns and expenditure documents, and thus their nature and purpose could not be confirmed.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.170,118,662 could not be confirmed.

Emphasis of Matter

1738. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budget receipts and actuals on comparable basis of Kshs.368,804,850 and Kshs.260,811,421 respectively resulting to an underfunding of Kshs.107,992,429 or 29% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.368,804,850 and Kshs.260,123,220 respectively resulting to an under expenditure of Kshs.108,681,630 or 29% of the budget.

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

1739. Pending Accounts Payable

Note 12.3 to the financial statements reflects pending accounts payable balance of Kshs.93,883,644 owed to suppliers that had not been paid at the close of the year. 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.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1740. Irregular Expenditure on Travel and Subsistence

The statement of receipts and payments reflects use of goods and services amount of Kshs.170,076,662 which includes Kshs.53,068,012 on domestic travel and subsistence allowances. Review of documents indicate that an expenditure of Kshs.2,883,000 was incurred by 18 officers who were undertaking an 11-day field visit exercise of audit of mineral production and sales by mining companies to assess royalties and cement levy payments between 08 June, 2023 and 18 June, 2023. The areas visited included Kajiado, Machakos, Taita Taveta, Mombasa, Kisumu, Kisii, Nakuru and Kiambu. However, an amount of Kshs.3,998,950 was also incurred by another team of 36 officers just a day after the completion of previous exercise. The second team took 10 days from 19 June, 2023 and 30 June, 2023 indicating that they were undertaking verification of performance of mineral rights holders in Kajiado, Kisii, Migori, Mombasa, Taita Taveta and Nakuru and other areas. In addition, five 5 officers participated in first and second exercises.

In the circumstances, the validity and propriety of Kshs.6,881,950 on domestic travel and subsistence could not be confirmed.

1741. Failure to Remit Statutory Dues

Review of the State Department human resource records revealed that dues and contributions to National Social Security Fund and National Health Insurance Fund for temporary employees were not deducted and remitted to the Funds. This is contrary to Section 20 of the National Social Security Fund Act, 2013 and Section 16 of the National Hospital Insurance Fund (Amendment) Act, 2021 on standard contributions.

In the circumstances, the State Department was in breach of the law.

1742. Irregular Procurement of Tree Seedlings

The statement of receipts and payments reflects domestic travel and subsistence expenditure of Kshs.53,068,012 which includes Kshs.300,000 paid as facilitation allowance incurred on purchase of tree seedlings from Green Investors Limited during a Cabinet Secretary visit to Gulanze Polytechnic in Kinango Sub County, Kwale County on 3 June, 2023. However, the tree seedlings were procured through single sourcing. Further, no inspection report of the seedlings whether they were delivered and planted was provided for audit confirmation. In addition, the procurement did not meet the criteria for single sourcing and was not conducted in accordance with the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, validity of the expenditure totalling Kshs.300,000 could not be confirmed and Management was in breach of the law.

1743. Incomplete Asset Register

The statement of receipts and payments reflects acquisition of assets expenditure of Kshs.83,049,149, and as disclosed in Note 5 to the financial statements. However, the State Department did not update its fixed asset register to show all the assets owned by the Department and their value as at 30 June, 2023.

In the circumstances, the accuracy of the fixed assets of the State Department could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1744. Weaknesses in Management of Standing Imprest

During the year under review, Management maintained a standing imprest system for purposes of low value procurement of goods and services. However, standing imprest of Kshs.20,000 was issued to an officer who was not listed as imprest holders exposing the State Department to the risk of loss of funds where recovery of the same may be difficult. Further, imprest amount of Kshs.871,500 was used to purchase common use items like tonners, printing papers, computer accessories, notebooks, dust coats among others which should have been procured through the normal procurement process. In addition, some officers reimbursed standing imprest more than once in a month contrary to Public Finance (National Government) Regulations, 2015.

In the circumstances, the sufficiency and effectiveness of controls on management and accounting for imprests and advances could not be confirmed.

1745. Loss of Drilling Equipment

During the year under review, several drilling items belonging to the State Department were reported missing. The missing items consisted of drilling rods, casings and assorted items valued at Kshs.9,570,000 at Madini House. Although the matter was reported to the Police for investigation, no information was provided on the progress of the matter, and measures taken by Management to prevent similar incident in the future.

In the circumstances, the existence and effectiveness of controls on custody management of Government assets at could not be confirmed.

RECEIVER OF REVENUE - REVENUE STATEMENTS - STATE DEPARTMENT FOR MINING

REPORT ON THE REVENUE STATEMENTS

Basis for Qualified Opinion

1746. Unsupported and Long Outstanding Arrears of Revenue

The statement of arrears of revenue reflects total arrears of Kshs.2,271,843,904 as at 30 June, 2023. The balance includes arrears settled during the financial year under review amounting to Kshs.306,764,679. However, review of the arrears records revealed the following anomalies:

- i. The statement of arrears of revenue reflects a balance of Kshs.94,961,522 in respect of Carbacid (CO2) Limited. The amount includes Kshs.27,809,296 arrears which was accrued during the year under review. However, supporting schedule provided for audit reflected an amount of Kshs.32,999,506 resulting in an unexplained variance of Kshs.5,190,210.
- ii. The arrears in revenue includes Kshs.1,685,721,025 owed by various companies which has been outstanding for more than three years and were indicated to be recoverable. However, it was not possible to confirm, how the amounts would be recovered as some of the Companies owing had not renewed their mining licenses while others had been suspended from undertaking mining operations.

In the circumstances, the recoverability of the arrears totalling Kshs.1,685,721,025 could not be confirmed.

Other Matter

1747. Unresolved Prior Year Audit Matters

In the audit of the previous year, several issues were raised under Report on Revenue Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not resolved the issues or explained the failure to adhere to the provisions of the Public Sector Accounting Standards Board reporting template.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1748. Non-Compliance with Mineral Dealers' License Requirements

Review of the mining cadastral records on transactions with minerals maintained by the State Department for Mining revealed that mineral dealers' licences were being issued manually. In addition, four hundred and thirty seven (437) applications for renewal of licences and permits were not verified for issuance within the stipulated thirty (30) days' period as none had been renewed as at 30 June, 2023. Further, the status of the licenses in the cadaster system was reflected as 'evaluation in progress' or document was still in

verification process. No explanation was provided for the contravention of the provisions of the Act or delay in approval and issuance or renewal of licenses in digital format.

1749. Irregular Reduction of Cement Levy Payable

The statement of receipts and disbursements reflects non-tax receipts of Kshs.3,717,649,241 which, as disclosed in Note 2 to the financial statements, includes Kshs.1,041,657,387 in respect to cement levy. Analysis of production and sales reports from Rai Cement Company revealed a variance of Kshs.3,997,920 (2022: Kshs.6,698,400) between cement levy remitted to the Ministry of Kshs.9,994,800 and the levy due on sales of Kshs.13,992,720. Further, analysis of production and sales reports from the Company for prior years revealed a cumulative loss of revenue of Kshs.10,696,320 due to irregular reduction of cement levy payable as shown below:

Year	Production in Metric Tonnes	Amount Payable (@140 per Tonne) (Kshs.)	Amount Received (Kshs.)	Variance (Kshs.)
2021/2022	167,460	23,444,400	16,746,000	6,698,400
2022/2023	99,948	13,992,720	9,994,800	3,997,920
Total	267,408	37,437,120	26,740,800	10,696,320

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 15 June, 2021 provided for audit authorized the Company to pay a reduced cement levy rate of Kshs.100 per tonne instead of the gazetted rate of Kshs.140 per tonne, the letter was not based on any existing regulations as required.

In the circumstances, due to the variations, the Government cumulatively lost revenue amounting to Kshs.10,696,320.

1750. Irregular Waiver of Ground Rent

Review of records of Cement Companies in operation revealed a letter dated 11 December, 2020 which granted a waiver for payment of ground rent to a Cement Company Limited operating in West Pokot County under four mining licenses by the Cabinet Secretary for Mining. However, there is no provision in law on waiver of ground rent fees by the Cabinet Secretary. The prescribed annual ground rent for a mining lease is Kshs.2,000 per hectare per mining lease year subject to a minimum of Kshs.500,000, resulting to a total ground rent of Kshs.79,157,916 from four licenses.

In the circumstances, the validity of ground rent waivers could not be confirmed.

1751. Delay in Formulation of Regulations for Site Rehabilitation and Mine Closure

Review of cadaster records for mineral rights holders maintained by the State department for Mining revealed that applicants submitted site mitigation and rehabilitation (mine-closure) plans. However, the plans were not accompanied by an environmental protection bond to cover the costs associated with the implementation of the environmental and rehabilitation obligations of the mineral holders. This was attributed to

the delay in formulating regulations for mine-closure obligations despite Mining Act, 2016 having been long operationalized in 2016.

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

1752. Delays in Establishing Artisanal Mining Committees

Records at the State Department indicates that as at 30 June, 2023, only nine (9) out of forty seven (47) Counties had established Artisanal Mining Committees. Additionally, out of the nine (9) committees which had been established, the terms of members in three (3) artisanal mining committees' had expired. This was contrary to Section 94 (1) of the Mining Act, 2016. Subsequently, there was no evidence indicating that Artisanal Mining Committees of Narok, Turkana, Kisii, Taita-Taveta, Siaya, and Migori Counties had held meetings and deliberations concerning recommendations for issuance of artisanal mining permits since they were established in 2021. Further, a register of artisanal miners was maintained in the six (6) counties but there was no record of any artisanal mining permits issued.

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

1753. Unlicensed Mineral Leaching Operations in Migori

Site visits carried out in September, 2023 to mining areas in Migori and Narok Counties revealed that several gold leaching plants lacked requisite mineral processing licence and permits as provided by law. The plants were processing gold which is the major mineral mined by artisanal miners in the regions.

Additionally, both small-scale and large-scale operators were using cyanidation and mercury to extract gold from tailings and ore. Cyanidation is widely used to process tailings as it was regarded to be efficient and cost saving. However, the chemicals used were harmful to small-scale operators who were not using protective equipment like gloves, gumboots, goggles among others. Further, discharges from the process contained harmful chemicals which were not properly disposed and thus abandoned at the sites since most leaching sites lacked proper protective and disposal mechanism. The leaching plants are also situated in close proximity with neighborhoods where people live and posed health and environmental risks.

In the circumstances, the activities of the operators of gold leaching plants were unlawful and harmful to human life, animals and the environment.

1754. Illegal Mining Operations of Soapstone in Kisii County

A visit to Tabaka, South Mugirango and Nyamarambe Sub Counties in Kisii County revealed that several individuals and companies were mining soapstone without mining permits granted by the State department for Mining. In addition, officials from the Kisii County Government had closed mining operations at the sites due to depletion and over exploitation of the resources. However, site visits confirmed that despite the closure, mining operations were still ongoing in some mines. Further, miners at the active sites lacked protective equipment hence exposing themselves to health hazards.

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

1755. Stalled Establishment of a Soapstone Value Addition Center in Kisii County

The State Department of Mining initiated a soapstone value addition centre project in Kisii County in October, 2018 at an estimated cost of Kshs.300 million. The purpose of the centre was to create value addition to the business of soapstone in the Kisii Region. Records provided revealed that a consultant, was contracted to conduct a feasibility study for the project at a cost of Kshs.13,771,520. Physical verification carried out in Tabaka Mining revealed the project was yet to start, five (5) years later, despite the feasibility study having concluded that the project was viable. Management indicated that the Government was yet to acquire land for the project.

In the circumstances, the value for money incurred on feasibility studies and research amounting to Kshs.13,771,520 could not be confirmed.

1756. Reporting on Mining and Mineral Related Activities

Review of records maintained at the State Department in respect of reporting by mineral rights holders revealed the following anomalies and non-compliance with the law:

- i. Three (3) limestone mining companies namely Mombasa Cement Limited, Bamburi Cement Limited, and National Cement Company Limited did not submit half-year reports and annual performance reports on employment and training activities. This was contrary to Regulation 6 and 10 of the Mining (Employment and Training) Regulations, 2017.
- ii. There were no annual reports on the use of local goods and services (Kenyan content) prepared by three (3) holders of limestones mining licenses namely Mombasa Cement Limited, Bamburi Cement Limited, and National Cement Company Limited were provided for audit review. This was contrary to Regulation 16 of the Mining (Use of Local Goods and Services) Regulations, 2017 which states that a holder of a license shall, not later than thirty days after the beginning of each license year, submit to the Director of Mines an annual report on Kenyan content.
- iii. Community development agreements signed between mining license holders and communities by the Management of Bamburi Cement Limited and National Cement Company provided for audit review had no community development agreement. This was contrary to Section 109 of the Mining Act, 2016 that states the holder of a mining license shall sign a community development agreement with the community where mining operations are to be carried out in such a manner as shall be prescribed in Regulations.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1757. Unidentified Revenue from Construction Minerals

Review of the financial statements and revenue records including the cadaster system reports revealed that the State Department does not have policies and procedures to identify, collect and account for revenue from construction and industrial minerals which

include, but not limited to quarry stones, salt and soapstone listed on the First Schedule Part (A) of Mining Act, 2016. This is contrary to Regulation 64(1)(a) of the Public Finance Management (National Government) Regulations, 2015.

In the circumstances, the existence and effectiveness of measures to identify and assess mineral revenue sources could not be confirmed.

1758. Lack of Inspectors for Mines at Border Points

Site visits for Large Scale Gold Miners at Kilimapesa Gold (PTY) Limited based in Narok County and Copper Hill Exploration and Mining Resources Company Limited in Migori County and other mining sites in the region revealed that the State Department had no designated inspectors from the Directorate of Mines minerals extracted were accurately confirmed before leaving the mines. Instead, the Director of mines relied on self-assessments by the companies. Additionally, there was no mechanism in place to confirm the accuracy of production records provided by the mineral rights holders which may result in under declaration of sales made and royalties payable on those sales. Further, discussions and interviews held with miners and other State department officers revealed that gold mined in Narok and Migori is smuggled to Tanzania and other neighboring countries through Isebania and other border points, since there are no mining officers stationed at those boarder points to inspect and mitigate the risk of the smuggled gold, copper and other minerals.

In the circumstances, the existence and effectiveness of controls to monitor operations and measure quantities extracted could not be confirmed and Management was in breach of the law.

STATE DEPARTMENT FOR PETROLEUM - VOTE 1194

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1759. Misclassification of Expenditure

The statement of receipts and payments reflects an expenditure of Kshs.793,006,854 on use of goods and services which, as disclosed in Note 6 to the financial statements, includes an amount of Kshs.128,079,409 in respect of hospitality services and supplies. The amount includes Kshs.32,196,748 which was wrongly charged to hospitality services and supplies instead of domestic travel and subsistence, and foreign travel and subsistence. Further, the amount of Kshs.793,006,854 further includes an expenditure of Kshs.5,470,663 which was wrongly charged to specialized materials and supplies instead of domestic travel and subsistence, office expenses and cleaning services.

Similarly, the statement reflects acquisition of assets amounting to Kshs.1,275,173,869, as disclosed in Note 10 to the financial statements. The amount includes Kshs.14,167,153 incurred on purchase of specialized plant, equipment and machinery which was recurrent in nature and ought to have been charged to office and general supplies, domestic travel and subsistence, routine maintenance - vehicle and other transport, and purchase of office furniture and general equipment.

In the circumstances, the accuracy of the amounts reported against the expenditure items in the statement of receipts and payments could not be confirmed.

1760. Unsupported Authorities to Incur Expenditure (AIEs)

The statement of receipts and payments reflects an expenditure of Kshs.1,275,173,869 on acquisition of assets as disclosed in Note 10 to the financial statements. Included in the amount is Kshs.301,127,608 incurred on purchase of specialized plant, equipment, and machinery, out of which an amount of Kshs.76,500,000 was transferred to the National Oil Corporation of Kenya (NOCK) as Authority to Incur Expenditure (AIE) for purpose of refilling cylinders for roll out of Mwananchi Liquefied Petroleum Gas (LPG) project in Nairobi County. However, the Authority to Incur Expenditure was not supported by an agreement or contract between the State Department and NOCK detailing the scope of work, payment terms, deliverables, and timelines. Further, review of expenditure returns from NOCK to the State Department revealed that only 5,441 gas cylinders had been filled with gas at a cost of Kshs.7,800,000. The filled cylinders had not been released to the customers.

Similarly, the statement reflects use of goods and services amount of Kshs.793,006,854 as disclosed in Note 6 to the financial statements. Included in the amount is Kshs.266,951,261 incurred on other operating expenses from which a total of Kshs.100,000,000 was transferred to NOCK as Authority to Incur Expenditure (AIE) to conduct a comprehensive integration of data with the assistance of a consultant expert. The scope entailed premium data integration, analysis, and visualization of industry

platform. Management had indicated that the activity would be carried out jointly by the State Department for Petroleum and NOCK but funded by the State department for Petroleum. However, the activity was not budgeted for and was not included in the State Department's work plan. In addition, there was no agreement or contract between the State Department and NOCK detailing the scope of work, payment terms, deliverables and timelines.

In the circumstances, the completeness and the validity of AIEs totalling to Kshs.176,500,000 to NOCK could not be confirmed.

1761. Unsupported Stabilization of Petroleum Pump Prices Payments

The statement of receipts and payments reflects subsidies payments amounting to Kshs.62,495,828,161 and as disclosed in Note 7 to the financial statements. The amount was paid to Oil Marketing Companies (OMCs) as compensation for lower prices charged at the pump against actual set prices, as per stabilization of petroleum pump prices mechanism. Review of documentations in respect of administration of the subsidies revealed the following weaknesses and anomalies:-

- i. The National Treasury through a letter dated 21 July, 2022 advised the State Department to form a Multi-Agency Team to review the total resource requirement and assess the sustainability of the fuel price stabilization programme. However, no evidence was provided on formation of the Multi-Agency Team despite continued funding requests for petroleum price stabilization by the State Department;
- ii. The National Treasury in a letter dated 25 August, 2022 required the State Department to ensure that the governance framework for stabilization of fuel prices and compensation mechanisms are in place. However, no framework was in place during the year for stabilization and compensation;
- iii. The State Department for Petroleum requested and received a total of Kshs.63,096,088,490 for purpose of fuel price stabilization. The requests were in respect of June-July 2022, July-August 2022 and August-September 2022 pricing cycles. However, review of expenditure records revealed that payments amounting to Kshs.1,297,048,608 related to April-May 2022 and May-June 2022 pricing cycles which were not part of the funding requests and computation schedules; and
- iv. The State Department settled outstanding subsidy of Kshs.17,998,773,645 owed to forty-seven (47) oil companies through Bond Instrument referenced FXD/2023/003. However, the amount was not supported by volumes compensated and the pricing cycles the amount related to was not indicated.

In the circumstances, the accuracy, completeness, and validity of subsidies payments totalling Kshs.62,495,828,161 could not be confirmed.

1762. Unsupported Third-Party Deposits and Retention

As disclosed in Note 13 to the financial statements, the statement of financial assets and financial liabilities reflects third party deposits and retention balance of Kshs.21,390,780. Included in the balance is an amount of Kshs.11,358,816 payable to an international law

firm which has been outstanding since 2016 due to lack of proper documentation. Additionally, the amount could not be transferred to the Unclaimed Financial Assets Authority (UFAA) due to lack of documentation to support the balance.

In the circumstances, the accuracy and validity of the reported third-party deposit of Kshs.11,358,816 could not be confirmed.

1763. Unaccounted for Expenditure and Transfers

During the year under review, the Petroleum Development Fund transferred a total of Kshs.1,675,147,344 to the State Department (Development Account). However, no supporting evidence was provided for audit verification to demonstrate that the transferred funds were used in accordance with Section 4(4) of the Petroleum Development Act, 1991 which states that; "there shall be paid out of the Fund such monies as necessary for development of common facilities for distribution or leasing of oil products and for matters relating to development of oil industry as the Minister may direct." Further, the Petroleum Development Levy Order No.124 issued on 10 July, 2020 provided that the levy should be used for matters relating to development of the oil industry including stabilization of local petroleum pump prices.

In the circumstances, it was not possible to confirm how the amount of Kshs.1,675,147,344 was utilized by the Management.

Emphasis of Matter

1764. Pending Bills

The State Department had a pending bills balance of Kshs.17,517,819 as disclosed in Note 19.2 to the financial statements on other important disclosures. However, and contrary to the Government policy that pending bills form a first charge, the bills which relate to prior years were not settled during the year under review. 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

1765. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a total budget of Kshs.824,756,856 in respect of use of goods and services. Review of the budgetary allocations for line items revealed that rentals for produced assets and routine maintenance - other assets had unapproved over expenditure of Kshs.23,049,674. Similarly, purchase for specialized plant, equipment and machinery, and specialized materials and supplies was underspent by Kshs.361,558,098.

In the circumstances, the validity of the expenditure over the budgeted amount could not be confirmed.

1766. Importation of Refined Petroleum Products Under Government-to-Government Petroleum Importation Scheme

During the year under review, the Government of Kenya made a policy shift on importation of petroleum products for the local and transit markets from Open Tender System (OTS) to Government to Government (G-to-G) framework. The change was meant to mitigate against declining value of the Kenyan currency that was attributed to Oil Marketing Companies (OMCs) operations, and reduce pressure on foreign currency liquidity for the economy.

The statement of receipts and payments reflects expenditure on subsidies of Kshs.62,495,828,161. The amount includes Kshs.1,197,097 paid for stabilization of petroleum pump prices for products imported under Government to Government (G to G) Oil Importation arrangement. Review of documents relating to importation of refined petroleum products revealed that the Government of Kenya through the State Department for Petroleum initiated fuel importation through the arrangement in March 2023. As at 30 June, 2023, an amount of Kshs.267,722,538 being compensation for stabilized refined petroleum products was agreed and recommended for payment.

Review of documents provided in respect of the G to G arrangement for importation of refined petroleum products revealed anomalies, as detailed below:

- i. The Government of Kenya through the Ministry of Energy and Petroleum entered into agreements to purchase petroleum products from three OMCs in March 2023 under the G to G arrangement. However, bilateral agreements governing purchase of refined petroleum products between the Government of Kenya and that of the United Arab Emirates (UAE) were not provided for audit review. In addition, the Supply Purchase Agreement (SPAs) with three oil companies supplying the products were not provided for review.
- ii. One of the oil companies was indicated in the MOU as a company wholly owned by the Government of Dubai. Further, the master framework agreements with the other two Companies indicated that the second Company was a free zone entity incorporated in the Fujairah Free Zone, while the third Company was a joint venture owned by three oil companies. In addition, Article 11 of the MOU provides that the MOU was non-binding. In addition, Articles 15 and 16 of the Memorandum provides that disputes will be referred to Dubai Court, which has exclusive jurisdiction over any dispute, and that the MOU will be governed by and construed according to the laws of United Arab Emirates. This may disadvantage the Republic of Kenya in cases of disputes arising from the MOU.
- iii. Article 3 of the MOU gave the responsibility of identifying and nominating the importers of bulk petroleum products to the Government of the Republic of Kenya. However, review of documents indicated that this was not adhered to.

- iv. The Master Framework Agreement provided for a price charge of the aggregate of Free-on-Board (FOB) Price Component, Freight and Premium. The premium was given as USD 97.50 per metric ton (MT). However, the premium was chargeable by the importer under the Open Tender System (OTS) terms, from which the framework is premised. Further, the premium charged comprising USD 97.50, USD 114.25 and USD 118.00 for Motor Super Petroleum (commonly known as Super Petrol), Jet A-1 and Automotive Gas Oil (Commonly known as Diesel) respectively, were higher than those charged under the previous OTS. This implies that with a projected and contracted monthly supply of 930,000 metric tonnes for super petrol, for example, the premium payable would be USD 92,625,000 per month. It was not clear why the premium was included in the framework agreement with the supplier, the basis for the premium set, and whether the input of the buyer was sought before the premium amount was set.
- v. Articles 6 and 7 of the Memorandum of Understanding provided that the parties were to establish a Joint Steering Committee and a Joint Working Group respectively whose functions among others were advising the governments on appropriate strategies for smooth implementation of the MOU, resolving any differences arising from implementation of the MOU, developing a framework for implementation of the MOU and undertaking studies and sharing information to facilitate the implementation of the MOU. However, no documentary evidence was provided to indicate establishment of the two committees, the framework developed by the Joint Working Group for the implementation of the MOU and studies undertaken.
- vi. The Letters of Support for the three importers were signed by the Cabinet Secretaries for The National Treasury and the Ministry of Energy and Petroleum, and the Director General of the Energy and Petroleum Regulatory Authority (EPRA). However, the role EPRA as an independent regulator in the agreements was not clear.
- vii. Clause 5.3 of the Master Framework Agreement provides for maintenance of an escrow account for receipt of funds from importers under the Open Tender System (OTS) terms and conditions. However, documents supporting existence of the account and amounts deposited and withdrawn from the account were not provided for audit review. In addition, the Letter of Support to importers provided for operation of a collection account and investment account. However, no documents were provided to indicate existence, ownership, signatories and particulars of the accounts.
- viii. The aggregate supply qualified for all importers amounted to 730,000 metric tonnes per month while the assessed national requirement was 950,000 metric tonnes. No details of how the supply shortfall of 220,000 metric tonnes would be met.
- ix. The Letter of Support indicated that the Government through The National Treasury would take responsibility for any funding shortfalls. However, Management did not indicate the source of such funds or existence of budget provisions to credit the financing parties for any shortfalls arising in the collection account. In addition, it was noted that a communication from The National Treasury to the Director General, Energy and Petroleum Regulatory Authority on 1 August, 2023 indicated that a

shortfall of USD,810,531,81 had been realised in respect of a consigned vessel under the Government to Government arrangement. The communication advised that the shortfall, and any other shortfall arising in the future, should be factored in petroleum pump price as a prudent cost in accordance with the tripartite agreement signed between Ministry of Energy and Petroleum, KCB Bank and the nominated Oil Marketing Companies.

- x. Based on the evaluation of documents provided during the audit, an in-depth audit will be carried out on importation of Petroleum Products for the local and transit markets under the Government to Government (G to G) arrangement.

In the circumstances, the lawfulness, and effectiveness of the Government-to-Government Oil Importation Scheme could not be confirmed.

1767. Delay in Implementation of Mwananchi Gas Project

During the year under review, an amount of Kshs.76,500,000 was transferred to the National Oil Corporation of Kenya (NOCK) to refill cylinders for roll out of Mwananchi Liquefied Petroleum Gas (LPG) project in Nairobi County. Mwananchi Liquefied Petroleum Gas (LPG) Project was initiated by the 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 Liquefied Petroleum Gas (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 at 30 June, 2023, an amount of Kshs.1,125,648,762 had been incurred for the purchase of LPG cylinders and accessories, inspection of the cylinders and accessories, purchase of two-burner low pressure tabletop cookers, lease of storage space, provision of security services and refilling of the cylinders. Review of the documents and records held at the State Department revealed the following anomalies and implementation weaknesses:

- i. As reported in previous years, 79,057 6kg gas cylinders supplied under the project were found to be defective by an independent inspector who was contracted by the State Department, following safety concerns raised by consumers leading to suspension of the project in 2019. The State Department engaged the suppliers who agreed to collect and remedy defective LPG cylinders. However, as at the time of audit in November, 2023, a total of 26,188 cylinders valued at Kshs.55,344,068 were yet to be remedied even though the suppliers had been paid a total of Kshs.36,408,218. In addition, one of the suppliers who supplied 11,132 defective cylinders and paid a total of Kshs.24,479,268 had been placed under receivership.
- ii. Review of the records relating to the project and physical verification revealed that some 237,616 6kg cylinders purchased under Module I and 84,500 two-burner low

pressure tabletop cookers purchased under Module II of the project, together with accessories, were yet to be distributed and were lying at the warehouses rented by the State Department and NOCK.

- iii. There was uncertainty in the implementation of the project due to lack of policies and implementation frameworks. There were no project implementation plans, strategy detailing how the project was started, and overall sustainability plan, beneficially identification mechanism for the LPG cylinders and 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 amount of Kshs.1,125,648,762 incurred in the implementation of the project.

1768. Penalty on Late Payment of Invoices

The statement of receipts and payments reflects an expenditure of Kshs.793,006,854 under use of goods and services which, as disclosed in Note 6 to the financial statements, includes an amount of Kshs.266,951,261 in respect of other operating expenses. Review of the expenditure records revealed that an amount of Kshs.24,579,646 was paid to a private training institution for symposiums and workshops attended by the State Department's staff on diverse dates. Included in the amount is Kshs.3,599,609 relating to penalties charged for late settlement of the invoices. However, reasons for non-settlement of the invoices on time were not provided.

In the circumstances, the State Department was in breach of the payment terms and incurred avoidable costs.

1769. Non-Compliance with the Data Protection Act, 2019

The Department did not appoint a Data Protection Officer to carry out the data protection functions. This was contrary to Section 24 of the Data Protection Act, 2019. Further, Management did not register the Department as a Data Controller or Data Processor with the Data Protection Commissioner's Office as required by Section 18 of the Data Protection Act, 2019.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1770. Failure to Establish a Public Finance Management Committee

During the year under review, the Department 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 required under Regulation 18(1) of the Public Finance Management (National Government) Regulations, 2015 was yet to be constituted and operationalized at the Department.

In the circumstances, the effectiveness of the Finance Department could not be confirmed.

1771. Lack of a National Petroleum Policy and Strategic Plan

During the year under review, the Department 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.

STATE DEPARTMENT FOR TOURISM - VOTE 1202

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1772. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1773. Long Outstanding Pending Accounts Payables

Note 17 to the financial statements, reflects pending accounts payable balance of Kshs.54,645,486 as at 30 June 2023. Included in the balance is an amount of Kshs.328,500 that has been outstanding since the year 2009/2010. The outstanding bills were not settled during the year under review but instead carried forward to the subsequent financial year (2023/2024). Failure to settle the bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent fiscal year.

1774. Long Outstanding Accounts Payables - Deposits

Note 12 to the financial statements, reflects accounts payable-deposits balance of Kshs.140,660,543 which includes Kshs.444,560 relating to returned cheques and Kshs.140,215,983 for deposits due to various contractors and other depositors. Included in Kshs.140,215,983 is Kshs.19,723,473 for retentions relating to amounts withheld from contractors between July, 2017 to July, 2021. The retentions have remained unpaid despite lapse of defects liability period on 11 August, 2021 from substantial completion inspection date of the project on 11 February, 2021, contrary to the provisions of Section 151(2)(h) of the Public Procurement and Asset Disposal Act, 2015.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1775. 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

Conclusion

1776. 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

1777. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1778. Outstanding Pending Accounts Payables

Note 17.2 to the financial statements reflects pending accounts payables of Kshs.2,708,390,651 relating to human wildlife conflict which were carried forward from 2021-2022 financial year that were not settled during the year under review.

Failure to settle bills during the year to 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

1779. 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. The matters remained unresolved as at 30 June, 2023.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1780. Variances Between Budgeted and Actual Amount on Work Plan

During the year under review, the State Department had a budget of Kshs.12,200,000 for eight (8) activities approved in the work plan. The State Department spent Kshs.20,121,700 resulting to an over-expenditure of Kshs.7,921,700 or 65% of the approved work plan. However, Management did not provide authority for the over-expenditure over the approved budget and the source of funds used to finance the excess expenditure of Kshs.7,921,700. This is contrary to Regulation 44(2) of Public Finance Management (National Government) Regulations, 2015, which states that National Government entities shall execute their approved budgets based in the annual appropriations, and the approved annual cash flow plan with exception of unforeseen and unavoidable spending dealt with through the Contingencies Fund, or supplementary estimates.

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

1781. Anomalies in Procurement

1781.1 Unprocedural Procurement Process of ICT Equipment

Note 5 to the financial statements reflects other operating expenses of Kshs.1,068,547,873. This amount includes Kshs.10,878,000 for purchase of ICT equipment and computers. Six (6) firms were invited through a request for quotation and the award to supply was distributed among the six firms. However, three out of the six firms invited were not registered suppliers by the Department.

Further, the request for quotation was done outside the Integrated Financial Management Information System (IFMIS) and professional opinion approving the procurement process was done without carrying out a market survey. In addition, appointment letters for members by the accounting officer to tender evaluation committee and inspection and acceptance committee were not provided for review. This is contrary to Regulation 91 of the Public Procurement and Asset Disposal Regulations, 2020.

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

1782. Avoidable Expenditure

During the year under review, Management spent Kshs.2,109,200 to facilitate members of the financial reporting committee for a working retreat from the 14 to 20 August, 2022. The Committee consisted of twenty-six (26) members and was therefore in violation of circular number MSPS.2/1AVOL.XLV111/ (119) issued by the Presidency on 2/8/2013 limiting members of committees to fifteen (15) and two (2) support staff. In addition, financial reporting tools are available at the headquarters hence the choice of hosting the event in Nakuru was not the most economical option. Further, nomination letters to the committee members were not provided for review.

In the circumstances, value for money on the expenditure of Kshs.2,109,200 could not be confirmed.

1783. Anomalies in Purchase of Seedlings

The statement of receipts and payments reflects acquisition of assets amounting to Kshs.106,003,743 which as disclosed in Note 8 to the financial statements includes purchase of certified seeds, breeding stock and live animals amounting to Kshs.14,998,100. The amount of Kshs.14,998,100 includes Kshs.7,385,000 being supply, delivery, stacking and pitting of indigenous seedlings in Laikipia, Naivasha at Wildlife Research Training Institute and Tsavo East National Park incurred in the month of June, 2023. However, procurement and work plans for the supply planting of indigenous seedlings were not provided for audit. Further, the rationale for planting trees in June 2023 when there were no rains instead of March-April and the survival rate of the indigenous seedlings planted was not provided for audit.

In the circumstances, value for money on the activities undertaken could not be confirmed.

1784. Anomalies in Other Operating Expenses

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,284,061,113 which as disclosed in Note 5 to the financial statements includes other operating expenses of Kshs.1,068,547,873. Included in this amount is Kshs.7,231,395 spent on a human wildlife conflict conference held at Nakuru, to execute activities for compensation of conflicts, such as mobilization of members and public consultative meetings. However, annex 1 to the financial statements, pending accounts payables reflects opening and closing amount of Kshs.2,708,390,651 being human wildlife conflict compensation claims that were not paid in the year under review.

Further, the amount of Kshs.1,068,547,873 includes claims paid to officers amounting to Kshs.4,870,000 for working over long hours on various activities that were incurred on retreats for budget preparation and meetings with parliament departmental committee on tourism and wildlife. However, work plans and the rationale for payment for working for long hours and work tickets were not provided for audit.

In the circumstances, value for money on the expenditure of Kshs.7,231,395 and Kshs.4,870,000 both totalling to Kshs.12,101,395 could not be confirmed.

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

Basis for Conclusion

1785. Understaffing in Technical Staff

The State Department's approved staff establishment allows for employment of a total of one hundred and sixteen (116) members of staff for State Department to effectively carry out its duties and obligations. The approved staff established authorises for fifty (50) technical staff and sixty-six (66) support services staff.

However, review of the documents presented revealed that the State Department has only eleven (11) technical staff in post thus the technical department was under staffed. Further, the department has a total of eighty-five (85) support services staff against the authorised number of 66 as in the approved staff establishment

In the circumstances, failure to employ and fill the approved establishment may negatively affect service delivery by the State Department.

DONOR FUNDED PROJECT

COMBATING POACHING AND ILLEGAL WILDLIFE TRAFFICKING IN KENYA THROUGH AN INTEGRATED APPROACH (GRANT NO.00108406)

REPORT OF THE FINANCIAL STATEMENTS

Unmodified Opinion

1786. There were no material issues noted during the audit of the financial statements of the Project.

Emphasis of Matter

1787. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.106,810,000 and Kshs.71,086,929 respectively resulting in an underfunding of Kshs.35,723,071 or 33% of the total budget. Further, the statement reflects an expenditure budget of Kshs.106,810,000 against actual expenditure of Kshs.69,909,411 resulting in an under expenditure of Kshs.36,900,589 or 35% of the budget.

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

1788. Pending Bills

Annex 5 to the financial statements, reflects pending staff payables totalling to Kshs.3,011,650 as at 30 June, 2023 in respect of outstanding gratuity for completed contracts. Management has attributed the failure to clear the bills to delay in remittances from the Donor (UNDP). The Project is at risk of incurring significant interest costs and penalties with their 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.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1789. Inconsistencies in the Project Financing Agreement

Section IX of the project financing agreement, in relation to financial planning and management funds flow, states that the Government of Kenya (GoK) and United Nations

(UN) financial and procurement procedures will be utilized and adhered to as appropriate. The Project is also expected to adhere to the Public Finance Management Act, 2012. However, the clause in the financing agreement may be in conflict with the Act since the UN financial and procurement procedures may be inconsistent with the Public Finance Management Act, 2012 and the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, continued application of the Financing Agreement with that clause may result to non-compliance to the Public Finance Management Act, 2012.

1790. Non-Disclosure of In-Kind Contributions

The project grant document indicates that the Illegal Wildlife Trafficking (IWT) project was to be implemented in a span of five (5) years, effective the date the agreement was signed. The total cost of the project was USD 19,392,268. This was to be financed through a Global Environmental Facility (GEF) cash grant of USD 3,826,605 and contributions of USD 15,565,663 in-kind by the project implementation partners. The project is expected to close in less than twelve (12) months. However, there are no records showing how much the implementing partners have contributed in kind since inception of the project to date. Further, the project was to be implemented in phases, component 1 to 4, with budgeted amounts and expected outcomes per year. However, there are no detailed reports indicating how far the project outcomes have been achieved and the budgetary allocations absorbed per outcome per year. Therefore, there is ambiguity in project implementation and utilization of resources.

In the circumstances, the Project may experience under funding, resulting in inability to fully implement the expected outcomes, thereby denying the beneficiaries the intended benefits.

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

Conclusion

1791. There were no material issues relating to effectiveness of internal controls, risk management and governance.

STATE DEPARTMENT FOR GENDER AND AFFIRMATIVE ACTION - VOTE 1212

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1792. There were no material issues noted during the audit of the financial statements of the State Department.

Other Matter

1793. Pending Bills

According to Note 17.2 to the financial statements, the Department had pending accounts payable balance of Kshs.19,084,805. Management did not provide a satisfactory explanation for the failure to settle the bills during the year they occurred.

Further, failure to settle bills during the year in which they relate distorts the budget of the subsequent year as they constitute a first charge on the budget.

1794. Unresolved Prior Year Matters

In the audit report of the previous year, several issues 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 were responded to, the matters remained unresolved.

1795. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final budget and actual receipts on comparable basis of Kshs.3,945,967,500 and Kshs.3,415,892,726 respectively, resulting to an underfunding of Kshs.530,074,774 or 13% of the budget. Similarly, the State Department spent an amount of Kshs.3,404,780,236 against an approved budget of Kshs.3,945,967,500 resulting to an under expenditure of Kshs.541,187,264 or 14% 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

1796. Irregular Commutation of Leave

The Department paid Kshs.1,533,363 as a commutation for leave to thirty-one (31) officers who could not proceed on leave due to exigency of work. Although Management explained that the commutation of leave for cash was approved by the accounting officer,

the payment vouchers, leave allowance application forms and personal files did not indicate specific duties the officers were retained to undertake.

In the circumstances, the regularity of the payment of commutation of leave of Kshs.1,533,363 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1797. Corporate Governance

Review of the Department's documents revealed that the State Department did not have an approved risk management policy, a risk register or an ICT policy. The lack of an approved risk management policy may result in unclear directions regarding risk identification and appropriate mitigation measures. Further, the State Department had planned to implement the activities outlined in its Strategic Plan 2018-2022. However, the achievement of Strategic Issue 1.1- Policies, legislation, programs and plans on gender equality and women empowerment and Strategic Issue 5.3 – Planning, monitoring, and evaluation were not assessed and reported in the financial statements.

In the circumstances, the effectiveness of risk management and overall governance of the State Department could not be confirmed.

1798. Failure to Comply with Human Resource Plan/Staff Establishment

Review of staff establishment revealed that the State Department had in place one hundred and ninety-eight (198) members of staff against the authorized establishment of two hundred and eight (208) officers, resulting to a deficit of ten (10). Further, analysis of staff biodata revealed that ninety-six (96) employees or 46% of total employees are above the age 50 years. This indicates poor succession planning as services offered by staff in critical areas will be affected as the most experienced staff exit the service.

In addition, the State Department received from the Public Service Commission (PSC) fifteen (15) new employees and subsequently processed their appointments and deployments. However, no formal request by the State Department was submitted to Public Service Commission for their recruitment, contrary to Part. B 2 (1) of the Human Resource Policies and Procedures Manual, 2016 which requires every State Department to develop annual recruitment plans which will be forwarded to the Commission at the beginning of each financial year to enable it to fill the vacancies.

In the circumstances, the effectiveness of internal controls relating to human resource management could not be confirmed.

DONOR FUNDED PROJECT

WOMEN EMPOWERMENT FOR GENDER EQUALITY PROJECT - GRANT NO.PA002836RD

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1799. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1800. Budgetary Control and Performance

As disclosed under project information on the funding summary in the financial statements, the Project duration was one year from 1 July, 2022 to 30 June, 2023 with an approved budget funding amounting to Kshs.46,972,322. However, funding totalling to Kshs.33,563,257, or 71% of the total budget had been disbursed resulting in an underfunding of Kshs.13,409,065 or 29% of the donor commitment yet the implementation period had lapsed. Further, the Project had unutilized funds balance of Kshs.1,978,094 as of 30 June, 2023.

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

1801. Pending Bills

The financial statements as disclosed under other important disclosures reflects pending accounts payable balance of Kshs.180,000 which relates to the supply of services that was not settled as at the year end. No justification was provided for the failure to pay the bills by 30 June, 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 the budget.

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. Lack of Internal Audit Report

During the year, the Management did not submit the internal audit report for the Project. In the circumstances, reasonable assurance through the audit committee on the state of risk management, control and governance within the Project and review of the effectiveness of the financial and non-financial performance management systems could not be confirmed.

STATE DEPARTMENT FOR PUBLIC SERVICE - VOTE 1213

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1804. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1805. Budgetary Control and Performance

The statement of comparison of budget and actual amounts combined reflects total budget receipts of Kshs.22,943,056,553 and actual receipts of Kshs.19,954,447,998 resulting in an underfunding of Kshs.2,988,608,555 or 12% of the budget. Similarly, the State Department expended Kshs.19,953,679,332 against the approved expenditure budget of Kshs.22,943,056,553 resulting in an under-expenditure of Kshs.2,989,377,221 or 13% of the budget. Management did not provide explanations for the underperformance.

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.

1806. Long Outstanding Pending Accounts Payables

I draw attention to Note 18.2 to the financial statements which reflects pending accounts payables balance of Kshs.1,819,995,350 owing to suppliers of goods and services which were not settled in the year under review but were carried forward to 2023/2024 financial year. The unpaid bills include long outstanding pending accounts payables balance of Kshs.158,579,220 relating to financial years 2018/19 to 2021/2022. However, Management did not provide reasons for the non-payment of the bills.

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 subsequent year budget provision.

My opinion is not modified in respect of these matters.

Other Matter

1807. Unresolved Prior Year Audit 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, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues and explained that the State Department was awaiting PAC invitation.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1808. Lack of Ethnic Diversity

Review of Integrated Personnel Payroll and Database (IPPD) revealed that, one hundred and twenty-two (122) employees or 36% of the total of three hundred and thirty-six (336) were from the same ethnic community. This is contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which requires that no public establishment shall have more than one third (1/3) of its employees 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

1809. Lack of Logbooks and Incomplete Fixed Asset Register

Annex 2 to the financial statements reflects a summary of fixed assets totalling Kshs.187,155,153 which includes purchase of vehicles and other transport equipment balance of Kshs.29,739,200 procured during the year under review. However, out of twenty-seven (27) motor vehicles in custody of State Department, logbooks for eleven (11) vehicles were not provided for audit. Further, the fixed assets register provided for audit was incomplete and did not have critical information such as serial numbers and some electronic equipment were not in the register. In addition, physical verification revealed that most of the assets were not tagged for ease of identification and tracking. In addition, field verification at Huduma centers in Kericho, Nyamira, Kisii, Homabay and Kisumu revealed that no fixed asset registers were maintained, and the assets were not tagged. It was not possible to confirm the preventative mechanisms in place to eliminate theft, security threats, losses, wastage, and misuse of assets as required by Regulation 139 (1) and (2) of the Public Finance Management (National Government) Regulations, 2015.

In the circumstances, security of assets including the ownership of the eleven (11) motor vehicles could not be confirmed.

1810. Lack of Risk Management Policy

During the year under review, the State Department did not have an approved risk management policy in place. Further, there is no evidence that the Department has documented, identified, and assessed risks and consequently developed controls to respond to risks identified. This is contrary to Regulation 165 of the Public Finance Management (National Government) Regulations 2015, which provides 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 controls that build robust business operations.

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

STATE DEPARTMENT FOR YOUTH AFFAIRS - VOTE 1214

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1811. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1812. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts and actual on comparable basis of Kshs.2,537,676,313 and Kshs.1,572,566,053 respectively resulting in a budget under-funding of Kshs.965,110,260 or 38% of the budget. Similarly, the State Department spent Kshs.2,230,202,989 against an approved budget of Kshs.2,537,676,313 resulting to an under-expenditure of Kshs.307,473,324 or 12% of the budget.

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

1813. Pending Bills

Annex I to the financial statements reflects pending accounts payables amounting to Kshs.45,861,162. Management explained that pending bills of Kshs.26,237,102 arose due to budget cuts through Supplementary Budget II. The bills were subsequently settled leaving a balance of Kshs.19,624,060 which were carried forward to the financial year 2023/2024. Failure to settle bills in the year for which they relate adversely affect the implementation of the subsequent year's budgeted programs as the pending bills form a first charge to that year's budget provision.

My opinion is not modified in respect of these matters.

Other Matter

1814. Unresolved Prior Year Matters

In the audit 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, 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

Conclusion

1815. 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

1816. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECTS

KENYA YOUTH EMPLOYMENT AND OPPORTUNITIES PROJECT (IDA CREDIT NO. 5812 – KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1817. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1818. Budgetary Control and Performance

The statement of comparison of budget and actual amounts indicates that the Project's receipts budget for the year under review amounted to Kshs.763,214,564 and actual receipts amounted to Kshs.17,280,830, resulting in an underfunding of Kshs.745,933,734 (or 98% of the budget). Similarly, the Project had budgeted to spend Kshs.763,214,564 but actually spent Kshs.685,430,055, resulting in an under-expenditure of Kshs.77,784,509 (or 10% of the approved expenditure budget).

Further, included in the purchase of goods and services component shown in the statement is other operating expenses item which, as indicated in the detailed statement of comparison of budget and actual amounts provided for audit, had a final expenditure budget and actual on comparable basis amounts of Kshs.389,842,859 and Kshs.414,584,339 respectively, resulting in an over-expenditure of Kshs.24,741,480 whose approval was not provided for audit. The over-expenditure is an indication that funds that had been voted to carry out other functions may have been re-allocated to finance other non-budgeted activities.

The underfunding and under-expenditure is likely to result in the Project being unable to achieve its strategic goals and objectives. Further, the regularity of the over-expenditure of Kshs.24,741,480 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1819. Amounts Withdrawn and Not Claimed

The special accounts statement reflects amounts withdrawn and not claimed totalling to USD 4,484,666.99 (Approx. Kshs.487,483,302) whose surrender documents had not been provided by the implementer of the project, contrary to the financing agreement

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1820. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1821. As required by 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 Management of the Project and the Project's financial statements agree with the accounting records and returns.

VIJANA VUKA NA AFYA PROGRAMME GRANT NO. 201367465

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1822. Unsupported Expenditure

The statement of receipts and payments and Note 3 to the financial statements reflects purchase of goods and services of Kshs.101,525,788. Included in the balance is an amount of Kshs.85,155,966 in respect of other operating payments made by third parties. Management has explained that the payments were paid directly by the donor to the consultancy service providers in three tranches of Kshs.28,837,091, Kshs.28,837,091 and Kshs.27,481,784. However, the payments were not supported with contract agreements. In addition, Management did not provide record of results of applications for expression of interest using the evaluation criteria in the request for proposal inviting

expression of interest as required by Section 118, (1) and (2) of the Public Procurement and Asset Disposal Act, 2015, Revised Edition 2022.

In the circumstances, the accuracy, completeness and regularity of expenditure of Kshs.85,525,788 could not be confirmed.

Other Matter

1823. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts and actual on comparable basis amounting to Kshs.262,609,865 and Kshs.104,883,766 respectively resulting in a revenue shortfall of Kshs.157,726,099 or 60% of the budget. Similarly, the Project expended Kshs.104,493,648 against an approved budget of Kshs.262,609,865 resulting to an under expenditure of Kshs.158,116,217 (60%). Management has attributed the under absorption to delay by the consultants in submission on invoices and supportive evidence as per the milestones in the contract.

The under-funding and under-expenditure 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

Basis for Conclusion

1824. Failure to Adhere to Approved Financial Reporting Template

The amended financial statements submitted on 6 November, 2023 were partially signed since the Accounting Officer did not sign the financial statements to prove ownership as required by the approved financial reporting template vide National Treasury Circular reference number AG. 4/16/3 Vol. III of 6 July, 2023.

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

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

Conclusion

1825. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1826. As required by the provisions of 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 Management of the Programme and the Programme's financial statements agree with the accounting records and returns.

YOUTH EMPOWERMENT PROGRAMME GRANT NO. B4210

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1827. There were no material issues noted during the audit of the financial statements of the Programme.

Other Matter

1828. Under Absorption of Budget

The statement of comparison of budget and actual amounts reflects an expenditure budget of Kshs.4,000,000 against an actual expenditure of Kshs.1,025,650 resulting to an underabsorption of Kshs.2,974,350 or 74% of the budget. The expenditure is 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.

Although Management attributed the underabsorption to non-receipt of funding from the donor, the delay may impact negatively on achievement of the project objectives.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1829. 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

Conclusion

1830. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1831. As required by 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 Management of the Programme and the Programme's financial statements are in agreement with the accounting records and returns.

STATE DEPARTMENT FOR EAST AFRICAN COMMUNITY AFFAIRS – VOTE 1221

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1832. 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

1833. Pending Accounts Payable

As disclosed in Note 15.2 to the financial statements, pending accounts payables amounted to Kshs.74,014,128 as at 30 June, 2023 including an opening balance of Kshs.13,818,936 accrued in the previous years with some dating as far back as 2015/2016 financial year.

No 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.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1834. Staffing Level of the State Department

Review of the State Department's organizational structure and staff establishment revealed that, the approved staff establishment was two hundred and thirty-four (234), while the actual establishment was hundred and fifty-two (152) leading to overall under-establishment of eighty-two (82) or 35%. Further, eight (8) departments were cumulatively overstaffed by forty-one (41) staff members.

In the circumstances, the State Department may not achieve its optimal performance while the overstaffing may lead to underutilization of staff potential.

THE STATE DEPARTMENT FOR REGIONAL AND NORTHERN CORRIDOR DEVELOPMENT – VOTE 1222

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1835. There were no material issues noted during the audit of the financial statements of the State Department.

Emphasis of Matter

1836. 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.7,174,477,781 and Kshs.6,332,675,609 respectively resulting in an underfunding of Kshs.841,802,172 or 11% of the budget. Similarly, the State Department expended Kshs.6,321,676,480 against an approved budget of Kshs.7,174,477,781 respectively resulting in an under-expenditure of Kshs.852,801,302 or 12% of the budget.

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

1837. Undisclosed Contingent Liabilities

Review of records in respect of pending legal cases revealed that the State Department was compelled to pay a contractor Kshs.67,279,525 together with interest at 12% per annum. The pending claim arose from a contract entered between the then Ministry of Regional Development and the contractor for the construction of Lake Basin Development Authority Headquarters Complex and Housing in Kisumu in a contract entered into on 22 October, 1990.

During the execution of the contract, a dispute arose between the contractor and the State Department after which the matter was referred to arbitration and judicial process. However, this information has not been disclosed in the financial statements. In addition, the arising liability on interest accrued as a result of the arbitration was not included as a pending bills.

In the circumstances, the status on contingent liabilities as at 30 June, 2023 could not be confirmed.

1838. Pending Bills

Note 19.2 to the financial statements reflects pending accounts payable balance of Kshs.2,448,493,375 for previous year whereas Annex 1 to the financial statements reflects opening balance of Kshs.2,451,916,061 resulting in an unexplained variance of

Kshs,3,422,686. Further, the State Department had pending bills totalling Kshs.2,445,742,328 as at 30 June, 2023 and Management has not explained why the bills were not settled during the year when they occurred. 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.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1839. 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

1840. Incomplete Fixed Asset Register

Annex 2 to the financial statements reflects summary of fixed assets register historical cost carried forward of Kshs.194,888,452. However, the movement of the balances brought forward of Kshs.188,992,412 and additions during the year amounting to Kshs.5,896,040 could not be traced in the updated asset register. Further, the transfer of assets and handover report was not provided for audit.

In the circumstances, existence of effective internal controls on management of assets could not be confirmed.

STATE LAW OFFICE AND DEPARTMENT OF JUSTICE – VOTE 1252

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1841. Transfer to Other Government Entities

The statement of receipts and payments reflects expenditure on transfers to other Government entities totalling Kshs.2,688,659,648 which as disclosed in Note 5c to the financial statements includes Appropriations In Aid (AIA) of self-reporting entities totalling Kshs.538,366,194 which differs with the supporting records amount of Kshs.533,473,361 resulting to an unreconciled variance of Kshs.4,892,833. Further, AIA collection of Kshs.138,891,075 by the Council for Legal Education was reported by the Council as Kshs123,093,588 resulting in an unreconciled variance of Kshs.15,797,487.

In addition, three(3) entities of National Council for Law Reporting, Kenya Copyright Board and The Nairobi Centre for International Arbitration did not surrender their respective excess AIA amounts of Kshs.9,556,855, Kshs.1,347,795 and Kshs.3,148,537 respectively all totalling Kshs.14,053,187 to The National Treasury.

In the circumstances, the accuracy and completeness of transfers to other Government entities totalling Kshs.538,366,184 could not be confirmed.

1842. Undisclosed Other Receipts

The statement of receipts and payments reflects revenue from other receipts amounting to Kshs.535,217,657 as disclosed in Note 2 to the financial statements. During the year under review, the State Law Office and Department of Justice deducted from staff payrolls an amount of Kshs.1,687,836 in respect of 3% payroll commission charge but did not record the amount in the books of account as revenue. Further, Management did not provide evidence of surrender of the revenue to The National Treasury. This is contrary to Regulation 81(1) of the Public Finance Management (National Government) Regulations, 2015 which requires a receiver of revenue to promptly deposit into the National Exchequer Account all receipts due to the Consolidated Fund.

In the circumstances, the completeness and accuracy of revenue from other receipts amounting to Kshs.535,217,657 could not be confirmed.

1843. Irregular Payment for Land

The statement of receipts and payments reflects acquisition of assets amounting to Kshs.104,659,325 as disclosed in Note 7 to the financial statements. Review of documents revealed that the State Law Office and Department of Justice made a payment of Kshs.2,500,000 towards acquisition of land in Malindi for construction of a regional office. However, at the time of payment, the sale agreement to transfer ownership of title had not been signed. Further, physical inspection revealed that the land

was not fenced and there was no signage to indicate the ownership of the land. In addition, the title issued was not provided for audit.

In the circumstances, the regularity and ownership of the land could not be confirmed.

1844. Irregular Payment of Rent on Expired Leases

The statement of receipts and payments reflects use of goods and services totalling Kshs.855,539,080 as disclosed in Note 4 to the financial statements. The amount includes rental of produced assets amounting to Kshs.79,634,323. Review of lease documents revealed that the State Law Office and Department of Justice paid Kshs.6,241,523 to the National Social Security Fund being rent for Mombasa regional Office. However, lease agreement in support of rent payment had expired.

In the circumstances, the regularity and completeness of the expenditure of Kshs.6,241,523 could not be confirmed.

Emphasis of Matter

1845. Pending Accounts Payables

Note 16.2 to the financial statements reflects analysis of pending accounts payables balance of Kshs.171,258,741 which were not settled during the year under review, but were carried forward to the 2023/2024 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 as they form a first charge.

1846. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.5,814,887,064 and Kshs.5,329,741,730 respectively resulting to an under-funding of Kshs.485,145,334 or 8% of the budget. Similarly, the State Law Office and Department of Justice expended Kshs.5,329,570,472 against an approved budget of Kshs.5,814,887,064 resulting to under-expenditure of Kshs.485,316,592 or 8% of recurrent expenditure budget.

The under-funding and under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of these matters.

Other Matter

1847. 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, 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 standards prescribed by the Public Sector Accounting Standards Board template.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1848. Non-Compliance with One Third of Basic Salary Rule

During the year under review, one hundred and sixty-two (162) employees earned a net salary of less than one third (1/3) of the basic salary contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016. The Management did not explain the failure to comply with the policy.

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

1849. Non-Compliance with Law on Procurement Allocated to Youth, Women and Persons with Disability

Review of procurement plan for the year under review revealed that procurement for the financial year 2022/23 amounted to Ksh.766,504,817 out of which Kshs.229,951,445 or thirty percent (30%) was expected to be awarded to women, youth and persons living with disability. However, the State Law Office and Department of Justice awarded procurements valued at Kshs.26,390,884 or 3.44% to women, youth and persons living with disability. This is contrary to Regulation 149 of the Public Procurement and Asset Disposal Regulations, 2020 which requires an entity to allocate at least thirty percent (30%) of its annual procurement budget for purposes of procuring goods, works and services from enterprises owned by youth, women and persons with disability.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1850. 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, operational and well documented enterprise wide risk management process and policies in place to effectively guide the risk management processes. Further, there was no operational Information Technology (IT), Strategic Committee and IT Strategic Plan that supports the Information Technology operations. In addition, the entity lacks Business Continuity and Disaster Recovery plans to support the organizations' business processes.

In the circumstances, the policy, strategies and procedures put in place to assess, identify, measure, prioritize and mitigate risks could not be confirmed.

1851. Weak Asset Management

As previously reported, 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, logbooks 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 . In addition, assets held at the Headquarters and in the regions were not tagged with a unique identification number.

In the circumstances, the State Law Office and Department of Justice lacked an effective system for safeguarding and controlling its fixed assets.

1852. Non-Conformity to the Staff Establishment

During the year under review, the State Law Office and Department of Justice had a total of one thousand and fifty-seven (1,057) employees in post against the approved staff establishment of one thousand, six hundred and fifty-nine (1,659) resulting in under staffing by six hundred and two (602) or 36%. Further, one hundred and three (103) members of staff left the organization during the year. Management did not explain the causes of exit.

In the circumstances, mandate of advising Government Ministries, Departments, Constitutional Commissions, Independent Offices and State Corporations on legislative and other legal matters may not be achieved.

1853. In adequate Office Space

Physical verification of Eldoret Regional Office revealed that the State Law Office and Department of Justice lacked adequate storage facility and well-equipped registry. The offices were congested and files containing confidential information were stored in sacks. This posed challenges in storing of information and retrieval of bulky files used by the public trustees, marriages and civil litigation.

In the circumstances, the security of confidential information could not be confirmed.

1854. Low Investment in ICT Infrastructure

During the year under review, the State Law Office and Department of Justice did not acquire ICT infrastructure in all offices. Further, business processes were not automated. In addition, the disaster recovery strategy was not developed and implemented.

In the circumstances, effectiveness in provision of ICT support services and disaster recovery could not be confirmed.

REVENUE STATEMENTS OF RECEIVER OF REVENUE - STATE LAW OFFICE AND DEPARTMENT OF JUSTICE

REPORT ON THE REVENUE STATEMENTS

Basis for Qualified Opinion

1855. Discrepancies Between Revenue Statements and Integrated Financial Management Information System (IFMIS) Balances

As reported previously, discrepancies were noted between balances in the revenue statements and the Integrated Financial Management Information System (IFMIS) trial balance as indicated below:

Description	Revenue Statements (Kshs.)	IFMIS Trial Balance (Kshs.)	Variance (Kshs.)
Bank Balance	30,140,234	1,098,775,907	(1,068,635,673)
Cash in Transit	0	96,267,432	(96,267,432)
Consolidated Fund	0	740,760,797	(740,760,797)
Exchequer Account/CRF Account	0	424,268,245	(424,268,245)

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1856. Balance Due for Disbursement

As reported in the previous year, the statement of financial assets and liabilities, and as disclosed in Notes 2c and 3b to the financial statements, reflects an amount of Kshs.168,776,500 in respect of both receivable from Huduma Kenya and payables due to the Exchequer. However, as reported in the previous years, the amount was collected by the Postal Corporation of Kenya through Huduma Centers but was not transferred to the Receiver of Revenue for subsequent remittance to the Exchequer. This is 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

1857. Failure to Prepare and Submit Marriage Fees Periodical Reports at the County and Assistant County Commissioners Offices

The statement of receipts and disbursements reflects fees on use of goods and services of Kshs.231,320,943 which, as disclosed in Note 1 to the financial statements, includes an amount of Kshs.116,827,739 for registration of marriages. However, nineteen (19) out of the thirty-four (34) gazetted Deputy County Commissioners (DCCS) and Assistant County Commissioners did not submit quarterly and consolidated reports on marriage fees as at 30 June, 2023.

In the circumstances, the existence of effective internal controls that ensures all revenues are collected and reported on in a timely manner could not be confirmed.

1858. Failure to Provide Registration of Marriage Services at Sub-County Level

Sample field verification visits to the Counties of Nandi, Nyandarua, Nyamira, Homabay, Baringo Central and Kwale on service delivery to citizens revealed that there were no provision of marriage registration services. Further, it was noted that the internal controls over revenue collection by ex-official agents of the Office of Attorney General and Department of Justice were weak. This was evidenced by non-surrender of marriage registration revenue and failure to maintain registers of accountable books.

In the circumstances, the internal controls were weak and thus impacting on the service delivery to the citizens.

DONOR FUNDED PROJECT

PROGRAMME FOR LEGAL EMPOWERMENT AND AID DELIVERY (PROJECT CREDIT NUMBER KE/FED/2018/397-591)

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1859. Undisclosed In-Kind Grants and Direct Payments

Review of the Project financial statements revealed that Grants In-kind and direct payments of undetermined value were not included in the financial statements. This included consultancy base line survey on legal aid providers, payments to National Legal Aid Service (NLAS) staff and NLAS Board, consultancy on mapping legal aid providers in twelve (12) focal counties and Procurement ICT needs requirements for NLAS such as ICT equipment and vehicles. This is despite the fact that they were incorporated in the financing agreement.

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

1860. Irregular Counter-Part Funding of the Project

As reported in the previous year, the statement of receipts and payments and as disclosed in Note 1 to the financial statements reflects transfers from Government entities (counter-part funding) of Kshs.4,000,000. However, counterpart funding was not spelt out in the Financing Agreement and there was no expenditure incurred from the counter funding as at 30 June, 2023.

In the circumstances, the accuracy and completeness of transfers from Government entities (counter-part funding) could not be confirmed.

Other Matter

1861. As reported previously, the financial statement had presentation and disclosure of financial statements anomalies, including cash and cash equivalents balance which were not supported with bank reconciliation statements, bank confirmation certificates, a board of survey certificate and unsupported counter fund receipts. Further, there were irregularities in compensation to employees, late and non-remittance of statutory deductions and failure to maintain asset registers. In addition, there was lack of internal audit review on the project and delayed project implementation. These were not addressed in the current audit.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1862. Failure to Submit Bank Reconciliations Statements

As previously reported the Programme Management did not prepare and submit monthly bank reconciliation statements to The National Treasury with a copy to the Auditor-General not later than the 10th of the subsequent month as required by Regulation 90(1) of the Public Finance Management (National Government) Regulations, 2015.

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

1863. Poor Asset Management

Review of the asset register provided for audit revealed that during the year, the Project funded supply of assets costing Kshs.7,322,065 for operationalizing of seven (7) regional offices in the marginalized focal counties. These comprised laptops, assorted furniture, printers, projectors mobile phones handsets and television sets delivered. However, Management disclosed under Annex 3 on summary of fixed assets register the purchase of ICT equipment costing Kshs.7 322,065 made up of ICT Equipment of Kshs.7,305,065 and intangible assets of Kshs.17,000. This contradicts the asset register provided for audit which identified procured items to include non-ICT items like furniture which should have been categorised under office equipment, furniture and fitting and not ICT

equipment. It was also noted that the assets purchased were stored at PLEAD offices where they were exposed to depreciation and obsolescence before they were put into economic use contrary to Regulation 139(1) of Public Finance Management (National Government) Regulations, 2015.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1864. Lack of Internal Audit Review

As reported in the previous year, 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 audit 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 Project.

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

1865. Delayed Project Implementation

As reported in the previous year, 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, 2023 was EUR 751,341.03 (Kshs.83,487,210) 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, 2023 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

1866. 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

1867. Non-Compliance with the State Corporations Advisory Committee Requirements

As reported previously, 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.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1868. Under Staffing of the Service

As previously reported, review of the staff establishment as at 30 June, 2023 revealed that, the Business Registration Service had one hundred and two (102) employees out of the recommended staff establishment of one hundred and sixty-four (164) resulting to an understaffing of sixty-two (62) staff (or 38%) of the approved establishment. The Management lacked a recruitment plan or budget to address the staffing deficit.

Further, review of payroll and personnel records revealed that two (2) officers have been serving in acting capacity for periods exceeding six (6) months. This was contrary to the Services Human Resource Manual, which allows acting for six (6) months. Although, the payment of acting allowance had stopped, the officers were still acting and the positions had not been substantively filled at close of the financial year.

In the circumstances, the Service may not achieve its core mandate of administering laws relating to incorporation, registration, operation and management of companies, partnerships and firms.

1869. Weak Controls Over Imprest Management

Review of imprest register maintained by Management revealed that the register did not contain key information such as Miscellaneous Receipt (MR) number for cash surrenders, voucher numbers for bill surrenders, outstanding balances, records of recovery from salary and date of surrender. Further, Imprest warrants amounting to Kshs.1,200,000 were not signed by the imprest holders and certified by the respective heads of departments.

In the circumstances, it was not possible to confirm the effectiveness of the imprest management system.

1870. Failure to Open County Offices

As previously reported, 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 2021-2026 did not consider opening of regional offices in other Counties in Kenya. This is 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 effectiveness of service delivery by the entity could not be confirmed.

1871. Weaknesses in Operations of Committees of the Board

Review of the Board records revealed that four members of the Board sat in three (3) Committees. This is 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. Further, five (5) Ad hoc and two (2) Compliance and Risk Committee Board meeting minutes were not provided for audit.

In the circumstances, the effectiveness of the Committees of the Board in provision of oversight function could not be confirmed.

REVENUE STATEMENTS OF THE BUSINESS REGISTRATION SERVICE

REPORT ON THE REVENUE STATEMENTS

Basis of Qualified Opinion

1872. Unsupported Disbursement to Exchequer Account

The statement of receipts and disbursements and as disclosed in Note 3 to the revenue statements, reflects transfers to exchequer account of Kshs.1,119,250,453. However, supporting documents such as bank statements and evidence of transfer, Board approval minutes for its opening and operation of the bank account and respective bank signatories were not provided for audit. Further, analysis of Business Registration Services E-Citizen account held at the Central Bank of Kenya for the year under review revealed inward RTGS payments from the KCB collection account for the Business Registration Services amounting to Kshs.1,136,432,676 resulting in an understatement of the transfers by an amount of Kshs.17,182,223. Further, the statement for the ten (10) day period to 30 June, 2023 and official receipts from The National Treasury acknowledging receipt of revenue were not provided for audit.

In the circumstances, the accuracy, validity and completeness of transfers to exchequer of Kshs.1,119,250,453 could not be confirmed.

1873. Non-Compliance with the Financial Reporting Template

The statement of financial assets and liabilities reflects receivables balance of Kshs.3,871,852 as disclosed in Note 8 to the financial statements. However, the financial statements have been prepared in accordance with the cash basis of accounting method under the International Public Sector Accounting Standards (IPSAS) which requires recognition of receipts from the various sources only when the related cash has been received by the entity.

In the circumstances, the financial statements have not been prepared in compliance with the financial reporting template issued by the Public Sector Accounting Standards Board.

1874. Inaccuracy of Bank Balance

The statement of financial assets and liabilities reflects bank balance of Kshs.37,447,572. However, the cash book reflects a closing balance of Kshs.41,332,472 resulting in an unreconciled variance of Kshs.3,884,900.

In the circumstances, the accuracy and completeness of bank balance of Kshs.37,447,572 could not be confirmed.

Other Matter

1875. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. However, Management has not resolved all the prior matters. No satisfactory explanation was provided for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1876. 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

Conclusion

1877. 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

1878. 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

1879. Irregular Operation of Bank Accounts

As previously reported, Official Receiver maintained bank accounts at a commercial bank. This was contrary to Section 708 of the Insolvency Act, 2015 which require that the official receiver to establish in the Central Bank of Kenya an account, the insolvency account, which the official receiver shall pay in the insolvency services account all money recovered under the performance and exercise of the Official receiver's functions and powers under the Act.

In the circumstances, Management was in breach of law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1880. Incomplete Human Resource Records

Review of personal files revealed that some files were missing documents such as copies of National identification card, Kenya Revenue Authority (KRA) personal identification number, next of kin details and passport photographs. Further, some of the appointment letters, files did not have details of leave days, job description and terms of termination.

In the circumstances, the effectiveness of internal controls on the maintenance of human resource records could not be confirmed.

PUBLIC TRUSTEE OF KENYA

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1881. Cash and Cash Equivalents

The statement of financial position reflects cash and cash equivalents balance of Kshs.4,218,417,516 as disclosed under Note 11 to the financial statements. As previously reported, review of the bank reconciliations statements for the Public Trustee Administration for the cash in bank not in cash books held at the headquarters revealed receipts in bank not in cash books of Kshs.36,251,154 which include long outstanding receipts totalling to Kshs.13,069,357 as at 30 June 2023.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.4,218,417,516 could not be confirmed

1882. Deposits

As previously reported, the statement of financial position reflects deposits balance of Kshs.108,381,817 as disclosed in Note 14 to the financial statements. Included in the balance is an amount of Kshs.72,000,000 held at a local bank. 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, the local bank (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 another local bank for transmission to the Public Trustee of Kenya leaving a balance of Kshs.67,927,268 held at a local bank. 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, 2023. Therefore, 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.108,381,817 could not be confirmed.

1883. Investments

As reported in the previous year, the statement of financial position reflects a balance of Kshs.230,704,509 under investments which, as disclosed in Note 15 to the financial statements, includes an amount of Kshs.142,642,106 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.142,642,106 includes investments totalling Kshs.29,693,938 held in two local financial institutions. 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 two financial institutions was completed on 13 September, 2012 and 15 November, 2007 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 doubt in its recoverability and therefore loss of funds.

In the circumstances, the accuracy and existence of the balance of Kshs.230,704,509 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1884. 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

1885. 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 disbursement 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.

In the circumstances, the Public Trustee did not perform periodic risk assessments in relation to beneficiaries' financial records to identify threats, assess vulnerability, and design automated systems that could help in keeping up to date beneficiaries financial records.

1886. Understaffing of Key Staff Positions

As previously reported, the 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 revealed that the Headquarters has two accountants against the required number of five accountants and five (5) regional offices, which includes Nyeri, Kisumu, Garissa, Meru and Eldoret, have accountants in service while the other eight (8) regions did not have accountants after the previous ones exited from service without replacement.

Further, three posts of records management staff were vacant and three (3) clerical officers who were experienced in Public Trustee operations were re-designated and subsequently transferred without being replaced which result to excess workload on the existing staff who are forced to work long hours.

This compromised maintenance of effective internal control measures and posted the risk of error and misstatements in the accounting records.

1887. Lack of an Operational and Approved Enterprise Risk Management Strategy

As previously reported, the audit observed that Management 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 and a system of risk management and internal control that build robust business operations.

In the circumstances, 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.

1888. Management of the Public Trustee Agents Activities

Review of the Public Trustee records revealed that fees collected by the ex-official agents were deposited directly to the revenue collection account of State Law Office. However, surrenders of revenue collected were not made available to the Public Trustee. Further, the returns about the value of estate administered and balances in the books of accounts were not made available to the Public Trustee of Kenya regularly.

In the circumstances, failure to account for revenue collected affects planning and follow-up on the ex-official agents of the Public Trustee of Kenya.

THE JUDICIARY - VOTE 1261

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1889. Bank Balances

1899.1 Loss of Cash Deposits

As reported previously, the statement of financial position reflects bank balances of Kshs.8,186,097,574 as disclosed in Note 7 to the financial statements. The balances include the deposits maintained by the Judiciary headquarters and the Molo Court Station which reflected losses of Kshs.47,840,030 and Kshs.38,950,744, 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 Directorate for Criminal Investigation and the Asset Recovery Agency but remained outstanding as at 30 June, 2023.

Further, bank reconciliation statements for the month of June, 2023 for court station bank accounts held in Embu, Nakuru and Malindi reflected cash losses of Kshs.2,682,152, Kshs.84,588,258 and Kshs.1,455,800, respectively, due to acquittal of suspects and withdrawal of cases and hence raising doubt on their recoverability.

In addition, the status of the Nakuru Court Station loss of Kshs.84,588,258 was not provided for audit review. Further, no loss report has been submitted to The National Treasury seeking the writing off of the losses.

In the circumstances, the accuracy, completeness and existence of the cash deposits could not be confirmed.

1890. Long Outstanding Third-Party Deposits and Retentions

The statement of financial assets and financial liabilities and as disclosed in Note 9 to the financial statements, reflects third-party deposits and retentions balance of Kshs.8,100,777,464. The balance includes deposits held by various Court stations out of which an amount of Kshs.3,735,900,453 had been outstanding for over 3 years but had not been surrendered to the Unclaimed Financial Assets Authority. No justification was provided for the unclaimed deposits and retentions.

Further, and as previously reported, the balance included general deposits for various Court stations totalling Kshs.7,322,048,732 out of which an amount of Kshs.352,938,472 related to deposits for fifty-eight (58) Court stations held by the former District Treasuries that had not been paid to The National Treasury. Although Management had written to the Principal Secretary for the National Treasury vide letter Ref. CRJ/14 of 29 December, 2021 requesting confirmation of the liability, The National Treasury did not acknowledge the same to date.

In the circumstances, the accuracy and propriety of the third-party deposits and retentions balance of Kshs.8,100,777,464 could not be confirmed.

Emphasis of Matter

1891. Pending Bills

Notes 14.2, 14.3 and 14.4 on other important disclosures in the financial statements reflect pending accounts payables, pending staff payables and other pending payables of Kshs.335,339,675, Kshs.5,283,563 and Kshs.272,734,350, respectively totalling Kshs.613,357,588 which were not settled during the financial year but were instead carried forward to 2023/2024 financial year.

Delay in settling the pending bills may result in the Judiciary incurring penalties and interest expenditure. Further, 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.

My opinion is not modified in respect of this matter.

Other Matter

1892. Unresolved Prior Year Matters

In the audit report for 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, Management did not resolve the issues or give any explanation for failure to adhere to the provisions of the financial reporting template as prescribed by the Public Sector Accounting Standards Board.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1893. Delayed Completion of Development Projects

Review of the project status reports and field inspections for various court stations revealed that construction works for fifteen (15) projects with a contract sum of Kshs.826,329,820 had not been completed. The projects which included boreholes and containers in various court stations were delayed for over eight (8) years with percentage completion rates of fifty percent (50%) to ninety seven percent (97%). No evidence was provided to show when the Judiciary intends to complete the projects.

Delay in completion of the projects may impact negatively on service delivery to the public by The Judiciary.

1894. Unspent Funds

As disclosed in Note 14.1 to the financial statements, the Judiciary Fund Account reflects a balance of Kshs.55,373,565 in respect of unspent funds in form of Authority to Incur Expenditure (AIEs) and imprests which were due for surrender on or before 30 June, 2023. No explanation was provided why the AIEs were not spent and why imprests were not surrendered or recovered on time.

In the circumstances, value for money on the unspent AIEs and the recoverability of the imprests could not be confirmed.

1895. Irregular Domestic Travel and Subsistence Rates

The Salaries and Remuneration Commission (SRC) Circular dated 02 February, 2022 set out the applicable domestic travel and subsistence rates for all State and Public Officers. However, the domestic travel and subsistence rates for Judiciary are paid at rates higher than those authorized by the SRC.

In the circumstances, Management was in breach of the SRC guidelines resulting in irregular payments.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1896. There were no material issues relating to effectiveness of internal controls, risk management and governance.

RECEIVER OF REVENUE STATEMENTS - THE JUDICIARY

REPORT ON THE REVENUE STATEMENTS

Unmodified Opinion

1897. There were no material issues noted during the audit of the revenue statements of the Judiciary.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1898. Delays in Transfer of Collected Revenue to the Exchequer

The statement of financial assets and liabilities and as disclosed in Note 6 to the revenue statements reflects balance due for disbursement to the Exchequer of Kshs.245,930,310. The unremitted revenue as at 30 June, 2023 relates to collections for the month of

June, 2023. However, the Management remitted the collection of Kshs.245,551,960 in July, 2023 leaving a balance of Kshs.378,350 not remitted the exchequer.

This contravenes Regulations 81(2) of the Public Finance Management (National Government) Regulations, 2015 which states that, the Receivers of Revenue shall promptly pay the revenue received into the Consolidated Fund as soon as possible and in any case not later than five (5) days after receipt thereof.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1899. 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

1900. 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

1901. 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

1902. There were no material issues relating to effectiveness of internal controls, risk management and governance.

JUDICIARY MORTGAGE SCHEME

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1903. Unsupported Balances

The statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs.1,171,724,523. The balance comprises of current and fixed account deposit balances held at two (2) local banks of Kshs.25,141,678 and Kshs.1,146,582,845 respectively. However, bank reconciliation statements, certificate of fixed deposit account and cash books in support of the balances were not provided for audit. Further, the statement of financial performance reflects an amount of Kshs.113,466,226 in respect of other income. However, the amount was not supported with a corresponding Note to the financial statements and the schedule supporting the income was not provided for audit.

In the circumstances, the validity, completeness and accuracy of cash and cash equivalents and other income balances of Kshs.1,171,724,523 and Kshs.113,466,226 respectively could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1904. Lack of Enabling Legislation

As previously reported, review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling legislation.

In the circumstances, the legality of the Fund and its operations could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1905. 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

1906. There were no material issues noted during the audit of the financial statements of the Commission.

Emphasis of Matter

1907. Poor Financial Performance

During the year under review, the Commission reported a deficit of Kshs.181,860,262 (2021/2022-Kshs.61,647,104). Management has disclosed in Notes 6 and 28 to the financial statements that the deficit arose mainly due to depreciation and amortization expense of Kshs.99,186,101 which is a non-cash expense and accrued expenses leading to an increase in trade and other payables balances from Kshs.23,761,416 in the prior year to Kshs.99,106,066 in the current period. This is attributed to the underfunding by the Exchequer which if unreversed is likely to negatively impact on the implementation of the Commission's planned activities.

My opinion is not modified in respect of this matter.

Other Matter

1908. Trade and Other Payables

As disclosed in Note 17 to the financial statements, the statement of financial position reflects trade and other payables balance of Kshs.99,106,066 which was not settled during the year but was carried forward to 2023/2024 financial year. Management attributed non-payment of trade and other payables to lack of Exchequer issues from The National Treasury.

Failure to settle payables during the year to which they relate adversely affects budgets for the following year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1909. 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

1910. 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

1911. 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

1912. 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

1913. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NATIONAL INTELLIGENCE SERVICE - VOTE 1281

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1914. 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

1915. 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

1916. There were no material issues relating to effectiveness of internal controls, risk management and governance.

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS - VOTE 1291

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1917. Discrepancies Between the Financial Statements and Trial Balance

The financial statements presented for audit reflects balances which were at variance with those reflected in the Integrated Financial Management Information System (IFMIS) ledger and trial balance as detailed below:

Category	Financial Statements Amount (Kshs.)	IFMIS Trial Balance Amount (Kshs.)	Variance (Kshs.)
Total Expenditure	3,527,438,178	3,527,890,017	451,839
Bank Balances	4,906,144	4,949,389	43,245
Cash Balances	688,322	263,170,762	262,482,440
Imprest and Advances and Districts Suspense	4,659,366	12,948,657	8,289,291
Third Party Deposits and Retentions	4,530,927	5,648,532	1,117,605

In the circumstances, the accuracy and completeness of the above balances reflected in the financial statements for the year ended 30 June, 2023 could not be confirmed.

1918. Prior Year Adjustments

The statement of assets and liabilities reflects prior year adjustment balance of negative Kshs.15,027,621 (2022 - negative Kshs.33,202,199). As previously reported, the 2021/2022 prior year adjustments includes balance brought forward of Kshs.5,053,546 on receivables which was adjusted with Kshs.2,093,718 resulting to uncleared balance of Kshs.2,959,850. Similarly, the 2021/2022 prior year adjustments includes district suspense account balance brought forward of Kshs.2,887,383 but only Kshs.1,587,175 was adjusted resulting to uncleared balance of Kshs.1,300,208. No explanations or reconciliations were provided for these uncleared balances.

In the circumstances, the accuracy and completeness of the prior year adjustment balance of negative Kshs.15,027,621 could not be confirmed.

Emphasis of Matter

1919. Pending Bills

Note 15 and Annex 3 to the financial statements reflects pending accounts payables balance of Kshs.115,275,255 which was attributed to inadequate funding in the year under review but were carried forward to 2023/2024 financial year.

Failure to settle bills during the year in which they relate adversely affects the provisions of the subsequent year to which they are charged.

My opinion is not modified in respect of this matter.

Other Matter

1920. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. However, the Management had not resolved all 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

1921. Non-Compliance with the One-Third of Basic Salary Rule

As reported previously, analysis of monthly payrolls for the year under review revealed that at least seventy-five (75) employees earned a net salary of less than a third (1/3) of the basic salary. This was 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. Management has not explained failure to comply with the policy.

In the circumstances, Management was in breach of the law and the Public Service Commission (PSC) Human Resource Policies.

1922. Underpayment of House and Commuter Allowances

The statement of receipts and payments reflects compensation of employees amount of Kshs.2,366,655,815 as disclosed in Note 3 to the financial statements. However, a review of house and commuter allowances paid to the employees in job groups M and Q revealed that they were not in accordance with the revised rates of the Salaries and Remuneration Commission Circular Ref: MPSYG.DPSM.2/6/4A VOL XI (32) dated 02 July, 2019. Further, the commuter allowances was not being paid to all officers as per the circular.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1923. Inadequate Audit Committee Meetings

During the year under review, the audit committee met only twice in the fourth quarter. This was contrary to Regulation 179(1) of the Public Finance Management (National Government) Regulations, 2015 which states the audit committee shall meet at least once in every three months.

In the circumstances, the effectiveness of the audit committee oversight role could not be confirmed.

1924. Incomplete Fixed Assets Register

The statement of receipts and payments reflects acquisition of assets amount of Kshs.17,411,519 as disclosed in Note 6 and Annex 3 to the financial statements. However, review of the Office's assets register revealed that it did not include information on the acquisition dates, responsible personnel, values of assets after depreciation and the assets unique identification numbers. In addition, the assets register includes three (3) monitors which Management reported as stolen but there was no evidence of police abstract or report on action taken on the loss.

In the circumstances, the effectiveness of internal controls on the maintenance of the fixed assets could not be confirmed.

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS STAFF HOUSING MORTGAGE AND CAR LOAN SCHEME

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1925. Cash and Cash Equivalents

1925.1 Unsupported Cash and Cash Equivalents

The statement of financial position reflects cash and cash equivalents balance of Kshs.130,345,584 as disclosed in Note 9 to the financial statements. Included in the balance is an opening balance of Kshs.253,450,166 that was not supported with a board of survey report as at 30 June, 2022.

1925.2 Incomplete Bank Statements

As previously reported, bank certificates provided for audit review indicated that the Scheme's staff housing mortgage and car loans accounts held at a local bank had closing balances of Kshs.89,373,122 and Kshs.48,872,102 respectively. However, bank statements provided for audit review reflects lumpsum 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 those schedules that were provided for review.

1925.3 Long Outstanding Bank Reconciling Items

Review of bank reconciliation statements presented for audit for both the car loan and the mortgage revealed that there were bank reconciling items that were long outstanding since the financial years ended 30 June, 2017, 2018, 2019, 2020 and 2021 under receipts in the bank that were not in the cash book and receipts in the cash book that were not in the bank statements.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.130,345,584 could not be confirmed.

1926. Unaccounted Proceeds from Loan Principal Repayments

As previously reported, and as disclosed in Note 11 to the financial statements, proceeds from loan principal repayments for the prior periods of 2021/2022 and 2020/2021 of Kshs.33,261,348 and Kshs.18,386,138 respectively totalling to Kshs.51,647,486 were unaccounted for as at 30 June, 2022. During the year under review, deposits amounting to Kshs.44,860,819 were credited to the Scheme's bank accounts leaving a balance of Kshs.6,786,667 as at 30 June, 2023 that remained unaccounted for.

In the circumstances, the accuracy and completeness of the comparative reported proceeds from loan principal repayments of Kshs.33,261,348 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1927. Non-Compliance on Preparation and Submission of Bank Reconciliation Statements to The National Treasury

The statement of financial position reflects cash and cash equivalents balance of Kshs.130,345,584 and as disclosed in Note 9 to the financial statements. However, the Management did not provide bank reconciliation statements of the accounts held at the Consolidated Bank for the period between July, 2022 and May, 2023. In addition, there was no evidence that the bank reconciliation statements prepared during the financial year under review were submitted to The National Treasury as required by Regulation 90(1) of the Public Finance Management (National Government) Regulations, 2015.

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

REPORT ON THE 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.

OFFICE OF THE REGISTRAR OF POLITICAL PARTIES - VOTE 1311

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1929. 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

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

Basis for Conclusion

1931. Lack of Updated Disaster Recovery Plan

During the year under review, the Office did not have a current Disaster Recovery Plan (DRP) and the one in place is not dated. This is despite changes in the key recovery personnel who are central in communication under incidences management hierarchy.

In the circumstances, the effectiveness of business continuity plans in place could not be confirmed and may negatively impact on business recovery in the event of disruptions.

1932. Failure to Fill Vacancies as Per Staff Establishment

Review of the staff establishment revealed that the Office is structured into three directorates of registration and field services coordination, regulation and compliance; and planning, strategy and administrative support directorate and provides for one hundred and twenty-four (124) staff. However, the Office has only forty-four (44) staff resulting to a shortfall of eighty (80) positions or 65%, which have not been filled.

In the circumstances, effective service delivery of the Office could not be confirmed.

OFFICE OF THE REGISTRAR OF POLITICAL PARTIES STAFF MORTGAGE AND CAR LOAN SCHEME

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

- 1933.** 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

- 1934.** 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

- 1935.** There were no material issues relating to effectiveness of internal controls, risk management and governance.

WITNESS PROTECTION AGENCY - VOTE 1321

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1936. 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

Basis for Conclusion

1937. Delay in Establishment of the Victims Compensation Fund (VCF)

As reported in the previous year, review of the Agency's records revealed that a letter from The National Treasury Ref: AG.3/155 Vol.1/33ES/126/13 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 seventeen (17) years from 30 June, 2006 to 30 June, 2023. This is 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 effectiveness in use of public resources could not be established and Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1938. Under-Staffing

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 fifteen (115) staff members were in post, resulting in a shortfall of one hundred and eighty-one (181) staff members across the various staffing cadres as at 30 June, 2023. Further, the shortage was on various job cadres including core departments like operations, internal audit, IT and administration. The job cadres most affected include psychosocial officers, protection officers, research planning and policy analysis officers, internal audit staff, IT staff and secretaries.

In the circumstances, the under staffing may hinder effective delivery of services by the Agency.

1939. Weaknesses in the Grading Structure

As reported in the previous year, 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 resources management tool could not be confirmed.

1940. Failure to Promote Qualified Staff

During the year under review, the Agency promoted thirty-three (33) staff members out of the total interviewed number of sixty-six (66). Review of the staff interviewed for the position revealed that twenty-seven (27) staff were not promoted despite having met the criteria of promotion. However, no plausible reason was provided for failure to promote all the competent staff. This was despite budget availability of Kshs.21,000,000 for compensation of employees for the financial year 2022/2023. This was contrary to the values and principles of public service under Article 232(1) g) and (h) that stipulates for fair competition and merit as the basis of appointments and promotions; and affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service.

In the circumstances, the unexplained segregated promotion of staff may have a negative impact on the effective service delivery by the Agency.

WITNESS PROTECTION AGENCY STAFF HOUSING MORTGAGE SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1941. 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

1942. 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

Conclusion

1943. 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

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 THE 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.

STATE DEPARTMENT FOR FORESTRY – VOTE 1332

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1947. 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

Conclusion

1948. 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

Conclusion

1949. There were no material issues relating to effectiveness of internal controls, risk management and governance.

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS - VOTE 2011

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1950. There were no material issues noted during the audit of the financial statements of the Commission.

Emphasis of Matter

1951. Pending Bills

Note 14.1 to the financial statements on pending accounts payable reflects pending bills balance of Kshs.28,391,539 which were not settled in financial year 2022/2023 but instead carried forward to financial year 2023/2024.

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.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1952. 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

1953. There were no material issues relating to effectiveness of internal controls, risk management and governance.

DONOR FUNDED PROJECT

INCREASED ENJOYMENT OF HUMAN RIGHTS & FUNDAMENTAL FREEDOMS BY ALL IN KENYA PROJECT NUMBER: KEN 2062, KEN 19-0011, KNCHR

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1954. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

1955. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects receipts budget and actual on comparable basis amounts of Kshs.35,721,137 each indicative of 100% budget realization. However, actual expenditure amounted to Kshs.61,924,863 against the available funding of Kshs.71,081,147 comprising of approved budget for the year of Kshs.35,721,137 and fund balance brought forward of Kshs.35,360,010 resulting to budget under absorption of 13%.

In the circumstances, low absorption of the budget may have resulted in non-implementation of the Project's planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

1956. 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

1957. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

1958. As required by the Financing Agreement KEN 2062, KEN 19-0011, KNCHR dated 27 July, 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 Management of the Project and the Project's financial statements are in agreement with the accounting records and returns.

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS CAR AND MORTGAGE LOAN SCHEME

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1959. 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

Basis for Conclusion

1960. Irregular Payment of Loan Administrative Cost

The statement of financial performance and as disclosed in Note 7 to the financial statements reflects interest income of Kshs.1,681,426. Included in this amount is interest income on car loans of Kshs.325,337 being interest on car loans at the rate of 4% per annum. However, the rate charged is 1% higher than the rate stipulated in Regulation 207(1)(d) of the Public Finance Management (National Government) Regulations, 2015. The Regulation provides that the administration costs of the Fund shall be a maximum of three (3%) percent of the approved budgets of the Fund.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1961. There were no material issues relating to effectiveness of internal controls, risk management and governance.

NATIONAL LAND COMMISSION - VOTE 2021

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1962. Misclassification of Expenditure

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

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

1963. Failure to Refund Expenses Through the Compensation Fund

The statement of receipts and payments reflects other payments amounting to Kshs.688,458,500 which as disclosed in Note 8 to the financial statements includes administrative costs totalling Kshs.687,528,980. Review of the ledger supporting administrative costs revealed that a payment of Kshs.100,000,000 was made to a local law firm on 21 October, 2022 from the Compensation Fund account held in a local bank following a court ruling related to case No. E106 of 2022 dated 07 October, 2022. The approval to pay was given through resolutions of 118th Commission meeting held on 21 October, 2022 which resolved that the money be paid from Compensation Fund account and the same be reimbursed upon provision of the budget by The National Treasury. The Commission's CEO was instructed to write to The National Treasury seeking the refund of the payment. However, as at the time of audit in November, 2023 the funds had not been received from The National Treasury.

In addition, the administrative costs further includes an amount of Kshs.12,700,000 paid to a local Company for purchase of two (2) Hyundai Palisade motor vehicles which was paid from the Compensation Fund account. The Commission refunded amounts of Kshs.9,000,000 and Kshs.3,000,000 from its Recurrent account on 24 February, 2023 and 27 June, 2023 respectively leaving a balance of Kshs.700,000 outstanding as at 30 June, 2023. Although Management explained that the Commission is still pursuing The National Treasury for provision of sufficient budgetary allocation to ensure that the refund of the amount of Kshs.100,000,000 and Kshs.700,000 all totalling Kshs.100,700,000 in respect of compensation and purchase of motor vehicles is made. The Commission irregularly utilized funds related to land compensation against the resolutions made during the 118th Commission meeting.

In the circumstances, the expenditure amounting to Kshs.100,700,000 was irregular.

Emphasis of Matter

1964. Budgetary Control and Performance

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

The over-funding and over-expenditure were mainly caused by unbudgeted transfers to other Government entities, miscellaneous receipts and other payments. Although Management has explained that the Commission does not budget for administration receipts and payments, no reason or justification has been provided for incurring expenditure without an approved budget and annual work plan as required. This is contrary to Regulation 44 (2) of Public Finance Management (National Government) Regulations, 2015 which states that National Government entities shall execute their approved budgets based in the annual appropriations, and the approved annual cash flow plan with exception of unforeseen and unavoidable spending dealt with through the Contingencies Fund, or supplementary estimates.

The overfunding and overexpenditure of the project affects other priority projects and may impact adversely the delivery of the priority project to the public.

1965. Pending Bills

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

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

My opinion is not modified in respect of these matters.

Other Matter

1966. Unresolved Prior Year Matters

In the audit report of the previous year, some issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. Although the issues were subsequently presented before the Public

Accounts Committee, they remained unresolved as at the time of the audit in November, 2023.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1967. Unsatisfactory Partitioning Works at the National Land Commission Offices

The statement of receipts and payments reflect other payments amounting to Kshs.688,458,500 which as disclosed in Note 8 to the financial statements further includes expenditure totalling Kshs.687,528,980 in respect to administrative costs. Review of the supporting ledger revealed that a payment of Kshs.35,000,000 was made to a Company as a part payment in respect to partitioning works to the National Land Commission Offices whose procurement was done through the direct procurement method. The contract for the works was signed between the contractor (also the landlord) and National Land Commission on 25 January, 2022 at a contract sum of Kshs.130,009,167. However, review of records revealed that the contractor presented an invoice of Kshs.146,137,739 which was more than the contract sum of Kshs.130,009,167 by an amount of Kshs.16,128,572 or 12% of the original contract sum vide the final account summary dated 31 May, 2022. Although the extra claim of Kshs.16,128,572 was disputed by the Commission vide a letter dated 22 June, 2022 there was no further correspondence from the contractor concerning the claim.

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

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

1968. Failure to Comply with the Approved Staff Establishment

Review of human resource records revealed that the Commission has an approved staff establishment of one thousand two hundred and sixteen (1,216) staff. However, and as previously reported, there were five hundred and forty-five (545) staff in post resulting in an overall variance or understaffing of six hundred and seventy-one (671) staff or 55% of the expected staffing levels. This is contrary to Section A.15 of the Human Resource Policies and Procedures Manual for Public Service, May 2016, which states that the functions of Ministerial Human Resource Management Advisory Committees (MHRMAC)

entail making recommendations to the Authorized Officer regarding: - inter alia establishment and complement control.

Management has explained that the Commission is in the process of recruiting the requisite staff subject to sufficient budgetary allocation and approval by The National Treasury. Failure to recruit and retain the optimal number of employees may hinder the effective delivery of services by the Commission.

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

1969. Non-Compliance With One Third Rule on Basic Pay

During the year under review, nineteen (19) employees earned a net salary of less than a third ($\frac{1}{3}$) of the basic salary. This is contrary to Section C 1(3) of the Public Service Commission (PSC) Human Resource Policy, 2016. Management has not given an explanation for the failure to comply with the policy.

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

1970. Officers on Acting Capacity Beyond Stipulated Time

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

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

1971. Long Outstanding Third-Party Deposits and Retention Balances

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

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1972. Management of Grounded Motor Vehicles

Review of the motor vehicle register and other records provided revealed that the Commission has fifty-two (52) motor vehicles out of which thirteen (13) or 25% were grounded during the year under review. Although Management provided the details of various defects on the grounded vehicles, no reason was provided for the failure to address those defects. Further, physical inspection of the motor vehicles revealed that two (2) motor vehicles have been grounded at various garages for a long period of time.

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

In the circumstances, the effectiveness of internal controls on management of motor vehicles could not be confirmed.

1973. Lack of Commission Evaluation

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

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

NATIONAL LAND COMMISSION HOUSING SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1974. There were no material issues noted during the audit of the financial statements of the Fund.

Emphasis of Matter

1975. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.3,500,220 and Kshs.3,500,220 respectively, or 100% budget realization. Further, the Fund spent an amount of Kshs.2,402,991 against an approved budget of Kshs.2,402,991 or 100% budget performance. However, Management did not provide for audit the approved budget for the Fund. As a result, it was not possible to determine whether there was an initial budget or whether Management drew the ‘budget’ after realization and performance of its activities.

In the circumstances, the performance of the Fund against the budget could not be confirmed.

My opinion is not modified in respect of this matter.

Other Matter

1976. Unresolved Prior Year Matters – Unreconciled Long Outstanding Receivables from Exchange Transactions

In the audit report of the previous year, the statement of financial position reflected long-term receivables from exchange transactions balance of Kshs.48,993,645 as was disclosed in Note 5 to the financial statements. However, the loan statements from the bank reflected a total amount of Kshs.41,875,799 resulting to an unexplained variance of Kshs.7,117,846. Further, no ageing analysis was provided contrary to the requirement of the reporting template.

Although Management indicated that the balances were reconciled, the Public Account Committee (PAC) of the National Assembly’s has not deliberated on the report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1977. Non-Compliance with an Addendum to the Agreement with the Fund Administrator

Review of mortgage records provided for audit revealed that a local Bank which is the appointed Fund Manager/Administrator has been charging the Fund 5% as administration fees since the Addendum to the Fund administration agreement was signed on 05 September, 2018. The Addendum to the agreement indicated that the administrative fee charged by the Bank was to increase from 3% to 5% of the mortgage repayments for the year with the Bank administration fee being 3% and 2% maintained to grow the fund. However, over the years, the Bank has not maintained the 2% growth to the Fund as agreed. This is contrary to the Addendum to the agreement (Memorandum of Understanding) dated 5 September, 2018 which amended clause 8 of the original agreement dated 28 February, 2017.

Management explained that the Commission contacted the Fund/Administrator and the Bank agreed to review the relevant data with a view to establish the number of mortgage repayments affected by the 2% refund (required to grow the Fund) as per the Addendum to the agreement.

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

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.

NATIONAL LAND COMMISSION STAFF CAR LOAN SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

1979. There were no material issues noted during the audit of the financial statements of the Fund.

Emphasis of Matter

1980. Budgetary Control and Performance

The statement of comparison budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.591,894 and Kshs.591,894 respectively. Further, the Fund spent Kshs.432,658 against an approved budget of Kshs.432,658. However, Management did not provide for audit the approved budget for the Fund.

In the circumstances, the performance of the Fund against the budget could not be confirmed.

My opinion is not modified in respect of this matter.

Other Matter

1981. 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 Lawfulness and Effectiveness in Use of Public Resources. However, the Management has not provided any explanation on how the issues were resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1982. Non-Compliance with Addendum to the Agreement with the Fund Administrator

Review of records provided for the audit revealed that a local bank which is the appointed Fund Manager/Administrator has been charging the Fund 5% as administration fees since the Addendum to the Fund administration agreement was signed on 8 October, 2018. However, the Addendum to the agreement indicated that the administrative fee charged by the Bank was to increase from 4% to 5% of the mortgage repayments for the year with the Bank administration fee being 4% and 1% maintained to grow the fund. However, over the years the Bank has not maintained the 1% to grow the Fund as agreed. Management has explained that the Commission has contacted the Fund Administrator/Manager and the bank has agreed to review the relevant data with a view to establish the number of loan repayments affected by the 1% refund (required to grow the Fund) as per the Addendum to the agreement.

This is contrary to the Addendum to the agreement (Memorandum of Understanding) dated 08 October, 2018 which amended Clause 5 of the original agreement dated 28 February, 2017.

In the circumstances, Management was in breach of the Staff Car Loan Scheme Fund Administration agreement.

1983. Irregular Transfer of Funds from the Car Loan Scheme Fund

The statement of financial position reflects a balance of Kshs.9,954,648 in respect of total net assets. Further, the statement of changes in net assets reflects an amount of Kshs.20,000,000 or 75% of the opening net assets balance of Kshs.26,771,990 which is described as transfers to mortgage account. Management provided the Commission's approvals for the transfer of funds from the Fund to the Housing Scheme Fund account. However, this is contrary to Section 24(6) and (7) of the Public Finance Management Act, 2012 which states that the administrator of a National public fund shall ensure that the earnings of, or accruals to a National public fund are retained in the fund unless the Cabinet Secretary directs otherwise; and the administrator of a National public fund shall ensure that money held in the fund, including any earnings or accruals referred to in Sub-Section (6), is spent only for the purposes for which the Fund is established.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

1984. 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

1985. Long Outstanding Receivables

As previously reported, the statement of financial position and as disclosed in Notes 12 and 13 of the financial statements reflects balances of Kshs.11,160,000 and Kshs.26,193,000 in respect of ECK accounts receivables and ECK car loan receivables respectively, which have been outstanding for more than fifteen (15) years since 2008. The amounts relate 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 their final dues but retained by The National Treasury. However, records of The National Treasury do not reflect the retained amounts as payable to IEBC. Management indicated that the Commission is engaging The National Treasury with a view of getting the money refunded or obtaining an approval to write it off from the Commission's accounting records but the outcome of the engagement was not provided for audit review.

In the circumstances, the recoverability of the long outstanding accounts receivables balance and car loans amounting to Kshs.37,353,000 could not be ascertained.

1986. Inaccurate Inventory Balance

The statement of financial position and as disclosed in Note 11 to the financial statements reflects inventory balance of Kshs.995,724,000 as generated from the Inventory Management System. Review of the consolidated stock take report for the forty-seven (47) regional warehouses carried out between March and April, 2023 revealed that the stock balances in the annual consolidated inventory report as at 30 June, 2023 was valued at Kshs.1,036,377,000. This resulted in an unexplained variance of Kshs.40,653,000 between the two sets of reports.

In the circumstances, the accuracy and completeness of inventories balance of Kshs.995,724,000 reflected in the financial statements could not be confirmed.

1987. Property, Plant and Equipment

The statement of financial position, and as disclosed in Note 14 to the financial statements, reflects property, plant and equipment balance of Kshs.2,333,123,000. However, review of the balances revealed the following unsatisfactory matters:

1987.1 Unregistered Land

The property, plant and equipment balance excludes thirty-five (35) parcels of land and two (2) parcels of land located in Mandera and Lamu respectively, with title deeds but whose value had not been determined. Further, the Commission was yet to obtain

ownership documents for twenty-five (25) parcels of land allocated to it by the National and County Governments. In addition, verification of land and property conducted in thirty-six (36) sampled Counties indicated that all Counties were directed through a letter from Independent Electoral and Boundaries Commission (IEBC) dated 24 March, 2020 to engage relevant government agencies in pursuit of allotment letters and ownership registration documents status report on land registration dated 31 August, 2023.

1987.2 Anomalies in Motor Vehicle Records

Included in the property, plant and equipment balance is motor vehicles historical cost of Kshs.783,115,000 for one hundred and sixty-five (165) motor vehicles. However, review of motor vehicle status report revealed that the Commission owns a total of two hundred and thirty-eight (238) motor vehicles, three (3) motor boats and two (2) forklifts. Further, review of motor vehicle records revealed that a total of two hundred and seventeen (217) logbooks registered under the defunct Electoral Commission of Kenya (ECK) had not been transferred to IEBC. In addition, a sample of records in thirty-six (36) counties revealed that seventy (70) motor vehicles, two (2) forklifts and three (3) boats were grounded and were unserviceable. Further, three (3) Counties namely Muranga, Wajir and Mombasa had accumulated storage costs totalling Kshs.3,219,580 for grounded motor vehicles in private garages.

1987.3 Missing Kenya Integrated Elections Management System (KIEMS) and Biometric Voter Registration (BVR) Kits

The property, plant and equipment balance also include cost of computer and equipment totalling Kshs.16,253,479,000 out of which Kshs.5,309,257,874 and Kshs.6,335,686,715 relates to the cost of 59,100 KIEMS and 15,000 BVR kits respectively. However, analysis of ICT assets revealed that a total of five (5) Morpho KIEMS kits went missing during the year while an additional 158 had been lost previously. Further 3,402 kits were found faulty and not appropriately updated in the fixed asset register.

In the circumstances, the accuracy and completeness of property, plant and equipment balance of Kshs.2,333,123,000 could not be confirmed.

1988. Legal Dues, Arbitration and Compensation

The statement of financial performance, and as disclosed in Note 3 to the financial statements, reflects use of goods and services amount of Kshs.12,270,528,000 which includes Kshs.2,348,660,000 for legal dues, arbitration and compensation. However, the following unsatisfactory matters were noted:

1988.1 Unsupported Expenditure on Presidential Petition

Included in the use of goods and services amount is Kshs.502,280,000 incurred on the 2022 Presidential Petition. However, instruction letters to support an expenditure totalling Kshs.158,960,000 paid to the lead counsel and assistant counsel were not provided for audit review. In addition, the expenditure was in excess of the agreed chargeable maximum amount as per the instruction letters signed by the Commission and the legal firms by Kshs.44,640,000.

1988.2 Failure to Provide Agreement on Fees Chargeable

Review of documents for legal dues, arbitration and compensation revealed that the Commission paid legal fees amounting to Kshs.713,814,134 to law firms to represent it. However, engagement terms in the letters of instructions indicated that the fees would be paid as per Advocates Remuneration order but did not indicate any ceiling. Further, the fee notes did not indicate specific charges/rates in reference to the Advocates remuneration order.

In the circumstances, the accuracy and completeness of the legal dues, arbitration and compensation totalling Kshs.2,348,660,000 could not be confirmed.

1989. Unsupported Employee Costs

The statement of financial performance, and as disclosed in Note 4 to the financial statements, reflects employee costs totalling Kshs.9,228,608,000. Included in this amount is Kshs.674,965,000 relating to domestic travel and subsistence. Analysis of supporting schedules revealed that an expenditure of Kshs.666,100,000 was supported while Kshs.8,864,539 was explained to have been disbursement of funds to Counties for the 5 January, 2023 By-election. However, the corresponding payment voucher was not provided for audit review.

In the circumstances, the accuracy of domestic travel and subsistence amount of Kshs.674,965,000 could not be confirmed.

Emphasis of Matter

1990. Outstanding Accounts Payables

The statement of financial position, and as disclosed in Note 16 to the financial statements, reflects trade and other payables balance of Kshs.4,857,441,000. Whereas the opening balance for the financial year 2022/2023 was Kshs.2,051,567,000, the Commission accrued additional bills amounting to Kshs.2,805,874,000 which included Kshs.1,948,379,000 for legal fees during the year under review. The legal fees payables, therefore, stood at Kshs.2,909,645,000 while goods and services payables totalled Kshs.1,947,796,000.

In the circumstances, the Commission risks legal actions and payment of an avoidable interest on delayed payments.

1991. 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, Management had not resolved all the issues or given any explanation for failure to implement the recommendations.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1992. Outstanding Court Awards

The statement of financial position reflects receivables from non-exchange transactions' balance of Kshs.14,525,000. Included in the balance is Kshs.5,396,000 for Court awarded costs. As reported previously, the balance relates to Appropriations-In-Aid (AIA) receivables from court cases decided in the year 2013 for which costs had been awarded to the Commission. Management did not demonstrate the measures taken to collect the amounts awarded as required under Regulation 64(1)(a) of the Public Finance Management (National Government) Regulations, 2015. This Regulation provides that an Accounting Officer is 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.

1993. Failure to Use E-Procurement System

As reported previously, the Commission procured goods and services totalling Kshs.3,169,974,250 at its County Offices. The expenditure was authorized by the County Elections Managers. However, of the payment records 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 requires procuring entities to use the e-procurement system.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1994. Deficiency in the Governance Systems

The Key Commission Information and Management section of the annual report indicates that all the Commissioners exited from office between December, 2022 and March, 2023, leaving the Commission not fully constituted. Policy decisions and strategic directives have therefore not been executed. Further, failure to commence the process of replacement of the Chairperson and the Members of the Commission within six months before the lapse of their term was contrary to Section 1 of the first schedule of the Independent Electoral Boundaries Commission Act, 2011. This section provides that at least six (6) months before the lapse of the term of the Chairperson or member of the Commission or within fourteen (14) days after the declaration of a vacancy the President shall initiate the process of replacement by appointing a selection committee.

In the circumstances, the Commission is unable to conduct its mandate.

1995. Deficiencies in the Biometric Voter Registration (BVR) and Kenya Integrated Elections Management System (KIEMS) Kits Controls

1995.1 Kenya Integrated Elections Management System (KIEMS) Kits

The Commissions' policies require that after conclusion of general or by-election, KIEMS Kits and other related accessories are taken back to the central warehouse at the Likoni National Warehouse Election Technology Centre (ETC) for storage, central management and maintenance. Physical verification of the warehouses revealed that there were no records to confirm the number of KIEMS kits stored in the warehouse at any particular time. Further, although the arrangement of KIEMS kits is done per County, it was difficult to verify or identify missing gadgets in the stock. Further, it was established that the Commission does not undertake periodic stock take of the KIEMS Kits contrary to Regulation 171(1)(d) of the Public Procurement and Asset Disposal Regulations, 2020 which provides that the head of the procurement function of a procuring entity shall conduct quarterly and annual stock taking.

Further, it was observed that there is no timeline set by the Commission for KIEMS Kits to be returned to the Election Tallying Centre (ETC) upon completion of an election, which may result to loss or faultiness since Counties do not have a controlled environmental condition to store the KIEMS Kits. Field verification revealed that 256 KIEMS Kits held in Nyeri warehouse had not been returned to headquarters.

1995.2 Loss of Election Materials at Karachuonyo Constituency Office

Field verification to Karachuonyo IEBC Constituency Office in September, 2023 revealed poor condition of the office premises and stores and 31 BVR Laptops and 45 chargers were reported missing. The loss was reported to have occurred on 26 August, 2021. Further, there was poor accounting of the stores records with no regular reconciliation being done.

1995.3 Discrepancies in Stores Records at Kisii County Offices

Field visit to IEBC offices in Kisii County on 10 September, 2023 revealed variances between store records provided for Nyanza South BVR kits and a physical count. The stores Ledger and stock control card recorded a balance of 297 kits as at 20 May, 2022 against stock take balance of 271 resulting in unexplained variance of twenty-six (26) kits. Further, a total of 79 kits had no hard disks while 215 were empty. Management explained that the variance in BVR kit was noted in the internal audit report on ICT equipment dated 18 January, 2022 and April, 2023 but no action seem to have been taken.

In the circumstances, the effectiveness of internal controls over the KIEMS kits storage and management could not be confirmed.

1996. Status of Construction of the County Warehouses

As previously reported, field inspection carried out in the Counties revealed that all the Commission's warehouse construction projects were behind schedule as indicated below:

County	Project Cost (Kshs.)	Paid Project Cost as at 30 June, 2023 (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 contract period of fifty-two (52) weeks ending 12 May, 2022. However, the contractor had not completed the works as at the time of the audit verification in December, 2023.

1997. Staff Matters

The statement of financial performance, and as disclosed in Note 4 to the financial statements, reflects employee costs of Kshs.9,228,608,000. However, review of the amount revealed the following unsatisfactory matters;

1997.1 Irregular Promotions

As previously reported, the Commission filled eighty-eight (88) vacancies by promoting employees to various grades. Further, review of personal files revealed that three (3) staff members were promoted to Grade 4 and six (6) staff members promoted to Grade 5. However, there was no evidence of competitive promotions contrary to Paragraph A.2(1) (vii) of Human Resource Policies and Procedures Manual for the Public Service May, 2016 which states that there shall be fair competition and merit as the basis of appointments and promotions.

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

1997.2 Failure to Fill Vacancies as per Staff Establishment

As previously reported, the Commissions' approved staff establishment as at 30 June, 2023 had two hundred and ninety-six (296) vacancies in various cadres of staff which were not filled by the time of the audit in November, 2023. The posts included thirty (30) County Accountants, thirty-two (32) County Supply Chain Management Assistants, thirty (30) Senior Elections Officers and nineteen (19) Assistant Elections Officer among others. In addition, there was lack of segregation of duties at County offices and casual staff discharged key roles and were privy to Commissions' confidential information and documentation.

In the circumstances, the integrity of the confidential information at IEBC could not be confirmed.

1998. Lack of Segregation of Duties

1998.1 Maintenance of Accounting Records

During the year under review, it was observed that regional accountants maintained accounting records for two or more Counties without substantive assistants resulting to lack of segregation of duties as the accountants initiated, processed and authorized payments. Further, it was established that the same accountants maintained cash books, vote-books, bank reconciliation statements, County general ledger, trial balance, deposit ledgers, AIE reconciliation statements, expenditure returns, imprest registers without being counterchecked. In addition, the regional accountants were reporting to two or more County Elections Managers making their work strenuous.

In the circumstances, the independent counterchecking of the accuracy of the accounting records could not be confirmed.

1998.2 Procurement Function and Warehouse Management

Review of documents revealed that the Commission incurred expenditure totalling Kshs.3,169,974,250 through disbursements to Counties for branding, hire of tallying centers, hire of motor vehicles and catering services. However, it was established that each regional supply chain management assistants in the Counties was in charge of two or more Counties. In Nakuru (Central Rift) and Uasin Gishu (North Rift) the procurement assistants handled four and five Counties respectively, resulting in lack of segregation of duties. Therefore, County Election Managers in some cases engaged casual employees to assist in maintaining stores records and some even having custody of warehouse keys containing Commission's sensitive materials.

Management explained that the Commission bridged the lack of segregation of duties by putting in place compensating controls of duties in accounting and procurement function including regular monitoring, quarterly internal audits and quarterly financial reporting and reconciliation.

In the circumstances, casual employees discharged key roles relating to the Commission's confidential information and documentation.

1999. Irregular Payment of Acting Allowance

Review of the payroll revealed that the Commission paid acting allowances totalling Kshs.1,890,076. However, review of staff records revealed that the staff members were appointed in acting capacities for periods of six months. Upon expiry of the six-month periods, they were continuously renewed through recommendation by Departmental Heads since the positions had not been substantively filled. As a result of the failure by Commission to fill the positions, the staff acted for periods exceeding six months contrary to provisions of paragraph 5.2.6(c) of Commission's Human Resource and Administration Manual (Policies and Procedures).

In the circumstances, the Commission may be operating at a sub-optimal level since substantive positions are not filled.

2000. Lack of Comprehensive Asset Register

As reported in the previous years, the Commission did not maintain a comprehensive asset register. Management explained that some of the parcels of land and buildings inherited from the defunct Electoral Commission of Kenya had no ownership and registration documents at the time of handover to the Commission and further stated that they have initiated the development of a comprehensive asset register. Failure to maintain a comprehensive asset register is 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, the effectiveness of internal controls on asset management could not be confirmed.

2001. Storage of Gas Cylinders

Field inspection of Nyandarua, Nyeri, Nakuru, Kisumu, Homabay, Bungoma, Busia, Kisii, Machakos, Meru, Mombasa, Kilifi and Garissa IEBC warehouses revealed that gas cylinders were stored together with election materials (strategic and non-strategic election materials) posing a great risk of fire outbreak in the event of gas leakage. This is contrary to Regulation 172(h) of the Public Procurement and Asset Disposals Regulation, 2020 which states that the officer in charge of stores of a procuring entity shall ensure all stores of a highly inflammable or explosive nature are kept in a separate storeroom.

In the circumstances, the stores are at a risk of being destroyed in case of fire hazards.

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION STAFF MORTGAGE AND CAR LOAN SCHEME

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2002. 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

2003. 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

2004. 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

2005. There were no material issues noted during the audit of the financial statements of the Commission.

Emphasis of Matter

2006. Pending Bills

Note 12.1 to the financial statements and as detailed out in Annex 1 reflects pending bills balance of Kshs.240,645,617 which were not settled but were carried forward to 2023/2024 financial year. No plausible 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 they relate distorts the financial statements and adversely affects the budgetary provision for the subsequent year as they form a first charge.

2007. 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.8,950,000,000 and Kshs.7,986,036,008 respectively resulting to an under-funding of Kshs.963,963,992 or 11% of the budget. Similarly, the Commission expended Kshs.7,865,074,472 against an approved budget of Kshs.8,950,000,000 resulting to an under-expenditure of Kshs.1,084,925,528 or 12% 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 these matters.

Other Matter

2008. 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 Lawfulness and Effectiveness in Use of Public Resources. The issues remained unresolved, as the Management is awaiting recommendations of the Parliamentary Committee.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2009. Compensation of Employees

The statement of receipts and payments reflects an amount of Kshs.2,925,788,505 in respect of compensation of employees as disclosed in Note 2 to the financial statements.

Included in the amount is Kshs.536,884,544 relating to basic wages of temporary employees of the Constituency and County offices. However, the amount was not supported with approved salary scales contrary to Regulation 22(1) of the Parliamentary Service Commission (Constituency Offices) Regulations, 2015 which requires the Commission to determine the employees terms of employment and salary scales.

Further, County offices did not remit Pay As You Earn (PAYE), resulting to arrears, penalties and interest amounting to Kshs.11,495,100 which is contrary to Section 37(1-2) of the Income Tax Act, 2012.

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

2010. Non-Compliance with Law on Public Procurement

The statement of receipts and payments reflects an expenditure of Kshs.3,078,459,190 in respect of use of goods and services as disclosed in Note 3 to the financial statements. The amount includes Kshs.485,117,568 relating to other operating expenses out of which Kshs.16,752,300 was incurred on office supplies and services, food & accommodation and transport services at the County offices. The expenditure was paid in cash contrary to cash purchase threshold of Kshs.50,000 per item per financial year for goods and services as per the second schedule threshold matrix of Public Procurement Regulations, 2020. The Management of the County office did not use alternative procurement methods as required under Section 91 of the Public Procurement and Asset Disposal Act, 2015.

Management was therefore in breach of the law.

2011. 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 additional amount during the year of Kshs.8,303,742,588 and Kshs.106,577,142 respectively, totalling Kshs.8,410,319,731. However, the Management did not maintain an asset register to keep track of the assets as required by Regulation 143 of the Public Finance Management (National Government) Regulations, 2015. Further, the assets were not tagged as required by guidelines on asset and liability management.

In addition, as previously reported, ownership documents for the parcels of land for 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 owned by the Parliamentary Service Commission could not be confirmed.

2012. Non-Compliance with Law on Income Tax

The Kenya Revenue Authority i-tax ledger reflects tax liability of Kshs.5,103,560,946 owed by the Commission PIN number P051098787X as at 30 June, 2023. The Commission did not render explanation for failure to settle its tax liability contrary to the

provisions of the Income Tax Act, 2012 that requires every person to pay taxes on due dates.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

2013. Weak Internal Controls over Motor Vehicle Mileage Claims

The statement of receipts and payments reflects an expenditure of Kshs.3,078,459,190 for use of goods and services as disclosed Note 3 to the financial statements. The amount includes Kshs.1,208,654,529 relating to domestic travel and subsistence out of which Kshs.55,504,779 was incurred on claimable allowance paid to members upon travelling to and from their counties using personal vehicles. However, transport claim forms were the only basis for payment. As a result, the controls in place for ascertaining the actual travel by Senators to warrant payment of the allowance are weak.

In the circumstances, the effectiveness of internal controls over motor vehicle mileage claims could not be confirmed.

PARLIAMENTARY CAR LOAN SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2014. 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

2015. 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

2016. There were no material issues relating to effectiveness of internal controls, risk management and governance.

THE NATIONAL ASSEMBLY – VOTE 2042

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2017. There were no material issues noted during the audit of the financial statements of the National Assembly.

Emphasis of Matter

2018. Pending Bills

Annex 2 to the financial statements reflects pending bills amount of Kshs.30,631,929 which were carried forward to financial year 2023/2024. These pending bills comprised of Kshs.17,163,826 for the current financial year and Kshs.13,468,103 for prior 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.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2019. Inadequacies in Compensation of Employees

The statement of receipts and payments, and as disclosed in Note 2 to the financial statements, reflects compensation of employees amount of Kshs.10,390,606,558. This includes basic wages of temporary employees amount of Kshs.3,455,302,596 relating to staff at the Constituency offices. Audit inspection of twenty-one (21) Constituency Offices and eleven (11) County Women Representatives offices revealed that the staff were not given contracts indicating the terms of employment and approved salary scales. This was contrary to Regulation 22(1) of the Parliamentary Service (Constituency Offices) Regulations, 2015 which states that Members shall, with the concurrence of the Commission, initiate recruitment of all the constituency office staff whose terms of employment and salary scales shall be determined by the Commission.

Further, the Commission did not remit Pay As You Earn (PAYE), National Social Security Fund (NSSF) and National Health Insurance Fund (NHIF) statutory deductions resulting in arrears of Kshs.54,189,529, Kshs.6,023,964 and Kshs.92,400 respectively. This was contrary to Section 37(1-2) of the Income Tax Act, 2012, Section 55(a) of the NSSF Act, 2013 and Section 16(1) and Section 19(2) of the NHIF Act, 2012.

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

2020. Irregular Use of Low-Value Procurement Method

The statement of receipts and payments reflects use of goods and services amount of Kshs.9,151,586,173 as disclosed in Note 3 to the financial statements. The amount includes other operating expenses of Kshs.2,260,617,167 out of which Kshs.35,188,381 was incurred in respect to office supplies and services, accommodation and transport at the Constituency offices. The procurement of these goods and services was through cash purchases despite them exceeding the set threshold for low value procurement method of Kshs.50,000 per item per financial year. This was contrary to Section 107 of the Public Procurement and Asset Disposal Act, 2015 which states that a procuring entity may use low value procurement procedure if the estimated value of goods, works or non-consultancy services being procured are less than or equal to the maximum value per financial year for that low-value procurement procedure as may be prescribed.

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

2021. Unaccounted Imprest

The statements of financial assets and financial liabilities and as disclosed in Note 9 to the financial statements reflects accounts receivables balance of Kshs.7,982,651. The balance includes Kshs.3,439,221 relating to outstanding imprests which ought to have been accounted for on or before 30 June, 2023. This was contrary to Regulations 93(5) and (6) 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.

2022. Lack of Asset Register

Annex 3 on summary of fixed asset register reflects fixed assets historical cost carried forward balance of Kshs.838,905,217. However, during the year under review, Management did not maintain an asset register to keep track of its assets. Further, the assets did not have tag numbers for ease of identification. This was contrary to Regulation 143 of the Public Finance Management (National Government) Regulations, 2015. This Regulation provides 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.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

2023. Weak Controls in Payment of Mileage Allowances

Note 3 to the financial statements reflects domestic travel and subsistence amount of Kshs.4,666,761,286. The amount includes Kshs.61,966,703 on account of claimable allowance paid to Members of Parliament (MPs) upon travelling to and from their respective constituencies using personal vehicles. However, the transport payment was only supported by a claim form making it difficult to ascertain if the MPs travelled to warrant payment of these allowances.

In the circumstances, the effectiveness of internal controls on account of claimable allowance paid to Members of Parliament of Kshs.61,966,703 could not be confirmed.

PARLIAMENTARY JOINT SERVICES – VOTE 2043

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2024. There were no material issues noted during the audit of the financial statements of the Services.

Emphasis of Matter

2025. Pending Bills

Notes 15.1 and 15.2 to the financial statements reflects pending bills and other pending payables amounts of Kshs.862,604,574 and Kshs.3,871,534 as disclosed in Annex 1 and 2 respectively which were not paid in the year under review but were carried forward to 2023/2024 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.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2026. Lack of Assets Register

The summary of fixed assets register at Annex 3 to the financial statements reflects assets with a historical cost balance brought forward of Kshs.5,980,464,502 and additions of Kshs.2,169,494,500. However, Management did not maintain an up to date and detailed assets register to keep track of the assets procured and those 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. Further, the assets did not have unique identification or tag numbers for ease of traceability and accountability.

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

2027. Delayed Completion on Construction of the Proposed Multi-Storey Office Block

The statement of receipts and payments reflects acquisition of assets expenditure of Kshs.2,169,494,520 as disclosed in Note 6 to the financial statements. The amount includes construction of buildings expenditure of Kshs.1,123,302,749 out of which Kshs.752,448,996 was incurred on the construction of proposed multi-storey office block. The construction was estimated to take forty-two (42) months from 1 July, 2014 to 31 December, 2017 but the contract was extended three times with the third ending 30 November, 2021. As at the time of the audit in November, 2023, 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 the start date for charging interest on delayed payments and the advisory on payment certificates rates/ratios of 80:20 in US dollars and Kenya shillings respectively. This may significantly increase the total cost of the project.

Due to non-completion of the project, the Parliamentary Joint Services continued to pay rent amounting to Kshs.320,598,160 for the leased offices during the year under review.

In the circumstances, value for money on the construction of multi-storey office block has not been realized.

2028. Delayed Payments on Construction of Centre for Parliamentary Studies and Training

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects an amount of Kshs.2,169,494,520 in respect of acquisition of assets. The amount includes construction of buildings expenditure of Kshs.1,123,302,749 out of which Kshs.370,853,753 was incurred on the construction of Centre for Parliamentary Studies and Training (CPST). The contract was signed at a sum of Kshs.4,250,000,000 and commenced in July, 2022 for a period of three (3) years ending June, 2025. However, certificates received during the year amounting to Kshs.563,745,100 had not been paid as at 30 June, 2023. Physical verification conducted in the month of December, 2023 revealed that the contractor had scaled down operations due to lack of funds/payments.

In the circumstances, the delayed payments may attract interest and may impact negatively on the contract cost, duration and overall completion of the projects.

2029. Lack of Value for Money on Maintenance of Elevators

The statement of receipts and payments reflects use of goods and services amount of Kshs.3,369,268,257 as disclosed in Note 4 to the financial statements. Included in the amount is Kshs.102,945,375 on routine maintenance-other assets out of which Kshs.3,245,285 was paid towards repair, service and maintenance of lifts at Parliament Buildings pursuant to a maintenance contract price of Kshs.6,367,439 for a period of three years. However, the lifts at Protection House are in constant nonworking and break-down condition, despite the service provider being on site most of the time. The prolonged, continuous breakdown of the lifts is posing danger and inconvenience to staff and visitors accessing the building.

In the circumstances, value for money on the expenditure of Kshs.3,245,285 incurred on the repair, service and maintenance of lifts could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

2030. There were no material issues relating to effectiveness of internal controls, risk management and governance.

JUDICIAL SERVICE COMMISSION - VOTE 2051

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2031. There were no material issues noted during the audit of the financial statements of the Commission.

Emphasis of Matter

2032. Pending Bills

Note 27.2 to the financial statements reflects pending accounts payable amount of Kshs.3,007,852. However, this amount was not settled in the year under review but instead carried forward to financial year 2023/2024 due to inadequate exchequer allocations. Failure to settle bills in the year to which they relate 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.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

2033. 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

2034. 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

2035. There were no material issues noted during the audit of the financial statements of the Commission.

Emphasis of Matter

2036. Trade and Other Payables

Note 31 to the financial statements reflects trade and other payables totalling Kshs.9,715,083 as at 30 June, 2023. The balance relates to pending bills that were not paid during the year under review but were instead carried forward to the financial year 2023/2024.

Failure to settle bills during the year to which they relate adversely affects the implementation of the subsequent year's budgeted programs as the outstanding bills form a first charge to that year's budget provision.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2037. Irregular Procurement

The Commission procured conference facilities from various hotels totalling to Kshs.930,040. However, the suppliers were not in the list of registered suppliers. This was contrary to Section 105 of the Public Procurement and Asset Disposal Act, 2015 which provides that a procuring entity may use a request for quotation from the register of suppliers.

Although Management stated that they were in the process of entering into framework contract with the suppliers, the process had not been concluded as at 13 December, 2023.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

2038. 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

2039. 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

2040. There were no materials issues relating to lawfulness and effectiveness in se of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

2041. There were no material issues relating to effectiveness of internal controls, risk and governance

COMMISSION ON REVENUE ALLOCATION STAFF CAR LOAN SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2042. 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

2043. 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

2044. There were no material issues relating to effectiveness of internal controls, risk management and governance.

PUBLIC SERVICE COMMISSION - VOTE 2071

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2045. There were no material issues noted during the audit of the financial statements of the Commission.

Other Matter

2046. Unresolved Prior Year Matters

As disclosed under the progress on follow-up on the auditor's recommendations section of the financial statements, various prior year audit issues remained unresolved as at 30 June, 2023. Management has not provided reasons for the delay in resolving the prior year's audit issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2047. Non-Compliance with the One-Third of Basic Salary Rule

Review of the payroll and supporting documentation revealed that twelve (12) employees earned a net salary of less than one-third (1/3) of their basic salaries. This is contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies and Procedures Manual, 2016 which requires public officers not to over-commit their salaries beyond two-thirds (2/3) of their basic salaries and Heads of Human Resource Units should ensure compliance. Management did not provide satisfactory explanations for the failure to comply with the policy, which may expose the staff to pecuniary embarrassment.

In the circumstance, Management was in breach of the Public Service Commission (PSC) Human Resource Policies and Procedures Manual, 2016.

2048. Employees Above the Mandatory Retirement Age

Review of human resource records revealed that five (5) employees were still on the payroll of the Commission despite having attained the mandatory retirement age of sixty (60) years and were not people living with disability. This is contrary to Section D.21 of the Public Service Commission (PSC) Human Resource Policies and Procedures Manual, 2016 which requires all officers to retire from the Service on attaining the mandatory retirement age of 60 years, 65 years for persons with disabilities and/or as may be prescribed by the Government from time to time. Management explained that the employees were appointed on local agreement after attaining the retirement age due to their rare knowledge, skills and competencies. However, no documentary evidence in support of the explanation was provided.

In the circumstances, Management was in breach of the Public Service Commission (PSC) Human Resource Policies and Procedures Manual, 2016.

2049. Incomplete Supply, Installation, Implementation, and Commissioning of an Integrated Management Information System (IMIS)

The Public Service Commission commenced procurement for the supply, installation, implementation, and commissioning of an Integrated Management Information System (IMIS) through an open tender method of procurement in the financial year 2015/2016. The tender was awarded to a local company at a sum of Ksh.97,022,400 and contract was signed by the firm and the Public Service Commission on 7 December, 2015. While the Commission had anticipated that the IMIS would automate all the operations and services of the Commission including interface with the public, it was noted that the system had not moved from a test to a live environment.

Further, there was no URL to a live environment, evidence of commissioning of the IMIS, nor recent/live report resulting in incomplete system implementation. Twelve (12) modules such as; Financial Management and Project Management, Asset Management, Human Capital Management, and Recruitment and Selection modules among others have not been developed. Management did not explain why the implementation of the system had stalled nor instituted measures to ensure that the IMIS was completed and commissioned as intended.

In the circumstances, it was not possible to confirm whether the public has obtained value for money on the expenditure of Kshs.67,887,380 incurred to date on the Integrated Management Information System.

2050. Construction of Additional Offices (Phase 2)

The construction of additional offices (Phase 2) on the 5th Floor, of the Public Service Commission's Old Office Block was initiated and procured in the financial year 2019/2020, through an open tender, and the contract was awarded to a local firm at a contract sum of Kshs.66,090,890. The contract agreement was signed on 16 November, 2020 for a period of 39 weeks, with a completion date of 24 August, 2021. The contractor requested an extension of the contract duration by ten (10) weeks to 1 November, 2021. However, a review of the progress of works and field inspection conducted in December, 2023 revealed that the works were incomplete and the project was behind schedule. Further, payments amounting to Kshs.26,219,344 or 40% of the contract sum, had been certified, three years after the lapse of the contract period.

In the circumstances, the inadequate supervision of the works by the Project Manager and the delay in the project completion may result in additional costs and value for money in the implementation of the Project may not be realized.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

2051. Inadequate Controls in Use of Motor Vehicles

Review of the motor vehicle work tickets and analysis of fuel consumption by vehicles revealed that the average fuel consumption yielded a distance of between 2.75 to 6.68 kilometers per litre, which is considered too low, an indication of possible wastage and lack of controls on fuel consumption. Further, officers who were not at the same location as the vehicle at the time of authorizing the journey authorized some motor vehicle journeys. This raises the risk of manipulation of entries in work tickets and irregular motor vehicle journeys. As a result of these anomalies, Management contravened Regulation 139(1) of the Public Finance Management (National Government) Regulations, 2015 which provides that the Accounting Officer shall take full responsibility and ensure proper control system exists for assets, preventative mechanisms are in place to eliminate theft, security threats, losses, wastage, misuse and that movement and conditions of assets can be tracked.

In the circumstances, the effectiveness of the system of internal controls on asset management could not be confirmed.

SALARIES AND REMUNERATION COMMISSION - VOTE 2081

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2052. There were no material issues noted during the audit of the financial statements of the Salaries and Remuneration Commission.

Emphasis of Matter

2053. Trade and Other Payables

Note 18 to the financial statements reflects trade and other payables totalling Kshs.8,896,674 which includes an amount of Kshs.2,303,651 in respect of trade payables as at 30 June, 2023. The trade payables balance of Kshs.2,303,651 relates to pending bills that were not paid during the year under review but were instead carried forward to the financial year 2023/2024.

Failure to settle bills during the year to which they relate adversely affects the implementation of the subsequent year's budgeted programs as the outstanding bills form a first charge to that year's budget provision.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

2054. 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

Conclusion

2055. 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

Unmodified Opinion

REPORT ON THE FINANCIAL STATEMENTS

2056. 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

2057. 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

2058. There were no material issues relating to effectiveness of internal controls, risk management and governance.

TEACHERS SERVICE COMMISSION - VOTE 2091

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2059. There were no material issues noted during the audit of the financial statements of the Commission.

Emphasis of Matter

2060. Pending Bills

Annex II to the financial statements reflects pending accounts payable balance of Kshs.2,463,219,054. Management did not explain the reasons for the failure to settle the bills during the year. 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 to the budget.

My opinion is not modified in respect of this matter.

Other Matter

2061. Long Outstanding Payables

The statement of financial assets and financial liabilities reflects accounts payables balance of Kshs.124,600,140 which as disclosed in Note 11 to the financial statements includes Kshs.3,507,894 and Kshs.121,092,246 in respect of Ap liabilities and clearance account respectively. Review of the payables aging analysis revealed a balance of Kshs.18,483,699 or 15% which had been outstanding for over a year.

In the circumstances, the Commission is at risk of incurring penalties for failure to settle its obligations as and when they fall due.

2062. 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, Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved all 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

2063. Operations of Car Loan and Mortgage Fund

The statement of financial assets and financial liabilities reflects cash and cash equivalents balance of Kshs.2,200,479,754 as disclosed in Note 9A to the financial statements. The balance includes the Commission's car and mortgage fund bank balance of Kshs.556,345,338.

Review of records revealed the following anomalies:

2063.1 Lack of Fund Governing Regulations

The Fund commenced operations in 2012 as a cash backed Fund and converted to a revolving Fund in 2021/2022 and reflected mortgage loan advances receivable balance of Kshs.278,614,386 as at 30 June, 2023. However, the Fund operates through a memorandum of understanding between a local bank and the Commission dated 17 February, 2022 as the regulations to govern the management of the Fund have not been developed. This is contrary to the requirements of Circular No. SRC/ADM/CIR/1/13 Vol III (128) dated 17 December, 2014.

2063.2 Failure to Prepare and Submit Separate Fund Financial Statements

The Management did not prepare and submit for audit separate car loan and mortgage fund financial statements. 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, Management was in breach of the law.

2064. Failure to Surrender Unspent Funds for Re-Voting

The statement of financial assets and financial liabilities reflects accounts receivables balance of Kshs.917,042,222 which as disclosed in Note 10 to the financial statements includes a balance of Kshs.162,042,114 in respect of County disbursements which further includes Kshs.119,413,077 not returned to the Commission headquarter bank account as of 30 June, 2023 for re-voting. This is contrary to Regulation 117(2) of the Public Finance Management (National Government) Regulations, 2015 which states that the Accounting Officer will surrender resources to The National Treasury who will ensure that the funds are re-vote. As at the time of concluding the audit in December, 2023, Kshs.106,875,300 had been returned into the headquarter bank account leaving a balance of Kshs.12,537,777.

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

2065. Delays in Completion of Machakos and Kilifi County Offices

The Commission signed agreements for the construction of the two (2) County offices in Machakos and Kilifi Counties on 13 July, 2022 and 28 June, 2022 at the costs of Kshs.57,663,447 and Kshs.64,900,000 respectively. Both contracts were for a period of sixty (60) weeks with estimated completion dates of 5 September, 2023 and 21, August, 2023 for Machakos and Kilifi County offices respectively. As at the time of audit in the month of November, 2023, which was past the estimated completion dates, the progress was at 33% and 40% completion levels for Machakos offices and Kilifi offices respectively. Management attributed the delay in projects' completion to delayed payments due to realignment of the 2022/2023 financial year budget.

Although extensions of the contracts for the construction of the two County offices in Machakos and Kilifi were granted up to 8 May, 2024 and 1 May, 2024 respectively, it was not feasible that works will be completed within the revised contract periods.

In the circumstances, value for money may not be realized within the revised contract periods for the construction of the two County offices.

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

Basis for Conclusion

2066. Salary Overpayments

The statement of financial assets and liabilities reflects accounts receivables balance of Kshs.917,042,222 which as disclosed in Note 10 to the financial statements includes Kshs.449,152,146 in respect of salary over payment. Review of the aging analysis on the salary overpayment provided for audit revealed that overpayments amounting to Kshs.358,796,308 or 80% had been outstanding for periods exceeding one year. Management indicated that the overpayment had grown over the years due to manual and previous reporting systems that were inefficient. Further, Management through various mechanisms adopted recovery of salary overpayments, amounting to Kshs.108,096,613 for the year under review from payroll and other avenues. Although progress has been made in the recovery of the salary overpayments, further effort is required in recovering the outstanding amounts.

In the circumstances, the effectiveness of the measures put in place to recover the overpaid salary could not be confirmed.

DONOR FUNDED PROJECTS

SECONDARY EDUCATION QUALITY IMPROVEMENT PROJECT (IDA CREDIT NO. 6138-KE)

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2067. There were no material issues noted during the audit of the financial statements of the Project.

Other Matter

2068. Budgetary Control and Performance

The statement of comparison budget and actual amounts reflects the final receipts budget and actual on a comparable basis of Kshs.900,000,000 and Kshs.790,250,820 respectively, resulting in an underfunding of Kshs.109,749,180 or 12% of the budget. Similarly, the Project expended Kshs.773,032,666 against an approved budget of

Kshs.900,000,000 resulting in an under-expenditure of Kshs.126,967,334 or 14% 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.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

2069. 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

Conclusion

2070. There were no material issues relating to effectiveness of internal controls, risk management and governance.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

2071. 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 Management, and the Project's financial statements are in agreement with the accounting records and returns.

KENYA PRIMARY EDUCATION EQUITY IN LEARNING PROGRAM CREDIT NUMBER 7067-KE

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2072. There were no material issues noted during the audit of the financial statements of the Program.

Other Matter

2073. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final budget and actual receipts of Kshs.120,000,000. Similarly the Project expended Kshs.27,626,406 against a budget of Kshs.120,000,000, resulting to an under-absorption of Kshs.92,373,594 or 77% of the budget. Further, the budget was not itemized as per the project expenditure items to enable comparison of information during audit.

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

Conclusion

2074. 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 for Conclusion

2075. Charging Non-Project Payments to Project Account

The statement of financial assets reflects accounts receivable balance of Kshs.4,763,194 which as disclosed in Note 4 to the financial statements includes Kshs.4,283,744 in respect to other receivables. The latter balance includes Kshs.2,156,100 made up of Kshs.117,400 and Kshs.2,038,700 being payments made from the project account for activities relating to the Secondary Education Improvement Project and the Teachers Service Commission respectively. However, as at the time of audit, no refund had been made to the project account.

In the circumstances, the regularity of payments totalling Kshs.2,156,100 could not be confirmed.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

2076. As required by the 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 Management of the Program and the Program's financial statements are in agreement with the accounting records.

NATIONAL POLICE SERVICE COMMISSION - VOTE 2101

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2077. 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

2078. 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

2079. Mandate of the National Police Service Commission

The Commission developed a strategic plan (2019-2022) with strategic focus on human resource and welfare needs of police officers through formulation and implementation of transformative human resource management policies including recruitment, appointment, promotions, transfers, disciplinary, human resource audit, appeals and police welfare. However, although the term of the strategic plan lapsed in June 2022, it was not possible to determine implementation of policies since access to Police Service payrolls and other related records were not granted to the Commission.

NATIONAL POLICE SERVICE COMMISSION STAFF CAR LOAN AND MORTGAGE SCHEME FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2080. 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

2081. 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

2082. 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

2083. There were no material issues noted during the audit of the financial statements of the Office.

Emphasis of Matter

2084. Pending Accounts Payables

Note 22.2 to the financial statements reflects pending accounts payables totalling Kshs.4,331,239 as at 30 June, 2023. The balance relates to pending bills that were not paid during the year under review but were instead carried forward to the financial year 2023/2024.

Failure to settle bills during the year to which they relate adversely affects the implementation of the subsequent year's budgeted programs as the outstanding bills form a first charge to that year's budget provision.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

2085. 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

2086. 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

2087. 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

Basis for Conclusion

2088. Irregular Payment of Administration Fees

The statement of financial performance and Note 8 to the financial statements reflect an expenditure totalling Kshs.3,954,345 under use of goods and services which relates to administration costs. This represents approximately eight percent (8%) of the approved budget of Kshs.49,591,150. However, the Management was required to charge an amount of Kshs.1,487,734 or 3% of the approved budget resulting in an irregular additional expenditure totalling Kshs.2,466,611. This is contrary to Regulation 207(1)(d) of the Public Finance Management (National Government) Regulations, 2015 which sets the ceiling of administration costs of a public fund to 3% of the approved budget. Although Management had indicated that they are engaging the Fund Managers on the issue of administration fees and that they are in the process of procuring mortgage services competitively, the progress made by the time of completion of the audit in December, 2023 was not disclosed.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

2089. 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

Basis for Qualified Opinion

2090. Presentation and Disclosures in the Financial Statements

Review of the financial statements presented for audit revealed that signatures of the Chairperson of the Commission, the Commission Secretary/Accounting Officer, and the Director of Corporate Services were electronically inserted on the Annual Reports and Financial Statements.

In the circumstances, the Annual Report and the Financial Statements presented for audit do not conform to the format prescribed by the Public Sector Accounting Standards Board.

2091. Unsupported Use of Goods and Services Expenditure

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.164,270,869. However, the following anomalies were noted:

2091.1 Domestic Travel and Subsistence

As disclosed in Note 3 to the financial statements, the amount includes domestic travel and subsistence of Kshs.25,191,668 out of which an amount of Kshs.8,572,707 was not supported by invitation letters, attendance schedules, back to office reports and work programs. Further, the expenditure schedule provided did not indicate purpose and destination of travel. Further, the domestic travel and subsistence amount includes Kshs.278,795 on mileage allowances which was not supported with a report from transport section indicating the non-availability official transport to warranty use of personal vehicle.

2091.2 Foreign Travel and Subsistence

Included in use of goods and services expenditure amount was foreign travel and subsistence expense of Kshs.10,199,942 out of which Kshs.7,766,160 was not supported with copies of passports, attendance schedules, reports on the benefits accruing from the trip, events programs or timetable and boarding passes. Further, the expenditure schedule provided did not indicate the purpose and destination of travel.

2091.3 Lunch Expenses

Included in the use of goods and services were cash purchases amount of Kshs.10,036,856 which included lunch expenses of Kshs.566,984 that were not supported with acknowledgement receipts.

In the circumstances, the accuracy and regularity of expenditure of Kshs.8,572,707, Kshs.7,766,160 and Kshs.566,984 all totalling Kshs.16,905,851 could not be confirmed.

Emphasis of Matter

2092. Pending Bills

Note 15.1 to the financial statements reflects pending accounts payable balance of Kshs.6,694,879 in respect of supply of goods and services that were not settled during the year under review but were instead carried forward to financial year 2023/2024.

Failure to settle bills during the year to which they relate adversely affects the budget provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2093. Irregular Procurements

The statement of receipts and payments reflects use of goods and services of Kshs.164,270,869 as disclosed in Note 3 to the financial statements. The following unsatisfactory matters were noted;

2093.1 Lack of Electronic Tax Register (ETR) Receipts

Included in use of goods and services expenditure is Kshs.12,033,685 on communication supplies and services out of which Kshs.816,150 was in respect of cash purchases that were not supported with ETR receipts and were not taken on charge before they were issued to the respective user department.

2093.2 Irregular Procurement of Routine Maintenance-Vehicles Services

The use of goods and services expenditure includes routine maintenance of vehicles amount of Kshs.4,294,560 out of which Kshs.507,280 was paid in cash. However, the Procurement plan on routine maintenance-vehicles and other transport equipment procurement provided a budget of Kshs.1,750,000 to be carried out through running contracts. In addition, the schedules provided to support the expenditure had no description of the nature of repairs and the registration number of the vehicles. This was contrary to Regulation 40(1) of the Public Procurement and Asset Disposal Regulations, 2020 which provides that a procuring entity shall prepare a procurement plan for each financial year as part of the annual budget preparation process. Further, Regulation 41(g) requires that the annual consolidated procurement plan for each procuring entity shall include the appropriate procurement method for each procurement requirement.

2093.3 Irregular Procurement of Hospitality Services

As disclosed in Note 3, the use of goods and services expenditure includes hospitality supplies and services of Kshs.9,589,947 out of which Kshs.6,105,649 related to cash payments. Review of the procurement plan on hospitality supplies and services revealed a procurement budget provision of Kshs.10,923,500 which was to be carried out through request for quotations method of procurement. However, no documentation was provided

indicating the cash purchases were done through the request for quotations. In addition, expenditure schedules provided for the items procured were not supported with stores ledger. This was contrary to Regulation 40(1) of the Public Procurement and Asset Disposal Regulations, 2020.

2093.4 Irregular Procurement of Furniture and General Equipment

The statement of receipts and payments reflects acquisition of assets expenditure of Kshs.18,680,258 which included purchase of furniture and general equipment of Kshs.4,750,258 as disclosed in Note 6 to the financial statements of which Kshs.241,925 was in respect of furniture and equipment through cash purchases. Review of procurement plan on furniture and general equipment revealed a procurement budget of Kshs.2,072,500 through request for quotations reserved for the special groups. However, no documentation was provided to confirm that the cash purchases were done from special groups. In addition, the expenditure schedules provided did not give description of the items procured. This was contrary to Regulation 40(1) of the Public Procurement and Asset Disposal Regulations, 2020.

2093.5 Non-Compliance with Preferences and Reservations

The Commission awarded contracts worth Kshs.20,017,009 or 11% of total procurement expenditure to Access to Government Procurement Opportunities (AGPO) out of Kshs.189,186,609 as per procurement data reviewed. This was contrary to Section 53(6) of the Public Procurement and Asset Disposal Act, 2015 which requires that thirty percent (30%) of the contracts awarded should be for special groups.

In the circumstances, regularity of expenditure incurred on procurement of goods and services by the Commission could not be confirmed and Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

2094. Lack of Transport Policy

During the year under review, the Commission does not have a transport policy in place. This was contrary to the provisions of Paragraph H.2 (1) of CAJ human resources Policy manual and procedures 2016 which provides that the Commissions' transport is regulated through its transport policy.

In the circumstances, Management is not able to manage its transport equipment effectively and efficiently.

2095. Lack of Risk Management Policy and Disaster Management Policy

During the year under review, the Commission does not have a risk management policy and disaster management policy/recovery plan in place. This was contrary to the provisions of Regulation 165(1) of the Public Finance Management (National Government) Regulations, 2015 which states that the accounting officer shall ensure that

the national entity develops risk management strategy strategies which include fraud prevention mechanism.

In the circumstances, Management is not in a position to identify risk occurrence and appropriate control measures in the event an emergency or disaster occurs.

2096. Grounded Vehicles

Annex 2 to the financial statements on summary of fixed assets register reflects transport equipment of Kshs.102,868,934 which includes GK A 788Q Toyota Prado purchased in 2008 which stalled in Isiolo while on official duties on 09 September, 2019 and was towed to Nairobi. However, the vehicle is still grounded to date. The vehicle had various conflicting vehicle inspection reports from public works as tabulated below;

- i. A mechanical inspection report ref :MOTIHUD/WSP/13B/R&L/VOL.I/(1364) dated 23 January, 2020 issued by Ministry of Public Works State Department of Infrastructure and gave an economical repair cost of Kshs.450,000;
- ii. Second Inspection report dated 01 July, 2020 ref: MOTIHUD/WSP/13B/R&I/REG/VOL.(924) issued by public works gave an economical repair cost of Kshs.850,000;
- iii. On 15 September, 2020 the Commission Secretary/CEO wrote to public works to value the vehicle and give a reserve price with a view of disposing it. A valuation and inspection report dated 04 November, 2020 Ref: MOTIHUD/1/MTD/WSP/12VOL.1/1383 valued the vehicle at estimated reserve price of Kshs.700,000; and
- iv. On 11 May, 2022 the Commission requested for another vehicle valuation for the purpose of disposing off the vehicle, which was done on 30/5/2022 Ref: MOTIHUD/1/MTD/WSP/12VOL.1(3089) by public works at estimated the reserve prices at Kshs.680,000 and an economical repair cost at Kshs.300,000.

Despite the vehicle being serviceable, it has been grounded for more than 4 years and the value continues to reduce due to wear and tear. 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 shall 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.

In the circumstances, effectiveness of controls of the management and safeguarding of vehicles of the Commission could not be confirmed.

COMMISSION ON ADMINISTRATIVE JUSTICE STAFF MORTGAGE AND CAR LOAN FUND

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2097. 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

Basis for Conclusion

2098. Idle Cash Balances

The statement of changes in net assets reflects fund receipts in the year of Kshs.12,250,000 into the revolving Fund and a fund closing balance of Kshs.177,680,521 as at 30 June, 2023. However, an amount of Kshs.93,710,171 of the total fund balance was held in cash indicative of 47% utilization of the fund. Management did not provide a reasonable explanation for the delays in disbursements of loans which denies the employees opportunity to own houses and vehicles as per the objectives of the establishment of the Fund.

In the circumstances, the envisaged objective of staff owning homes and vehicles has not been met due to delays in the loans disbursement.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

2099. Lack of Risk Management Policy and Disaster Management Policy

The Fund does not have an approved Risk Management Policy and Disaster Management Policy in place contrary to the provisions of Regulation 165(1) of the Public Finance Management (National Government) Regulations, 2015.

In the circumstances, the policies, strategies and procedures put in place to assess, identify, measure, prioritize and mitigate risks could not be confirmed.

2100. Lack of Review of Internal Controls

Management did not provide internal audit reports indicating that there was lack of reviews of internal controls for financial year 2022/2023. Further, Management explained that they had only one officer in the audit unit until February, 2023 when two officers were brought on board but no appointment letters for the officers were provided for audit. This is contrary to Regulation 160(1)(b) and (c) of the Public Finance Management (National

Government) Regulations, 2015, which requires the internal auditor to give reasonable assurance through the Audit Committee on the state of risk management control and governance within the organization and review the effectiveness of the financial and non-financial performance of management systems of the entity.

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

NATIONAL GENDER AND EQUALITY COMMISSION - VOTE 2141

REPORT ON THE FINANCIAL STATEMENTS

Unmodified Opinion

2101. There were no material issues noted during the audit of the financial statements of the Commission.

Emphasis of Matter

2102. Pending Accounts Payable

Note 16.1 to the financial statements reflects pending accounts payable balance of Kshs.295,800 owed to suppliers that had not been paid at the close of the year. 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.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

2103. Failure to Implement Integrated Personnel Payroll Database (IPPD) System

The statement of receipts and payments reflects compensation of employees amount of Kshs.245,438,929. During the year under review, the Commission had ninety-eight (98) employees in various cadres in the establishment. However, a review of the payroll and human resource records revealed that the Commission did not use the Integrated Personnel Payroll Database (IPPD) in managing its payroll. This is contrary to Circular No.OP.CAB/31A, dated 04 August, 2022 which required all public service organizations to adopt a unified human resource system. Further, The National Treasury Circular No.13/2019 Ref: ES 1/032/'E' (94), dated 28 August, 2019 on guidelines for preparation of the 2020/2021–2022/2023 medium term budget provided that allocation for personnel emoluments must be supported by Integrated Personnel Payroll Database (IPPD). No satisfactory explanation was provided for the failure by the Commission to implement the IPPD.

In the circumstances, the Commission was in breach of the government policy on the use of a unified human resource management system.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

2104. 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

2105. 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

2106. 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

2107. 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

2108. 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

2109. 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

2110. 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 Economic Planning
2. The Executive Office of the President
3. The Office of the Deputy President
4. Office of the Prime Cabinet Secretary
5. State Department for Interior and Citizen Services
6. State Department for Correctional Services
7. State Department for Immigration and Citizen Services
8. National Police Service
9. State Department for Internal Security and National Administration
10. State Department for Development of the Arid and Semi-Arid Lands
11. Ministry of Defence
12. State Department for Diaspora Affairs
13. State Department for Post Training and Skills Development
14. State Department for Roads
15. State Department for Shipping and Maritime Affairs
16. State Department for Housing and Urban Development
17. State Department for Irrigation
18. State Department for Information Communication Technology and Digital Economy
19. State Department for Broadcasting and Telecommunications
20. State Department for Co-operatives
21. State Department for Trade
22. State Department for Investment Promotion
23. State Department for Labour and Skills Development

Appendix A: Unmodified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

24. State Department for Tourism
25. State Department for Wildlife
26. State Department for Gender and Affirmative Action
27. State Department for Public Service
28. State Department for Youth Affairs
29. State Department for East African Community
30. The State Department for Regional and Northern Corridor Development
31. Ethics and Anti-Corruption Commission
32. National Intelligence Service
33. Office of the Registrar of Political Parties
34. Witness Protection Agency
35. State Department for Forestry
36. Kenya National Commission on Human Rights (KNCHR)
37. Parliamentary Service Commission
38. The National Assembly
39. Parliamentary Joint Services
40. Judicial Service Commission
41. Commission on Revenue Allocation
42. Public Service Commission
43. Salaries and Remuneration Commission
44. Teachers Service Commission
45. National Police Service Commission
46. Office of the Controller of Budget
47. National Gender and Equality Commission

Appendix A: Unmodified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

48. Independent Policing Oversight Authority
49. National Exchequer Account – The National Treasury
50. Consolidated Fund Services - Public Debt – The National Treasury
51. Development Receiver of Revenue Statements - The National Treasury
52. East Africa Tourist VISA Fee Collection Account - The National Treasury
53. Consolidated Fund Services - Salaries, Allowances and Miscellaneous Services - The National Treasury
54. Revenue Statements of the Pensions Department - The National Treasury
55. National Cohesion and Integration Commission
56. Receiver of Revenue Statements - Ministry of Defence
57. Receiver of Revenue - Revenue Statements - State Department for Lands and Physical Planning
58. Business Registration Service
59. Receiver of Revenue Statements - The Judiciary
60. Ethics and Anti-Corruption Commission Staff House Mortgage and Car Loan Scheme
61. Business Registration Service - Official Receiver
62. Office of the Registrar of Political Parties Staff Mortgage and Car Loan Scheme
63. Witness Protection Agency Staff Housing Mortgage Scheme Fund
64. Witness Protection Agency Staff Motor Car Loan Scheme Fund
65. Kenya National Commission on Human Rights Car and Mortgage Loan Scheme
66. National Land Commission Housing Scheme Fund - National Land Commission
67. National Land Commission Staff Car Loan Scheme Fund
68. Independent Electoral and Boundaries Commission Staff Mortgage and Car Loan Scheme
69. Commission on Revenue Allocation Staff Mortgage Scheme Fund

Appendix A: Unmodified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

70. Commission on Revenue Allocation Staff Car Loan Scheme Fund
71. Salaries and Remuneration Commission Mortgage and Car Loan Scheme
72. National Police Service Commission Staff Car Loan and Mortgage Scheme Fund
73. Office of the Controller of Budget Staff Mortgage Scheme
74. Commission on Administrative Justice Staff Mortgage and Car Loan Fund
75. Independent Policing Oversight Authority Staff Mortgage and Car Loan Scheme
76. Public Debt Management Support Project (PDMS) - ADB Grant Agreement No.5500155013708 - The National Treasury
77. Micro Finance Sector Support Credit Project (Credit No. CKE 3004 01E and CKE 6010 01E - The National Treasury
78. National Treasury Capacity Strengthening Project (Grant No.5500155013902 ID NO.P-KE-KOO-011) - The National Treasury
79. Infrastructure Finance and Public Private Partnerships Project - Additional Financing (IDA Credit No.6121-KE) - The National Treasury
80. Supporting Access to Finance & Enterprise Recovery Project (IDA Credit No. 7018-KE) - The National Treasury
81. Rural Kenya Financial Inclusion Facility (RK FINFA) (IFAD Loan No. 2000004121 and Loan No. 2000004122) - The National Treasury
82. 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 - The National Treasury
83. 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
84. Infrastructure Finance and Public Private Partnerships Project - IDA Credit No.5157-KE - The National Treasury
85. 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

Appendix A: Unmodified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

86. Affordable Housing Finance Project (IDA Credit No.8958-KE) - The National Treasury
87. Public Financial Management Reforms Program (Credit Nos. DANIDA FY06, SIDA 51110081, IDA GESDEK-6133-KE, AFD/CKE 1130 & PASEDE CRIS No:041-658) - The National Treasury
88. Technical Support Programme (Financing Agreements No. KE/FED/2009/021421, No. KE/FED/023-733 and No. KE/FED/037-941) - The National Treasury
89. Programme for Rural Outreach of Financial Innovations and Technologies (PROFIT) (IFAD Loan No.814-KE and Grant No.1218-KE) - The National Treasury
90. Financial Sector Support Project (IDA Credit No.56270-KE) - The National Treasury
91. Financing Locally-Led Climate Action Program No.P173065; Credit No. IDA 6980-KE; Grant Agreement No. TF0B6810; Loan Agreement BMZ - No.2016 65 108/2018 65 138 - The National Treasury
92. Eastern Africa Regional Transport, Trade and Development Facilitation Project IDA Credit No. 5638-KE - Kenya Revenue Authority
93. Horn of Africa Gateway Development Project (IDA Credit No. 6768) - Kenya Revenue Authority
94. Coordination of Population Policy Implementation Project (UNFPA-KEN09POP) - National Council for Population and Development
95. National Information Platform for Food Security and Nutrition Project (Food/2017/393-022) - Kenya National Bureau of Statistics
96. UNICEF - Kenya Generation Unlimited (GENU) Project (Programme No.2400/A0/A6 - Executive Office of the President
97. Kenya - EU Partnership for the Implementation of the National Strategy to Counter Violent Extremism in Kenya - National Counter Terrorism Centre
98. Technical Assistance to Enhance the Capacity of the President's Delivery Unit (ADB Grant No. 5500155012902) - State Department for Internal Security and National Administration

Appendix A: Unmodified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

99. Kenya Cooperation and Partnership Facility (KCPF) Project NO.KE/FED 2019/041-712, Credit NO.FED/2021/423-175 - State Department for Devolution
- 100 Kenya Symbiocity Programme - SIDA No.51110060 - Council of Governors
101. Kenya Development Response to Displacement Impacts Project (KDRDIP) IDA Credit No.6021-KE and Grant No. TFOA 7762-KE - Ministry of East African Community (EAC), ASALs and Regional Development
102. Promotion of Youth Employment and Vocational Training in Kenya (Phase I) Reference: Loan No. BMZ 2016 67, 211 & BMZ No. 2016 65 298 and Project Grant Reference: No. 1930 05 527 - State Department for Technical, Vocational Education and Training
103. Support to the State Department for Technical, Vocational Education and Training for Relevant Skills Development Project - TVET Project Phase II (ADF Loan No.2100150033295) - State Department for Technical, Vocational Education and Training
104. Promotion of Youth Employment and Vocational Training in Kenya (Phase II) Loan No. BMZ 2018 65 120 - The State Department of Technical, Vocational Education and Training
105. East Africa Skills for Transformation and Regional Integration Project (EASTRIP) IDA Loan Credit No.6334-KE - Ministry of Education - State Department for Technical, Vocational Education and Training
106. East Africa Skills Transformation and Regional Integration Project (EASTRIP) Grant/Credit No. IDA 6334-KE - Kisumu National Polytechnic
107. 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
108. Africa Centre of Excellence (ACE II) in Phytochemicals, Textiles and Renewable Energy (PTRE) Project (IDA Credit No.5798-KE) - Moi University
109. Kenya Rural Transformation Centers Digital Platform Project - Cooperative University of Kenya
110. Transforming Health Systems for Universal Care (THS-UC) Project Grant IDA Credit No.5836 - KE, TFOA2561, TFOA2792 and CR. P152394 - Ministry of Health

Appendix A: Unmodified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

111. Resilient Sustainable Systems for Health (RSSH) KEN-T-TNT 2067 Sub-Recipient - Ministry of Health
112. East Africa's Centre of Excellence for Skills and Tertiary Education in Biomedical Sciences - Phase 1 (Loan No.2100150031997) Project - Ministry of Health
113. Support of the Health Care Financing Strategy - Reproductive Health - Output Based Approach Project (Credit BMZ No. Kenya 201065853) - Ministry of Health
114. Global Fund Tuberculosis Grant Credit No. KEN-T-TNT-2067 - Ministry of Health
115. East Africa Public Health Laboratory Networking (EAPHLN) Project Credit WB KE-4732 - Kenya Medical Supplies Authority
116. A Case Study on Integrated Delivery of Selected Non-Communicable Diseases in Kenya (PHGF Grant No. TFOA5636) - Moi Teaching and Referral Hospital
117. Global Fund HIV/AIDS Project Grant Number KEN-H-TNT-2065 - National Syndemic Diseases Control Council
118. Horn of Africa Gateway Development Project Credit Number 6768-KE - State Department for Roads
119. Eastern Africa Regional Transport, Trade and Development Facilitation Project Credit No.5638-KE IDA - State Department for Roads
120. East Africa Skills Transformation and Regional Integration Project IDA Credit No.6334-KE - State Department for Roads
121. Horn of Africa Gateway Development Project Loan No.6768-KE - Kenya National Highways Authority
122. Nuno-Modogashe Road Project - Kenya National Highways Authority
123. Kenol-Sagana-Marua Highway Improvement Project (P-KE-DBO-037) Credit Nos.5050200000901 and 200020000 - Kenya National Highways Authority
124. Kenya Transport Sector Support Project (Credit No.4926 KE and No.5410 KE) - Kenya National Highways Authority
125. Port Reitz/Moi International Airport Access (C110) Road (FIDIC EPC/TURNKEY Based) Project - Kenya National Highways Authority

Appendix A: Unmodified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

126. Nairobi Southern Bypass Road Project - Loan Agreement No.China Exim Bank PBC No.(2011)32 Total No.(183) No. 14203030520112115528 - Kenya National Highways Authority
- 127 EPC/TURNKEY Construction of Five Footbridges and T-Mall Flyover on Mombasa and Langata Roads Project Loan Credit No. KEN-01001-19 and KEN-02001-19 - Kenya National Highways Authority
128. Timboroa-Eldoret Road Rehabilitation Project No. P-KE-DBO-019 (Loan No.2100150023344) - Kenya National Highways Authority
129. Samatar-Wajir Road Project (Loan No.13451P, 13/779 and 995) - Kenya National Highways Authority
130. Kenya - South Sudan Link Road Project (REF. No. 2020 62 065 and BMZ No. 2020 83 939) - Kenya National Highways Authority
131. Arusha-Namanga-Athi River Road Development Project No. P-Z1-DBO-040 - Kenya National Highways Authority
132. Multinational Arusha-Holili/Taveta-Voi Road Corridor Development Project Phase I - Loan No.2100150028894 - Kenya National Highways Authority
133. Merille - Marsabit Road Rehabilitation Project (KE/001/09) Loan Agreement No.KE/FED/2009/021-655 - Kenya National Highways Authority
134. Mombasa Gate Bridge Construction Project (I) Loan Agreement No.KE-P34 - Kenya National Highways Authority
135. Nairobi - Thika Highway Improvement Project Lot 3 Government Concessional Loan Agreement No. (2009) 39 Total No. (290) - Kenya National Highways Authority
136. AFD - Asal Rural Roads Project - Kenya Rural Roads Authority
137. The Establishment of Bus Rapid Transit Line 5 Project (EDCF Loan Agreement No.KEN-5) - Kenya Urban Roads Authority
138. Nairobi Outer Ring Road Improvement Project - Kenya Urban Roads Authority
139. Nairobi Intelligent Transportation System Establishment and Junctions Improvement Project Phase I (EDCF Loan Agreement No.KEN-6) - Kenya Urban Roads Authority
140. Horn of Africa Gateway Development Project Loan No.6768-KE - State Department for Transport

Appendix A: Unmodified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

141. National Urban Transport Improvement Project Credit No.5140-KE - Kenya Railways Corporation
142. Safe Roads/Usalama Barabarani Credit Number KE/FED/37-778 - National Transport and Safety Authority
143. Horn of Africa Gateway Development Project (IDA Credit No.6768 KE) - National Transport and Safety Authority
144. Kenya Informal Settlement Improvement Project No. P113542 Credit No. 4873KE - State Department for Housing and Urban Development
145. Nairobi Metropolitan Services Improvement Project (IDA Credit No.5102-KE) - State Department for Housing and Urban Development
146. Second Informal Settlement Improvement Project No. P167814 Credit No. 6759KE - State Department for Housing and Urban Development
147. Kisumu Urban Project (Project Advance Account) - CKE 1035.01.G - County Government of Kisumu
148. Kisumu Urban Project (Cash Expenditure Fund) - CKE 1035.01.G - County Government of Kisumu
149. Rwabura Irrigation Development Project - National Irrigation Authority
150. Bura Rehabilitation Development Project - National Irrigation Authority
151. Mwea Irrigation Development Project - Loan Agreement No. KE-P27 - National Irrigation Authority
152. Kenya Gold Mercury Free ASGM Project Number GEF/UNDP/GOK-00108253 - Ministry of Environment, Climate Change and Forestry
153. National Action Plan on Artisanal Small - Scale Gold Mining Project (No.AFR/NAP ASGM Project/C/10-2016) - Ministry of Environment, Climate Change and Forestry
154. 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, Climate Change and Forestry
155. NEMA-GCF Readiness and Preparatory Support: NEMA Capacity Strengthening Programme Towards Accessing Climate Finance from Green Climate Fund - Credit Number KEN-RS-003

Appendix A: Unmodified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

156. Africa Environmental Health and Pollution Management Project (EHPMP) - National Environment Management Authority
157. Green Growth and Employment Thematic Programme - National Environment Management Authority
158. Integrated Programme to Build Resilience to Climate Change and Adaptive Capacity of Vulnerable Communities in Kenya - National Environment Management Authority
159. Thwake Multi-Purpose Development Program Phase 1 (AfDB Loan No.2100150029993, 2000200003351, AGTF No.5050200000501 and AfDB Grant No.2100155025973) - State Department for Water and Sanitation
160. Water and Sanitation Development Project (IDA Credit No.6029/6030-KE) - State Department for Water and Sanitation
161. Kenya Water Security and Climate Resilience Project (Grant No. TFOA0761A and Credit No.5268/5674-KE) - State Department for Water and Sanitation
162. Coastal Region Water Security and Climate Resilience Project Credit No. 5543-KE/70040-KE - State Department for Water and Sanitation
163. Kenya Italy Debt for Development Programme - State Department for Water and Sanitation
164. Upper Tana Catchment Natural Resource Management Project IFAD Loan No. 1-867-KE; IFAD Additional Financing Loan No. 2000002597-KE; and Spanish Trust Fund Loan No. I-E-8-KE - Ministry of Water, Sanitation and Irrigation
165. Improvement of Drinking Water and Sanitation Systems in Mombasa: Mwache Project (Credit No. AFD Loan No.CKE 1103 01 C) - Coast Water Works Development Agency
166. Nairobi Inclusive Sanitation Improvement Project - Grant No. 5600155005153 - Athi Water Works Development Agency
167. Busia-Port Victoria Household Sanitation Project Grant/Credit No.02HS/LVNWWDA/BUSIA/054 - Busia Water and Sewerage Services Company Limited
168. Nairobi Rivers Basin Rehabilitation and Restoration Program: Sewerage Improvement Project II (AfDB Loan No. 2000200003407 and ADF Loan No. 2100150040550) - Athi Water Works Development Agency

Appendix A: Unmodified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

169. Nairobi Sanitation Output Based Aid (OBA) Project IDA Grant No. TF014251 and No. TF0A5607) - Nairobi City Water and Sewerage Company Limited
170. Nairobi Water Distribution Network Project (Credit BMZ No.2020.82.527/KV 26833) - Athi Water Works Development Agency
171. Support to Water and Sanitation Services in Peri-Urban Area (Loan No. BMZ 2013.6543.6 - Athi Water Works Development Agency
172. Kenya Towns Sustainable Water Supply and Sanitation Program CR.NO. P-KE-E00-011 (AfDB Loan No.2000200000501) - Central Rift Valley Water Works Development Agency
173. Kenya Towns Sustainable Water Supply and Sanitation Programme (AfDB Loan No.2000200000501) - Tana Water Works Development Agency
174. Kenya Towns Sustainable Water Supply and Sanitation Program - Credit No.P-KE-E00-011 (AfDB Loan No.200200000501) - Athi Water Works Development Agency
175. Water and Sanitation Services Improvement Project (IDA CR. No.5103-KE) - Lake Victoria North Water Works Development Agency
176. Horn of Africa Gateway Development Project IDA - P161305 Credit No. 6768 - KE - Information and Communication Technology (ICT) Authority
177. Kenya Off Grid Solar Access Project (KOSAP-SNV) Credit Number 6135-KE - State Department for Energy
178. Kenya Off-Grid Solar Access Project (KOSAP) Credit Number 6135-KE - State Department for Energy
179. Kenya Electricity Modernization Project (KEMP) (IDA CR NO.5587 KE) - State Department for Energy
180. Multi-National Kenyan Section of Interconnection of Electric Grids of Nile Equatorial Lake Countries Project Credit Number 2100150022643-KE - Kenya Electricity Transmission Company Limited (KETRACO)
181. Multinational Kenya-Tanzania Power Interconnection Project (Kenyan Component) (ADF Loan No. 2100150032846) - Kenya Electricity Transmission Company Limited
182. Last Mile Connectivity Project I Loan No.2100150032195 - Kenya Power and Lighting Company PLC

Appendix A: Unmodified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

183. Last Mile Connectivity Project II Loan No.2000200000152 - The Kenya Power and Lighting Company PLC
184. 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
185. Rural Electrification in Five Regions Project (Credit No.11/597KE, Credit No.1407PKE) - Rural Electrification and Renewable Energy Corporation
186. Olkaria-Lessos-Kisumu Transmission Lines Construction Project (JICA Loan No. KE-P28) - Kenya Electricity Transmission Company Limited
187. 220KV and 132KV Transmission Lines and Substations (Exim Bank of India Funded) Projects - Kenya Electricity Transmission Company Limited
188. Ethiopia - Kenya Electricity Highway Project (ADB Loan No. 2000200003502 - Mariakani Substation Project ID No: P-ZI-FA0-162) - Kenya Electricity Transmission Company Limited
189. Kenya Electricity Modernization Project (IDA Credit No. 5587-KE) - Rural Electrification and Renewable Energy Corporation
190. Nairobi Ring Transmission Line Project (AFD Credit No. CKE 6012.01, 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
191. Power Transmission System Improvement Project Credit Number 2100150023752 - Kenya Electricity Transmission Company Limited
192. Kenya Off-Grid Solar Access Project for Underserved Counties (IDA Cr.No.6135-KE) - Rural Electrification and Renewable Energy Corporation
193. Kenya Electricity Expansion Project (OFID Credit No.1487P) - Rural Electrification and Renewable Energy Corporation
194. Bogoria Silali Geothermal Project (Loan No.2013.66.103) - Geothermal Development Company Limited
195. Towards Ending Drought Emergencies: Ecosystem Based Adaptation in Kenya's Arid and Semi-Arid Rangelands (IUCN Grant No. P02886) - State Department for Livestock
196. Kenya Livestock Commercialization Project (Loan Number 2000003565 and 2000003566) – State Department for Livestock Development

Appendix A: Unmodified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

197. De-Risking, Inclusion & Value Enhancement of Pastoral Economies (DRIVE) Project (Credit No:7139-KE) - State Department of Livestock Development
198. Kenya Marine Fisheries and Socio-Economic Development Project Credit No. 65400-KE - State Department for Blue Economy and Fisheries
199. Aquaculture Business Development Programme (IFAD Loan No.2000002052 & 2000002614) - State Department for Blue Economy and Fisheries
200. Enable Youth Kenya Program (ADF Loan No.2100150038895) - State Department for Crop Development
201. Multi-national Drought Resilience and Sustainable Livelihoods Programme (DRSLP) in the Horn of Africa (ADF Loan No.2100150028345) - State Department for Crop Development
202. Multi-national Rural Livelihoods Adaptation to Climate Change in the Horn of Africa (RLACC) (ADB/ADF Grant No.5550155001201) - State Department for Crop Development
203. 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
204. National Agricultural and Rural Inclusive Growth Project (IDA Credit No. 5900-KE) - State Department for Crop Development
205. Kenya Cereal Enhancement Programme-Climate Resilient Agricultural Livelihood Window (KCEP-CRAL) EU Grant No.2000000623, Grant No.2000001522, Grant No.2000003493, Grant No.2000001122 and IFAD Loan 2000001121 - State Department for Crop Development
206. Kenya Climate Smart Agriculture Project (IDA Credit No.5945-KE - State Department for Crop Development
207. National Agricultural Value Chain Development Project (Credit No. IDA-7064-KE) - State Department for Crop Development
208. Capacity Development Project for Enhancement of Rice Production in Irrigation Schemes in Kenya (Project Number 1161001009) - Ministry of Agriculture and Livestock Development, State Department for Crop Development
209. Small-Scale Irrigation and Value Addition Project - ADF Loan No.2000130014530 and Grant No.5570155000751 - State Department for Crop Development

Appendix A: Unmodified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

210. Agricultural Sector Development Support Programme II (SIDA Grant No:51110109) - State Department for Crop Development
211. Emergency Locust Response Project (IDA Credit No. 6648-KE and No. 70530-KE) – State Department for Crop Development
212. Build Resilience for Food and Nutrition Security in the Horn of Africa (BREFONS) Credit Number: 2100150042746 - State Department for Crop Development
213. Centre of Excellence in Sustainable Agriculture and Agribusiness Management Credit No.5798-KE - Egerton University
214. Kenya Industry and Entrepreneurship Project (Credit No. IDA 6268-KE) - State Department for Industrialization
215. Kenya Youth Employment and Opportunities Project (Credit No. IDA 5812-KE) - Micro and Small Enterprises Authority (MSEA)
216. Kenya Youth Employment Opportunities Project - 58120-KE - State Department for Labour and Skills Development
217. Kenya Youth Employment and Opportunities Project Credit Number: IDA-5812-KE - National Industrial Training Authority (NITA)
218. Kenya Social and Economic Inclusion Project Credit Number: 6348-KE - State Department for Social Protection and Senior Citizen Affairs
219. Kenya Social and Economic Inclusion Project No. P164654 IDA Credit No. 62480KE and Grant No. TF0A9527 - National Drought Management Authority
220. Combating Poaching and Illegal Wildlife Trafficking in Kenya Through an Integrated Approach (Grant No.00108406) - State Department for Wildlife
221. Women Empowerment for Gender Equality Project - Grant No.PA002836RD - State Department for Gender and Affirmative Action
222. Kenya Youth Employment and Opportunities Project (IDA Credit No. 5812 - KE) - State Department for Youth Affairs
223. Youth Empowerment Programme Grant N. B4210 - State Department for Youth Affairs
224. Judicial Performance Improvement Project (IDA Credit No. 5181-KE) - The Judiciary

Appendix A: Unmodified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

- 225. Green Zones Development Support Project Phase II (Credit No.P.KE-AAD-005) - Kenya Forest Service
- 226. Increased Enjoyment of Human Rights & Fundamental Freedoms by All in Kenya Project Number:KEN 2062, KEN 19-0011, KNCHR - Kenya National Commission on Human Rights
- 227. Kenya Primary Education Equity in Learning Program Credit Number 7067-KE - Teachers Service Commission
- 228. 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 Devolution
3. Ministry of Foreign Affairs
4. State Department for Foreign Affairs
5. State Department for Technical, Vocational Education and Training
6. State Department for Higher Education and Research
7. State Department for Early Learning and Basic Education
8. State Department for Implementation of Curriculum Reforms
9. Ministry of Health
10. State Department for Public Health and Professional Standards
11. State Department for Transport
12. State Department for Public Works
13. State Department for Environment and Climate Change
14. State Department for Water and Sanitation
15. State Department for Lands and Physical Planning
16. State Department for Sports and the Arts
17. State Department for Culture and Heritage
18. State Department for Energy
19. State Department for Livestock Development
20. State Department for the Blue Economy and Fisheries
21. State Department for Crop Development
22. State Department for Industry
23. State Department for Micro, Small and Medium Enterprises (MSME) Development

Appendix B: Qualified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

24. State Department for Social Protection and Senior Citizen Affairs
25. State Department for Mining
26. State Department for Petroleum
27. State Law Office and Department of Justice
28. The Judiciary
29. Office of the Director of Public Prosecutions
30. National Land Commission
31. Independent Electoral and Boundaries Commission
32. The Commission on Administrative Justice
33. Receiver of Revenue-Recurrent – The National Treasury
34. Government Investments and Public Enterprises - Revenue Statements - The National Treasury
35. Consolidated Fund Services - Pension and Gratuities - The National Treasury
36. Revenue Statements - State Department for Interior and Citizen Services
37. Revenue Statements - State Department for Blue Economy and Fisheries
38. Receiver of Revenue - Revenue Statements - State Department for Mining
39. Revenue Statements of Receiver of Revenue - State Law Office and Department of Justice
40. Revenue Statements of the Business Registration Service
41. Public Trustee of Kenya
42. Judiciary Mortgage Scheme
43. Office of the Director of Public Prosecutions Staff Housing Mortgage and Car Loan Scheme
44. Study and Capacity Building Fund Project (Grant Numbers CKE 6015 01K, CKE 1043 01F and CKE 1047 01K) - The National Treasury
45. Kenya Italy Debt for Development Program - State Department of Vocational and Technical Training

Appendix B: Qualified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

46. Support to Technical and Vocational Education Training and Entrepreneurship (TVETE Project Phase III) (Loan No. 2100150042254) - State Department for Technical, Vocational Education and Training
47. East Africa Skills for Transformation and Regional Integration Project (EASTRIP) (IDA Loan No.6334-KE) - Meru National Polytechnic
48. East Africa Skills Transformation and Regional Integration Project (Credit Number 6334-KE) - Kenya Coast National Polytechnic (KCNP)
49. Support to Enhancement of Quality and Relevance in Higher Education, Science and Technology Project Credit No. 2100150027993 - State Department for Higher Education and Research
50. Establishment of Kenya Advanced Institute of Science and Technology Project No. KEN-4 - Ministry of Education - State Department for Higher Education and Research
51. Eastern and Southern Higher Education Centres of Excellence (ACE II) Project (Credit No.5798-KE) - State Department of Higher Education and Research
52. USAID Boresha Jamii Project No. (72061521CA00004) - Jaramogi Oginga Odinga University of Science and Technology
53. GOK/UNICEF Education for Young People Programme - State Department for Early Learning and Basic Education
54. Secondary Education Quality Improvement Project (Credit No.61380-KE) - State Department for Basic Education
55. Kenya Primary Education Equity in Learning Project IDA Grant No. D991-KE and Credit No.7067-KE - State Department for Basic Education
56. COVID-19 Health Emergency Response Project Grant/Credit No.6598-KE - Ministry of Health
57. DANIDA Primary Healthcare (PHC) Support Program - Ministry of Health
58. 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 - KEN-M-TNT, No.2064 - Ministry of Health
59. Global Fund - To Contribute to Achieving Vision 2030 Through Universal Access to Comprehensive HIV Prevention, Treatment and Care Program-KEN-H-TNT No.2065 - Ministry of Health

Appendix B: Qualified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

60. Kenya Health Sector Programme Support III (DANIDA Ref.104.Kenya.810.300-Grant) – County Government of Kisii
61. Mombasa Special Economic Zone Development Project (1) - Kenya National Highways Authority
62. Upgrading of "Gilgil Machinery" Road Project - Kenya Rural Roads Authority
63. Northern Corridor Transport Improvement Project IDA Credit No. 3930-KE and 4571-KE - Kenya National Highways Authority
64. Mombasa Port Area Road Development Project Loan No. KE - P29 & KE P32 - Kenya National Highways Authority
65. Mombasa-Nairobi-Addis Ababa Road Corridor Development Project: (Isiolo/Merille/Moyale Road) - Kenya National Highways Authority
66. Mombasa-Nairobi-Addis Ababa Road Corridor Project Phase III (Turbi-Moyale) No.P-ZI-DB0-095 Loan No.21001500255546 - Kenya National Highways Authority
67. Mombasa-Nairobi-Addis Ababa Road Corridor Project Phase II (Marsabit-Turbi Road) ID NO. P-Z1-DB0-027 - Kenya National Highways Authority
68. Nairobi Western Bypass Project - Kenya National Highways Authority
69. Eastern Africa Regional Transport, Trade and Development Facilitation Project - (IDA CR-5638) - Kenya National Highways Authority
70. Nairobi-Thika Highway Improvement Project Lot I and II (Credit No.2100150015544) - Kenya National Highways Authority
71. Kapchorwa-Suam-Kitale and Eldoret Bypass Roads Project (Kenya) ID NO. P-Z1-DBO-183 - Kenya National Highways Authority
72. Northern Corridor Rehabilitation Programme-Phase III - Kenya National Highways Authority
73. Upgrading of Kibwezi-Mutomo-Kitui-Migwani Road Project No. BLA2016K001 - Kenya National Highways Authority
74. National Urban Transport Improvement Project-IDA Credit No.5140 - Kenya National Highways Authority
75. Bagamoyo - Horo Horo - Lunga Lunga - Malindi Road Project (Phase I) ID No:PZI-DBO-129 - Kenya National Highways Authority

Appendix B: Qualified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

76. Mombasa-Mariakani Highway Project (A109) Road Lot 1: (Mombasa - Kwa Jomvu) - Kenya National Highways Authority
77. Dualling of Magongo Road (A109L): Phase II (FIDIC EPC/TURNKEY Based) - Kenya National Highways Authority
78. Sirari Corridor Accessibility and Road Safety Improvement Project: Isebania – Kisii – Ahero (A1) Road Rehabilitation - Kenya National Highways Authority
79. Regional Mombasa Port Access Road Project (Loan No. (Kfw): 27459, Grant No. (Kfw): 202061919) and Credit No. (Kfw): 84010 - Kenya National Highways Authority
80. East Africa Trade and Transport Facilitation Project (IDA Credit No.4148-KE) - Kenya National Highways Authority
81. Support to Road Sector Policy: 10th EDF Rural Roads Rehabilitation Project in Kenya No.KE/FED/023-571 - Kenya Rural Roads Authority
82. Roads 2000 Phase Two - Central Kenya Rural Roads Improvement and Maintenance Project (AFD Credit No. CKE 101201B, Credit No. CKE 104601J and Credit No. CKE 109401M - Kenya Rural Roads Authority
83. Improvement of Rural Roads and Market Infrastructure in Western Kenya Project Credit No.BMZ 2007-65 123 (KFW) - Kenya Rural Roads Authority
84. Multinational Lake Victoria Maritime Communications and Transport (MLVMCT) Project - Kenya Maritime Authority
85. Kenya Urban Support Program (IDA Credit No.61340 KE) - State Department for Housing and Urban Development
86. SC Reporting Tool Kit Project - Ministry of Environment, Climate Change and Forestry
87. 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) - State Department for Environment and Climate Change
88. Kenya Special Project on BRSM and SAICM (Grant/Credit Number: Special Programme 2nd Round Approval Project 01) - State Department of Environment and Climate Change
89. Green Growth and Employment Thematic Programme (GGETP) - State Department for Environment and Climate Change

Appendix B: Qualified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

90. Kenya Enabling Activities for HFC Phase-Down Project (Grant No. UNEP/KEN/SEV/81/TAS/01+) - Ministry of Environment, Climate Change and Forestry
91. Lake Victoria Environmental Management Project Phase III (LVEMP) Project Preparatory Advance No. V1570 - KE - Ministry of Environment and Forestry
92. System for Land-Based Emissions Estimation in Kenya (SLEEK) - Ministry of Environment, Climate Change and Forestry
93. Kenya Institutional Strengthening Project Phase XII (Project Number: KEN/SEV/86/INS/64) - Ministry of Environment, Climate Change and Forestry
94. 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
95. Kenya Water Towers Project (Grant No. FED/2016/375-958) - Kenya Forest Service
96. Nairobi Water and Sanitation Project (Credit No. CKE113501H) - Athi Water Works Development Agency
97. Nambale-Mjini-Mayenje Water Project Grant/Credit Number 08W/BUSIA/BUSIA/97
98. Lake Victoria Water Supply and Sanitation Programme Phase II Project No. P-ZI-EAO-004 (ADF Grant No. 2100155019967) - Lake Victoria South Water Works Development Agency
99. 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
100. 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
101. Kisii Water Supply and Sanitation Project - ORIO11/KE/21 - Lake Victoria South Water Works Development Agency
102. Trilateral Development Cooperation in Kenya, Water and Sanitation Sector Project (Credit No. BMZ 201365352) - Lake Victoria South Water Works Development Agency

Appendix B: Qualified Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

103. Northern Collector Phase 1 – Additional Rehabilitation and Development of the Network Project (Credit Number CKE-1074) - Athi Water Works Development Agency
104. Eastern Africa Regional Transport, Trade and Development Facilitation Project IDA Credit No. 5638-KE (MICT) - Information and Communication Technology (ICT) Authority
105. 50MW Solar Power Plant in Garissa Project (GCL No. 2015(10) - Rural Electrification and Renewable Energy Corporation
106. Menengai Geothermal Project Agreement NO.CKE 1038.01K - Geothermal Development Company Limited
107. Revitalising Irish Potato Production for COVID-19 Affected Small - Scale Producers Project (IFAD Grants No. 2000003589 and 200000396600) - Agriculture and Food Authority
108. Vijana Vuka na Afya Programme Grant No. 201367465 - State Department for Youth Affairs
109. Programme for Legal Empowerment and Aid Delivery (Project Credit Number KE/FED/2018/397-591) - Office of the Attorney General and Department of Justice

Appendix C: Adverse Opinion

NO. MINISTRIES, DEPARTMENTS AND AGENCIES (MDAS)/DONOR FUNDED PROJECTS

1. E-Citizen Revenue Accountability Statement - The National Treasury
2. Sound Chemicals Management Mainstreaming and UPOPS Reduction in Kenya Project No.P00099820 - Ministry of Environment, Climate Change and Forestry

Appendix D: Disclaimer of Opinion

NO. MINISTRY, DEPARTMENT AND AGENCY (MDA)/DONOR FUNDED PROJECT

1. Statement of Outstanding Obligations Guaranteed by the Government of Kenya - The National Treasury