

REPUBLIC OF KENYA

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SNA  
12/3/26*




THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026

THE EIGHTH REPORT OF THE PUBLIC INVESTMENTS COMMITTEE ON SOCIAL SERVICES, ADMINISTRATION AND AGRICULTURE ON THE CONSIDERATION OF THE AUDITOR GENERAL'S REPORTS ON THE FINANCIAL STATEMENTS OF SELECTED STATE CORPORATIONS

DIRECTORATE OF AUDIT, APPROPRIATIONS & GENERAL-PURPOSE COMMITTEES.

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CLERK-AT-THE-TABLE:	MERY OTUMBO

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MARCH, 2026



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## 1.0 CHAIRPERSON'S FOREWORD

The Public Investments Committee on Social Services, Administration and Agriculture is one of the six Watchdog Committees in the thirteenth Parliament that examines reports of the Auditor-General laid before the National Assembly to ensure efficiency and effectiveness in the use of public resources. The Committee is established pursuant to National Assembly Standing Order 206 B.

The Public Investment on Social Services, Administration and Agriculture, with regard to the agriculture, public administration, health, and social protection sectors; examines the reports and accounts of public investments, examine the reports of the Auditor-General on public investments; and in the context of the autonomy and efficiency of the public investments, examine whether the affairs of the public investments, are being managed in accordance with sound financial or business principles and prudent Commercial practices. This ensures implementation of *Article 229(8)* of the Constitution on reports laid before the House by the Auditor- General.

In examining the accounts of the Auditor General, the Committee invited accounting officers in each of the State Corporations under review adduce evidence before it.

There are more than four hundred (400) State Corporations undertaking different mandates in their respective sectors. Due to this large number, the previous Public Investments Committees had been unable to conclude examination of the accounts of the Auditor General of these State Corporations.

Considering the workload and the backlog, the National Assembly resolved to amend the standing orders by splitting the Public Investment Committee into three Committees, Public Investments Committee on Social Services, Administration and Agriculture (PIC-SSAA) being one of them.

The Committee (PIC-SSAA) with a view to clear the backlog in examining the reports of the Auditor General, embarked on the process of inviting the accounting officers for the State Corporations under its mandate to adduce evidence before it.

This report contains observations, findings and recommendations arising from examination of reports of the Auditor-General for Six (6) state corporations for different financial years. The report is structured as follows

- i) general observations to each of the cross-cutting queries;
- ii) recommendations to each of the cross-cutting queries;
- iii) audit queries identified by the Auditor General in his audit reports of each state corporations
- iv) management responses to each of the queries;
- v) Committee observations/ findings on each query; and
- vi) Committee recommendations to each query raised

## List of Abbreviations/Acronyms

PIC-SSAA	Public Investments Committee on Social Services Administration & Agriculture
Ag.	Acting
AG	Attorney General
CEO	Chief Executive Officer
CS	Cabinet Secretary
DCI	Directorate of Criminal Investigations
DG	Director General
EACC	Ethics and Anti-Corruption Commission
FY	Financial Year
GoK	Government of Kenya
IAS	International Accounting Standards
CAK	Communications Authority of Kenya
KMTC	Kenya Medical Training College
KEMSA	Kenya Medical Supplies Authority
KUTRRH	Kenyatta University Teaching, Referral and Research Hospital
CWSK	Child Welfare Society of Kenya
PBORA	Public Benefit Organization Regulatory Authority

In this report, the Committee makes policy recommendations and at the same time recommends specific actions against specific officers. It further recommends further investigations of certain matters by competent investigative agencies such as the EACC and the DCI.

The Committee appreciates the Offices of the Speaker and the Clerk of the National Assembly for the support accorded to it to fulfil its Constitutional mandate. The Committee further extends its appreciation to the Office of the Auditor- General for the services they offered to the Committee during the entire period.

I also extend my appreciation to my fellow Members of the Committee whose contributions and dedication to duty has enabled the Committee to examine the audit queries and produce this report.

On behalf of the Public Investments Committee on Social Services, Administration and Agriculture and pursuant to National Assembly Standing Order 199(6), it is my pleasant duty and honour to present the 8<sup>th</sup> Report of the Public Investments Committee on Social Services Administration and Agriculture on the examination of the Reports of the Auditor General on the Financial Statements of Six (6) State Corporations.

 — 12/03/2026  
**HON. EMMANUEL WANGWE CBS, MP**

**CHAIRPERSON – PUBLIC INVESTMENTS COMMITTEE ON SOCIAL SERVICES,  
ADMINISTRATION AND AGRICULTURE**

## **EXECUTIVE SUMMARY**

The 8<sup>th</sup> Report of the Public Investments Committee on Social Services, Administration and Agriculture contains the Committee examination of Six (6) State Corporations.

In its examination and scrutiny of the audited financial statements of the various State Corporations, the Committee primary approach was to elicit background information as to why particular course of financial and/or management actions were or were not taken. This was done with the relevant laws in mind including, the Constitution, the Public Finance Management Act, 2012 and the attendant Regulations, the Public Audit Act, 2015, the State Corporations Act, and the Public Procurement & Asset Disposal Act, 2015.

The preface of the report contains preliminaries on the establishment of the Committee, its Membership and Secretariat, mandate and the guiding principles governing the Committee while undertaking its mandate.

Part two of the report contains the Committee general observations / findings on cross cutting issues, and its recommendations.

Part three of the report contains reports of the specific State Corporations, Committee Observations, findings and finally, Committee recommendations on the State Corporations.

## **2.0 PREFACE.**

### **3.0 1.1 Establishment and Mandate of the Committee**

1. The Public Investments Committee is established under the National Assembly Standing Order (S.O.) 206B and is responsible for the examination of the working of public investments based on their audited reports and accounts. It is mandated to –
  - i) examine the reports and accounts of public investments;
  - ii) examine the reports, if any, of the Auditor General on public investments; and
  - iii) Examine, in the context of the autonomy and efficiency of public investments, whether the affairs of the public investments are being managed in accordance with sound financial or business principles and prudent commercial practices.
  
2. The Committee, in considering the audited accounts of State Corporations, was guided by the Constitution of Kenya and the following statutes and regulations in carrying out its mandate;
  - i) The Public Finance Management Act, 2012;
  - ii) The Public Audit Act, 2015;
  - iii) The State Corporations Act, 1986;
  - iv) The Public Procurement and Assets Disposal Act, 2015;
  - v) The National Assembly Standing Orders; and
  - vi) The National Assembly (Powers and Privileges) Act, 2017.

### Committee Membership

3. The Committee membership comprises –

S/No	Member's Name	Constituency	Party
1.	Hon. Emmanuel Wangwe, MP CBS– <b>Chairperson</b>	Navakholo	ODM
2.	Hon. Caleb Amisi Luyai, MP- <b>Vice Chairperson</b>	Saboti	ODM
3.	Hon. Ferdinand Kevin Wanyonyi, MP	Kwanza	FORD-K
4.	Hon. Martin Peters Owino, MP	Ndhiwa	ODM
5.	Hon. Amb. Benjamin Langat,MP	Ainamoi	UDA
6.	Hon. Nixon Nicholas Ngikor Ngikolong, MP	Turkana East	Jubilee
7.	Hon. (Dr.) Lilian Gogo, MP	Rangwe	ODM
8.	Hon. Fatuma Jehow Abdi MP	Wajir	ODM
9.	Hon. Umulker Sheikh Kassim	Mandera	UDM
10.	Hon Elijah Njore Njoroge Kururia, MP	Gatundu North	Independent
11.	Hon. Caleb Mule Mutiso,MP	Machakos Town	MCCP
12.	Hon..Bishop Emeritus (Dr.) Jackson Kipkemoi Kosgei, MP	Nominated	UDA
13.	Hon. Joshua Kivinda Kimilu, MP	Kaiti	WDM
14.	Hon. Michael Wambugu Wainaina, MP	Othaya	UDA
15.	Hon. Paul Nabuin Ekwom, MP	Turkana North	ODM

#### 4.0 1.3 Committee Secretariat

4. The following members of the Secretariat facilitated the Committee:

Mr. Aden Abdullahi

##### **Principal Clerk Assistant I-Head of Secretariat**

Ms. Purity Macharia  
**Clerk Assistant III**

Ms. Mercy Kinyua  
**Legal Counsel II**

Mr. Abdimalik Ahmed  
**Clerk Assistant III**

Mr. Thomas Ogwel  
**Fiscal Analyst I**

Ms. Esther Kariuki  
**Hansard Officer III**

Mr. Wesley Abugah  
**Research Officer III**

Mr. Cosmas Akhonya  
**Audio Officer**

Ms. Maryan Gabow  
**Public Communication Officer III**

Mr. Stanley Langat  
**Senior Sergeant-At-Arms**

Mr Yakub Ahmed  
**Media Relations Officer II**

## **1.4 Committee Proceedings**

5. In its inquiry into whether the affairs of public investments are managed in accordance with sound business principles and prudent commercial practices, the Committee received both oral and written evidence from Chief Executive Officers of various State Corporations.
6. To produce this report, the Committee held ten (10) sittings in which it examined the evidence adduced by the accounting officers of the Six (6) State Corporations.
7. The recommendations are found under various sections of the report on each of the State Corporations examined.
8. The recommendations on the issues raised by the Auditor General for the various State Corporations are found under appropriate sections of the report for each of the State Corporations covered.
9. These observations and recommendations, if considered and implemented, will enhance accountability, effectiveness, transparency, efficiency, prudent management, commercial viability and value for money in State Corporations and the public investments sector as a whole.

### **General Committee Observations and Recommendations**

#### **Lack of Possession and ownership documents on land and buildings.**

10. The Committee observed and noted with concern that, Communication Authority of Kenya (CAK) did not possess title documents for the land that hosts Modika radio monitoring station in Garissa County. Similarly, Kenya Medical Supplies Authority does not possess ownership documents for various parcels of land valued at Kshs.158,000,000 located across the Country. Further, Child Welfare Society of Kenya had partial or no ownership documents for eighteen (18) parcels of land spread across the country. In addition,

### **Committee Recommendations**

#### **The Committee recommended that –**

- i) Within three (3) upon adoption of this report, the Accounting Officers for the respective State Corporations should liaise with the Principal Secretaries for the respective State Departments in the line Ministries and the National Land Commission to fast-track the process of acquiring title deeds to resolve ownership disputes and ensure legal actions are taken against private individuals who have illegally acquired public land.
- ii) Within three months upon the adoption of this report, the inspector general for the inspectorate of State corporations in collaboration with the Attorney General should compile

a report of all the public lands with ownership disputes in various courts and submit to the National Assembly to be used as a basis of initiating inquiries on ownership status of the public lands and repossession where applicable. Also put caveats on all the parcels of State Corporations land that are in private hands.

iii) The National Assembly should enact a law prescribing that all public land ownership documents should centrally be held under the custody of the National Treasury for safekeeping.

#### **Delay in availing documents to the Auditor-General**

11. The Committee observed that some accounting officers did not avail complete and reconciled financial and accounting records/documentation in time for audit review and verification during the audit exercise leading to unnecessary queries. This is contrary to the provisions of Article 226 of the Constitution and Section 68(2) of the PFM Act 2012 which requires that the financial and accounting records are presented within three (3) months after the close of the financial year. Section 62 of the public Audit Act of 2015 obligates accounting officers to provide required documents for audit failure to which they be sanctioned.

#### **Committee Recommendations**

##### **The Committee recommended that –**

- i) Accounting officers should always comply with the provisions of Section 68(2) of the Public Finance Management Act of 2012 by submitting all the required information for audit within the stipulated timelines.
- ii) The Accounting Officer who fails to provide required information for audit pursuant to 62(1) of the Public Audit Act, CAP 412B should be prosecuted for the offence pursuant to Section 62(2) of the Public Audit Act CAP 412B.

##### **Long outstanding receivables**

12. The Committee noted that Communication Authority of Kenya has experienced challenges in recovering from Telkom Kenya Limited outstanding debt in respect of annual frequency and license fees amounting to Kshs. Kshs. 5,695,935,298 (US Dollars 40,079,861). Despite the several attempts by the authority to pursue the debt with Telkom Kenya Limited through demand letters, emails and holding meetings with Telkom Kenya Limited, the amount remains

outstanding as to date. Further, Kenya Medical Training College has a long outstanding receivables amounting to Kshs.78,672,640 which relates to uncollected rent from the University of Nairobi and Kshs. 19,812,180 due from the Ministry of Health whose recoverability is in doubt.

Similarly, as at 30<sup>th</sup> June 2020, the County Governments and the Ministry of health owed KEMSA a total outstanding debt of Ksh. 2,848,869,466.67 and Kshs.2,125,491,871 respectively This was also coupled with lack of collection or recovery mechanisms, lack of effective debt management policies, poor recording systems and co-ordination between the debtors and the recipient entities.

### **Committee Recommendations**

#### **The Committee recommended that-**

- i. The Accounting Officers should ensure that there are proper and robust debt collection mechanisms, effective debt management policies and proper systems for recording the debts.
- ii. Within three months upon adoption of this report all the entities with outstanding receivables should initiate recoveries within the statutory provisions and identify any such debts that would be deemed irrecoverable, justification for the cause, prepare a report on the same, have it approved internally by the Board and forwarded to the National Treasury for approval of the write-offs. A copy of such reports should be submitted to the National Treasury and the Auditor-General for review.

#### **Long outstanding payables.**

13. The Committee noted that although the PFM Act CAP 412A provides that any pending bills from the first charge in the subsequent financial year budget, some State Corporations experienced challenges in paying their outstanding debts. This was occasioned by poor budgetary controls and a lack of proper documentation to support the payables.

### **Committee recommendations**

#### **The Committee recommended that –**

Within three months upon adoption of this report, all the entities with outstanding payables should prepare a report detailing how the payables arose, reasons for non-payment, measures

taken to repay the debts and the reasonable timelines when such debts would be settled. A copy of such reports should be submitted to the National Treasury and the Auditor-General for review.

#### **Delayed Accountability of Imprest.**

14. The Committee noted that some State Corporations were in breach of Section 71 of the Public Finance Management Act CAP 412A and the attendant regulations that require surrender of imprests within seven days upon conclusion of the assignment for which the said imprest was issued.

#### **Committee recommendations**

##### **The Committee recommended that –**

- i) The Accounting Officers should ensure that imprest advanced to officers is surrendered within the stipulated period of seven (7) days after return to the workstation in accordance with section 93 of the Public Finance Management (National Government) Regulations, 2015.
- ii) Within six months of the adoption of this report, the Accounting Officers who will have failed to take necessary steps to ensure that all outstanding imprests within their jurisdictions are recovered from the due date should be surcharged the full amount due.
- iii) The Accounting Officer should submit a status report with evidence of recovery to the Auditor-General for audit and reporting.

### **EXAMINATION OF THE REPORT OF THE AUDITOR GENERAL ON THE AUDITED ACCOUNTS OF COMMUNICATIONS AUTHORITY OF KENYA FOR THE FINANCIAL YEAR 2019/2020 –2023/2024**

#### **FINANCIAL YEAR 2019/2020**

**Mr. David Mugonyi, Director General of Communications Authority of Kenya was accompanied by Mr. Dominic Ooko (Ag. Director Finance) and Ms. Lydia Chelangat (Legal Officer) appeared before the Committee to adduce evidence on the Audited accounts of Communications Authority of Kenya for the Financial year 2019/2020 to 2023/2024.**

#### **1.0 Receivables from Non-Exchange Transactions**

15. The Committee heard that, the statement of financial position reflects a balance of Kshs.310,824,000 receivables from non-exchange transactions as at 30 June, 2020. As disclosed in Note 19 to the financial statements, the balance is net off cumulative provisions for bad and doubtful debts (general and specific) totaling to Kshs.2,575,850,000. Included in the cumulative provisions is an amount of Kshs.1,399,680,000 being provision for bad and doubtful debts for

the year. However, an analysis of the provision for the year revealed that an amount of Kshs.1,072,656,734 was owed by Telkom Kenya Limited comprising of general and specific provisions of Kshs.292,349,214 and Kshs.780,307,520 respectively.

16. However, Telkom Kenya Limited vide letter Ref.: TKL/RA/CA/(LIC), dated 21 December 2020, confirmed nil amount being owed to the Authority. However, no reconciliation was provided for audit review explaining the discrepancy of Kshs.1,072,656,734 between the two set of records. Further, The National Treasury vide letter Ref. TNT/ZZ/331/02 dated 29 June 2020, committed to provide to Telkom Kenya Limited the amount of money required to cover frequency spectrum fees for the financial years 2020 and 2021 despite the Management having provisioned for the bad and doubtful debt in full.
17. Under the circumstances, the accuracy and fair statement of the reported receivables from non-exchange transactions balance of Kshs.310,824,000 as at 30 June 2020 could not be confirmed.

**Management response**

18. The Management informed the Committee that, Telkom Kenya's assertion of a nil outstanding balance in their letter dated December 21st, 2020 (Ref: TKL/RA/CA/(LIC)) requesting a Compliance Certificate was based on the National Treasury's commitment (Ref: TNT/ZZ/331/02) dated June 29th, 2020. In this commitment, the National Treasury undertook to provide Telkom Kenya Limited with the funds required to cover Frequency Spectrum Fees for the Financial Years 2019/20 and 2020/21 and further requested that the CA allow Telkom to continue utilizing the Frequency Spectrum. Additionally, National Treasury's letter (Ref: TNT/ZZ/331/02) dated October 22nd, 2021, committed to make available to Telkom Kenya Limited the amount of money required to cover the Frequency Spectrum fees for the two (2) financial years amounting to Kshs. 2,213,077,093.62 and requested for CA's forbearance to enable Telkom Kenya Limited access regulatory approvals it requires.
19. However, in subsequent correspondence, Telkom Kenya acknowledged the debt specifically, in this letter dated January 11<sup>th</sup>, 2022, addressed to the National Treasury and copied to the Authority. Telkom Kenya requested expedited formalization and settlement of the outstanding regulatory fees amounting to Kshs. 3,198,172,691.62, quoting the national Treasury previous commitments (Ref: TNT/ZZ/331/02) dated June 29<sup>th</sup>, 2020 and letter (Ref: TNT/ZZ/331/02) dated October 22<sup>nd</sup>, 2021 that reiterated the commitment and requested CAK to assist Telkom Kenya obtain regulatory licenses required to operationalize the new Telkom Group structure.
20. The actions by Telkom Kenya clearly recognized the Authority's claim and confirmed the outstanding regulatory fees, further noting that any enforcement action would adversely affect their operations.

**2.0 Justification for the full provision of bad and doubtful debts for FY 2019/20**

21. While the National Treasury, through its letter dated June 28<sup>th</sup>, 2020, Ref: TNT/ZZ/331/02, and letter (Ref: TNT/ZZ/331/02) dated October 22<sup>nd</sup>, 2021 expressed commitment to support Telkom Kenya in meeting its spectrum fee obligations for FYs 2019/2020 and 2020/2021, the communication lacked;
  - a. Clear timelines for the release of funds, and

- b. An established mechanism through which the Authority would access the funds once disbursed to Telkom Kenya.
22. Considering this uncertainty, and in accordance with International Financial Reporting Standards (IFRS) 9—which mandates recognition of expected losses based on the amount, timing, and uncertainty of future cash flows—the Authority adopted a conservative accounting approach by fully provisioning the Telkom Kenya debt of Kshs.1,072,656,734 for FY 2019/2020 as bad and doubtful, due to the lack of a firm, time-bound settlement plan from The National Treasury. Notably, the debt remains unpaid to date and continues to grow due to ongoing annual billings.

### Current Status

23. The Authority has consistently and actively pursued the recovery of the outstanding debt. On August 14<sup>th</sup>, 2020, a formal request was made to the National Treasury for the release of the committed funds to safeguard the validity of licenses held by Telkom Kenya Limited with a copy shared with Telkom Kenya Limited (TKL). In parallel, the Authority engaged TKL directly through multiple follow-ups, including the issuance of demand letters, emails, convening of meetings and denial of additional frequency assignments until the outstanding payments are made. Additionally, the Authority, through a letter dated February 2nd, 2024 (Ref: CA/FA/048/1302) formally requested the National Treasury and the Attorney General to prioritize the settlement of the outstanding debt during the transition process.
24. These efforts culminated in the issuance of a formal demand note and a notice of intention to initiate enforcement through a letter dated December 22<sup>nd</sup>, 2021 (Ref: CA/FA/048/1302) due to continued non-payment of regulatory fees.
25. In response to the formal demand letter, Telkom Kenya Limited (TKL), in a letter dated January 11, 2022 wrote to the National Treasury—copying the Authority—requesting the expedited formalization and settlement of the outstanding amount. In this correspondence, TKL acknowledged the debt and noted that any enforcement action could adversely impact their operations.
26. As at the date of this report, Telkom Kenya Limited owes the Authority Kshs. 5,695,935,298 (US Dollars 40,079,861) as detailed in Table below;

### Analysis of Telkom Kenya's Debt

Description	Balance b/f as at FY 2019/20	F/Y 2019/20	F/Y 2020/21	F/Y 2021/22	F/Y 2022/23	F/Y2023 /24	F/Y2024/ 25	TOTAL
Annual Frequency and License fees	731,739,294.94	1,070,727,707.75	1,039,152,996.00	960,331,407.50	929,279,378.00	919,836,621.00	517,828,161.00	6,168,895,566.19
Universal Service	0.00	48,070,000.00	53,565,000.00	51,695,000.00	56,230,000.00	47,010,000.00	0.00	256,570,000.00

Description	Balance b/f as at FY 2019/20	F/Y 2019/20	F/Y 2020/21	F/Y 2021/22	F/Y 2022/23	F/Y2023 /24	F/Y2024/ 25	TOTAL
Fund (USF) Levy								
Payments	0.00	729,810,268.07	0.00	0.00	0.00	0.00	20,000.00	(729,830,268.07)
Total Outstanding Amount	731,739,294.94	388,987,439.68	1,092,717,996.00	1,012,026,407.50	985,509,378.00	966,846,621.00	517,808,161.00	5,695,935,298.12

### Committee Observations

#### The Committee observed that –

- i. Telkom Kenya Limited owes Communication Authority of Kenya Kshs. 5,695,935,298 in respect of spectrum fees. However, TKL has failed to pay the fees.
- ii. The National Treasury through a letter Ref: TNT/ZZ/331/02 dated 28<sup>th</sup> June 2020 committed to pay on behalf of Telkom Kenya Limited frequency spectrum fees amounting to Kshs. 2,213,077,093.62 for the financial years 2019/ 2020 and 2020/2021 and to further allow TKL to continue utilizing the Frequency Spectrum. However, the amount remains outstanding up to date.
- iii. The Authority has made several attempts to pursue the debt with Telkom Kenya Limited through demand letters, emails and holding meetings with Telkom Kenya Limited. On 21<sup>st</sup> December, 2021 CAK wrote a demand note and a notice of intention to institute enforcement action against the entity on account of non-payment of regulatory fees.
- iv. The Authority made a provision for bad and doubtful for the TKL debt amounting to Kshs.1,072,656,734 for the financial year 2019/2020 due to the lack of a firm, time-bound settlement plan from The National Treasury. the debt remains unpaid to date and continues to grow due to ongoing annual billings.

### Committee Recommendations

#### The Committee recommends –

Within three months upon adoption of this report, the Accounting Officer, Communication Authority of Kenya, the Principal Secretary National Treasury, Principal Secretary, State Department for Broadcasting and Telecommunications and the Attorney General to form an adhoc committee for the four (4) represented entities with a view to coming up with legally bidding and documented modalities for settling the outstanding amount and how to handle future obligations that may arise out of their engagements. The legally bidding Memorandum signed by the parties should be presented to the National Assembly and the Auditor-General for review.

### 2.0 Unauthorized Short-Term Deposits

27. The Committee heard that, the statement of financial position reflects a cash and cash equivalents balance of Kshs7,641,600,000 which, as disclosed in Note 18 to the financial statements, includes short term deposits amounting to Kshs. 5,120,743,000 held in two (2) local

commercial banks. However, the deposits were made without approval of the board contrary to section 21 (1) of Kenya Information and Communication Act Chapter 411A that requires all deposits placement to be sanctioned by the Board. Further, approval from The National Treasury was not provided for audit review.

28. The Authority was in breach of the law to this extent.

#### **Management response**

29. The management informed the Committee that, the auditors expected specific Board approvals for the individual placement of deposits. However, these functions fall within delegated authority in accordance with Section 9 of the Kenya Information and Communications Act (KICA), where the Board may delegate any of its functions to any committee, member, officer, employee or agent of the Authority.
30. Consequently, the responsibility for managing investments, including the placement and maturity of deposits is a delegated function to the Director General. This delegation is supported by the Finance & Accounting policy approved by the Minutes of the Board on December 8<sup>th</sup>, 2017 in Minute No. 566/55/2017.
31. The policy outlining the operational framework for managing investment functions, under paragraph 2.3.3, delegates the implementation of the investment function to the Director General, with quarterly updates provided to the Board.
32. The Board is informed during the budget development about the expected investment income and additionally, the Board receives quarterly financial reports that provide a detailed overview of the Authority's financial activities, including expected cash requirements.

#### **Current Status**

33. As disclosed in Note 18(b), the Authority progressively reduced its fixed deposit holding from Kshs. 5,120,743,000 in FY 2019/20 to Kshs. 477,049,000 in FY 2020/21, all of which was eventually liquidated on May 13<sup>th</sup>, 2021.
34. In order to comply with the National Treasury Circular No. 4/2017 dated May 2<sup>nd</sup>, 2017 which the authorized the placement of such funds in short-term or on-call deposit instruments within National Treasury-approved financial institutions—specifically, in this case, Cooperative Bank and Kenya Commercial Bank.

#### **Committee Observations**

##### **The Committee observed that –**

The deposits were made without approval of the National Treasury and the Board. Therefore, the Authority was in breach of section 21 (1) of the Kenya Information and Communication Act, CAP. 411A which provides that the Board may invest any of the funds of the Authority which are not immediately required for its purposes in such securities as the National Treasury may, from time to time, approve

##### **Committee Recommendations**

##### **The Committee recommends that –**

Within three months upon adoption of this report, the Accounting Officer, Communication Authority of Kenya to submit documentary evidence of the short-term deposits of Kshs.5,120,743,000 including board approval for the deposits, certificate of deposits from the two (2) local commercial banks showing the terms of deposits, interest rates applicable,

conditions for the duration to maturity and reinvestment of the proceeds. Also submit the certified bank statements showing the actual amounts fixed, interest earned and the ploughed back upon maturity to the Auditor-General for review and reporting in the subsequent audit cycle on the efficiency of the investment, the value for money from the investment and any loss in value if any.

**Employee Costs-Acting Allowance**

- 35. The Committee heard that as disclosed in Note10 to the financial statements, the statement of financial performance reflects an expenditure of Ksh. 1,295,482,000 under employee costs. Examination of this account revealed that an amount of Ksh. 22,361,582 was paid as acting allowances for sixty-one (61) officers who served in vacant positions during the year under review. However, fifty-four (54) of the officers had been in acting capacity for periods exceeding six months, with some dating as far back as 2015. This is contrary to the authority’s Human Resource Management Policy and labor laws which require one to serve in an acting capacity for periods not exceeding six months.
- 36. Consequently, the management was in breach of the law.

**Management response**

- 37. The Authority acknowledges the audit finding regarding extended acting appointments beyond the prescribed period.
- 38. In accordance with Section 7 of the Human Resource Policy Manual acting appointments are intended as a temporary measure, pending the substantive filling of vacant positions through either recruitment or promotion. However, the policy funder section 7.3 further provides those acting appointments maybe extended beyond the six (6) months under justifiable circumstances.
- 39. The delay in filling the vacant positions was interrupted by court proceedings related to recruitment which affected the timelines for addressing the vacancies. The Authority began regularizing acting appointments in FY 2022/23, resulting in the filling of 44 positions. This effort continued into FY 2023/24, during which five (5) additional positions were filled, as shown in Table the table and supported by the outcomes of the internal recruitment and selection process.

**Filling of vacant positions**

Number of Acting positions – FY 2019/20	Number of Positions filled (FY2022/23)	Number of Staff who retired	Number of Positions filled (FY 2023/24)
54	44	5	5

**Committee Observations**

**The Committee observed that –**

Fifty-four (54) officers were in acting capacity for periods exceeding six months, with some dating as far back as 2015 contrary to section 34 (3) of the Public Service Commission Act, CAP 185, which requires that an officer may be appointed in an acting capacity for a period not exceeding six months.

**Committee Recommendations**

**The Committee recommended that –**

- i) The Committee reprimands the then Accounting Officers for breach of section 34 (3) of the Public Service Commission Act, CAP 185.
- ii) Within three months upon adoption of this report, the Inspector General of State Corporations to surcharge and recover from the then Accounting Officer (s) and Board members the monies (Kshs.22,361,582) paid as acting allowances beyond the stipulated period of six months.

## **FINANCIAL YEAR 2020/2021**

### **1.0 Receivables from Non-Exchange Transactions**

40. The Committee heard that, the statement of financial position reflects receivables from non-exchange transactions balance of Kshs.300,520,000 under receivables from non-exchange transactions as at 30 June, 2021. As disclosed in Note 19 to the financial statements, the balance is net off cumulative provisions for bad and doubtful debts (general and specific) totaling to Kshs.3,600,774,000. Included in the cumulative provisions is an amount of Kshs. 2,111,809,730 which relates to the balance owed by Telkom Kenya Limited.
41. However, according to letter Ref: TNT/ZZ/331/02 dated 29<sup>th</sup> June, 2020, The National Treasury committed to provide to Telkom Kenya Limited the amount of money required to cover frequency spectrum fees for the financial years 2019/2020 and 2020/2021 despite the Management having provisioned for the bad and doubtful debt in full. Further, records indicate that as at the time of this audit in November 2021, no money had been received from The National Treasury. In addition, as previously reported, Telkom Kenya Limited vide, letter Ref: TKL/RA/CA/(LIC) dated 21 December, 2020 indicated nil amount being owed to the Authority. Management has not explained the varying details in the two sets of record.
42. Under the circumstances, the accuracy and fair statement of the reported receivables from non-exchange transactions balance of Kshs. 300,520,000 as at 30 June, 2021 could not be confirmed.

### **Management response**

43. The management informed the Committee that, Telkom Kenya's assertion of a nil outstanding balance in their letter dated December 21st, 2020 (Ref: TKL/RA/CA/(LIC)) requesting a Compliance Certificate (Annex 1), was based on the National Treasury's commitment (Ref: TNT/ZZ/331/02) dated June 29th, 2020. In this commitment, the Treasury undertook to provide Telkom Kenya Limited with the funds required to cover Frequency Spectrum Fees for the Financial Years 2019/20 and 2020/21 and further requested that the CA allow Telkom to continue utilizing the Frequency Spectrum. Additionally, National Treasury's letter (Ref: TNT/ZZ/331/02) dated October 22nd, 2021, committed to make available to Telkom Kenya Limited the amount of money required to cover the Frequency Spectrum fees for the two (2) financial years amounting to Kshs. 2,213,077,093.62 and requested for CA's forbearance to enable Telkom Kenya Limited access regulatory approvals it requires.
44. However, in subsequent correspondence, Telkom Kenya acknowledged the debt specifically, in this letter dated January 11<sup>th</sup>, 2022, addressed to the National Treasury and copied to the Authority, Telkom Kenya requested expedited formalization and settlement of the outstanding regulatory fees amounting to Kshs.3,198,172,691.62, quoting the national Treasury previous commitments (Ref: TNT/ZZ/331/02) dated June 29<sup>th</sup>, 2020, and letter (Ref: TNT/ZZ/331/02)

- dated October 22<sup>nd</sup>, 2021 that reiterated the commitment and requested CAK to assist Telkom Kenya obtain regulatory licenses required to operationalize the new Telkom Group structure.
45. The actions above by Telkom Kenya, clearly recognized the Authority's claim and confirmed the outstanding regulatory fees, further noting that any enforcement action would adversely affect their operations.
  46. While the National Treasury, through its letter dated June 28<sup>th</sup>, 2020, Ref: TNT/ZZ/331/02, and letter (Ref: TNT/ZZ/331/02) dated October 22<sup>nd</sup>, 2021 expressed commitment to support Telkom Kenya in meeting its spectrum fee obligations for FYs 2019/2020 and 2020/2021, the communication lacked;
    - i. Clear timelines for the release of funds, and
    - ii. An established mechanism through which the Authority would access the funds once disbursed to Telkom Kenya.
  47. Considering this uncertainty, and in accordance with International Financial Reporting Standards (IFRS) 9—which mandates recognition of expected losses based on the amount, timing, and uncertainty of future cash flows—the Authority adopted a conservative accounting approach by fully provisioning the cumulative Telkom Kenya debt of Kshs. 2,111,809,730 (Kshs. 1,072,656,734 for FY 2019/2020 and Kshs. 1,039,152,996 for FY 2020/21) as bad and doubtful, due to the lack of a firm, time-bound settlement plan from The National Treasury. Notably, the debt remains unpaid to date and continues to grow due to ongoing annual billings.

#### **Current Status**

48. The Authority has consistently and actively pursued the recovery of the outstanding debt. On August 14<sup>th</sup>, 2020, a formal request was made to the National Treasury for the release of the committed funds to safeguard the validity of licenses **held by Telkom Kenya Limited** with a copy shared with Telkom Kenya Limited (TKL). In parallel, the Authority engaged TKL directly through multiple follow-ups, including the issuance of demand letters, emails, convening of meetings and denial of additional frequency assignments until the outstanding payments are made. Additionally, the Authority, through a letter dated February 2<sup>nd</sup>, 2024 (Ref: CA/FA/048/1302) formally requested the National Treasury and the Attorney General to prioritize the settlement of the outstanding debt during the transition process.
49. These efforts culminated in the issuance of a formal demand note and a notice of intention to initiate enforcement through a letter dated **December 22<sup>nd</sup>, 2021 (Ref: CA/FA/048/1302)** due to continued non-payment of regulatory fees.
50. In response to the formal demand letter, Telkom Kenya Limited (TKL), in a letter dated January 11, 2022 wrote to the National Treasury—copying the Authority—requesting the expedited formalization and settlement of the outstanding amount. In this correspondence, TKL acknowledged the debt and noted that any enforcement action could adversely impact their operations.
51. As at the date of this report, Telkom Kenya Limited owes the Authority Kshs. 5,695,935,298

### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of Receivables from Non-Exchange Transactions in its report for the Financial Year 2019/2020, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

### **2.0 Unauthorized Short-Term Deposits**

52. The Committee heard that, the statement of financial position reflects a cash and cash equivalents balance of Kshs7,866,780,000 which, as disclosed in Note 18 to the financial statements, includes short term deposits amounting to Kshs. 477,049,000 held in two (2) local commercial banks. However, during the year under review, the Authority earned interest totaling Kshs. 461,445,000 on cash at bank and fixed deposits. However, as previously reported, the deposits were made without approval of the board contrary to section 21 (1) of Kenya Information and Communication Act Chapter 411A that requires all deposits placement to be sanctioned by the Board. Further, approval from The National Treasury was not provided for audit review. In the circumstances, the Authority was in breach of the law.

### **Management response**

53. The auditors expected specific Board approvals for the individual placement of deposits. However, these functions fall within delegated authority in accordance with Section 9 of the Kenya Information and Communications Act (KICA), where the Board may delegate any of its functions to any committee, member, officer, employee or agent of the Authority.
54. Consequently, the responsibility for managing investments, including the placement and maturity of deposits is a delegated function to the Director General. This delegation is supported by the Finance & Accounting policy approved by the Minutes of the Board on December 8<sup>th</sup>, 2017, Minute No. 566/55/2017.
55. The policy outlining the operational framework for managing investment functions, under paragraph 2.3.3, delegates the implementation of the investment function to the Director General, with quarterly updates provided to the Board.
56. The Board is informed during the budget development about the expected investment income and additionally, the Board receives quarterly financial reports that provide a detailed overview of the Authority's financial activities, including expected cash requirements.

### **Current Status**

57. As disclosed in Note 18(b), the Authority fully liquidated the fixed deposit balance of Kshs. 477,049,000 held with Cooperative Bank—contrary to the audit finding that referenced two (2) commercial banks. The liquidation took place on May 13th, 2021, as detailed in Note 18(b)
58. In order to comply with the National Treasury Circular No. 4/2017 dated May 2nd, 2017 (Annex 14), the circular authorizes the placement of such funds in short-term or on-call deposit instruments within National Treasury-approved financial institutions—specifically, in this case, Cooperative Bank.

### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of Unauthorized Short-Term Deposits in its report for the Financial Year 2019/2020, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **3.0 Employee Costs-Acting Allowance**

59. The Committee heard that, as disclosed in Note 10 to the financial statements, the statement of financial performance reflects an expenditure of Ksh. 1,327,342,000 under employee costs. The expenditure includes an amount of Ksh. 22,361,582 paid as acting allowances for sixty-one (61) members of staff who served in vacant positions during the year under review. However, fifty-four (54) of the officers had been in acting capacity for periods exceeding six months, with some dating as far back as 2015. This is contrary to the Authority's Human Resource Management Policy and labour laws which require one to serve in an acting capacity for a period not exceeding six months.
60. In the circumstances, the Management was in breach of the law.

#### **Management response**

61. The Authority acknowledges the audit finding regarding extended acting appointments beyond the prescribed period.
62. In accordance with Section 7 of the Human Resource Policy Manual (Annex 16), acting appointments are intended as a temporary measure, pending the substantive filling of vacant positions through either recruitment or promotion. However, the policy funder section 7.3 further provides those acting appointments maybe extended beyond the six (6) months under justifiable circumstances.
63. The delay in filling the vacant positions was interrupted by court proceedings related to recruitment which affected the timelines for addressing the vacancies. The Authority began regularizing acting appointments in FY 2022/23, resulting in the filling of 44 positions. This effort continued into FY 2023/24, during which five (5) additional positions were filled.

### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of Employee Costs-Acting Allowance in its report for the Financial Year 2019/2020, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

## **FINANCIAL YEAR 2021/2022**

### **1.0 Unconfirmed Receivables from Non-Exchange Transactions**

64. The Committee heard that, the statement of financial position reflects receivables from non-exchange transactions balance of Kshs.548,334,000 as disclosed in Note 19 to the financial statements. The balance is net off cumulative provisions for bad and doubtful debts (general and specific) totaling to Kshs.6,348,903,000. Included in the balance of Kshs.6,348,903,000 in an amount of Kshs. 3,060,718,138 which relates to the balance owed by Telkom Kenya Limited. However, according to letter Ref: TNT/ZZ/331/02 dated 29 June, 2020, The National Treasury

committed to pay the frequency spectrum for the financial years 2019/2020 and 2020/2021 despite the management having provisioned for the bad and doubtful debt in full. Further, records indicate that as at the time of this audit in December 2022, no money had been received from The National Treasury. In addition, as previously reported, Telkom Kenya Limited vide, letter Ref: TKL/RA/CA/(LIC) dated 21 December, 2020 indicated nil amount being owed to the Authority. Management did not explain the varying details in the two sets of record.

65. In the circumstances, the accuracy, completeness and fair statement of the receivables from non-exchange transactions balance of Kshs. 548,334,000 could not be confirmed.

#### **Management response**

66. The management informed the Committee that, Telkom Kenya's assertion of a nil outstanding balance in their letter dated December 21st, 2020 (Ref: TKL/RA/CA/(LIC)) requesting a Compliance Certificate was based on the National Treasury's commitment (Ref: TNT/ZZ/331/02) dated June 29th, 2020. In this commitment, the Treasury undertook to provide Telkom Kenya Limited with the funds required to cover Frequency Spectrum Fees for the Financial Years 2019/20 and 2020/21 and further requested that the CA allow Telkom to continue utilizing the Frequency Spectrum. Additionally, National Treasury's letter (Ref: TNT/ZZ/331/02) dated October 22<sup>nd</sup>, 2021, committed to make available to Telkom Kenya Limited the amount of money required to cover the Frequency Spectrum fees for the two (2) financial years amounting to Kshs. 2,213,077,093.62 and requested for CAK forbearance to enable Telkom Kenya Limited access regulatory approvals it requires.
67. However, in subsequent correspondence, Telkom Kenya acknowledged the debt specifically, in this letter dated January 11th, 2022, addressed to the National Treasury and copied to the Authority, Telkom Kenya requested expedited formalization and settlement of the outstanding regulatory fees amounting to Kshs.3,198,172,691.62, quoting the national Treasury previous commitments (Ref: TNT/ZZ/331/02) dated June 29th, 2020, and letter (Ref: TNT/ZZ/331/02) dated October 22<sup>nd</sup>, 2021 that reiterated the commitment and requested CAK to assist Telkom Kenya obtain regulatory licenses required to operationalize the new Telkom Group structure.
68. The actions above by Telkom Kenya, clearly recognized the Authority's claim and confirmed the outstanding regulatory fees, further noting that any enforcement action would adversely affect their operations.
69. While the National Treasury, through its letter dated June 28th, 2020, Ref: TNT/ZZ/331/02, and letter (Ref: TNT/ZZ/331/02) dated October 22<sup>nd</sup>, 2021 expressed commitment to support Telkom Kenya in meeting its spectrum fee obligations for FYs 2019/2020 and 2020/2021, the communication lacked;
  - a) Clear timelines for the release of funds, and
  - b) An established mechanism through which the Authority would access the funds once disbursed to Telkom Kenya.

70. Considering this uncertainty, and in accordance with International Financial Reporting Standards (IFRS) 9—which mandates recognition of expected losses based on the amount, timing, and uncertainty of future cash flows—the Authority adopted a conservative accounting approach by fully provisioning the cumulative Telkom Kenya debt of Kshs.3,060,718,138 (Kshs. 1,072,656,734 for FY 2019/2020, Kshs. 1,039,152,996 for FY 2020/21 and Kshs. 948,908,408 for FY 2021/22) as bad and doubtful, due to the lack of a firm, time-bound settlement plan from The National Treasury. Notably, the debt remains unpaid to date and continues to grow due to ongoing annual billings.

#### **Current Status**

71. The Authority has consistently and actively pursued the recovery of the outstanding debt. On August 14<sup>th</sup>, 2020, a formal request was made to the National Treasury for the release of the committed funds to safeguard the validity of licenses held by Telkom Kenya Limited with a copy shared with Telkom Kenya Limited (TKL). In parallel, the Authority engaged TKL directly through multiple follow-ups, including the issuance of demand letters, emails, convening of meetings and denial of additional frequency assignments until the outstanding payments are made. Additionally, the Authority, through a letter dated February 2nd, 2024 (Ref: CA/FA/048/1302) formally requested the National Treasury and the Attorney General to prioritize the settlement of the outstanding debt during the transition process.
72. These efforts culminated in the issuance of a formal demand note and a notice of intention to initiate enforcement through a letter dated December 22nd, 2021 (Ref: CA/FA/048/1302) due to continued non-payment of regulatory fees.
73. In response to the formal demand letter, Telkom Kenya Limited (TKL), in a letter dated January 11, 2022 wrote to the National Treasury—copying the Authority—requesting the expedited formalization and settlement of the outstanding amount. In this correspondence, TKL acknowledged the debt and noted that any enforcement action could adversely impact their operations.
74. As at the date of this report, Telkom Kenya Limited owes the Authority Kshs. 5,695,935,298 (US Dollars 40,079,861)

#### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of Unconfirmed Receivables from Non-Exchange Transactions in its report for the Financial Year 2019/2020, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **Other Matter**

#### **Unresolved Prior Year Issues**

#### **Committee Observations and Recommendations**

The Committee had deliberated on the prior year issues of Unauthorized Short-Term Deposits and Employee Costs-Acting Allowance in its report for the Financial Year 2019/2020, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

## **FINANCIAL YEAR 2022/2023**

### **1.0 Property, Plant and Equipment**

75. The Committee heard that, the statement of financial position reflects property, plant and equipment balances of Kshs.19,287,929,000 as disclosed in Note 21 to the financial statements which includes freehold land with a value of Kshs.15,957,281,000. However, the following unsatisfactory observations were made:

#### **1.1 Lack of Ownership Documents for Land in Garissa County**

76. The Authority has erected a monitoring station on a land in Garissa County. However, the land has not been valued for inclusion in the financial statements. Further, the ownership documents (title deeds) for the land were not provided for audit review.

#### **Management response**

77. The management informed the Committee that, in 1976, the Kenya Posts and Telecommunications Corporation (KPTC) set up the “Modika Radio Monitoring Station” in Garissa. The station was thereafter vested upon the Communications Commission of Kenya (CCK), and subsequently Authority upon its establishment as a regulator during the sector liberalization in 1999, which saw KPTC split into three entities including the CCK – the Authority’s predecessor.
78. Since 2014, the Authority has engaged in discussions with the Garissa County Council (defunct) and later the current Garissa County Government regarding its acquisition. The discussions have been ongoing since then. The Authority has engaged the National Land Commission (NLC) to assist with the acquisition of the land parcel.

#### **Committee Observations**

The Committee observed that the accounting officer failed to acquire ownership documents and include in the financial statements the value of parcels of Land in Garissa County. This is contrary to;

- a) the International Accounting Standards (IAS 16) which require entities to disclose sufficient, relevant and representationally faithful information about property, plant and equipment to enable users of its financial statements to understand and evaluate the effect property, plant and equipment has on the financial position, financial performance and cash flows of the entity.
- b) Regulation 139 of Public Finance Management (National Government) Regulations 2015 which requires accounting officers of national government to take full responsibility and ensure proper control systems are in place to safeguard the assets.

#### **Committee recommendations**

**The Committee recommends that –**

- i) The Committee reprimands the then Accounting Officer for failure to adhere to relevant laws and standards guiding on presentation of Property, Plant and Equipment namely the Public Finance Management (National Government) Regulations, 2015 and International Public Sector Accounting Standards. Subsequently, the accounting officer must always ensure the correct value of assets are disclosed in the financial statements.
- ii) Within three months upon adoption of this report, the Principal Secretary for State Department for Broadcasting & Telecommunications in conjunction with the National Lands Commission to fast-track the issue of CAK land.

## **2.0 Existing Charge on Land in Trans-Nzoia County**

79. The Authority has a land and property in Trans-Nzoia County valued at approximately Kshs. 68,570,000. The land originally belonged to the Agricultural Finance Corporation but was transferred to the defunct Kenya Posts and Telecommunications. In 1999, the ownership of the land was again transferred to Communications Authority of Kenya for the construction of a monitoring station. However, review of the certificate of title revealed that the parcel of land had a charge of Kshs. 462,500,000 relating to Kenya Commercial Bank against Agricultural Development Corporation. The charge was registered on 12 October, 2010 which is five (5) months after the title had been transferred to the Authority from Kenya Posts and Telecommunication.
80. In circumstances, the accuracy, completeness and ownership of the freehold land valued at Kshs.15,957,281,000 could not be confirmed.

### **Management response**

81. The management informed the Committee that, the Sabwani Farm in Kitale was part of the assets that was vested upon the Communications Commission of Kenya (CCK) at the split of Kenya Posts and Telecommunications Corporation (KPTC) in 1999. At the time, the Sabwani Farm was part of a larger parcel of land (i.e. Land Title No. IR 1156) ("the Mother Title") owned by the Agricultural Development Corporation (ADC). KPTC and later the CCK set down to acquire part of this land as part of titling for the establishment of a Radio Spectrum Monitoring Station (RSMS).
82. The transaction, which involved acquisition of 30 acres of land for a sale price of Kshs. 1,023,154.15, was taken over by CCK as part of the vestment that arose from the split of KPTC. The transaction meant that the Mother Title would be subdivided to result in the portion that KPTC/CCK were interested in being created.
83. At the time of the transaction, the Mother Title had a Charge in favour of the Kenya Commercial Bank (KCB) (per Entry Nos. 9 and 10 in the Mother Title). Hence, for the subdivision to take place in favour of CCK, a Partial Discharge had to be issued by KCB to exclude the portion of CCK's interest from the Charge on the Mother Title (per Entry No. 11 in the Mother Title).

84. This partial discharge was followed by the creation of Title LR 2993/1 (IR 126183) and transfer of the same 30 acres to CCK on May 31st, 2010. This new title had its separate and distinct Certificate of Title issued to CCK without any encumbrance.
85. Upon the successful subdivision and issuance of Certificate for Title LR 2993/1 (IR 126183) as explained above, KCB and ADC reinstated the earlier Charge as between themselves (per Entry No. 13 in the Mother Title).
86. We, therefore, wish to confirm that the Charge in issue (i.e Entry No. 13 in the Mother Title) is a Charge on the Mother Title (IR 1156) and not the Authority's Certificate for Title LR 2993/1 (IR 126183). The Authority's title for the Sabwani Farm is thus free of any encumbrance which contains the Lands Registry's endorsement/certification of February 25<sup>th</sup>, 2025.

#### **Committee Observation**

The Committee observed that the Charge in Entry No. 13 was in the Mother Title and not on the Authority's Certificate for Title LR 2993/1 (IR 126183). The Authority's title for the Sabwani Farm is thus free of any encumbrance which contains the Lands Registry's endorsement/certification of February 25<sup>th</sup>, 2025.

The accounting officer was in breach of Regulation 139 of the Public Finance Management (National Government) Regulations, 2015 which requires accounting officers of national government to take full responsibility and ensure proper control systems are in place to safeguard the assets.

#### **Committee Recommendations**

##### **The Committee recommends that –**

- i) The Committee reprimands the then Accounting Officer for breach of Regulation 139 of the Public Finance Management Regulation (National Government) Regulations, 2015.
- ii) Within three months upon adoption of this report, the Principal Secretary for State Department for Broadcasting & Telecommunications in conjunction with the National Lands Commission to fast-track the issue of CAK land.

#### **3.0 Unconfirmed Receivables from Non-Exchange Transactions**

87. The management informed the Committee that, the statement of financial position reflects receivables from non-exchange transactions balance of Kshs.134,787,000 and as disclosed in Note 19 to the financial statements. The balance is net off cumulative provisions for bad doubtful debts (general and specific totaling Kshs. 7,446,747,000. Included in the balance of Kshs.7,446,747,000 is an amount of Kshs. 4,001,420,516 which relates to the balance owed by Telkom Kenya Limited. However, according to a letter Ref. TNT/ZZ/331/02 dated 29th June,2020, the National Treasury committed to pay the frequency spectrum for financial years 2019/2020 and 2020/2021 despite the management having provisioned for the bad and doubtful debts in full. Further, records indicate that as at the time of audit in January, 2024 no money had been received from the National Treasury. In addition, as previously reported Telkom Kenya

Limited vide letter Ref: TKL/RA/CA/(LIC) dated 21 December, 2020 indicated as Nil amount being owed to the Authority.

88. In the circumstances, the accuracy completeness of receivables from non-exchange transactions balance of Kshs.4,001,420,516 could not be confirmed.

#### **Management response**

89. The management informed the Committee that, Telkom Kenya's assertion of a nil outstanding balance in their letter dated December 21st, 2020 (Ref: TKL/RA/CA/(LIC)) requesting a Compliance Certificate was based on the National Treasury's commitment (Ref: TNT/ZZ/331/02) dated June 29th, 2020. In this commitment, the Treasury undertook to provide Telkom Kenya Limited with the funds required to cover Frequency Spectrum Fees for the Financial Years 2019/20 and 2020/21 and further requested that the CA allow Telkom to continue utilizing the Frequency Spectrum. Additionally, National Treasury's letter (Ref: TNT/ZZ/331/02) dated October 22nd, 2021, committed to make available to Telkom Kenya Limited the amount of money required to cover the Frequency Spectrum fees for the two (2) financial years amounting to Kshs. 2,213,077,093.62 and requested for CA's forbearance to enable Telkom Kenya Limited access regulatory approvals it requires.
90. However, in subsequent correspondence, Telkom Kenya acknowledged the debt specifically, in this letter dated January 11th, 2022, addressed to the National Treasury and copied to the Authority, Telkom Kenya requested expedited formalization and settlement of the outstanding regulatory fees amounting to Kshs. 3,198,172,691.62, quoting the national Treasury previous commitments (Ref: TNT/ZZ/331/02) dated June 29th, 2020, and letter (Ref: TNT/ZZ/331/02) dated October 22nd, 2021 that reiterated the commitment and requested CA to assist Telkom Kenya obtain regulatory licenses required to operationalize the new Telkom Group structure.
91. The actions above by Telkom Kenya, clearly recognized the Authority's claim and confirmed the outstanding regulatory fees, further noting that any enforcement action would adversely affect their operations.
92. While the National Treasury, through its letter dated June 28<sup>th</sup>, 2020, Ref: TNT/ZZ/331/02, and letter (Ref: TNT/ZZ/331/02) dated October 22<sup>nd</sup>, 2021 expressed commitment to support Telkom Kenya in meeting its spectrum fee obligations for FYs 2019/2020 and 2020/2021, the communication lacked;
- a) Clear timelines for the release of funds, and
  - b) An established mechanism through which the Authority would access the funds once disbursed to Telkom Kenya.
93. Considering this uncertainty, and in accordance with International Financial Reporting Standards (IFRS) 9—which mandates recognition of expected losses based on the amount, timing, and uncertainty of future cash flows—the Authority adopted a conservative accounting approach by fully provisioning the cumulative Telkom Kenya debt of Kshs. 4,001,420,516 (Kshs. 1,072,656,734 for FY 2019/2020, Kshs. 1,039,152,996 for FY 2020/21, Kshs. 948,908,408 for FY 2021/22 and Kshs. 940,702,378 for FY 2022/23) as bad and doubtful, due to the lack of a

firm, time-bound settlement plan from The National Treasury. Notably, the debt remains unpaid to date and continues to grow due to ongoing annual billings.

94. The Authority has consistently and actively pursued the recovery of the outstanding debt. On August 14<sup>th</sup>, 2020, a formal request was made to the National Treasury for the release of the committed funds to safeguard the validity of licenses held by Telkom Kenya Limited with a copy shared with Telkom Kenya Limited (TKL). In parallel, the Authority engaged TKL directly through multiple follow-ups, including the issuance of demand letters, emails, convening of meetings and denial of additional frequency assignments until the outstanding payments are made. Additionally, the Authority, through a letter dated February 2<sup>nd</sup>, 2024 (Ref: CA/FA/048/1302) formally requested the National Treasury and the Attorney General to prioritize the settlement of the outstanding debt during the transition process.
95. These efforts culminated in the issuance of a formal demand note and a notice of intention to initiate enforcement through a letter dated December 22<sup>nd</sup>, 2021 (Ref: CA/FA/048/1302) due to continued non-payment of regulatory fees.
96. In response to the formal demand letter, Telkom Kenya Limited (TKL), in a letter dated January 11, 2022 wrote to the National Treasury—copying the Authority—requesting the expedited formalization and settlement of the outstanding amount. In this correspondence, TKL acknowledged the debt and noted that any enforcement action could adversely impact their operations.
97. As at the date of this report, Telkom Kenya Limited owes the Authority Kshs.5,695,935,298 (US Dollars 40,079,861.)

#### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of Receivables from Non-Exchange Transactions in its report for the Financial Year 2019/2020, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **3.0 Inaccuracies in the Statement of Cash Flows**

98. The Committee heard that, the statement of cash flows reflects a balance of Kshs.10,706,601,000 as cash and cash equivalents as at 30 June 2023. However, balance of remittance to the National Treasury of Kshs. 5,982,499,000 was not supported by either a ledger or a note to give its breakdown. Additionally, Note 23 to the financial statements indicates total remittance to the National Treasury as Kshs.3,692,446,000 (same as balance reflected in the statement of financial performance) resulting to unreconciled variance of Kshs.2,290,053,000.
99. The statement further reflects, under investing activities, purchase of property, plant and equipment balance of Kshs.1,190,659,000 which however varies with the balance disclosed in both Notes 21 (B) and 22 of Kshs.963,280,000 and Kshs.141,182,000 respectively totaling to Kshs. 1,104,462,000 resulting to unconfirmed and reconciled variance of Kshs. 86,197,000. Furthermore, note 28 on cash generated from operations, reflects decrease in receivables from non-exchange transactions of Kshs. 684,297,000 while a recomputation of the same indicates the decrease to be Kshs. 413,547,000 resulting to unreconciled variance of Kshs.270,750,000.

100. In the circumstance, the accuracy and completeness of the cash and cash equivalents balance of Kshs. 10,706,601,000 could not be confirmed.

**Management response**

**Remittance to the National Treasury (TNT):**

101. The management informed the Committee that the total remittance to the National Treasury reflected in the FY 2022/23 cash flow statement amounts to Kshs. 5,982,499,000. This comprises two components:

- a) Payment of Kshs. 3,982,499,000 made on September 29th, 2022 which pertains to the remittance for FY 2021/22, and
- b) An advance payment of Kshs. 2,000,000,000 made on February 24th, 2023 relating to the 90% surplus for FY 2022/23.

102. The audit observation identified a variance of Kshs. 2,290,053,000 between the total remittance reported in the FY 2022/23 cash flow statement Kshs. 5,982,499,000 and the actual remittance paid to the National Treasury on October 24th, 2023, was Kshs. 3,692,447,000.

**Analysis/breakdown of the remittance to the National Treasury Kshs. 5,982,499,000 resulting to unreconciled variance of Kshs. 2,290,053,000**

S/No	Description	FS	Note	Amount Kshs('000)
4	Remittance for FY 2021/22 paid on September 29 <sup>th</sup> , 2022 ( <b>Annex 14</b> )	FS2021/22	Note23	3,982,499
5	Advance Payment for FY 2022/23 paid on February 24 <sup>th</sup> , 2023 ( <b>Annex 15</b> )	FS2022/23	Note13	2,000,000
6	<b>Total Remittance to TNT in FY 2022/23 in Cashflow statement</b>	<b>FS2022/23</b>	<b>C/flow</b>	<b>5,982,499</b>
14	<b>Audit Observation</b>			
15	Total Remittance to TNT in FY 2022/23 reported in the Cashflow statement	FS2022/23	C/flow	5,982,499
16	Remittance to TNT paid on October 24 <sup>th</sup> , 2023 ( <b>Annex 16</b> )	FS 2022/23	Note23	(3,692,447)
17	<b>Audit Observation variance (No. 15-16)</b>			<b>2,290,053</b>

**Purchase of Property, Plant and Equipment (PPE)**

103. The audit observation identified a variance of Kshs. 86,197,000 between the amount reported under the purchase of Property, Plant, and Equipment (PPE) in the FY 2022/23 cash flow statement, which totaled Kshs. 1,190,659,000 and the total asset additions disclosed in Notes 21B and 22 amounting to Kshs. 1,104,462,000 (comprising Kshs. 963,280,000 for PPE and Kshs. 141,182,000 for intangible assets.)

104. However, this observation inadvertently failed to account for additional asset entries, largely Kshs. 86,335,000 in Note 22 relating to intangible assets additions classified as work in progress and Kshs. 138,000 for asset correction in Note 21B. When these entries are included, the difference is fully reconciled of Kshs. 86,197,000.

**Variances in property plant and equipment resulting to unconfirmed and reconciled variance of Kshs. 86,197,000.**

S/No	Description	FS	Note	Amount Kshs('000)
18	Purchase of Plant, Property & Equipment (PPE)	FS2022/23	C/flow	1,190,659
21	Total (Note 21B PPE Additions + Note 22 Intangible Assets Additions)	FS2022/23	Note21B & Note22	(1,104,462)
<b>22</b>	<b>Audit Observation (Row 18-21)</b>	<b>FS2022/23</b>		<b>86,197</b>
24	Asset corrections	FS2022/23	Note21B	(138)
25	Intangible - Works in Progress Additions	FS2022/23	Note22	86,335
<b>26</b>	<b>Total (Row 24+25)</b>	<b>FS2022/23</b>		<b>86,197</b>

**Receivables from Non-Exchange Transactions:**

105. The audit observation variance of Kshs. 413,547,000 arose from the use of net receivables from non-exchange transactions instead of the gross figures disclosed in Note 19. Specifically, the Office of the Auditor-General (OAG) based its re-computation on the net decrease in license fee receivables—Kshs. 548,334,000 in FY 2021/22 and Kshs. 134,787,000 in FY 2022/23 resulting in the reported decrease of Kshs. 413,547,000 in the cash flow. However, CAK considered the gross decrease in license fee receivables, which amounted to Kshs. 684,298,000 as per Note 19.

**Variances in cash generated from operations resulting to unreconciled variance of Kshs.270,750,000.**

S/No	Description	FS	Note	Amount Kshs('000)
29	Decrease in Gross License fee receivable in Non exchange transaction FY 21/22 and FY 22/23 (Note 19)	FS2022/23	Note19	684,298
30	<b>OAG Re-computation Decrease in License fees in C/Flow</b>	<b>FS2022/23</b>	<b>C/flow</b>	<b>(413,547)</b>
31	<b>Audit Observation unreconciled variance (No. 30-29)</b>			<b>270,751</b>
32	License fee Receivables from Non exchange transaction FY 21/22(Net of Accumulated provision of Bad and doubtful debts)	FS2022/23	Note19	548,334
33	License fee Receivables from Non exchange	FS2022/23	Note19	134,787

S/No	Description	FS	Note	Amount Kshs('000)
	transaction FY 22/23(Net of Accumulated provision of Bad and doubtful debts)			
34	<b>Audit Observation unreconciled variance (No. 33-32)</b>	<b>FS2022/23</b>	<b>C/flow</b>	<b>413,547</b>

106. In conclusion, all variances identified are supported by verifiable transactions and disclosures within the financial statements FY 2022/23.

#### **Committee observations**

The Committee observed that the Management of the Authority failed to ensure The Accounting Officer was in breach of section 81 (3) of the Public Financial Management Act, CAP.412A which requires accounting officers to prepare financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time.

#### **Committee recommendations**

##### **The Committee recommends that –**

The Accounting Officer should at all times comply with the provisions of section 81 (3) of the Public Financial Management Act, CAP.412A.

#### **Other Matters**

##### **Unresolved Prior Year Matters**

##### **Committee Observations and Recommendations**

The Committee had deliberated on the prior year issues of Irregular Payment of Acting Allowance in its report for the Financial Year 2019/2020, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **5.0 Failure to prepare Annual Financial Statement for the Scheme**

107. The Committee heard that, the Authority did not prepare separate financial statements for the staff housing mortgage scheme, but rather aggregated the staff loans in the authority's combined financial statement under other receivables at Note 20. This is contrary to Section 16 (e) of the Civil Servants (Housing Scheme Fund) Regulations (2004) which requires administrators of the scheme to prepare, sign and transmit to the Auditor-General for audit in respect of each financial year and within three (3) months after the end thereof, statement of Accounts relating to the fund.

108. In the circumstances, Management was in breach of the regulations.

#### **Management response**

109. The management informed the Committee that, Authority's house mortgage scheme was vested from the defunct KPTC in 1999, this was before Section 127 (1) of the Public Finance Management (PFM) Act 2012, Regulations 2015 which empowers the Cabinet Secretary, National Treasury to establish a mechanism for public officers to access loans, including mortgage housing loans. However, the Board of Directors during their meeting held on January 25th, 2024, approved the establishment of Staff Mortgage Scheme Fund.

### **Current Status**

110. The National Treasury approved the establishment fund on December 13<sup>th</sup> 2024 and will be administered and reported independently from the Authority's financial statements, enabling distinct financial reporting.

### **Committee Observations**

#### **The Committee observed that –**

The Accounting did not prepare separate financial statements for the staff housing mortgage scheme contrary to section 24 (10) (a) of the Public Finance Management Act, CAP.412A which requires an administrator of a national public fund to prepare financial statements for the fund for each financial year in a form specified by the Accounting Standards Board.

### **Committee Recommendations**

#### **The Committee recommends that –**

Within three months upon adoption of this report, the Authority should separate the operations of the staff housing mortgage scheme from the operations of the Communications Authority Kenya main operations Account in accordance with section 24 (10) (a) of the Public Finance Management Act, CAP.412A.

### **6.0 Irregular Approvals of Staff Housing and Mortgage Loans**

111. The Committee heard that, the statement of financial position and Note 20 to the financial statements reflects receivables from exchange transactions amount of Kshs 816,431,000 included in the amount is Kshs 665,799,069 representing house mortgage loans advanced to one hundred and twenty (120) employees of the Authority. However, review of application documents and the internal control procedures on the administration of the authority's staff loans revealed that loans were advanced without regard to the employee's remaining years to retirement or terms of the contract. The situation resulted in employees getting loans running past their employment duration which may lead to defaults.
112. In the circumstances, effectiveness of the internal controls system on management of Staff Housing and Mortgage Scheme could not be confirmed.

### **Management response**

113. The management informed the Committee that, the Authority aligned its existing policy to the Salaries and Remuneration Commission (SRC) Circular Ref No. SRC/ADM/CIR/1/13 Vol.III (128) of 17<sup>th</sup> December 2014 and SRC Circular no. SRC/ADM/CIR/1/13 Vol. III (130) of 29<sup>th</sup> January, 2015 which allowed staff to continue paying their loans upon retirement.
114. This was aligned vide circular No. 1B. of 2021 following the Board approval during its sitting of 89<sup>th</sup> Special Full Board meeting held on 22<sup>nd</sup> February 2021 where they adopted the rates, terms and conditions provided in the SRC Circulars.
115. Retired staff submit repayment plan based on alternative income sources along with the deed of undertaking commitment to regular payments. The authority follows up on this plan and as of

April 30 2025, the loans from five (5) former staff members are performing with regular monthly repayments.

### **Committee Observations**

#### **The Committee observed that –**

The authority advanced house mortgage loans amounting to Kshs 665,799,069 to one hundred and twenty (120) staff members without due regard to the employee's remaining years to retirement or terms of the contract and therefore the recoverability of the full amount of the loans is doubtful.

### **Committee Recommendations**

#### **The Committee recommends that –**

Within three months upon adoption of this report, the Accounting Officer should provide a comprehensive report to the Auditor-General for verification and reporting in the subsequent audit cycle on the reasonable steps that have been taken to recover the house mortgage loans amounting to Kshs 665,799,069 advanced to former employees.

## **FINANCIAL YEAR 2023/2024**

### **1. Property Plant and Equipment**

116. The Committee heard that, the statement of financial position reflects property, plant and equipment balance of Kshs. 20,293,092,000 as disclosed in Note 21 to the financial statements. However, the following unsatisfactory observations were made:

#### **1.1 Overstatement of The Value of Freehold Land (CA HQ Nairobi)**

117. The property plant and equipment balance include free hold land of Kshs 15,957,281,000 as contained in the valuation report of 30 June 2018. The Authority's headquarters in Nairobi has a title number of L.R. 4393/19 with size measuring 5.592 hectares. Review of documents revealed that the National Government compulsorily acquired 0.8042 hectares of the Authority's land in Nairobi to facilitate the expansion of the James Gichuru –Rironi road with a private valuer contracted by the Authority reported the values of the parcels of land and the property as Kshs 642,515,220. The remaining parcel of land which should go through vesting and acquiring of a new title deed is 4.7878 hectares. However, the Management has not adjusted the reported balances to reflect the acquisition of parcel of land that was compulsorily acquired. Further, the Authority has not followed up on a vesting order for changes in the title documents.

#### **Management response**

118. The management informed the Committee that, portions of the Authority's land were compulsorily acquired by the National Land Commission (NLC) for the expansion of the A104 James Gichuru–Rironi Road by the Kenya National Highways Authority (KeNHA). This acquisition was carried out pursuant to Section 107 of the Land Act, 2012, which empowers the

NLC to acquire land for public purposes. The intention to acquire was formally communicated through Gazette Notice No. 810, published in the Kenya Gazette Vol. CXVIII–No. 12 on 12th February 2016.

#### **Current Status**

119. The Authority has requested the National Land Commission (NLC) to facilitate the rectification of land titles LR No. 28644 and LR No. 4493/16/2 following the partial compulsory acquisition for road expansion.
120. Once the title regularization process is complete, the necessary adjustments will be made in the financial records to reflect the revised landholding. The Authority is committed to ensuring that all records are updated in compliance with applicable laws and standards.

#### **Committee Observations**

##### **The Committee observed that –**

The National Government compulsorily acquired 0.8042 hectares of the Authority's land valued at Kshs 642,515,220 located in Nairobi to facilitate the expansion of the James Gichuru –Rironi road. However, the management failed to make the necessary adjustments in the books to reflect the compulsory acquisition of the land.

The Authority has not followed up on a vesting order for changes in the title documents for the remaining parcel of land.

#### **Committee Recommendations**

##### **The Committee recommends that –**

Within three months upon adoption of this report, the Accounting Officer, Communications Authority of Kenya in conjunction with the National Lands Commission to fast-track the process of acquiring new title deed for the remaining parcel of land measuring 4.7878 hectares.

The authority should make necessary adjustments to reflect the true value of the remaining parcel after compulsory acquisition.

#### **1.2 Lack of Ownership Documents for Land in Garissa County**

121. As previously reported, the valuation report received on 30 June 2018 includes a monitoring station in Garissa County with property development which includes two security houses and an old equipment house. However, the land where these developments sit is unregistered and therefore no evidence to confirm that the land is owned by the Authority.
122. Further, because of the land being unregistered no valuation was attached to the land leading understatement of the land balance in the property, plant and equipment balance.

### **Management response**

123. The management informed the Committee that, in In 1976, the Kenya Posts and Telecommunications Corporation (KPTC) set up the “Modika Radio Monitoring Station” in Garissa. The station was thereafter vested upon the Communications Commission of Kenya (CCK), and subsequently Authority upon its establishment as a regulator during the sector liberalization in 1999, which saw KPTC split into three entities including the CCK – the Authority’s predecessor.
124. Since 2014, the Authority has engaged in discussions with the Garissa County Council (defunct) and later the current Garissa County Government regarding its acquisition. The discussions have been ongoing since then as evidenced by the Minutes.
125. The Authority has engaged the National Land Commission (NLC) to assist with the acquisition of the land parcel.

### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of Lack of Ownership Documents for Land in Garissa County in its report for the Financial Year 2019/2020, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **1.3 Existing Charge on Land in Trans-Nzoia County**

126. As previously reported, the Authority has a land and property in Trans-Nzoia County valued at approximately Kshs. 68,570,000. The land originally belonged to the Agricultural Finance Corporation but was transferred to the defunct Kenya Posts and Telecommunications in the year 1999, the ownership of the land was again transferred to Communications Authority of Kenya for construction of a monitoring station. However, review of the certificate of title revealed that the parcel of land had a charge of Kshs. 462,500,000 relating to Kenya Commercial Bank against Agricultural Development Corporation. The charge was registered on 12 October 2010 which is five (5) months after the title had been transferred to the Authority from Kenya Posts and Telecommunication.
127. In the circumstances the accuracy, completeness and ownership of the freehold land valued at Kshs. 15,957,281,000 could not be confirmed.

### **Management response**

128. The management informed the Committee that, Sabwani Farm in Kitale was part of the assets that was vested upon the Communications Commission of Kenya (CCK) at the split of Kenya Posts and Telecommunications Corporation (KPTC) in 1999. At the time, the Sabwani Farm was part of a larger parcel of land (i.e. Land Title No. IR 1156) (“the Mother Title”) owned by the Agricultural Development Corporation (ADC). KPTC and later the CCK set down to acquire part of this land as part of titling for the establishment of a Radio Spectrum Monitoring Station (RSMS).

129. The transaction, which involved acquisition of 30 acres of land for a sale price of Kshs. 1,023,154.15, was taken over by CCK as part of the vestment that arose from the split of KPTC. The transaction meant that the Mother Title would be subdivided to result in the portion that KPTC/CCK were interested in being created.
130. At the time of the transaction, the Mother Title had a Charge in favour of the Kenya Commercial Bank (KCB) (per Entry Nos. 9 and 10 in the Mother Title). Hence, for the subdivision to take place in favour of CCK, a Partial Discharge had to be issued by KCB to exclude the portion of CCK's interest from the Charge on the Mother Title (per Entry No. 11 in the Mother Title).
131. This Partial Discharge was followed by the creation of Title LR 2993/1 (IR 126183) and transfer of the same 30 acres to CCK on May 31st, 2010. This new title had its separate and distinct Certificate of Title issued to CCK without any encumbrance.
132. Upon the successful subdivision and issuance of Certificate for Title LR 2993/1 (IR 126183) as explained above, KCB and ADC reinstated the earlier Charge as between themselves (per Entry No. 13 in the Mother Title).
133. We, therefore, wish to confirm that the Charge in issue (i.e Entry No. 13 in the Mother Title) is a Charge on the Mother Title (IR 1156) and not the Authority's Certificate for Title LR 2993/1 (IR 126183). The Authority's title for the Sabwani Farm is thus free of any encumbrance.

#### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of Existing Charge on Land in Trans-Nzoia County in its report for the Financial Year 2019/2020, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **Budgetary Control and Performance**

134. The Committee heard that, summary statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.11,045,289,000.00 and Kshs13,078,399,000 respectively, resulting in over collection of revenue 2,033,110,000 or approximately 18% of the budget. Similarly, the Authority spent Kshs.4,898,372,000 against actual receipts of Kshs 13,078,399,000 resulting to under absorption of Kshs. 8,180,027,000 or approximately 63% of actual receipts.
135. The under absorption affected the planned activities and may have impacted negatively on service delivery to the public.

#### **Management response**

136. The management informed the Committee that, the substantial over-collection of revenue amounting to Kshs. 13,087,399,000 which represents an 18% increase above the budgeted figure, can be primarily attributed to two (2) inter-related factors.

- i. Regulatory fees: The ongoing digital transformation has increased the demand for telecommunication services. Consequently, the Authority generated Kshs. 11.54 billion, exceeding the budgeted amount of Kshs. 10.48 billion, resulting in an overcollection of Kshs. 1.06 billion.
  - ii. Interest Income: During the financial year 2023/2024, interest rates surged from 11.5% to a peak of 16.75%, leading to a substantial increase in revenue from interest income. As a result, the Authority generated Kshs. 1.46 billion compared to the budgeted Kshs. 555.13 million, resulting in an overcollection of Kshs. 904.87 million.
137. The under absorption of expenditure with the actual amount Kshs. 4.89 billion compared to budget amount Ksh 6.34 billion which represents 77% of the budgeted figure, can be primarily attributed to the delay in budget approvals. The late approval from the National Treasury disrupted the timely allocation of funds to various projects. This setback hindered the implementation of planned activities that have since been considered in the Budget FY 2024/25.

#### **Committee Observations**

The Committee observed that the authority over-realized revenue by Kshs. 2,033,110,000 or approximately 18% of the budget while an under absorption of Kshs. 8,180,027,000 or approximately 63% of actual receipts was reported. This affected the planned activities and impacted negatively on the service delivery to the public/beneficiaries.

#### **Committee Recommendations**

##### **The Committee recommends that –**

The Accounting Officer must always ensure that the budgets are realistic, achievable and always adhere to annual work plans, procurement plans and revenue collection schedules in compliance with Regulation 44(2) of the PFM (National Government) Regulations, 2015.

#### **1.0 Failure to Prepare and Submit Annual Financial Statements for The Car Loan and Staff Housing and Mortgage Scheme**

138. The Committee heard that, the statement of financial position reflects receivables from exchange transaction balance of Kshs. 827,747,000 as disclosed in Note 20 to the financial statements. This includes Kshs. 578,233,582 and Kshs.50,977,322 for property loan and car loan respectively. However, audit revealed that the management did not prepare and submit separate financial statements for the Car Loan and Staff Housing and Mortgage Scheme. This is contrary to Regulation 16(e) of the Civil Servants (Housing Scheme Fund) Regulations, 2004 which requires administrators of the scheme to prepare, sign and transmit to the Auditor-General for audit in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund.

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

#### **Management response**

140. The management informed the Committee that, the Authority's house mortgage scheme was vested from the defunct KPTC in 1999, this was before Section 127 (1) of the Public Finance Management (PFM) Act 2012, Regulations 2015 which empowers the Cabinet Secretary, National Treasury to establish a mechanism for public officers to access loans, including

mortgage housing loans. However, the Board of Directors during their meeting held on January 25th, 2024, approved the establishment of Staff Mortgage Scheme Fund.

141. The National Treasury approved the establishment fund on 13<sup>th</sup> December, 2024 and will be administered and reported independently from the Authority's financial statements, enabling distinct financial reporting.

#### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of Failure to Prepare and Submit Annual Financial Statements for The Car Loan and Staff Housing and Mortgage Scheme in its report for the Financial Year 2019/2020, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **2.0 Long Outstanding Accounts Receivables**

142. The statement of financial position reflects receivables from non-exchange transactions balance of Kshs.287,424,000 for the year ended 30 June, 2024 as disclosed in Note 19 to the financial statements. The balance is net of cumulative provisions for bad and doubtful debts, general and specific, amounting to Kshs.7,183,051,000 which includes Telkom Kenya Ltd debt of Kshs.4,921,257,137. The Authority has engaged with The National Treasury (TNT) since June 2020, seeking their assistance to allocate resources to Telkom Kenya Limited (TKL) for the settlement of regulatory fees. The National Treasury provided commitments in June 2020 and October 2021, but these funds were not disbursed then. At the time of audit in December, 2024 no evidence was provided to confirm that money had been received from the National Treasury.
143. In the circumstances, the recoverability of the receivables from the non-exchange transactions balance of Kshs. 287,424,000 could not be confirmed.

#### **Management response**

##### **Explanation for varying Telkom Kenya Limited (TKL) records**

144. The management informed the Committee that, Telkom Kenya's assertion of a nil outstanding balance in their letter dated December 21st, 2020 (Ref: TKL/RA/CA/(LIC)) requesting a Compliance Certificate (**Annex 10**), was based on the National Treasury's commitment (Ref: TNT/ZZ/331/02) dated June 29th, 2020. In this commitment, the Treasury undertook to provide Telkom Kenya Limited with the funds required to cover Frequency Spectrum Fees for the Financial Years 2019/20 and 2020/21 and further requested that the CA allow Telkom to continue utilizing the Frequency Spectrum. Additionally, National Treasury's letter (Ref: TNT/ZZ/331/02) dated October 22nd, 2021, committed to make available to Telkom Kenya Limited the amount of money required to cover the Frequency Spectrum fees for the two (2) financial years amounting to Kshs. 2,213,077,093.62 and requested for CA's forbearance to enable Telkom Kenya Limited access regulatory approvals it requires.
145. However, in subsequent correspondence, Telkom Kenya acknowledged the debt specifically, in the letter dated January 11<sup>th</sup>, 2022, addressed to the National Treasury and copied to the Authority, Telkom Kenya requested expedited formalization and settlement of the outstanding regulatory fees amounting to Kshs. 3,198,172,691.62, quoting the national Treasury previous

commitments (Ref: TNT/ZZ/331/02) dated June 29th, 2020, and letter (Ref: TNT/ZZ/331/02) dated October 22nd, 2021, that reiterated the commitment and requested CA to assist Telkom Kenya obtain regulatory licenses required to operationalize the new Telkom Group structure.

146. The actions above by Telkom Kenya, clearly recognized the Authority's claim and confirmed the outstanding regulatory fees, further noting that any enforcement action would adversely affect their operations.

**Justification for the full provision of bad and doubtful debts for FY 2019/20, 2020/21 & 2021/22**

147. While the National Treasury, through its letter dated June 28<sup>th</sup>, 2020, Ref: TNT/ZZ/331/02, and letter (Ref: TNT/ZZ/331/02) dated October 22<sup>nd</sup>, 2021 (Annex 11), expressed commitment to support Telkom Kenya in meeting its spectrum fee obligations for FYs 2019/2020 and 2020/2021, the communication lacked.

- a. Clear timelines for the release of funds, and
- b. An established mechanism through which the Authority would access the funds once disbursed to Telkom Kenya.

148. Considering this uncertainty, and in accordance with International Financial Reporting Standards (IFRS) 9—which mandates recognition of expected losses based on the amount, timing, and uncertainty of future cash flows—the Authority adopted a conservative accounting approach by fully provisioning the cumulative Telkom Kenya debt of Kshs.4,921,257,137 (Kshs. 1,072,656,734 for FY 2019/2020, Kshs. 1,039,152,996 for FY 2020/21, Kshs. 948,908,408 for FY 2021/22, Kshs. 940,702,378 for FY 2022/23 and Kshs. 919,836,621 for FY 2023/24) as bad and doubtful, due to the lack of a firm, time-bound settlement plan from The National Treasury. Notably, the debt remains unpaid to date and continues to grow due to ongoing annual billings.

**Current Status**

149. The Authority has consistently and actively pursued the recovery of the outstanding debt. On August 14<sup>th</sup>, 2020, a formal request was made to the National Treasury for the release of the committed funds to safeguard the validity of licenses held by Telkom Kenya Limited (Annex 13), with a copy shared with Telkom Kenya Limited (TKL). In parallel, the Authority engaged TKL directly through multiple follow-ups, including the issuance of demand letters, emails, convening of meetings and denial of additional frequency assignments until the outstanding payments are made. Additionally, the Authority, through a letter dated February 2nd, 2024 (Ref: CA/FA/048/1302) formally requested the National Treasury and the Attorney General to prioritize the settlement of the outstanding debt during the transition process.

150. These efforts culminated in the issuance of a formal demand note and a notice of intention to initiate enforcement through a letter dated December 22<sup>nd</sup> 2021 (Ref: CA/FA/048/1302) due to continued non-payment of regulatory fees.

151. In response to the formal demand letter, Telkom Kenya Limited (TKL), in a letter dated January 11, 2022 wrote to the National Treasury—copying the Authority—requesting the expedited formalization and settlement of the outstanding amount. In this correspondence, TKL

acknowledged the debt and noted that any enforcement action could adversely impact their operations.

152. As at the date of this report, Telkom Kenya Limited owes the Authority Kshs. 5,695,935,298.

#### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of Receivables from Non-Exchange Transactions in its report for the Financial Year 2019/2020, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **Delay in Implementation of Supply, Delivery, Implementation and Maintenance of a Licensing Management System and the Associated Hardware.**

153. The Authority embarked on a strategic initiative to procure and implement a Licensing Management System (LMS) which is aimed at automating the re-engineered Licensing Management Processes to enhance efficiency, customer experience and improve compliance. The contract was awarded to a firm on 19 April 2022 under contract number CA/PROC/070/55/03/2022 at a total contract price of Kshs. 649,609,922.

154. The duration of the contract was fifteen (15) months which entailed the provision of a one-time supply, delivery and implementation of LMS inclusive of the licenses, post-implementation training for a minimum of 15 staff and 250 functional users on the system and supply, delivery and set-up of hardware and related accessories were to end by 19 July, 2023 and go live then.

155. These works were to take 53% of the contract price. The rest of the services amounting to Kshs. 304,271,747 include providing annual comprehensive (24\*7) on premise support, providing annual license renewals and providing annual maintenance of the LMS associated hardware for a period of seven (7) years starting from the lapse of the one (1) year warranty period.

156. The project has six (6) milestones amounting to Kshs. 345,338,175 of which only 2 have been completed within the stipulated contract date. A total of Kshs. 155,402,178.75 has been paid so far towards the project which is 24% of the contract price.

157. Further, Addendum 1 to the contract was signed on 26<sup>th</sup> July, 2023 extending the contract for another seventy-five (75) days therefore the contract was to end by 9<sup>th</sup> October 2023. Despite the extension, the Contractor has not managed to complete the project and therefore it still hasn't gone live. The deliverables that have not yet been met include data migration, system software development, training and Go-Live. It is not clear why there is a delay in implementation of the project.

158. In the circumstances, the Management is in breach of the contract agreement and the project may not be completed within the scheduled time.

#### **Management response**

159. The management informed the Committee that, the Authority in the FY 2020/21 procured a Licensing Management System (LMS) and associated Hardware by contracting M/C Copycat

Limited. The total contract amounted to Kshs.649,609,922 (one-time system implementation Kshs.345,338,175 and 7-year annual maintenance of Kshs.304,271,747). The project's scope entailed the following:

- a) Provision of a turnkey License Management System (LMS)
- b) Provision of post implementation training for a minimum of 15 technical staff and 250 functional users
- c) Supply and setup of the following hardware equipment
  - i) Hyper-converged infrastructure
  - ii) Connectivity fabric switch
  - iii) Enterprise Operating System Licenses
  - iv) Enterprise database software license
- d) Provision of on-premises annual support for a period of seven (7) years for the LMS
- e) Provision of annual maintenance support for the hardware for a period of 5 years and;
- f) Provision of annual license renewals for the LMS for a period of seven (7) years.

160. To date, payments have been made against two (2) completed milestones amounting to approximately KES 155,402,178 which is 24% of the total project cost.

161. In May 10<sup>th</sup>, 2023, the Service Provider requested a 75-day extension to the initial project end date of July 26<sup>th</sup>, 2023 citing significant delays caused by integration issues with third-party systems and differing solution development approaches between the Service Provider and its partner, M/S ICETECH of South Africa. The request was approved and formalized through Addendum 1 to the contract, extending the deadline to 9<sup>th</sup> October, 2023.

162. On October 3<sup>rd</sup>, 2023, the contractor made a further request for extension of contract by an additional 115 days to allow the service provider deliver on the remaining milestones up to Go-Live date. This request was consequently granted on March 8<sup>th</sup>, 2024.

163. The Authority has held a series of meetings to deliberate on mechanisms for fast-tracking the project implementation and has recommended further extensions and modifications to address extension of the Project Delivery Period to June 30<sup>th</sup>, 2025.

#### **Committee Observations**

##### **The Committee observed that –**

The project had six (6) milestones amounting to Kshs. 345,338,175. Out of only 2 milestones (representing 24%) amounting to Kshs. 155,402,178.75 have been completed within the stipulated contract date and paid for.

The authority signed a contract agreement on 19<sup>th</sup> April, 2022 for supply, delivery, implementation and maintenance of a licensing management system and the associated hardware amounting to Kshs.649,609,922. The duration of the contract was fifteen (15) months; however, the project remains incomplete as to date.

#### **Committee recommendations**

##### **The Committee recommends that –**

Within three months upon adoption of this report, the Accounting Officer should submit to the National Assembly and Auditor-General on the status and the progress made on the completion of the remaining project milestones. The Auditor-General to review and report in the subsequent audit cycle.

## **EXAMINATION OF THE REPORT OF THE AUDITOR-GENERAL ON THE AUDITED ACCOUNTS OF KENYA MEDICAL TRAINING COLLEGE FOR THE FINANCIAL YEARS 2021/2022 TO 2024/2025**

**Dr. Kelly Oluoch the Chief Executive Officer, Kenya Medical Training College (KMTC) was accompanied by CPA Elijah Mititi (Finance Manager) appeared before the Committee to adduce evidence on the Audited accounts of the Kenya Medical Training College (KMTC) for the financial year 2021/2022 to 2024/2025.**

### **FINANCIAL YEAR 2021/2022**

#### **1.0 Doubtful Student Debtors Balance**

164. The Committee heard that, the statement of financial position reflects receivable from exchange transactions of Kshs.717,918,807 as disclosed in Note 33 to the financial statements. Analysis of student fee status report revealed students who have graduated with balances amounting to Kshs.1,554,483 and whose recoverability is doubtful, contrary to section 8.2 of KMTC Finance and Internal Controls Manual. In addition, management did not provide the ageing analysis of debtors for audit.
165. In the circumstances, the accuracy and fair statement of receivables from exchange transactions balance of Kshs.1,554,483 could not be confirmed.

#### **Management response**

166. The management informed that, it concurs with audit observations that students from selected campuses had graduated with fee balances totaling to Kshs. 1,554,483.00. However, at the point of graduation, no student is allowed to graduate before clearing with the college. We confirm that the students listed have paid a sum of Ksh 1,192,100.00 leaving a balance of Ksh 256,811.00 which the College is pursuing the concerned students. Payment has been ongoing as the students continue collecting their certificates.
167. Further analysis of trade receivables (outstanding fees balances) of Kshs,665,831,791 as at end of 21/22 FY against Kshs.37,377,840 as at end of 22/23 FY confirms that the College received Kshs.628,453,951 representing 94% in the subsequent financial year. The balance representing 6% was subsequently cleared in the preceding years.

#### **Committee Observation**

**The Committee observed that –**

The students have so far paid Ksh 1,192,100 out of the Kshs.1,554,483 leaving a balance of Ksh 256,811.00 which the college is pursuing its recoverability. Payment has been ongoing as the students continue collecting their certificates.

**Committee Recommendations**

**The Committee recommends that –**

The Accounting Officer, Kenya Medical Training College should always comply with the provisions of Regulation 83 (2) (g) of the PFM (National Government) Regulations, 2015.

**2.0 Unreconciled Tuition, Boarding and Application Fees**

168. The Committee heard that, the statement of financial performance reflects tuition, boarding and application fees of Kshs.4,782,584,157 as disclosed in Note 22 to the financial statements. The students pay tuition fee direct to the bank which is integrated with the Enterprise Resource Planning (ERP) system that automatically receipts. However, tuition, boarding and application fees revenue is recognized using bank slips that are presented by the students to the various campus accountants. In addition, there was no evidence of reconciliations between the two systems and therefore a likelihood of misstating revenue from tuition, boarding and application fees.

169. In the circumstances, the accuracy and completeness of tuition, boarding and application fees of Kshs 4,782,584,157 could not be confirmed.

**Management response**

170. The management informed the Committee that variance was occasioned by receipts in the bank statements not in cashbook where by students had banked school fees but not auto receipted in some instances in their respective ledgers. However, this was journalized at the end of the year hence recognition of these receipts. The risk of revenue misstatement on tuition, boarding and application fees was therefore managed.

171. Management, from FY 2022/2023, adopted utilization of ERP which has the capabilities of real time recognition and reporting of revenue for all campuses. The college has therefore successfully integrated all its revenue collection accounts and this has greatly enhanced the efficiency and effectiveness of revenue collection and management.

**Committee observations**

**The Committee observed that –**

The Accounting Officer failed to undertake reconciliations between the two systems and therefore a likelihood of misstating revenue from tuition, boarding and application fees. This is contrary to Regulation 90. (3) of the Public Finance Management - National Government Regulations 2015, which requires the Accounting Officers to ensure any discrepancies noted during bank reconciliation exercise are investigated immediately and appropriate action taken, including updating the relevant cash books.

**Committee recommendations**

**The Committee recommends that –**

The Accounting Officer should at all times comply with Regulation 90. (3) of the Public Finance Management - National Government Regulations 2015.

### **3.0 Non- Compliance with the One-Third Rule of Basic Salary**

172. The Committee heard that, during the year under review, two thousand five hundred and thirty-two (2,532) earned a net salary of less than a 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.

173. In the circumstances, management was in breach of the law.

#### **Management response**

174. The management informed the Committee that employees still earning a net salary of less than a third of their basic salary was occasioned by increase of statutory deductions that came later after the employees had committed two thirds of their pay to other obligations. Some of them had reached maximum pay for their job group scale and thus do not get annual increment and others even if they get it's minimal to have an impact on a third rule. The management has advised the affected staff to restructure their obligations, especially loans in a bid to ensure that a third rule is resumed and observed.

#### **Committee observations**

**The Committee observed that** two thousand five hundred and thirty-two (2,532) employees earned a net salary of less than a third (1/3) of the basic salary contrary to section 19 (3) of the Employment Act, 2007 which requires that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages.

#### **Committee recommendations**

##### **The Committee recommends that –**

The Accounting Officer should at all times comply with Section 19 (3) Employment Act, 2007.

### **4.0 Failure to maintain a fixed asset register**

175. The Committee heard that, the statement of financial position reflects property, plant and equipment of Kshs.30,301,451,912 as disclosed in Note 36 to the financial statements. However, management did not maintain a fixed asset register to indicate description of asset, serial number, acquisition date, location, class of asset, cost of acquisition, accumulated depreciation and net book value.

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

#### **Management response**

177. The management informed the Committee that the master asset register and individual asset registers for campuses are available for review in accordance with the National Treasury guidelines. The college is in the final stages of undertaking asset tagging to assign serial numbers on every asset in its possession to be uploaded into assets register in the Enterprise

Resource Planning System (ERP), in the asset management module fully operationalized. This has ensured that the asset register is always updated appropriately once any asset is acquired or disposed. The College has been reporting on a quarterly basis in line with Asset Management Indicator guidelines from the National Treasury.

### **Committee Observations**

#### **The Committee observed that –**

The College did not update the fixed assets register contrary to Regulation 143(1) of the Public Finance Management - National Government Regulations 2015, which requires the Accounting Officer to be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

### **Committee Recommendations**

#### **The Committee recommends that –**

Within three months upon adoption of this report, the Accounting Officer, should submit to the National Assembly and the Auditor-General the updated fixed asset register detailing all the assets of the College with the respective details that needs to be disclosed in the asset register in accordance with the disclosure requirements set by the National Treasury and the Accounting standards Board.

### **5.0 Weak Internal Controls in Inventory Management**

178. The Committee heard that, the statement of financial position reflects inventory balance of Kshs.41,927,803 as disclosed in Note 35 to the financial statements. However, there was no annual stock take report to show regular stock takes, condition and safety of stocks/goods, security and access controls to the stores. In addition, there was duplication of items codes in the inventory system.
179. In the circumstances, the effectiveness of internal controls on stock management could not be confirmed.

### **Management response**

180. The management informed the Committee that the college does regular physical stock take and reports are forwarded for consolidation as per requirements and regulations. The reports capture the actual physical count on inventory. The College concurs that there were instances of duplication of item codes in the inventory system. However, due to roll out problems on the automated ERP system, the stock balances on ERP were slightly erroneous. Management facilitated a system clean up on the items register and supplier register and the records are now up to date and reliable. With effect from 1<sup>st</sup> July, 2025 the college is in the process of fully adopting the E-GP procurement system which will further curtail the duplication of codes since each item has its own distinct code already mapped in the system.

### **Committee Observations**

**The Committee observed that –**

The weak internal controls on inventory management exposed the stocks and assets of the college to risks of losses and inaccuracies in balances on the financial statements.

**Committee recommendations**

**The Committee recommends that –**

The Accounting Officer should at all times ensure that regular stock take exercise is conducted, and accurate stock amounts are incorporated in the financial statements.

**6.0 Irregularities in payroll management**

181. The Committee heard that, the statement of financial performance reflects employee costs amount of Kshs.4,358,047,618 as disclosed in Note 25 to the financial statements. Review of the Enterprise Resource Planning (ERP) system on human resource and payroll data revealed two hundred and thirty-one (231) staff were below the age of eighteen (18) years and five (5) duplicate personnel records. In addition, there were four hundred and eight (408) duplicate transactions on casual wages. Further, the system does not recognize salary arrears which was being lumped and classified under basic pay.

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

**Management response**

183. The management informed the Committee that, during the year under review, the payments were miscellaneous payments relating to the CBA claims for the next of kin/beneficiaries who were yet to attain eighteen years.

184. The duplicate transactions appearing in the system were as a result of the corrections on payment vouchers in cases where errors had been identified from the original vouchers. Hence no double payments were being made. During this Financial Year the College did not hire casual wages thus no payment in relation to that.

185. Lumping together of salary arrears and basic pay during generation of reports was a system issue that was escalated to the service providers for attention and this was subsequently resolved. All the above challenges have been addressed with effect from July 2023 migrating to IPPD and December 2024 migrating to Human Resource Information System (HRIS).

**Committee Observations**

**The Committee observed that –**

The Committee noted with concern that the Enterprise Resource Planning (ERP) system on human resource and payroll data revealed that two hundred and thirty-one (231) staff were below the age of eighteen (18) years in addition to duplicate payments. However, the management explained that, payments related to miscellaneous claims for the next of kin/beneficiaries who were yet to attain eighteen years.

The management indicated that the college had not hired the four hundred and eight (408) casuals and the duplicate transactions on casual wages were erroneously captured. However, there was no evidence to substantiate this.

The duplicate transactions appearing in the system as a result of corrections on payment vouchers in cases where errors had been identified from the original vouchers is a pointer to weaknesses in the controls.

#### **Committee recommendations**

The Committee recommends that within three months upon adoption of this report, the accounting officer to submit a documented mechanism or strategy on how the college has strengthened controls in the system and provide evidence of the underage, next of kin as well as the documentation of the alleged errors related to casual wages to the Auditor-General for review and reporting in the subsequent audit cycle.

### **FINANCIAL YEAR 2022/2023**

#### **1.0 Long Outstanding & Doubtful Receivables**

186. The Committee heard that, the statement of financial position reflects receivable from exchange transactions balance of Kshs. 697,116,998 as disclosed in Note 34 to the financial statements. The amount includes rent receivable totalling Kshs 88,908,112 out of which Kshs. 78,672,640 relates to outstanding rent from the university of Nairobi and 7,432,272 relates to staff houses occupied by Non KMTC staff all totaling Kshs. 86,104,912. Further, receivables from non-exchange transactions balance of Kshs. 908,396,013 as disclosed in Note 35 to the financial statements includes long outstanding debts amounting to Kshs. 19,812,180 from the Ministry of Health.
187. In the circumstances, the accuracy and recoverability of receivables from exchange and non-exchange transactions balance of Kes 86,104,912 and Kshs. 19,812,180 respectively could not be confirmed.

#### **Management response**

188. The management informed the Committee that it concurs that included in the exchange transaction receivables is an amount of Kshs. 78,672,640 being rent arrears accumulated for about 20 years. The management is in the process of renegotiating the lease agreement which it has agreed with the University of Nairobi and Kenya Medical Training College (KMTC) will resolve this long-standing issue. The latest correspondence being REF AG/CONF/21/72 Vol. II dated 27<sup>th</sup> March, 2025 from the Office of The Attorney General. The College further We also concurs that included in the exchange transaction receivables is an amount of Kshs. 7,432,272 that relates to staff houses occupied by Non KMTC staff.
189. The College formalized all tenancy agreements and enforced rent recovery mechanisms for all non-KMTC occupants. Where applicable, eviction notices were issued in accordance with institutional policies and legal framework. Also included in the Non exchange transaction receivable is an amount of Kshs. 19,812,180 relating to Ministry of Health that has been outstanding since 1996/1997.

190. The Board of Management recommended the write-off of these debts and the recommendations have since been forwarded to the parent ministry for approval. As of now the College is awaiting necessary National Treasury approval to write off this unrecoverable debt. The College is still following up the matter with the parent Ministry.

#### **Committee Observations and recommendations**

The Committee had deliberated on the issue of Long Outstanding & Doubtful Receivables in the Second PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **2.0 Pending Account Payables**

191. The Committee heard that, the statement of financial position reflects trade and other payables amounting to Kshs. 958,558,283 as disclosed in Note 39 to the financial statements attributed to unpaid supplies and audit fees. No reasons were provided for not settling the bills within the financial year.
192. 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.

#### **Management response**

193. The management informed the Committee that, the college indeed had pending accounts payables amounting to Kshs 958,558,383.00. The situation was largely occasioned by the delay of the GOK Grant amounting to Kshs 888,583,833 (Note 35) of the Financial Statements) which had been fully budgeted for in our budget for 2022/2023 FY. Kshs. 857 million was subsequently received.

#### **Committee Observations**

##### **The Committee observed that –**

The management indicated that payables were occasioned by delay in release of GOK grants which they subsequently received. However, there was no documentary evidence to support payments of supplies and audit fees,

#### **Committee recommendations**

##### **The Committee recommends that –**

Within three months upon adoption of this report, the Accounting Officer, KMTC should provide evidence of payments of supplies and audit fees to the Auditor-General for review and reporting in the subsequent audit cycle.

#### **3.0 Budget Imbalance**

194. The Committee heard that, the statement of comparison of budget and actual amounts reflects final revenue budget of Kshs. 9,522,833,830 and final expenses budget of Kshs. 10,237,910,495

resulting into unbalanced budget by Kshs. 715,076,665. This is contrary to Regulations 33c of the Public Finance Management (National Government) Regulations, 2015 which states that budget shall be balanced

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

#### **Management response**

The management informed the Committee that, the deficit arose due to an increase in provision for depreciation which was budgeted at Kshs.230,495,000 but during the year the College revalued the assets hence the adjustment for provision for depreciation of Kshs.1.2Billion.

#### **Committee Observations**

##### **The Committee observed that –**

The final budget expenses exceeded the final budget revenue by Kshs. 715,076,665 in the statement of comparison of budget and actual amount. Consequently, resulting in unbalanced budget contrary Regulation 33 (c) of the PFM National Government) Regulations, 2015 which requires that a balanced budget shall be always observed during budget formulation and approval.

#### **Committee Recommendations**

##### **The Committee recommends that –**

The Accounting Officer must at all times ensure that the budgets are realistic, achievable, and always adhere to annual work plans and revenue collection schedules.

#### **4.0 Ungazetted Campuses**

196. The Committee heard that, during the year under review, it was noted that the registered campuses were seventy-four (74) while the schedule in the Kenya Medical Training College Act, 2019 reflects 20 gazetted campuses. No satisfactory explanation has been provided on why the additional fifty-four (54) campuses have not been gazetted. This is contrary to section 3 subsection 1 (a) of the Kenya Medical Training College Act, 2019, which states that there shall be a college that is the Kenya Medical Training College and medical training centers (campus) as specified in the schedule in the Act. In addition, other institutions shall be declared constituent training centers (campus) of the college by the Minister in consultation with the Board and upon gazettment in the Kenya gazette.

197. Further, it was noted that Kakamega campus has two (2) constituent campuses (Shianda and Ikolomani) which is contrary to Kenya Medical Training College Act, which clearly states that the KMTC College shall have constituent training centers as described in the schedule and not training centers having constituent campuses.

#### **Management response**

198. The management concurs that as per the KMTC Act, Cap 261, there are 16 campuses, 4 hospital maintenance schools and 1 school of clinical medicine Portreitz, Mombasa that have been gazetted. Further, management has continually presented gazettment of the remaining operationalised constituent training centers and the schools to training centres through the board.

199. Ikolomani is proposed campus yet to be operationalised while Shianda is included in our correspondences seeking gazettelement through the parent Ministry

#### **Committee Observations**

##### **The Committee observed that –**

During the year, KMTC had fifty-four (54) ungazetted campuses which were not specified in the schedule contrary to section 3 (1) of the Kenya Medical Training College Act, 2019 which requires that College's campuses be established either in the schedule to the Act or declared as constituent training centers by the Minister in consultation with the Board and upon gazettelement in the Kenya Gazette.

#### **Committee Recommendations**

The Committee recommends that The Accounting Officer should at all times comply with the provisions of section 3 (1) of the Kenya Medical Training College Act, 2019.

Within three months upon adoption of this report, the Accounting officer in collaboration with the Principal Secretary, Medical Services to fastrack the gazettelement of the fifty four (54) campuses in compliance with law.

#### **5.0 Non-compliance with directive on Board Meeting**

200. The Committee heard that, the statement of financial performance reflects remuneration of directors Kshs. 21,516,723 as disclosed in Note 30 to the financial statements. Review of the College's full board attendance register revealed that fourteen (14) full board meetings were held during the year under review thus exceeding the limit of six meetings. This is contrary to circular OP/CAB.9/1A of 11<sup>th</sup> March 2020 Section A which states that board meetings should be restricted to a minimum of four and capped at a maximum of six (6) in each financial year. Approval of extra meetings are to be provided by the Cabinet Secretary in Consultation with State Corporation Advisory Committee. However, such approval was not provided for audit.

201. In the circumstances, Management was in breach of the Law.

#### **Management response**

202. The management concurs that the board meeting exceeded the limit of six meetings. The Board meetings and College activities were duly factored and approved under the Board Almanac for 22/23 FY. Further, the events were either strategic, statutory, and in line with board functions.

#### **Committee Observations**

##### **The Committee observed that –**

The Committee observed that the college Board had fourteen (14) full board meetings which was more than the required number of six meetings as per circular OP/CAB.9/1A of 11<sup>th</sup> March 2020 which caps the meetings to a minimum of four and a maximum of six (6) in each financial year. However, no Approval of the extra meetings was provided for review.

#### **Committee Recommendations**

**The Committee recommends that –**

The Accounting Officer should at all times comply with Head of the Public Service Circular REF: OP/CAB.9/1A dated March 11, 2020, which capped the number of Board meetings to six (6).

**6.0 Weak Controls on Inventory Management**

203. The Committee heard that, the statement of financial position reflects inventory balance of Kshs. 52,396,716. Review of the inventory management system revealed that it could allow issuance of stock items when they are out of stock or indicate negative stock balance while items were in the store. Further, there was no evidence of regular stock takes through reports which would indicate among other details the conditions of the store including security controls and status of obsolete goods if any.
204. In the circumstances, the effectiveness of internal controls on inventory management could not be confirmed.

**Management response**

205. The management informed the Committee that KMTC implements inventory management through Enterprise Resource Planning (ERP). The management concurs with the auditor's findings that there were weaknesses of inventory control, of which the college has put measures in place to rectify the system inefficiencies. The management undertakes both physical and system reconciliations where variances are identified and updates are made into the system. Some of the control measures includes:

- i) Goods are only taken on-charge through the formal receipts as required by law.
- ii) General good receipt notes (GRN) are system generated linked to the local purchase orders issued through a successful procurement process.
- iii) Issuance of goods upon raising system generated Store Requisitions Online (SRQs from the user departments and upon approvals from the user department supervisor(s).

206. Regarding stock taking the college undertakes regular stock taking quarterly.

**Committee Observations and Recommendations**

The Committee had deliberated on the issue of Weak Controls on Inventory Management in its report for the Financial Year 2021/2022, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

**FINANCIAL YEAR 2023/2024**

**1.0 Receivables form Exchange Transactions**

207. The Committee heard that, the statement of financial position and as disclosed in Note 34 to the financial statements reflects receivables from exchange transactions balance of Kshs.932,698,777. The following unsatisfactory matters were however noted: -

## **2.0 Long Outstanding Student Fee Balance**

208. The balance includes an amount of Kshs.775,547,796 which relates to student outstanding fees balance which further includes Kshs.21,831,155 due from Kenyatta National Hospital's sponsored students who completed their studies more than five years ago and graduated before full payment of fees. In addition, the balance also includes Kshs.8,419,638 for three hundred and four (304) students who graduated in December 2023 before clearing the outstanding fees.
209. In the circumstances, the accuracy and recoverability of the students' outstanding fee balance of Kshs.30,250,793 could not be confirmed.

### **Management response**

210. The management informed the Committee that it concurs with the audit observations that included in the Non exchange transaction receivable is an amount of Kshs.21,831,155 relating to Kenyatta National Hospital that has been outstanding for a long period. The Board of Management recommended the write-off of these debts and the recommendations have been forwarded to parent Ministry approval. As of now the College is awaiting necessary National Treasury approval to write off the unrecoverable debt. The College is still following up the matter with the parent Ministry.
211. Further concur that included in the Non exchange transaction receivable is an amount of Students who graduated with Outstanding Balances. They were allowed to graduate due to administrative considerations, including delayed processing of external sponsorships. However, these cases have been documented, and recovery efforts are ongoing, out of the reported Kshs.8,419,638 so far Kshs.2,839,040 has been paid leaving a balance of Kshs.5,580,598. The students have continued to pay as they collect certificates.

### **Committee Observations and recommendations**

The Committee had deliberated on the issue of Long Outstanding & Doubtful Receivables in the Second PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

### **3.0 Understatement of Provisions for Bad Debts**

212. The Committee heard that, the receivables for exchange transactions balance of Kshs.932,698,777 is net of provision for bad debts of Kshs.86,365,749 calculated at 10% of the outstanding fee and rent receivable balance. However, this balance includes Kshs.21,831,155 which has been outstanding for over five (5) years and should have been fully provided for resulting in to understatement of provision of Kshs.19,648,040. This was contrary to the Kenya Medical Training College Debt Management Policy of November 2022 which provides that, "provision for doubtful debts be provided at 10% for 0-3 years, 25% for 3-5 years and 100% for debts over 5 years."

213. In the circumstances, the accuracy and completeness of provision for bad debts of Kshs.86,365,749 could not be confirmed.

**Management response**

214. The debt management policy was revised in November 2022. Prior to the revision the College provided for the doubtful or the bad debts at the rate of 10% for cumulative debts. This effectively means that the debts above 7-years have been fully provided for hence the over provision. Management has revised the provision to be in line with the policy and Financial Statements amended.

**Committee Observations**

**The Committee observed that –**

The college understated Provisions for Bad and doubtful debts by Kshs. 19,648,040 contrary to the Kenya Medical Training College Debt Management Policy of November 2022 which provides that, “provision for doubtful debts be provided at 10% for 0-3 years, 25% for 3-5 years and 100% for debts over 5 years.

**Committee recommendations**

**The Committee recommends that –**

The Accounting Officer, Kenya Medical Training College should at all times comply with the requirements of the Kenya Medical Training College Debt Management Policy of November 2022.

**4.0 Unconfirmed Receivables from the Non-Exchange Transactions Ministry**

215. The statement of financial position reflects receivables from non-exchange transactions balance of Kshs.1,026,395,496 as disclosed in Note 35 to the financial statements. Included in the balance is an amount of which Kshs.19,812,181 is owed by the Ministry of Health. However, the Ministry has not disclosed this balance as payable in its books.

216. In the circumstances, the accuracy and completeness of the receivables from non-exchange transactions, Ministry of Health balance of Kshs.19,812,181 could not be confirmed.

**Management response**

217. The management informed the Committee that it concurs with audit observations that included in the Non exchange transaction receivable is an amount Ksh. 19,812,180 relating to the Ministry of Health that has been outstanding since 1996/1997.

218. The Board of Management recommended the write-off of these debts and the recommendations have since been forwarded to the parent ministry for approval. As of now the college is awaiting necessary National Treasury approval to write off this un-recoverable debt. The college is still following up the matter with the parent ministry.

**Committee Observations and recommendations**

The Committee had deliberated on the issue of Long Outstanding & Doubtful Receivables in the Second PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed

and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **5.0 Deficit in the defined benefit scheme**

219. The Committee heard that, the statement of financial position and as disclosed in Note 39 to the financial statements reflects trade and other payables balance of Kshs.769,598,228. Review of the actuarial valuation report revealed a Defined Benefit Scheme (DBS) had a pension deficit of Kshs.2,125,540,000 as at 30<sup>th</sup> June, 2024. However, the deficit has not been incorporated in the financial statements. Further, if the deficit is not bridged, the pensioners are at risk of not being able to access their retirement benefits as and when they fall due.
220. In the circumstances, the accuracy and completeness of trade and other payables balance of Kshs.769,598,228 could not be confirmed.

#### **Management response**

221. The management informed the Committee that, the deficit has been disclosed in the financial statements as note under contingent liabilities note 13 (x)
222. The college has initiated the following remedial measures to bridge the deficit.
- i Adjusting the sponsor monthly contribution rate from 20% to the RBA recommended rate of 27.6% effective 1<sup>st</sup> July 2024. The annual financial implication translates to Ksh.15,078,278.40 per annum.
  - ii To inject the contribution of Kshs. One hundred (100) Million per annum with effect from 1<sup>st</sup> July 2024.
  - iii The sponsor to meet 49.72% deficit on amounts obtainable in payment of benefits to existing members that is with the scheme funding level of 50.28%.
223. Further, the College has been following up through the parent Ministry for further funding on this item. if the remedial measures are implemented the college will clear the deficit within

#### **Committee Observation**

##### **Committee observed that –**

There was an actuarial deficit of Kshs.2,125,540,000 in the Defined Benefit Scheme (DBS) as at 30<sup>th</sup> June, 2024. However, if the deficit was not bridged, the pensioners will be at risk of not being able to access their retirement benefits as and when they fall due.

The Accounting Officer was in breach of section 81 (3) of the Public Financial Management Act, CAP.412A which requires accounting officers to prepare financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time.

#### **Committee recommendations**

##### **The Committee recommends that –**

The Committee reprimands the then Accounting Officer for contravening the provisions of section 81 (3) of the Public Financial Management Act, CAP.412A.

Within three months upon adoption of this report the Accounting Officer KMTC should collaborate with the Principal Secretary, Medical Services and the Principal National Treasury

for a review on how the actuarial deficit will be bridged. The Accounting Officer should then submit a report on the measures put in place and modalities of bridging the actuarial deficit to the National Assembly.

#### **6.0 Budgetary Control and Performance**

224. The Committee heard that, the statement of comparison of budget and actual amounts reflects final revenue budget amount of Kshs.11,619,000,000 and actual on comparable basis amount of Kshs.11,516,981,640 respectively, resulting to under collection of Kshs.102,018,360 or 1% of the approved budget. Similarly, the College spent Kshs.10,523,540,655 against actual revenue of Kshs.11,516,981,640 resulting to under expenditure of Kshs.993,440,985 or 9% of the actual revenue.
225. The under expenditure may have affected the implementation of the planned programmes and may have negatively impacted on the operations of the College.

#### **Management response**

226. The management informed the Committee that, the shortfall in revenue collection was primarily due to lower-than-expected receipts from non-Exchange revenues. These variances arose from factors beyond the College's control arising from lack of exchequer. Management continues to implement measures to enhance revenue mobilization.
227. The under-expenditure is attributed to cost-saving cutting courtesy of cost control measures and postponement of some non-essential activities. Additionally, some projects and activities initially planned for the period were either deferred or not implemented due to funding constraints and reprioritization. The College remains committed to prudent financial management and ensuring resources are aligned with actual needs and available funding.

#### **Committee Observation**

##### **Committee observed that –**

The under collection of Kshs.102,018,360 or 1% of the approved budget indicated unrealistic or over-optimistic revenue projections.

The under-expenditure on some budget items affected the planned activities and negatively impacted the service delivery to the public.

#### **Committee Recommendations**

##### **The Committee recommends that –**

The Accounting Officer should ensure at all times ensure that the budgets are realistic, achievable, and always adhere to annual work plans, procurement plans, and revenue collection schedules in compliance with Regulation 44(2) of the PFM (National Government) Regulations, 2015.

#### **7.0 Non-Compliance with Staffing Requirement for Persons Living with Disabilities**

228. The Committee heard that, analysis of payroll revealed the College had two thousand one hundred thirty-one (2,131) staff out of which only fifty-two (52) or (2.4%) were persons living with disabilities. This was contrary to Section B.23 (1) of Human Resource Policies and Procedures Manual for the Public Service, 2016 which states that the Persons with disability shall be

accorded equal opportunities for employment provided they have the necessary qualifications and are suitable for such employment and that the government shall implement the principle that at least five (5) percent of all appointments shall be for persons with disabilities.

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

**Management response**

230. The management informed the Committee that, KMTC strives to ensure that persons with disability are accorded equal opportunities for employment. Some of the measures put in place include;

- i. Registration on fuzu.com and KMTC job openings have always been posted on the site for access by persons with disabilities. Evidence of KMTC jobs openings posted in fuzu.com.
- ii. Request to PSC for deployment of interns with Disabilities to the college in a bid to ensure that PWDs are accorded equal opportunities.
- iii. Priority to Persons with Disability when shortlisting by setting PWD as one of the shortlisting criteria when filling job openings provided, they have the necessary qualifications and are suitable for such employment. This is geared towards according PWDs equal opportunity for employment.

**Committee Observation**

**Committee observed that –**

The college had 52 or (2.4%) of employees as persons living with disabilities contrary to section B.23 (1) of Human Resource Policies and Procedures Manual for the Public Service, 2016 which requires that Persons with disability shall be accorded equal opportunities for employment provided they have the necessary qualifications and are suitable for such employment

**Committee Recommendations**

**The Committee recommends that -**

- i) The Committee recommends that, within three (3) months of the adoption of this report, the Accounting Officer:
- ii) Develop and implement a targeted recruitment and retention strategy aimed at progressively achieving and sustaining the minimum five percent (5%) PWD staffing requirement;
- iii) Ensure the strategy is fully aligned with existing laws, regulations, and PSC human resource policies; and
- iv) Submit the finalized strategy to both the National Assembly and the Auditor-General for review and oversight.

The Accounting Officer should at all times ensure compliance with Section B.23 (1) of Human Resource Policies and Procedures Manual for the Public Service, 2016.

**7.0 Staff earnings less than one third basic salary**

231. The Committee heard that, review of payrolls for the twelve (12) months period revealed that nine hundred and fifty-one had committed their salaries beyond two-thirds threshold for their

basic salary throughout the financial year. This was contrary to Section 19(3) of Employment Act, 2007 which provides that without prejudice to any right of recovery of any debt due, and notwithstanding the provisions of any other written law, the total amount of all deductions which under the provisions of subsection (1), may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages or such additional or other amount as may be prescribed by the Minister either generally or in relation to a specified employer or employee or class of employers or employees or any trade industry.

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

#### **Management response**

233. The Committee heard that, employees still earning a net salary of less than a third of their basic salary was occasioned by introduction of housing levy, increase in Social Health Insurance Fund (SHIF) and increase in National Social Security Fund (NSSF) that came later after the employees had committed two thirds of their pay to other obligations. Some of them had reached maximum pay for their job group scale and thus do not get annual increment and others even if they get it's minimal to have an impact on a third rule. The management has advised the affected staff to restructure their obligations, especially loans in a bid to ensure that a third rule is resumed and observed.

#### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of Staff Earning Less Than One Third of Basic Salary in its report for the Financial Year 2021/2022, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **8.0 Inconsistencies in Work-in-Progress Contract**

234. The Committee heard that, the statement of financial position as disclosed Note 37 to the financial statements reflects property plant and equipment balance of Kshs.30,661,803,245. Included in the balance are assets additions worth Kshs.1,377,919,075 out of which Kshs.435,041,103 relates to work in progress. Review of contract documents revealed the construction of a tuition block at Rachuonyo campus which was awarded at a contract sum of Kshs.30,895,490. However, the bill of quantities submitted by the user department for review was for the construction of seven (7) lecture rooms, library, three (3) offices, staff room, Information and Communication Technology (ICT) room and ablution block at a contract sum of kshs.30,814,611.

235. In the circumstances, it was not possible to confirm if the works being implemented by the user department were in accordance with the signed contract for the construction of a tuition block and value for money thereof.

#### **Management response**

236. This matter involves Tender No. KMTC/16/2023-2024 (Proposed Construction of a Tuition Block at KMTC Rachuonyo Campus). The term "tuition block" which was captured and appeared on the cover page of the tender document as attached herewith was meant to highlight the envisaged project. The actual tender description was provided in the subsequent documents after the tender documents' cover page.

237. The description thereof fully indicated what the tuition block entailed which is “construction of three storey building made up of 7no. lecture halls, library, 3no. offices, staffroom, ICT room and ablution block at Kenya Medical Training College – Rachuonyo campus, Homabay County.
238. In this construction project therefore, tuition block implies the above project description as captured in the tender document and in all the documents that emanated from the tendering process including the tender form, the schedule of requirements (scope of works and technical specifications), the evaluation criteria, the general conditions of the contract, the KMTC Notification of Award and Letter of Acceptance.
239. The same is emphasized in the Contract Agreement between the contractor and KMTC where the agreement contains a clause that states; “The following documents shall be deemed to form and shall be read and construed as part of this agreement”
240. With regard to the contract execution, the focal point of reference is the BQ as duly filled and submitted by the bidder plus the schedule of requirements
241. In conclusion the scope of work remains the same. (For evidence, please see ANNEX 14(a-d).

#### **Committee Observation**

##### **Committee observed that -**

The Committee noted discrepancy between the contract sum of Kshs.30,895,490 and the BQ sum presented by the user department of (Kshs.30,814,61).

The Accounting Officer did not ensure that specific requirements were clear and gave correct and complete description, of what was procured for fair and open competition amongst eligible participants contrary to Section 60 (1) of the Public Procurement and Asset Disposal Cap. 412 C.

#### **Committee Recommendations**

The Committee reprimands the then Accounting Officer and the then Head of Procurement for contravening Section for 60 (1) of the Public Procurement and Asset Disposal Cap. 412 C. The Committee further directs the Accounting Officer to ensure specific requirements are clear and give correct and complete description, of what is being procured for fair and open competition amongst eligible participants.

#### **9.0 Failure to establish campuses in all counties**

242. The Committee heard that, review of campuses distribution list revealed that the College had not set up a campus in one of the counties. This was contrary to paragraph 4(v) of the College’s Expansion Policy, 2019 which requires a maximum of three (3) campuses per county and where necessary, one (1) additional campus which will be a satellite of the already existing campuses. Further the policy does not prescribe guidelines on campus distribution based on geographical mapping and population distribution.
243. In the circumstances, the citizens in the affected County may be deprived of the right to access to the College.

#### **Management response**

244. The management informed the Committee that, it appreciates the observation of the auditors on establishment of campuses in the 47 counties across the country. In line with the expansion policy the college is keen in establishing a campus in Kirinyaga county, the Member of National Assembly Kirinyaga Central Constituency wrote to the college in September 2023 requisition for

requirements of establishing a campus. The establishment of the campus is hindered by unavailability of land and financial constraints; however, if all these are in place the College will immediately set up the campus. The College has in the latest correspondence wrote to Cabinet Secretary requesting for support to establish campuses in various locations, among them Kiriya campus, necessitated by own requests and/or presidential announcements.

#### **Committee Observation**

##### **Committee observed that –**

The College had not established a campus in one of the counties contrary to paragraph 4(v) of the College's Expansion Policy, 2019 which requires establishment of Campuses in every County.

The existing policy does not prescribe guidelines on campus distribution based on geographical mapping and population distribution.

#### **Committee Recommendations**

##### **The Committee recommends that –**

The Accounting Officer, Kenya Medical Training College should at all times adhere to the college expansion policy guidelines.

Within three months upon adoption of this report, the accounting officer should ensure that the policy incorporates guidelines on campus distribution based on geographical mapping and population distribution.

#### **10.0 Budget Imbalance**

245. The Committee heard that, the statement of comparison of budget and actual amounts reflects final revenue budget of Kshs.11,619,000,000 and final expenses budget of Kshs.10,646,016,840 resulting to unbalanced budget by Kshs.972,983,160. This was contrary to Regulation 33 (c) of the Public Finance Management (National Government) Regulations, 2015 which states that a budget shall be balanced.

##### **Management response**

246. The management informed the Committee that, it acknowledges the observation regarding the variance between the final revenue budget of Kshs.11,619,000,000 and the final expenditure budget of Kshs.10,646,016,840, resulting in an unbalanced budget of Kshs.972,983,160.
247. The variance arose due to adjustments made during the supplementary budget that was appropriated late in the close of financial year. The anticipated additional revenues captured under supplementary that were re-in fenced to specific projects were factored in to enhance fiscal planning flexibility. However, corresponding expenditure allocations were not fully adjusted to match the revised revenue estimates, resulting in a surplus position.

#### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of Budget Imbalance in its report for the Financial Year 2022/2023, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **11.0 Student under enrolment**

248. The Committee heard that, review of the admission records revealed that thirteen thousand, eight hundred and sixty-four (13,864) students were enrolled in seventy -five (75) courses whose established capacity was 29,965 resulting to a shortfall in admission by sixteen thousand one hundred and one (16,100 slots. In addition, the college was unable to attract students in twenty - one (21) courses with a capacity of one thousand seven and fifteen (1,715) slots resulting to capacity underutilization.
249. In the circumstances, the inability of the College programs to attract students may be an indication that some of the courses being offered are no longer attractive to the market needs.

**Management response**

250. The management informed the committee that, it concurs with the audit findings that there is a shortfall of 16,101 slots and 1715 vacancies that have not attracted students. The College has 2 intakes September and March as follows.
- i. September - 13367
  - ii. March - 15100
- Total - 28467

The evaluation and review reveals;

Sno.	Audit Issue	Category	Cause	Interventions
1.	Higher National Diploma	Under enrollment	Failure of counties to provide a study leave and release their employees to undertake the higher diploma courses, on account of staffing shortages in health facilities	We have engaged counties and hospitals on this issue during our visits to counties. utilization of e-learning
2.	New Courses	Under enrollment	The trend in admission numbers for a new course is usually progressive, such that in the first two years the numbers may be low but this picks up with time	Engagement in extensive awareness creation in high schools (for pre-service courses) and with professional associations and health facilities (for specialized courses).
3.	Courses without students	Without students	Market forces, sponsorship, disease epidemiology, employment opportunities, career progression pathway and the dynamics of education and training. Preference to some specific course such as Nursing	Engagement of stakeholders such as employers and regulatory bodies to ensure that the courses are market-driven conducting training needs assessment career guidance to high school students

### **Committee Observation**

#### **Committee observed that –**

The Committee has noted with concern that, KMTC experienced a shortfall in admission of students by sixteen thousand one hundred and one (16,100 slots).

The inability to attract students may indicate that some of the courses being offered are no longer aligned with current labor market demands or student preferences.

### **Committee Recommendations**

#### **The Committee recommends that –**

Within three months upon adoption of this report, the Accounting Officer should prepare and submit a report to the National Assembly on the corrective actions taken to minimize the shortfall in admission and analysis of labour market needs of the college programs to ensure that the courses are market-driven..

#### **12.0 Under Staffing of the College**

251. The Committee heard that, review of the employee data revealed that one thousand one hundred twenty-nine (1,129) staff in-post out of the approved staff establishment of two thousand eight hundred sixty-six (2,866) resulting to understaffing of one thousand seven hundred thirty-seven (1,737).
252. In the circumstances, the under staffing may affect the College's effectiveness to deliver service to the public.

### **Management response**

253. The management informed the Committee that, it appreciates the observation on the need to fill the staff establishment gap, the inability to bridge the gap is occasioned by inadequate funding on Personnel emoluments, furthermore freezing on employment by Government has also contributed to the same. The College has strived to fill this gap by requesting for funding from the Government. As a measure to achieve the college mandate of training middle level health professionals the management has engaged part time lecturers and requested for secondment of lecturers from various county governments.

### **Committee Observation**

#### **Committee observed that –**

The understaffing and the inability to bridge the staff establishment gap is occasioned by inadequate funding on Personnel emoluments. The college has engaged part time lecturers and requested for secondment of lecturers from various county governments.

The understaffing of the college may have affected the realization of the organization core function and might have impacted negatively on the service delivery to the public.

#### **Committee recommendations**

#### **The Committee recommended that;**

Within three months upon adoption of this report, the Accounting Officer of KMTC should submit a comprehensive report on how the college has addressed the gap of staff establishment and the remedial alternative in absence of the recruitment process.

## **FINANCIAL YEAR 2024/2025**

### **1.0 Financial Unsustainability of Campuses**

254. The Committee heard that, the statement of financial performance and as disclosed in Note 22 to the financial statements reflect tuition, boarding and application amount of Kshs.6,302,522,581. However, a comparative review of revenue versus expenditure across the campuses revealed that fourteen (14) campuses collectively generated Kshs.340,589,150 in revenue, while incurring total expenditure amounting to Kshs.516,413,913. This resulted in a deficit of Kshs.175,824,763.
255. In addition, review of student's register revealed a list of 87,905 students as at 31 March 2025 distributed across ninety-one campuses out of which Kerio Valley, Awendo, Marimanti and Burnt Forest had sixty-five (65), fifty-nine (59), thirty (30) and ten (10) students respectively undertaking various courses which cannot generate adequate revenue to sustain the campus operations.
256. In the circumstances, operating campuses at a loss may be an indication that the campuses will not be able to fund essential services like teaching, maintenance, and student support.

#### **Management response**

257. The management informed the Committee that, the overall deficit of Kshs.175,824,763 arising from the 14 campuses included employee-related costs which are centrally managed through the payroll at the KMTC Headquarters.
258. Additionally, out of the 14 campuses 5 are newly established and currently have low student enrolment, leaving them unable to fully cover their operating obligations and therefore supported from the Headquarters. Four campuses have low enrolment due to geographical placement while Five campuses have Faculty shortage. KMTC Vihiga has recently readmitted students following its reaccreditation by the Nursing Council of Kenya. The table below presents the detailed explanation for individual campuses.

#### **Committee Observation**

##### **Committee observed that –**

The deficit of Kshs.175,824,763 has been occasioned by the inability of fourteen (14) campuses to generate adequate revenue to fully cater their operating obligations and therefore necessitating financial support from the Headquarters.

##### **Committee Recommendation**

##### **Committee recommends that –**

The accounting officer should develop a policy to broaden revenue streams to ensure sustainability of the campuses.

### **2.0 Unresolved Prior Year Matters**

259. The Committee heard that, in the prior years' audit report, 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, respectively. Review of the status during audit of the College in 2024/2025 revealed that the following matters remained unresolved.

No.	Audit Issue
1	Long Outstanding Student Fee Balance
2	Understatement of Provisions for Bad Debts
3	Unconfirmed Receivables from the Non-Exchange Transactions- Ministry
4	Deficit in the Defined Benefit Scheme
5	Non-Compliance with Staffing Requirement for Persons Living with Disabilities
6	Staff Earning Less Than One Third of Basic Salary
7	Inconsistencies in Work-in-Progress Contract
8	Failure to Establish Campuses in all Counties
9	Budget Imbalance
10	Student Under Enrolment

#### **Management response**

260. The management did not respond to the audit query.

#### **Committee Observation**

##### **Committee observed that –**

The accounting officer had several unresolved prior year matters. However, Public Audit Act, CAP. 412B provides that a State organ or a public entity that had been audited shall, as a preliminary step, submit a report on how it has addressed the recommendations and findings of the previous year's audit

#### **Committee Recommendations**

##### **The Committee recommends that –**

The Accounting officer should at all times comply with the provisions of section 31 (1) of the Public Audit Act, CAP. 412B.

#### **3.0 Non-Compliance with One Third Rule**

261. The Committee heard that, analysis of payroll data for twelve (12) months revealed that one hundred and eighty-three (183) employees earned a net salary of less than one third of their basic pay. This is contrary to Section 19(3) of the Kenya Employment Act, 2007 which requires 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 made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages.

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

#### **Management response**

263. The management informed the Committee that, employees earning a net salary of less than a third of their basic salary was occasioned by introduction of housing levy, increase in social Health Insurance Fund (SHIF) and increase in National Social Security Fund (NSSF) that came later after the employees had committed two thirds of their pay to other obligations. Some of the

employees had reached maximum pay for their job group and thus do not get annual increment and others even if they get it is minimal to have an impact on the third rule.

264. Secondly, on migration from IPPD to the current HRIS, the system was not programmed to caution the users when the third rule is violated or when obligations that are beyond two thirds of the employee pay are fed in the system. The same has been rectified from the month of November 2025 by system administrator (DPSM). The system now cannot accept obligations that are more than two thirds of employee pay. The management also communicated to the officers who are affected to liaise with the financial institutions in a bid to ensure that a third rule is adhered to.

#### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of Non-Compliance with One Third Rule in its report for the Financial Year 2021/2022, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **4.0 Irregular establishment of new campuses**

265. The Committee heard that, the college has ninety-one (91) campuses out of which four (4) campuses were established during the year. However, the new campuses were not supported by a concept paper and site visit minutes of the Board and Management on their establishment. This was contrary to Paragraph 4 (i) (a) of the College's Expansion Policy 2019 which states that, 'There shall be established an expansion committee chaired by the Deputy Director Academics, consisting of Departmental Heads, and any other officer appointed by the Chief Executive Officer (CEO) which shall from time to time come up with concept paper or proposals for creation of a new campus. Further, the new campuses were established without an approved budget contrary to paragraph 5.2 (ii) of the College Expansion Policy 2019 which prescribes a budget of Kshs.216,000,000 for establishment of a new campus.

266. In addition, review of campus distribution schedule revealed ninety-one (91) campus out of which twenty-nine (29) were operating without students' hostels contrary to Paragraph 4 (iv) (b) of the College Expansion Policy, 2019 which requires halls of residence be in place when a campus is established. Inspection reports to confirm the minimum infrastructural facilities are in place such as equipped laboratories and a campus bus to transport students to practical attachment areas were not provided for audit review. These deficiencies compromise the quality of education contrary to paragraph 4 (iv) (b) of the College Expansion Policy 2019 which requires these facilities to be in place before a campus is established.

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

#### **Management response**

##### **i Establishment of New Campuses**

268. The management informed the Committee the development of a campus from the early planning stages to completion takes place over a number of years. Throughout this period, members of the board and management committees make several visits to the campuses and conduct joint meetings with local stakeholders. Additionally, a fully established campus proximal to the new campuses oversees the operationalization of the campus

S/No	Campus	Establishment of the campus	Operational budget 2024/2025		
			GOK grant Kshs	Internally generated Kshs	Total kshs
	KERIO VALLEY	Infrastructure Development Undertaken by CDF		7,340,000	7,340,000
	MBUVO	Infrastructure Development Undertaken by County	20,000,000	28,228,800	48,228,800
	MAUA	Infrastructure Development Undertaken by CDF	12,500,000	10,617,320	23,117,320
	NDHIWA	Infrastructure Development Undertaken by CDF	33,340,000	25,054,200	58,394,200

## ii. Campus Hostel

269. The college, in partnership with National Housing, is undertaking the construction of student hostels across 54 designated campuses as part of the affordable housing programme. This initiative will significantly improve on-campus accommodation for our students.

### Committee Observation

#### Committee observed that –

The establishment of new campuses were not supported by a concept paper and site visit minutes of the Board and Management contrary to Paragraph 4 (i) (a) of the College's Expansion Policy 2019 which states that, 'There shall be established an expansion committee which shall from time to time come up with concept paper or proposals for creation of a new campus.

### Committee Recommendations

#### The Committee recommends that –

The Accounting should at all times comply with the provisions Paragraph 4 (i) (a) of the College's Expansion Policy.

### 5.0 Non-Compliance with employment requirements for persons living with disabilities

270. The Committee heard that, analysis of the master roll revealed that College has two thousand six hundred and five (2,605) staff out of whom forty-four (44) or approximately 2% are persons living with disability. This is contrary to Section B.23 (1) of the Human Resource Policies and Procedures Manual for the Public Service May, 2016 which states that the Persons living with disability shall be accorded equal opportunities for employment provided they have the necessary qualifications and are suitable for such employment and that the government shall implement the principle that at least five (5) percent of all appointments shall be for persons with disabilities.

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

### **Management response**

272. The management informed the Committee that, KMTC strives to ensure that persons with disability are accorded equal opportunities for employment. Some of the measures put in place include:
- i. All advertisement for employment encourages Persons with Disability (PWD) to apply (Annex 3a)
  - ii. Registration on fuzu.com and KMTC job openings have always been posted on the site for access by persons with disabilities. Evidence of KMTC jobs openings posted in fuzu.com (Annex 3b)
  - iii. Request to PSC for deployment of interns with Disabilities to the college in a bid to ensure that PWDs are accorded equal opportunities. This is evidenced in the attached letter reference number KMTC/MISC/37/VOL.III/52 dated 18<sup>th</sup> January 2023. (Annex 3c Letter to PSC on PWD interns)
  - iv. Priority to Persons with Disability when shortlisting by setting PWD as one of the shortlisting criteria when filling job openings provided, they have the necessary qualifications and are suitable for such employment. This is geared towards according PWDs equal opportunity for employment.
  - v. Employment of 13 persons with disabilities during the year 2023/2024 out of the 607 vacancies declared, translating to 2.1% employment rate. The officers spread in various cadres including lecturers, human resource personnel, administrators, and support staff among others. Below is a list of PWD officers employed.
273. Despite the efforts to ensure that the organization achieve 5% PWD of the in post there has been retirement by the PWDs. In addition, lack of PWDs with the necessary minimum qualifications' poses a challenge to the college when jobs are advertised. Despite these challenges the organization continues to strive in giving PWDs equal employment opportunities when job openings arise in the college.

### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of Non-Compliance with employment requirements for persons Living with Disabilities in its report for the Financial Year 2021/2022, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

### **6.0 Under Remittance of Funds to Campuses**

274. The Committee heard that, the statement of cash flows reflects receipts amounting to Kshs.5,323,952,316 from tuition, boarding, and application fees. However, analysis of the cashbooks revealed that only Kshs.2,728,376,642 or approximately 51% was remitted to campuses which was significantly below the expected remittance of Kshs.3,992,964,237 or approximately 75% of total receipts resulting in an under-remittance of Kshs.1,264,587,595. This was in violation of paragraph 7.5 (v) of the Kenya Medical Training College Finance and Internal Controls Manual May, 2019 states that "For items of the ordinary budget, funds shall be issued to AIE holders on quarterly basis to the Expenditure Bank Account subject to collection of revenue. 75% of total collection is due to campuses whereas 25% is used to fund headquarter expenses.

275. In the circumstances, the underfunded campuses may fail to deliver on their mandates affecting the institution's overall performance.

**Management response**

276. The management informed the Committee that, it acknowledges the audit findings. It was however determined that within the reported "under-remittance" of Kshs. 1,264,587,595, KMTC headquarters centrally settles several recurrent expenses, including;

- Insurance – Kshs.1,207,223,820
- Internet – Kshs.162,854,789

277. These centrally paid expenses ultimately lead to a significant reduction in the remittance to campuses.

**Committee Observation**

**Committee observed that** –The under-remittance of Kshs.1,264,587,595 or 24% to campuses was contrary to the paragraph 7.5 (v) of the Kenya Medical Training College Finance and Internal Controls Manual May,2019 which states that "for items of the ordinary budget, funds shall be issued to AIE holders on quarterly basis to the expenditure bank account subject to collection of revenue".

**Committee Recommendations**

**The Committee recommends that –**

The Accounting Officer should at all times comply with the provisions of paragraph 7.5 (v) of the Kenya Medical Training College Finance and Internal Controls Manual May,2019.

**7.0 Lack of annual recruitment plans**

278. The Committee heard that, the statement of financial performance and as disclosed in Note 25 to financial statements reflect employee cost amount of Kshs 5,879,153,227. However, review of recruitment records revealed that the college recruited five hundred and sixty-nine (569) between December, 2023 and July, 2024 which was not supported with Annual Recruitment Plans.

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

**Management response**

280. The management informed the Committee that, the college recruited staff. The recruitment of five hundred and sixty-nine 569 staff was based on the approved staff establishment and staffing needs submitted to the board in line with Budgeted prioritized areas.

**Committee Observation**

**Committee observed that –**

The recruitment of five hundred and sixty-nine 569 staff was not supported with Annual Recruitment Plans.

**Committee Recommendations**

**The Committee recommends that –**

The Accounting Officer should at all times ensure that recruitments are supported by annual recruitment plans.

**8.0 Gender Disparity in Enrolment**

281. The Committee heard that, the analysis of the March, 2025 student placement data revealed that twenty-five thousand and thirty-four (25,034) students were enrolled in various courses, comprising eight thousand five hundred and sixty-five (8,565) or approximately 34% male students and sixteen thousand four hundred and sixty-nine (16,469) or approximately 66% female students. This disparity is inconsistent with Sustainable Development Goal 4.5, which advocates for the elimination of gender inequalities and the promotion of equal access to education at all levels. In addition, the placement records only indicated the mean grade of the applicants but did not indicate the grades of various subjects to confirm whether the minimum entry requirements were met.
282. In the circumstances, gender imbalance in enrolment of students may have wider social and economic implications, including unequal access to education and employment opportunities.

**Management response**

283. The management informed the Committee that, it concurs that there is disparity in gender. college declares vacancies to KUCCPS for recruitment of qualified students. After recruitment the college receives from KUCCPS list of selected students for instance Nursing being a flagship program admitted 2,653 females and 2049 males.
284. For placement to KMTC, the college has minimum entry requirements that include an overall grade and grades required in specific subjects. This information is included in the KMTC advertisement for courses. The same information is shared with KUCCPs and placement to KMTC is executed in consideration of these requirements. KUCCPS has access to the KCSE results of each applicant through the KNEC database and applicants who do not meet the requirements for a given course are unable to submit an application for the course. At the point of admission, KMTC verifies that each student meets the requirements using certified copies of certificates. The data on the grades is extracted on to Form B and copies of the certificates are retained.

**Committee Observation**

**Committee observed that –**

The March, 2025 student placement data revealed that, out of the twenty-five thousand and thirty-four (25,034) who enrolled in various courses, 34% were male while 66% were female students.

The placement records did not indicate the grades of various subjects to confirm whether the minimum entry requirements were met.

**Committee Recommendations**

**The Committee recommends that –**

The Accounting Officer in conjunction KUCCPS should come up with measures and strategies to ensure gender parity in students' enrolment.

The Accounting Officer should at all times ensure that students records capture grades for various subjects.

### **9.0 Limited capacity to enrol students**

285. The Committee heard that, review of application records revealed the College received thirty-four thousand nine hundred and seventy-one (34,971) applicants for twelve (12) courses. However, the established capacity of these courses was five thousand and forty-one (5,041) slots resulting to 29,930 or approximately 86% students not enrolled due to lack of capacity.
286. In the circumstances, limited capacity to enroll students may result in missed revenue opportunities, reduced institutional growth, and reputational damage, potentially affecting the institution's strategic objectives and stakeholder confidence.
- Management response**
287. The management informed the Committee that, the limited capacity is due to regulatory, infrastructure and training placements sites. The expansion of training opportunities for college education is one of the mandates of the college as provided in the KMTC ACT cap 261. The college has endeavoured to actualize this mandate over the years by increasing the training capacity especially in the 12 training programs to meet the ever-increasing demand for college education.
288. For instance, the college has expanded the capacity for nurses from 50 to 67 campuses over the past 5-year period. The college has engaged stakeholders, especially the national, county governments and regulatory bodies to optimize its responsiveness to market needs and trends. As provided in the KMTC strategic plan 2023-2028, the college expects to increase the number of students admitted each year.
289. In an effort to increase the training opportunities, the Board of Directors has engaged several stakeholders for the purpose of increasing training capacity. In particular, the college has signed memoranda of understanding with county governments to increase and strengthen the county clinical facilities, which are a requirement for training.

### **Committee Observations**

#### **Committee observed that –**

The failure to enrol students by 86% due to lack of capacity may affected the realization of the organization core mandate and might have impacted negatively on the service delivery to the public.

#### **Committee Recommendations**

##### **The Committee recommended that;**

Within three months upon adoption of this report, the Accounting Officer of KMTC should submit to the National Assembly a comprehensive report on the status of the collaboration strategies put in place to increase the enrolment capacity.

### **10.0 Delays in Placement of Students**

290. The Committee heard that, review of the academic calendar indicated the College's March/July semester was for twenty-one (21) weeks from 4 March, 2025 to 25 July, 2025. However, six hundred and eighty-four (684) students reported on various dates in the month of May, 2025 about eight (8) to ten (10) weeks after the semester had started. The delayed placement resulted

in students losing between 40% to 48% of the academic hours which compromises the quality of education pursuant to Paragraph 6.3.4 of the College Teaching and learning Policy 2024 which requires students to achieve a minimum attendance of 90% for both theory and practical sessions in all units.

291. In the circumstances, Management may have compromised the quality of education, potentially leading to inadequate academic outcomes, reduced student competency, and reputational damage to the institution.

**Management response**

292. The management informed the Committee that, the college concurs that, there is delay in placement of preservice students. This culminated to engagement with KUCCPS to mitigate against delays where the parties developed a placement schedule. For instance, for September 2025 intake, it was agreed as follows:

- i) 9<sup>th</sup> June: Declaration of capacities by KMTC
- ii) 10<sup>th</sup> June: Opening of portal by KUCCPS
- iii) 25<sup>th</sup> June: Closure of KUCCPs Portal
- iv) 14<sup>th</sup> July: Release of list from KUCCPS to KMTC
- v) 9<sup>th</sup> September, Reporting of students.
- vi) 23<sup>rd</sup> September: End of 2 weeks of Revision

293. The college has also put in place remedial measures to mitigate the effects of the delays on the learning outcomes. The college organizes a make -up timetable utilizing extra hours (outside the regular classes) after classes and weekends, to ensure curriculum hours are covered and that the product quality is not compromised.

294. The college has a quality assurance department that monitors the curriculum coverage, as well as a teaching and learning policy and standard operating procedures for the policy, which provide tools for monitoring teaching and learning for all students.

**Committee Observation**

**Committee observed that –**

The delayed placement by eight (8) to ten (10) weeks resulted in students losing between 40% to 48% of the academic hours which compromises the quality of education contrary to Paragraph 6.3.4 of the College Teaching and learning Policy 2024 which requires students to achieve a minimum attendance of 90% for both theory and practical sessions.

**Committee Recommendations**

**The Committee recommends that –**

The Accounting Officer in collaboration with KUCCPS should at all times ensure that placement of students is seamless to mitigate the effects of the delays on the learning outcomes.

**11.0 Capacity underutilization**

295. The Committee heard that, review of student’s application data revealed thirty-two (32) campuses with a capacity of 5,050 students received 1,083 applications or approximately 21% resulting into unutilized capacity of 3,967 slots or approximately 79%. For instance, Marimanti

and Lamu campuses with sixty lots each received one and two applications respectively while no student applied in Mandera campus out of a capacity of sixty slots resulting into capacity underutilization.

296. In addition, review of admission records revealed that two thousand nine hundred and sixty-three (2,963) students were enrolled in thirty-two (32) courses whose established capacity was six thousand four hundred and fifteen (6,415) resulting to a shortfall of three thousand four hundred and fifty-two (3,452) or approximately 54%. Further, the college was unable to attract students in ten (10) courses with a capacity of five hundred and fifty-five (555) students resulting to capacity underutilization.
297. In the circumstances, the inability of the college programs to attract students may be an indication that some of the courses being offered are not aligned to the market needs.

#### **Management response**

298. The management informed the Committee that, it acknowledges the auditor's observations on capacity underutilization. These campuses are in hard-to-reach areas and equipping these campuses to meet the requirements for additional programs. Mandera campus is now accredited by the Clinical Officers Council and the Nursing Council of Kenya to offer Diploma in clinical medicine and Diploma in community health nursing, and now has 210 students. Lamu campus is now offering Certificate in Community Health Nursing, and has 234 students.
299. Nursing and Clinical Medicine are high demand courses that are expected to attract more students to the campuses, despite their remote geographical location. The college is working with the County Government of Tharaka-Nithi to support the Marimanti hospital to meet requirements for additional programs, especially Nursing programs. This will ensure that the capacity of the campus is utilized. Additionally, the management has continuously mobilized students jointly with KUCCPS and publicized the campuses through engagement of local leadership.

#### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of Capacity underutilization in its report for the Financial Year 2023/2024, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **12.0 Inadequate lecturer student ratio**

300. The Committee heard that, review of students' records revealed a total of 87,905 students against 1,273 lectures translating into a lecturer student ratio of 1:69 which is below the required lecturer student ratio of 1:10. In addition, thirty-five (35) campuses offered thirteen (13) courses without fulltime lecturers compromising the quality of education pursuant to Paragraph 4.1 (iii) (b) of the College Expansion Policy 2019 which requires a minimum of four (4) full time lecturers for a class of forty.
301. In the circumstances, the understaffing of lecturers may result in inadequate academic coverage, overburdened lecturers, reduced student engagement, and non-compliance with policy standards ultimately affecting student outcomes.

### **Management response**

302. The Management informed the Committee that, it acknowledges the staff shortage in campuses, which is attributable to budgetary constraints. To address these challenges the management collaborates with County Governments for secondment of faculty to the campuses. The college also contracts lecturers to bridge the staffing gap alongside use of the E-Learning platform. The management has requested for budgetary allocation to facilitate recruitment of additional lecturers to enhance the lecturer student ratio.

### **Committee Observations and Recommendations**

303. The Committee had deliberated on the issue of Inadequate lecturer student ratio in the Second PIC – Social Services, Administration and Agriculture (PIC-SSAA) Report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein

## **EXAMINATION OF THE REPORT OF THE AUDITOR-GENERAL ON THE AUDITED ACCOUNTS OF KENYA MEDICAL SUPPLIES AUTHORITY FOR THE FINANCIAL YEARS 2019/2020- 2020/2021**

**Dr. Waqo Ejersa, the Chief Executive Officer, Kenya Medical Supplies Authority was accompanied by Mr. Waiganjo Karanja, d Director Finance and Mr. Eliud Murithi Director Commercial appeared before the Committee to adduce evidence on the Audited accounts (KEMSA) for the financial years 2019/2020 to 2020/2021.**

### **FINANCIAL YEAR 2019/2020**

#### **1.0 Net Sales**

304. The Committee heard that, the statement of financial performance and Note 3 to the financial statements reflects revenue from exchange transactions, net sales balance of Kshs.1,818,997,228 which includes expired/damaged drugs valued at Kshs.120,882,715 compared to the previous year 2018/2019 figure of Kshs.128,604,791. No explanation was provided for stocking expired/damaged drugs. Further, no signed report by the disposal committee was provided on the drugs for audit confirmation. Consequently, the accuracy and validity of the net sales balance of Kshs. 1,818,997,228 for the year ended 30 June, 2020 could not be confirmed.

### **Management response**

305. The management informed the Committee that the Net Sales balance of Kshs.1,818,997,228 for the year ended 30 June 2020 includes expired/damaged drugs of Kshs.120,882,715.
306. The expiries/damages were mainly driven by:
- i. KEMSA's business model is "PULL" system where counties, other public health, and Faith-based facilities determine what they require and buy the same. After devolution, the entire public health supply chain system moved from PUSH to PULL and some commodities attracted little or no demand from these facilities. These commodities have over time exhausted their shelf life and hence become obsolete.

- ii. Measures have been taken to commit suppliers who deliver commodities that are below their 75% shelf life to collect and replace the products in case they expire before they are consumed as per the KEMSA Quality Assurance SOP.
- iii. The KEMSA management has also been engaging in proactive efforts to ensure that commodities do not expire by: donating Commodities that are less than six (6) Months to expiry to Counties.
- iv. KEMSA's throughput in FY 2019-20 was valued at Ksh 10,581,706,996. The expired commodities for FY 2019/20 amounting to Ksh. 120,882,715 represent 1.14% of total throughput, which is below the 2% limit of acceptable best international supply chain practices for expiry levels.

### **Committee Observations and Recommendations**

The Committee observed that the issue of Net Sales was deliberated in its Third PIC-SSAA Report and upholds the observations and recommendations therein.

#### **2.0 Staff Cost.**

307. The Committee heard that, the statement of financial performance and Note 5 to the financial statements reflect a total staff costs balance of Kshs.1,083,420,635. However, the Authority had nine hundred and twelve (912) employees as at 30 June, 2020 against an approved staff establishment of three hundred and forty-one (341) resulting in the unapproved and unexplained over-establishment of five hundred and seventy-one (571) officers. No approval was provided to support the over-establishment of 571 officers. Further, it was observed that five (5) officers on secondment from the Ministry of Health have served the organization for a period of more than 6 years contrary to section B.33 (1) of the Public Service Commission Human Resource Policy which state that secondment of officers from the Public Service to other organizations is applicable to pensionable officers for a period of three (3) years, renewable once. No explanation was provided for this anomaly.
308. In the circumstances, the accuracy and validity of staff costs balance of Kshs.1 083,420,635 for the year ended 30 June, 2020 could not be confirmed.

#### **Management response**

309. The Management informed the Committee that the approved staff establishment is 341 as approved by the Board of Directors' 37th meeting held on the 8th May 2014. At the time of Audit, the inpost was nine hundred and twelve (912) employees as at 30 June, 2020, comprised of 321 permanent and pensionable staff and 591 contracted staff. KEMSA engaged staff on short-term contracts due to changes within the organization as outlined below;
- i. Implementation of new business model to support the devolved county health facilities which necessitated KEMSA to come up with a business architecture and organizational structure that supports devolved healthcare system.
  - ii. Implementation of the Universal Health Coverage (UHC), where KEMSA is a key implementing partner.
  - iii. KEMSA offers supply chain services to various strategic partners who have variable and unpredictable workload.

**Current Status:**

310. In order to address the staff establishment issue, the Board has taken the following measures;

- i. Conduct a staff review and rationalization exercise. Arising from the rationalization exercise, a total of 170 employment contracts which lapsed on 30<sup>th</sup> June 2023 were not renewed. This decision was arrived at by the Board during its 97<sup>th</sup> Special Board meeting held on 5<sup>th</sup> June 2023. Currently, the Authority has a total 562 employees, being a reduction from the previous 912 staff.
- ii. Review of KEMSA's Human Resource Instruments. The Board initiated a review of KEMSA's Human Resource Instruments which include the Organization Structure, Staff Establishment, Career Progression Guidelines and the Human Resource Policies and Procedures Manual. Completion of this process will be within the FY 2024-25.

**Committee Observations and Recommendations**

The Committee observed that the issue of Staff cost was deliberated in its Third PIC-SSAA Report and upholds the observations and recommendations therein.

**3.0 Distribution Cost**

311. The Committee heard that, Note 6 to the financial statements reflects distribution costs totalling to Kshs.772,369,557 for the year ended 30 June, 2020 which include an amount of Kshs.19,352,250 overpaid to a supplier through a contract entered into between the Authority and a Courier Services Company on 24 September, 2016 for provision of courier services to health facilities countrywide. The overpayment of Kshs19,352,250 had not been recovered as at 30 June, 2020. No explanation was provided for failure to recover the overpayment.
312. In the circumstances, the accuracy and authenticity of distribution costs balance of Kshs.772,369,557 for the year ended 30 June, 2020 could not be confirmed.

**Management response**

313. The Management informed the Committee that the Authority had entered into an agreement with Timeless Courier Services Limited on 24<sup>th</sup> September 2016 for the provision of courier services to Health facilities countrywide. The Service Provider payments were being made once the payment vouchers with the necessary supporting documents are completed.
314. The contract with Timeless Courier services Ltd had defined criteria on how Parcels and medical commodities distribution should be charged. There were instances where recorded Service Provider waybills were not matching to the defined invoicing criteria resulting to an overpayment of Kshs. 19,352,250 which the service provider disputed. At the time of establishment of the overpayment the Authority was holding a claim invoice from Timeless Courier Services, of Kes.14,975,296 which has not been paid to date
315. The Authority is holding a claim invoice for Timeless Courier Services, of Kes.14,975,296 awaiting the conclusion of an ongoing arbitration process. Timeless Courier Services have since disputed the Kshs.19,352,250 and has initiated an arbitration process.

**Committee Observations**

**The Committee observed that –**

Kenya Medical Supplies Authority made an overpayment of Kshs.19,352,250 to Timeless Courier Services Limited for provision of courier services to health facilities countrywide. The amount remains outstanding to date.

The failure by the management to conduct reconciliation before making payments is a clear indication of lapses of internal controls.

The Authority assertion that it is holding a claim invoice for Timeless Courier Services, of Kshs. 14,975,296 awaiting the conclusion of an ongoing arbitration process was not supported by any documentary evidence.

#### **Committee Recommendations**

##### **The Committee recommends that –**

Within three months upon adoption of this report, the Inspector General of State Corporations to surcharge and recover from the then Accounting Officer Kshs.19,352,250 paid irregularly to the Courier Company.

#### **4.0 Receivables from exchange transactions**

316. The Committee heard that, the statement of financial position and Note 18 to the financial statements reflects receivables from exchange transactions balance of Kshs.6,605,189,547 which includes an amount totaling Kshs 4,974,361 317 comprising of Kshs.2,848,869,446 receivable from Counties and Kshs.2,125,491,871 receivable from the Ministry of Health that have been outstanding for more than twelve (12) months and whose recovery is doubtful.

317. Further, the receivables from exchange transactions balance of Kshs.6,605,189,547 differs with the balance of Kshs. 6,601,968,773 reflected in the supporting schedule provided for audit resulting to an unreconciled and unexplained variance of Kshs.3,220,774. In the circumstances, the accuracy and validity of receivable from exchange transactions balance of Kshs.6,605,189,547 as at 30 June, 2020 could not be confirmed.

#### **Management response**

318. The Management informed the Committee that, as at 30th June 2020, the County Governments owed KEMSA a total outstanding debt of Ksh. 2,848,869,466.67. As at 30th June 2024, KEMSA had collected all county related debt that was outstanding as at 30th June 2020. All the observed long outstanding amounts as at 30th June 2020 have been settled.

319. Out of the debt owed by the Ministry of Health of Ksh. 2,125,491,871, an AIE was issued of Ksh. 1,232,377,870 towards the settlement of the pending bill leaving a balance of Ksh. 893,114,001. The Authority confirms that out of the remaining balance, Ksh 802,007,979.09 was paid on 8th July 2022.

320. As at 30th June 2024, the debt owed by the Ministry of Health was Ksh. 1,253,576,806. Disbursement of funds from the National Treasury to the Counties has a significant impact on timely remittances of funds from the counties to KEMSA. Case in point is the disbursement for September 2024 was released to the counties on 12th November 2024. The effect of pending bills at the end of each financial year affects remittances as verification of the bills at the Counties must be undertaken.

#### **Committee Observations**

The Committee observed that the issue of Receivables from exchange transactions was deliberated in its Third PIC-SSAA Report and upholds the observations and recommendations therein.

#### **5.0 Unsupported Covid-19 Inventories**

321. The Committee heard that statement of financial position and Note 20 to the financial statements reflects inventories balance of Kshs.17,738,279,406 as at 30 June, 2020. The inventories balance includes pharmaceutical and non-pharmaceutical stocks balance of Kshs.17,734,238,206 which includes an amount of Kshs.5,639,656,550 in respect of Covid-19 related stocks. Information available indicates that during the year under review, the Authority procured COVID-19 items amounting to Kshs.7,632,065,588, out of which stocks amounting to Kshs.1,992,409,038 were issued out, leaving a balance of Kshs.5,639,656,550 which includes a net positive adjustment of Kshs. 1,680,377,225 that was supported.
322. Further, it was noted that the adjustment of Kshs.1,680,377.225 was effected through Journal Voucher KEMSA-JV-1-20/21 debiting non-pharmaceutical stocks and crediting medical commodity fund. However, the credit entry was not traced under the medical commodity fund.
323. In the circumstances, the validity and accuracy of the inventory balance of Kshs 17,738,279,406 as at 30 June. 2020 could not be confirmed.

#### **Management response**

324. The Management informed the Committee that the Authority acknowledges the Auditor's observations regarding the Covid-19 inventories. The Covid-19 commodities valued at Kshs.1,680,377,225 were included within the total medical commodities inventory, which amounted to Kshs.17,734,238,206 as of 30 June 2020. The Medical Commodity Fund reconciliation has since been fully updated to ensure accurate tracking of these items.

#### **Committee Observations**

##### **The Committee observed that –**

There was a gap in the procurement of COVID-19 related stocks which led to the over procurement of stocks worth Kshs.5,639.656,550.

The then Accounting Officer, KEMSA failed to manage the inventory for the purpose of preventing wastage and loss contrary to section 160 of the Public Procurement and Asset Disposal Act, CAP412C which requires stocks to be kept to the minimum necessary for the efficient conduct of the authority to avoid unprofitable lock up of funds.

An adjustment of Kshs.1,680,377.225 effected through Journal Voucher KEMSA-JV-1-20/21 on non-pharmaceutical stocks and medical commodity fund could not traced under the medical commodity fund implying the entry could be non-existent stock.

#### **Committee Recommendations**

## **The Committee recommends that –**

Within three months upon adoption of this report, the Director General Public Procurement Regulatory Authority in collaboration with the Attorney General fasttrack the amendments to the Public Procurement and Asset Disposal Act, CAP 412C to introduce a provision under section 69 to providing for retrospective approvals under prescribed circumstances.

Further, amend the procurement regulations to effectively govern public procurement to the scale and duration of a pandemic. The regulations should facilitate rapid response, adherence to specified procedures and ethical practices to enhance efficiency and build public trust in the procurement systems.

The accounting officers should provide to the National assembly documentary evidence showing how the items worth Kshs. 1,680,377.225 billion were received in KEMSA records and how they were eventually issued to the medical commodity fund or any other point of use. This should include documentary evidence of utilisation of the non-pharmaceuticals under medical commodity future.

## **6.0 Property Plant & Equipment**

### **6.1 Land**

325. The Committee heard that, the statement of financial position and Note 22(a) to the financial statements reflects property, plant and equipment balance of Kshs.6,341,530,305 as at 30 June, 2020- This balance includes land valued at Kshs 1,786,967,270 which includes various parcels of land spread across the country valued at Kshs.158,000,000 for which the Authority does not possess ownership documents. Further, the property, plant and equipment balance of Kshs.6,341,530,305 excludes an unspecified value of a parcel of land in Meru Municipality measuring 0.3 Ha which belongs to the Authority. The explanation provided for the failure to obtain the title deeds for these parcels of land and to bring into account the parcel of land in Meru is that the land was converted from the establishment of a medical store to the establishment of a stadium and no documentary evidence was provided confirming the change in use.
326. In the circumstances, it has not been possible to confirm the ownership of the eight (8) parcels of land and ascertain whether the land cost of Kshs.1,786,967,270 is fairly stated as at 30 June, 2020.

### **Management response**

327. The Management informed the Committee that despite having allotment letters and Leases for the various parcels of land, the Authority did not possess title deeds for parcels of land valued at Ksh. 158,000,000.
328. The Authority has taken up the issue of titles on KEMSA Land and has engaged a Conveyance expert to handle the issue of realization of the title's deeds with a specified time frame.
329. The Authority Acknowledges that KEMSA did not obtain documents of title for the Meru Municipality land measuring 0.3 Ha. Land adjudication was later done in Meru County, which

saw the location of the parcels change as the County was still planning on positioning various organizations that had been allocated land in the area, KEMSA included. KEMSA was allocated another piece of land in Meru via allocation letters done by the sitting governor then. The allocation letter had stated that the County Govt has set aside 10 acres for KEMSA. KEMSA received the title deeds for the Meru 10-acre land in 2021.

### **Committee Observations and Recommendations**

The Committee observed that the issue of Land was deliberated in its Third PIC-SSAA Report and upholds the observations and recommendations therein.

### **7.0 Motor Vehicles**

330. The Committee heard that, the property, plant and equipment balance of Kshs.6,341,530,305 includes motor vehicles net book value of Kshs.80,472,648 which as previously reported includes four (4) vehicles with a net book value of Kshs 410,083 that are owned by the National Government as detailed below;

<b>Registration No.</b>	<b>Name</b>	<b>Year of manufacture</b>	<b>NBV</b>
GKA 538G	Isuzu FVR 23 Lorry	1998	137,500.0
GKA 539G	Isuzu FVR 23 Lorry	1998	168,750.0
GKA 960B	Toyota Land cruiser	1998	58,000.0
GKU 127B	Isuzu TX Lorry	1998	45,833.0
<b>Total</b>			<b>410,083.0</b>

331. Further, it was noted that the Ministry of Health vide letter Ref: MOH/ADMTOIVO.11 requested KEMSA to release GK A960B Toyota Land Cruiser. By the time of the audit, the vehicle had not been released and no explanation was provided for failing to transfer the ownership documents of these vehicles to the Authority.
332. In the circumstances, it was not possible to confirm the ownership of the four (4) motor vehicles and whether the motor vehicles net book value of Kshs.80,472,648 is fairly stated as at 30 June, 2020.

### **Management Response**

333. The management informed the Committee that, it acknowledges the Auditor's observation that KEMSA is in possession of motor vehicles owned by the Ministry of Health. KEMSA had requested for transfer of ownership from the Permanent Secretary, Ministry of Health, copy of the letter attached (Appendix 6.2 – Copy of letter to Ministry of Health requesting for transfer of GK motor vehicles to KEMSA and letter from MOH recalling 2 drivers and a vehicle registration number GK 960B).
334. The vehicle registration number GKA 960B was physically released to the Ministry as soon as the request was received vide letter Ref. No. KEMSA/ADMN/MV/13/05/2019 dated 13th May, 2019.
335. KEMSA will continue following up on the issue to ensure that ownership of the lorries is transferred so as to correct this anomaly.

### **Current Status:**

336. As a follow up to the previous requests to facilitate the transfer of these motor vehicles to KEMSA, the Authority again wrote to the Permanent Secretary, Ministry of Health requesting for this transfer. (see appendix 6.2- copy of letter Ref. KEMSA/ADM/MV/26/09/2023 dated 26th September 2023).

#### **Committee Observations and Recommendations**

The Committee observed that the issue of Motor vehicles was deliberated in its Third PIC-SSAA Report and upholds the observations and recommendations therein.

#### **8.0 Work in Progress**

337. The Committee heard that, the property plant and equipment movement schedule at Note 22(a) to the financial statements reflects work in progress balance of Kshs.2,981,916,458. Included in the additions balance of Kshs. 1,247,723,582 are two contracts for proposed refurbishment of the Mombasa and Kisumu warehouses. Contract No. KEMSA/RT24/2018-2019, for Mombasa Warehouse and Contract No. KEMSA/RT1-2018-2019 for Kisumu Warehouse amounting to Kshs.26,458,460 and Kshs.30,667,130 respectively which were awarded through restricted tender on grounds of urgency on 13 February, 2019. The work was to be completed on or before 30 April, 2019.

338. As at 30 June 2020 a total of Kshs.24,126,271 which is 91% of the contract price had been paid for the Mombasa Warehouse and Kshs.29,818,061 which is 97% of the contract price had been paid for the Kisumu Warehouse. However, by the time of the audit in January 2021 work had not been completed although the contract period had lapsed.

339. In the circumstances, it is not clear whether the Authority obtained value for money in the two contracts.

#### **Management Response**

340. The management informed the Committee that the project for proposed refurbishment of the Mombasa and Kisumu warehouses. Contract No. KEMSA/RT24/2018-2019, for Mombasa Warehouse and Contract No. KEMSA/RT1-2018-2019 for Kisumu Warehouse, were both completed and the contractors released from site.

#### **Currents Status**

341. The contracts were completed, and the final account issued.

#### **Committee Observations**

##### **The Committee observed that –**

The contracts were awarded through restricted tender on grounds of urgency on 13<sup>th</sup> February, 2019 and work was to be completed on or before 30<sup>th</sup> April, 2019. However as at January 2021 the work had not been completed. Therefore, the conditions and the necessity for use of restricted tender method of procurement were not satisfied as provided in section 102 (1) of the Public Procurement and Asset Disposal Act, CAP. 412C.

#### **Committee Recommendations**

The Committee reprimands the then accounting officer, head of procurement and the then Board for breach of section section 102 (1) of the Public Procurement and Asset Disposal Act, CAP. 412C. The Committee further directs that the Accounting Officer should at all times ensure timely contract execution in accordance with the Public Procurement and Disposal Act, CAP.412c.

### **8.0 Computer Hardware**

342. The Committee heard that, included in the property plant and equipment movement schedule at Note 22 (a) to the financial statements is the accumulated depreciation reversal figure of Kshs.38,810,500 under computer hardware. However, no explanation or information was provided in support of the reversal.

343. In the circumstances, it was not possible to confirm the accuracy of the computer hardware net book value of Kshs.2,981,916,458 as at 30 June, 2020.

### **Management Response**

344. The Management informed the Committee that following a fixed asset verification exercise, it was identified that certain items within the computer hardware asset category had been disposed of but were still recorded in the Fixed Asset Register and, therefore, continued to be depreciated incorrectly. To rectify this, an adjustment of Kshs. 38,810,500 was made to reverse the accumulated depreciation associated with these assets.

345. This adjustment was recorded as a prospective correction, as it was not feasible to attribute the depreciation error to specific prior periods. Consequently, this adjustment has ensured that the net book value of computer hardware accurately reflects assets in use as of the fiscal year ending 30 June 2020. KEMSA has developed a Fixed Asset Management Policy to define the guidelines, regulations and procedures governing the control and reporting of fixed assets.

### **Committee Observations**

#### **The Committee observed that**

The failure by the Authority to maintain an accurate fixed assets register indicated weak internal controls in the management of assets contrary to section 72 (1) of the Public Finance Management Act, CAP.412A.

### **Committee Recommendations**

#### **The Committee recommends that**

The Committee reprimands the then accounting officer and the then head of finance for breach of section 72 (1) (b) of the Public Finance Management Act, CAP.412A. The Committee further directs that the Accounting Officer should at all times ensure compliance with the provisions of the Public Finance Management Act, CAP.412A.

### **9.0 Trade and Other Payables from exchange transactions**

346. The Committee heard that, the statement of financial position and Note 24 to the financial statements reflect, trade and other payables from exchange transactions balance of

Kshs.6,879,649.362 as at 30 June, 2020 which includes long outstanding operation creditors of Kshs.36,227,940 that have been outstanding for a long period of time.

347. In addition, the trade and other payables from the exchange transaction balance include long outstanding suppliers' funds retained balance of Kshs.22,441 620 out of which an amount of Kshs. 10,977,837 is dated 1 July, 2012- No reason has been provided for non-payment of the long outstanding balances.
348. Consequently, the accuracy and validity of the trade and other payables from exchange transactions balance of Kshs.6,879,649,362 as at 30 June, 2020 could not be confirmed.

### **Management Response**

349. The Management informed the Committee that the Authority acknowledges the auditor's observation that the Authority had long outstanding operation creditors of Kshs.36,227,940

### **10.0 Operation Creditors**

350. Crown Agents Kenya Ltd, GTZ and John Snow formed a consortium with KEMSA and worked together on a contract for Tendering, Implementation and Winding up Phase for Providing Procurement and Supply Chain Management Services to the GF-ATM programs in Kenya. Part of the agreement in the contract of association was that partners were to share the profit of the project on an equal basis of 25%.
351. At the end of the Financial Year, KEMSA had received part of the Procurement and Supply Chain Management Consortium (PSCMC) fees from the Recipient hence provided for payables to the partners.
352. These payments are outstanding awaiting resolution of the pending bills that were incurred during the operations of the consortium. In the FY 20/21 all pending bills for the consortium were paid after funds were received from The National treasury.
353. Suppliers retained funds of Kshs. 10,977,837 relates to the 10% retention of suppliers for small works and major renovations amounting to Ksh 1,119,537 that have since been reversed, while Ksh. 9,858,300 is a retention for Alliance Technologies Ltd. This amount was retained after the termination of the contract existing between KEMSA and Alliance Technologies Ltd, due to failure to meet obligations under the contract.
354. Alliance Technologies sought legal redress and the matter is still in court. KEMSA has retained the amount until the case is fully determined.

### **Current Status**

355. All pending issues relating to Total Security Surveillance Ltd, Directorate of Industrial Training, and Kenya Airways plc have since been resolved and the amount cleared.

### **Committee Observations and Recommendations**

The Committee observed that the issue of Motor vehicles Receivables was deliberated in its Third PIC-SSAA Report and upholds the observations and recommendations therein.

## **11.0. Non-Compliance with Public Procurement and Disposal Act, 2015**

### **11.1 Procurement of Covid-19 Items**

356. The Committee heard that, during the year under review, the Authority procured COVID-19 related items totalling to Kshs.7,632,065,588 on the basis of emergency procurement. However,

the approval for the emergency procurement from the Parent Ministry and the Board of Management was not provided for audit verification.

357. In addition, the budget and procurement plan for the Covid-19 related procurement was not provided for audit verification which is contrary to Section 53(8) of the Public Procurement and Assets Disposal Act, 2015 that requires Accounting Officers of Procuring entities not to commence any procurement proceedings until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in the approved budget estimates. This also contravenes Section 43(b) of the Public Finance Management Regulations, 2015 that require Accounting Officers to ensure public funds are only utilized for the purpose to which they were appropriated.
358. Further, inventory schedule and reconciliation provided reflects Covid-19 stocks totalling to Kshs.5,639,656 as at 30 June, 2020. It was not clear why the Authority was holding the stock yet it was procured on the basis of emergency. In the circumstances, the Authority was in breach of the law and it was not possible to confirm whether the Authority obtained value in the procurement of Covid-19 related items totalling to Kshs.7,632,065,588 for the year ended 30 June, 2020.

### **Management Response**

359. The Management informed the Committee that, stated the approvals to initiate procurement were granted by the Accounting Officer. Without setting precedence the procurement plan and the budget were approved later to regularize the retrospective procurement of covid 19 emergency commodities.
360. The procurements were initiated using KEMSA Capital with intention to sell. COVID 19 items were classified as medical commodity items and the procurement of the items was done using KEMSA medical commodity budget. This procurement was done on an emergency basis as the outbreak was unforeseen and could therefore not be planned for thus the need to use the budget that had been set aside for procurement of essential medicines and medical supplies.
361. The outbreak of COVID-19 pandemic caused unprecedented supply chain disruption. There was a lockdown in major source countries namely; China and India causing an acute shortage of supplies and an escalation of prices.
362. The pandemic also disrupted shipping schedules as there was lack of flights as well as vessels causing prolonged delivery delays of items. KEMSA procured the items as a matter of preparedness to avert a shortage crisis as had been experienced in some countries. Accurate quantification for this procurement could not be done as there was no available data to use. The market stabilized thereafter leading to a reduction in prices. The county governments were also authorized to procure covid-19 items from other sources other than KEMSA. This led to low commodity uptake from KEMSA.

### **Committee Observations**

#### **The Committee observed that –**

- i. The then Accounting Officer commenced procurement proceedings of COVID-19 related items without ascertaining whether there were sufficient funds to meet the obligations of the resulting contract as reflected in the approved budget estimates thus breaching of section 53 (8) of the Public Procurement and asset Disposal Act, CAP.412C.

- ii. The then Accounting Officer failed to ensure public funds are only utilized for the purpose to which they were appropriated for contrary to section 43 (b) of the Public Finance Management Act, CAP.412A
- iii. There were gaps in the procurement of COVID-19 related stocks which led to the over procurement of stocks worth Kshs.5,639.656,550.

### **Committee Recommendations**

#### **The Committee recommends that –**

Within three months upon adoption of this report, the Director General, Public Procurement Regulatory Authority in collaboration with the Attorney General fasttrack the amendments to the Public Procurement and Asset Disposal Act, CAP 412C to introduce a provision under section 69 to providing for retrospective approvals under prescribed circumstances.

Further, amend the procurement regulations to effectively govern public procurement to the scale and duration of a pandemic. The regulations should facilitate rapid response, adherence to specified procedures and ethical practices to enhance efficiency and build public trust in the procurement systems.

### **12.0 Supply of Surgical gloves**

363. The Committee heard that, during the year under review, KEMSA procured 93,730 pieces of surgical gloves for COVID-19 preparedness totaling to Kshs.79,670,500. It was noted that on 4 March 2020, a memo from the Sales and Marketing Manager through the Director Commercial Services sought authority to use direct procurement method and seven different suppliers were awarded the tender.
364. It was noted that one supplier was awarded a tender to supply 4,000 pieces at a unit price of Kshs.1,590 while the other suppliers supplied at higher unit prices ranging between Kshs.1,850 and Kshs.2,100 per unit. Had the tender been awarded to the lowest bidder at a unit price of Kshs.1,590, the 126,200 pieces procured would have cost the Authority Kshs.200,658,000 instead of the cost of Kshs.264,460,000 incurred. The Authority would therefore have made a saving of Kshs.63,802.000.
365. Further, it was noted that the authorized quantity to be procured was 93,730 pieces at an estimated cost price of Kshs.850 per unit totaling to Kshs.79,670,500 but the Authority ended up procuring 126,200 units at an average price of Kshs.2,095.56 totaling to Kshs.264,460,000 resulting to an unauthorized excess expenditure of Kshs.184,789,500. This is contrary to Section 103 and 104(c) of the Public Procurement and Assets Disposal Act, 2015. No explanation has been provided for this anomaly. The Management was therefore in breach of law.

### **Management Response**

366. The Management informed the Committee that:
- i. During the COVID-19 outbreak, none of the suppliers had the required quantity of gloves and therefore the need to procure the gloves from several suppliers who offered different prices depending on the time they procured the stocks.

- ii. The difference in quantity of 32,470 units was covered by two different memos dated 4th March 2020 and 26th May 2020 from Director Commercial Services.
  - iii. The estimated price of Kes 850 was the previously realized price for the item before COVID-19 pandemic. Following the outbreak of the pandemic prices escalated significantly.
367. Covid-19 triggered an unprecedented increase in demand for various products used in the management of the Covid-19 pandemic. There was a lockdown in various source countries leading to the closure of factories. The closure of factories caused an acute shortage of products. This coupled with an increase in demand led to demand highly outstripping supply of the products resulting to a surge in prices.

#### **Committee Observations**

The Committee observed that, Kemsawarded the contract for supply of surgical gloves at varying unit prices of Kshs.1, 590, Kshs.1,850 and Kshs.2,100 per unit to different suppliers. This implied that the then accounting officer did not ensure that the acquisition price was fair reasonable and compared well with the known prices of the surgical glove's contrary to section 103 (2) (e) of the PublicProcurement and Asset Disposal Act, CAP412C.

#### **Committee Recommendations**

**The Committee recommends that –**

The Committee reprimands the then Accounting Officer for breach of section 103 (2) (e) of the PublicProcurement and Asset Disposal Act, CAP412C.

### **13.0 Procurement of Pharmaceutical and Non-Pharmaceutical items after Expiry of Contract**

368. The Committee heard that, during the year under review, the Authority procured items totalling to Kshs.64,852,932 after the expiry of the respective contracts. Addendum to contracts were signed and purchase orders were issued after the expiry of the contract.

#### **Management Response**

369. The Management informed the Committee that Chief Executive Officer had granted approval to extend the contracts.

#### **Committee Observations**

**The Committee observed that –**

Kenya Medical Supplies Authority procured Pharmaceutical and non-pharmaceutical items amounting to Kshs.64,852,932 without a valid contract contrary to section 139 of the Public Procurement and Asset Disposal Act, CAP.412

#### **Committee Recommendations**

**The Committee recommended that –**

The Committee reprimands the then Accounting Officer for violating Section 139 of the Public Procurement and Asset Disposal Act, CAP.412

#### **14.0 Delay in Delivery**

370. The Committee heard that, review of sampled procurement contracts entered between the Kenya Medical Supplies Authority (KEMSA) and suppliers revealed instances of delays in delivery of goods between 3 months to 3 years by 13 suppliers with orders totalling to Kshs.149,188,185.

371. The delay to deliver the goods if not addressed could adversely affect timely realization of the Authority's objectives. No plausible explanation was availed for the non-compliance with the contract agreements. Consequently, the Management was in breach of the law and the Authority may be exposed to losses in case of expired goods.

#### **Management Response**

372. The management informed the Committee that, it takes note of auditor's observation and responds as follows;

- i. The delays were occasioned by the nature of some products which are bulky and thus deliveries were staggered due to space constraints and also to avoid overstocking.
- ii. Other delays were caused by the introduction of mandatory pre-shipment inspection of the products at the country of origin. This pre-shipment inspection was not in place at the time of signing some of the contracts.
- iii. There were delays as a result of AGPO supplier's limited capacity.
- iv. Delays caused by the manufacturers at origin due to tight production schedules due to small batch sizes.

373. The Authority has taken various measures to mitigate further delays by;

- i. Developed a supplier performance management tool
- ii. All future procurement has a requirement that suppliers must be of good past performance
- iii. Strengthened and created contract management department

#### **Committee Observations**

The Committee observed that the management cited that delays were occasioned by the nature of some products which are bulky and thus deliveries were staggered due to space constraints and also to avoid overstocking. However framework contracting arrangement provided in section 141 of the Public Procurement and asset disposal Act, CAP. 412C ought to have been applied and thus choice of wrong procurement method and irregular commitment of the authority's funds. The delay if not addressed could adversely affect the delivery of services to the public.

#### **Committee Recommendations**

##### **The Committee recommend that –**

The accounting Officer should fasttrack the development of supplier performance management tool and strengthen its internal mechanisms of contract administration to avoid delays in delivery.

#### **FINANCIAL YEAR 2020/2021**

#### **1.0 Over Expenditure**

##### **1.1 Over Expenditure on Plant and Machinery**

374. The statement of financial position reflects the property, plant and machinery of Kshs.7,167,704,659 (2020 - Kshs.6,341,530,305) which, as disclosed in Note 33(a) to the

financial statements, includes an addition to plant and machinery amounting to Kshs.37,668,129 comprising forklifts and reach trucks whose budget was Kshs.33,200,000 leading to an unapproved over expenditure of Kshs.4,468,129.

#### **Management Response**

375. The management informed the Committee that, it takes note of auditor's observation and responds as follows;
376. The Authority seeks to clarify that during tendering, the equipment (Forklifts and Reach trucks) did not attract 16% VAT. Upon issuance of purchase order no. 828616, the supplier wrote to KEMSA vide letter ref. HY20/021B/GR dated 23rd March 2021 indicating the introduction of VAT on the items. Subsequently the authority paid 16% VAT as per approved memo dated 30th April 2021 by the accounting officer.

#### **Committee Observations**

##### **The Committee observed that –**

The Accounting officer incurred over-expenditure of Kshs. 4,468,129 and thus breached Section 12 of the State Corporation Act, CAP 446 which requires that, no state corporation shall, without the prior approval in writing of the Cabinet Secretary National Treasury, incur any expenditure for which provision has not been made in an annual estimate.

#### **Committee Recommendations**

##### **The Committee recommended that –**

The Committee reprimands the then Accounting Officer for violating Section 12 of the State Corporations Act, CAP 446.

#### **2.0 Over Expenditure on Employee cost**

377. The Committee heard that, the statement of financial performance reflects employee cost balance of Kshs.1,264,329,720 while the approved budget indicates a balance Kshs.1,199,280,000 resulting to unexplained over-expenditure of Kshs.65,049,720.
378. In the circumstances, the regularity in the expenditure amounting to Kshs.69,517,849 could not be confirmed for the year ended 30 June, 2021.

#### **Management Response**

379. The Management informed the Committee that the approved budget for staff cost was Kes.1,199,280,000, however, this budgeted forecast was understated compared to the final actual expenditure on payroll contractual obligation of Kes.1,264,329,720. In view of this, The Board approved a supplementary budget of Kes 1,243,068,491 in February 2021, however, this was equally not sufficient to cater to changes in payroll due to understated forecast of the actual Gratuity for staff under contracts who had to be paid after their contract ended. This being a contractual obligation the Authority considered savings from other votes within the approved ceiling to cater for the payroll obligation.
380. The revised Budget was shared with the Auditors. The Authority was guided by section 48 of the PFM Regulations 2015 Which States;48. (1) For purposes of section 43(3) of the PFM Act,

Accounting Officers, may authorize the reallocation of funds within programs or sub-votes provided that:-

- (a) This does not affect the total voted provision
- (b) the provisions in the budget of the program or sub-vote from within which the funds are to be transferred are unlikely to be utilized;
- (c) reallocation is in accordance with donor conditions in the case of reallocation impacting on donor-funded expenditure;
- (d) the reallocation does not affect the voted provisions from wage to non-wage expenditure or from capital to recurrent expenditure.

381. In view of the above the Authority confirms that the Overall expenditure was within the overall recurrent approved ceilings of Kes. 3.285 billion as per the Financial Statements.

#### **Committee Observations**

##### **The Committee observed that –**

The Accounting officer incurred over-expenditure of Kshs. 65,049,720.49 and thus breached Section 12 of the State Corporation Act, CAP 446 which requires that, no state corporation shall, without the prior approval in writing of the Cabinet Secretary National Treasury, incur any expenditure for which provision has not been made in an annual estimate.

Further Section 16 (3) of the KEMSA Act, provides that the Board shall not increase the annual estimates of the Authority without the consent of the Cabinet Secretary.

#### **Committee Recommendations**

##### **The Committee recommends that –**

The Committee reprimands the then Accounting Officer for violating Section 12 of the State Corporations Act, CAP 446 and Section 16 (3) of the KEMSA Act,

#### **3.0 Inaccuracy in Financial Statement**

382. The Committee heard that, the statement of financial position reflects property, plant and equipment balance of Kshs.7,167,704,659 (2020— Kshs.6,341,530,305), which, as disclosed in Note 33(a) to the financial statements, includes a provision on scrapping for unverified fixed assets balance of Kshs.236,678,111 on various PPE items and an accumulated depreciation of Kshs.72,937,592.

383. This resulted into net prior year adjustment of Kshs.163,740,520 which is reflected in the statement of changes in net assets contrary to Paragraph 48 of the International Public Sector Accounting Standard (IPSAS) 3 which states that a prior period error shall be corrected by retrospective restatement except to the extent that it is impracticable to determine either the period specific effects or the cumulative effect of the error.

384. In the circumstances, the accuracy and completeness of statement of changes in net assets for the year ended 30 June, 2021 could not be confirmed.

#### **Management Response**

385. The Management informed the Committee that the Authority conducted a comprehensive asset verification in FY 2020/2021 to confirm the physical existence of its assets. This exercise revealed prior-period errors, necessitating prospective adjustments beginning FY 2020/2021. These errors primarily involved assets disposed of in previous years as "lots" and revaluations

applied to asset batches, making it impractical to assign specific adjustments to individual assets within the register.

386. Consequently, opening balances in the PPE movement schedule were adjusted to account for assets physically disposed of but still recorded in the system. Items disposed as "lots," often mixed with waste materials and sold collectively, could not be individually identified in the asset register, complicating accurate removal and value allocation.
387. While IPSAS 3 generally recommends retrospective corrections for prior-period errors, however it also allows for prospective adjustment when retrospective application is impracticable, as stated in paragraph 48. The Authority has since established a fixed asset policy to enhance asset management.

#### **Committee Observations**

##### **The Committee observed that –**

The failure by the Authority to conduct assets verification in its prior years indicated weak internal controls in the management of assets contrary to section 72 (1) (b) of the Public Finance Management Act, CAP.412A.

#### **Committee Recommendations**

##### **The Committee recommends that –**

The Accounting Officer should all times comply with the provisions of section 72 (1) (b) of the Public Finance Management Act, CAP.412A.

#### **4.0 Irregular Procurement of Asset**

388. The Committee heard that, the statement of financial position reflects property, plant and equipment of Kshs.7,167,704,659 (2020 - Kshs.6,341,530,305) as disclosed in Note 33(a) to the financial statements. The Authority advertised for supply of four (4) forklift and four (4) reach trucks and five (5) firms responded using different currencies, one quoted with Euro (€), three in USA Dollar (USD) and one in Kenya shillings (KES). The winning company had quoted two (2) forklifts at EUR 74,000 and four (4) Reach Trucks at EUR 169,800 all amounting to EUR 243,800.
389. There was no evidence of uniformity in evaluating using same currency by converting prevailing market rates for all bids quoted to one currency. In the circumstances, the accuracy and propriety in the expenditure on the procurement of the plant and equipment could not be confirmed.

#### **Management Response**

390. The Management informed the Committee that, in line with the Standard bidding document requirements, bidders were allowed to quote in any freely convertible currency. The exchange rate for purpose of conversion to Kenya shillings during evaluation and comparison of prices, is the CBK selling rate on the tender closing date. Out of the five (5) bidders, only one met technical requirements of the equipment and hence proceeded to financial evaluation. The award was within the budget.

### **Committee Observations**

#### **The Committee observed that-**

The Authority advertised for supply of forklift and trucks where various firms responded using different currencies, and therefore lacking uniformity for fair price comparison. The then Accounting Officer was in breach of section 58 of the Public Procurement and Asset Disposal Act, CAP. 412C which requires procuring entities use standard procurement documents to allow fairness, equitability, transparency, cost effectiveness and competition among tender applicants.

### **Committee Recommendations**

#### **The Committee recommends that –**

The Committee reprimands the then accounting officer and head of procurement unit for the breach. The committee further directs that the Accounting Officer should all times comply with the provisions of the Public Procurement and Asset Disposal Act, CAP. 412C.

### **5.0 Unsupported Contracts-Warehouse Works**

391. The statement of financial position reflects property, plant and machinery of Kshs.7,167,704,659 which, as disclosed in Note 33(a) to the financial statements, includes an amount of Kshs 960,283,859 in respect of addition to plant and machinery. Review of the balances revealed that an amount of Kshs.4,740,000 paid to a contractor for assembling and fixing of storage racks.
392. The Authority awarded tender to assemble and fix metal storage racks in Kisumu and Mombasa warehouses on 07 July. 2020 at a cost of Kshs.4,740,000 with a duration of one month ending 10 August, 2020. Physical verification in February, 2022 revealed that some metal bars were delivered to Kisumu warehouse but were not assembled while none were delivered to Mombasa warehouse. In addition, the designs, Bills of Quantities and Technical Supervision Reports were not provided for audit review.
393. In the circumstances, the accuracy and propriety in the expenditure on the procurement of the plant and equipment could not be confirmed.

### **Management Response**

394. The Management informed the Committee that, the contract for installation of racks at Kisumu depot was entered into with Tashmi International Ltd. After the contractor moved to site, it was established that the warehouse layout design was not done in a manner that would maximize storage space. The contractor was then stopped from undertaking the works pending re-design of the layout which took too long occasioning the delay in completion. This has since been redesigned and racks installed to completion.

### **Committee observations**

#### **The Committee observed that –**

The Authority awarded tender to assemble and fix metal storage racks in Kisumu and Mombasa warehouses at a cost of Kshs.4,740,000. However, there were some metal bars delivered to Kisumu warehouse but were not assembled while none were delivered to Mombasa warehouse. The failure by the Authority to comply with the contract completion timelines indicated weak internal controls in contract monitoring and administration

The Authority did not provide for audit review, the designs, Bills of Quantities and Technical Supervision Reports contrary to Section 62 (1) of the Public Audit Act CAP 412B.

### **Committee Recommendations**

The Committee reprimands the Accounting Officer for breach Section 62 (1) of the Public Audit Act CAP 412B. Further, the Committee should at all times comply with the timelines provided in the contract to avoid unnecessary delays in the implementation of projects and ensure compliance with Public Audit Act CAP412B on provision of documents to auditors.

### **6.0 Unsupported Distribution Cost**

395. The Committee heard that, the statement of financial performance reflects distribution costs amounting to Kshs.859,488,800 which, as disclosed in Note 9 to the financial statements, includes an amount of Kshs.729,351,595 paid to outsourced distributors for delivery of medical commodities to various counties. However, the corresponding signed delivery notes were not provided for audit review.
396. Further, the balance includes an amount of Kshs.33,075,000 paid to outsourced distribution costs of assorted personal protective equipment, PPE kit dispatched to Nyanza Province (PGH) - Jaramogi Oginga Odinga Teaching and Referral Hospital (JOOTRH). However, physical verification carried out at the Hospitals revealed that there was no entry of this consignment in the respective store records while the copy of the delivery notes provided did not indicate the date of receiving the items.
397. In addition, and as previously reported, the Authority entered into a contract agreement with a Courier Services Company on 24 September, 2016 for provision of Courier Services to health facilities countrywide. However, from April, 2019 to September, 2019, the firm was overpaid by Kshs.19,352,250. The amount had not been recovered as 30 June, 2021 and no explanation was provided for the anomaly. Consequently, the propriety and accuracy of distribution costs of Kshs.762,426,595 could not be confirmed.

### **Management Response**

398. The management informed the Committee that it takes note of auditor's observation and responds as follows;
399. When making a payment to the Transporter, a payment voucher is drafted, and supported by invoices, contract and waybill. Waybill is a distribution document that refers to the proof of delivery. The main purpose of this document is to indicate how many boxes the facility expects to receive. When all the boxes are received as indicated on the document, the receipt officer signs and stamps the way bill to acknowledge the complete receipt of cartons as well as the proof of delivery to acknowledge receipt of actual HPTs. The document is then used by the 3<sup>rd</sup> Party Logistics as proof that the boxes were received by the facility to bill the authority.
400. A Delivery note is a document showing the items ordered by the facilities. This also becomes proof of delivery once goods have been received. However, once received back at KEMSA, the same is used for billing the counties and development partners and the remaining copy either blue or pink retained by the distribution department for future reference.
401. The Authority is holding a claim invoice for Timeless Courier Services, of Kes.14,975,296 awaiting the conclusion of an ongoing arbitration process. Timeless Courier Services have since

disputed the Kshs.19,352,250 and has initiated an arbitration process. The matter will be mentioned on 25th November 2024.

### **Committee Observations**

#### **The Committee observed that –**

The Authority paid an amount of Kshs.33,075,000 as outsourced distribution costs of assorted personal protective equipment, PPE kit dispatched to Nyanza Province (PGH) - Jaramogi Oginga Odinga Teaching and Referral Hospital (JOTRH). However, the items were not recorded in the respective store records while the copy of the delivery notes provided did not indicate the date of receiving the items. Therefore, there was no evidence of delivery or receipt of the equipment in the Hospital.

The Authority had overpaid Kshs.19,352,250 to a contracted Courier Services Company on 24 September, 2016 for provision of Courier Services to health facilities countrywide. However, the amount had not been recovered and no explanation was provided for the delay.

The failure by the management to conduct reconciliation before making payments is a clear indication of lapses of internal controls.

The Authority's assertion that it is holding a claim invoice for Timeless Courier Services, of Kshs. 14,975,296 awaiting the conclusion of an ongoing arbitration process was not supported by any documentary evidence.

### **Committee recommendations**

#### **The Committee recommends that –**

Within three months upon adoption of this report, the Accounting Officer should submit to the Auditor-General and the National Assembly evidence of recovery of the overpayment of Ksh. 19,352,250 failure to which the Inspector General, State Corporations should initiate the process of surcharging the then Accounting Officer in accordance with section 19 of the State Corporations Act, CAP 446.

Within three months upon adoption of this report, the Accounting officer should provide to the National Assembly records showing how the items worth Kshs.33,075,000 were received and eventually issued to the point of use.

## **7.0 Long outstanding debt**

### **7.1 Accounts receivables**

402. The Committee heard that, the statement of financial position reflects receivables from exchange transactions balance of Kshs.5,863,800,694 (2020— Kshs.6,605,189,547) which, as disclosed in Note 21 to the financial statements, includes long outstanding receivables balance of Kshs.4,362,709,769 owed by various agencies which has been outstanding for more than ninety (90) days.

### **Management response**

403. The Management informed the Committee that, most of these debts are owed by County Governments. However, there is no county debt whose existence is in doubt or in dispute. Counties have cited cashflow challenges as the main reason for delay in settlement of the debts.
404. The outstanding debt is followed up aggressively until payment of the same is made by the customers. An example is the 195M remitted 6th April 2022 by the county government of Nairobi, which had been outstanding for more than 360 days but was eventually paid. KEMSA has been aggressively making follow-ups through physical meetings with the customers, demand letters, and lobbying through the council of Governors and county leadership.
405. KEMSA also maintains debt tracker reports for each customer which monitors the debt ageing to facilitate the monitoring of the customer debt Ageing.
406. All the observed long outstanding amounts as at 30th June 2021 have been settled except the receivable from Kisumu County of Kshs 35,748,735.98. This Kisumu County debt was fully repaid as at 18th January 2024. A lasting solution is to ringfence County HPT budgets and to ensure all counties provide IFMIS generated Purchase orders.

### **Committee Observations and Recommendations**

The Committee had deliberated on Long outstanding receivables in its report for the Financial Year 2019/2020, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

### **8.0 Accounts Payable**

407. The Committee heard that, the statement reflects trade and other payables from exchange transactions balance of Kshs.7,015,398,881 which, as disclosed in Note 25 to the financial statements, includes operations creditors' balance of Kshs.180,784,194 out of which an amount of Kshs.36,370,448 has been long outstanding since year 2012.
408. In addition, trade creditors - medical balance of Kshs.2,786,573,806 includes an amount of Kshs.250,044.341 which has been outstanding for over one year while the supplier funds retained a balance of Kshs.21,639,338 includes an amount of Kshs.10,977,838 dating back 01 July, 2012.
409. Consequently, the recoverability of the account receivables and the validity of the trade payables balances as at 30 June, 2021 could not be confirmed.

### **Management response**

410. The management informed the Committee that at the time of Audit, the Authority acknowledges that it had long-outstanding operational creditors of Kshs.36,227,940 as detailed below;

<i>Crown Agents Kenya Ltd</i>	<i>11,361,832.91</i>
<i>GTZ</i>	<i>11,361,832.91</i>

<i>John Snow Incorporated</i>	<i>11,361,832.91</i>
<i>Total Security Surveillance Ltd</i>	<i>1,596,478.07</i>
<i>Directorate of industrial training</i>	<i>94,850.00</i>
<i>Kenya Airways plc</i>	<i>393,330.76</i>
<b>Total</b>	<b>36,170,144.99</b>

411. Crown Agents Kenya Ltd, GTZ and John Snow formed a consortium with KEMSA and worked together on a contract for Tendering, Implementation and Winding up Phase for Providing Procurement and Supply Chain Management Services to the GFATM programs in Kenya. Part of the agreement in the contract of association was that partners were to share the profit of the project on an equal basis of 25%:25%:25%:25%.
412. At the end of the Financial Year, KEMSA had received part of the Procurement and Supply Chain Management Consortium (PSCMC) fees from the Principal Recipient hence provided for payables to the partners. These payments are outstanding awaiting resolution of the pending bills that were incurred during the operations of the consortium.
413. In FY 20/21 all pending bills for the consortium were paid after funds were received from The National treasury.

#### **Current Status**

414. All pending issues relating to Total Security Surveillance Ltd, Directorate of Industrial Training, and Kenya Airways plc have since been resolved and the amount cleared.
415. The of Suppliers retained funds of Kshs. 10,977,837 relates to the 10% retention of suppliers for small works and major renovations amounting to Ksh 1,119,537 that have since been reversed, while Ksh. 9,858,300 is a retention for Alliance Technologies Ltd that was retained after the termination of the contract existing between KEMSA and Alliance Technologies Ltd, due to failure to meet obligations under the contract.
416. Alliance Technologies sought legal redress and the matter is still in court. KEMSA has retained the amount until the case is fully determined.

#### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of accounts payable in its report for the Financial Year 2019/2020, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **9.0 Unsupported expired inventories**

417. The Committee heard that, as disclosed under Note 23 to the financial statements, the statement of financial position reflects inventory balance of Kshs.17,558,529,935. The balance constitutes expired stocks worth Kshs.328,237,158 out of which an amount of Kshs.191,870,834 was financed by KEMSA Capital Fund while the balance of Kshs.136,366,324 by third parties. The

expired stocks were not disclosed in the annual reports and financial statements of the expired stocks, Management did not indicate the reasons for expiry of stock worth. 114,389,834.

418. Further, the expired stock balance constitutes COVID-19 stock worth Kshs.124,513,400. However, the supporting schedule provided for the audit lacked crucial details such as the receiving dates, their location, date of the manufacture, unit of manufacture, batch number, pallet number, shelf life and the reasons for expiry.

419. In absence of any justification and disclosure of expired stocks, the accuracy and completeness of the financial statements for the year ended 30 June, 2021 could not be confirmed.

#### **Management response**

420. The management informed the Committee that the value of expired stock was expensed as cost of sale which was disclosed in the statement of financial performance under revenue from exchange transactions. The reason for expiry has been detailed in the expiry report. The expired stock balance constitutes COVID-19 stock worth Kshs.124,513,400.

#### **Committee observations**

##### **The Committee observed that –**

The then Accounting Officer failed to disclose expired inventory worth of Kshs.328,237,15 in the annual reports and financial statements contrary to section 81(3) of the Public Finance Management Act, CAP 412A. which requires them to prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time.

The schedule for the expired goods provided for the audit lacked crucial details such as the receiving dates, their location, date of the manufacture, unit of manufacture, batch number, shelf life and the reasons for expiry.

#### **Committee Recommendations**

##### **The Committee recommends that –**

The Committee reprimands the then Accounting Officer for failure to comply with the guidelines outlined by the Public Sector Accounting Standards Board in accordance with section 81(3) of the PFM Act CAP 412A.

#### **10.0 Unsupported trade and other payable**

421. The Committee heard that, the statement of financial position reflects trade and other payables from exchange transactions amounting to Kshs.7,015,398,881 which, as disclosed in Note 25 to the financial statements, includes trade creditors totaling to Kshs.2,588,017,506 that lacked invoices, goods received notes and respective stock cards

422. Consequently, the accuracy, validity and completeness of trade and other payables from exchange transactions of Kshs.2,588,017,506 could not be confirmed.

#### **Management Response**

423. The Management informed the Committee that this was an accrual of COVID-19 medical commodities that were already received in the warehouse and formed part of the stocks. The valuation was based on indicative prices of similar commodities from other suppliers within the same period. The invoices had not been delivered because the retrospective procurement had not been completed.

#### **Committee observations**

##### **The Committee observed that –**

The Accounting Officer failed to ensure that eligible payments are supported by the appropriate authority and documentation in accordance with Regulation 104 of the PFM National (Government Regulations) 2015.

#### **Committee Recommendations**

##### **The Committee recommends that –**

The Committee reprimands the then Accounting Officer for breach of Regulation 104 of the PFM National (Government Regulations) 2015.

#### **11.0 Unexplained Loss of Revenue**

424. The Committee heard that, as disclosed in Note 3 to the financial statements, the statement of financial performance reflects a balance of Kshs.1,317,254,777 in respect of net sales arrived at after deducting the total cost of sale balance of Kshs.6,905,579,004 from the total sales balance of Kshs.8,222,833,780. Analytical review performed revealed that sales revenue from pharmaceutical products amounted to Kshs.2,070,014,129 (2020— Kshs.4,066,305,161) while the corresponding cost of input on the pharmaceutical products was Kshs.1,853,919,861.

425. However, a comparison of cost versus revenue revealed various pharmaceuticals inputs procured at Kshs.14,133,303 were sold at Kshs.12,329,965 resulting to an unexplained loss of Kshs.1,803,338.

426. In the circumstances, it has not been established whether value for money was achieved.

#### **Management response**

427. The Management informed the Committee that nine items out of the full list of eleven items had positive margins. The two items that had negative margins were lifesaving drugs (Oncology) whose tender was unresponsive. To avert this risk, the authority has taken the following steps; formation of a pricing committee constituted to oversee pricing of HPTs to avoid, market survey committee appointed, market survey conducted and continuous pricing intelligence being gathered by sales and marketing officers.

428. In the new ERP system (SAP), we have given requirements to ensure that the new system will not allow sale of HPTs below cost but rather at the relevant set margins and mark-up prices.

#### **Committee Observations**

##### **The Committee observed that –**

The Committee observed that pharmaceutical inputs valued at Kshs.14,133,303 were sold for Kshs.12,329,965, leading to a direct and unexplained loss of Kshs.1,803,338. This was a breach of Section 68(1)(b) of the Public Finance Management Act, Cap.412A which requires effective and efficient use of resources.

The management did not provide documentary evidence to support the formation of the pricing committee, market survey committee and their roles

### **Committee Recommendations**

#### **The Committee recommends that –**

The Committee reprimands the then Accounting for breach of Section 68(1)(b) of the Public Finance Management Act, Cap.412A.

### **12.0 Non-Compliance with Public Procurement and Asset Disposal Act,2015**

429. The Committee heard that, as disclosed in Note 3 to the financial statements, the statement of financial performance reflects cost of sales amounting to Kshs.6,905,579,004 which includes cost of sales on non-Pharmaceuticals amounting to Kshs.1,770,542,066 and pharmaceuticals inputs amounting to Kshs.1,853,919,861. Analytical review performed revealed the following unsatisfactory matters:
- i. The cost of sales on non- pharmaceuticals and pharmaceuticals inputs amounting to Kshs.536,752,879 and Kshs.95,439,349 respectively, were procured through direct procurement method contrary to Section 103 (2) of the Public Procurement and Asset Disposal Act, 2015 which requires that the method is applied in circumstances where goods, works or services are available only from a particular supplier or contractor and due to the urgency of supplies.
  - ii. Further, non- pharmaceuticals and pharmaceuticals inputs worth Kshs.368,536,692 and Kshs.178,440,091 respectively, were delivered after the due dates. The delays ranged between fifteen (15) days to six hundred and eighteen (618) days.
  - iii. Further, the cost of sales on pharmaceutical inputs constitutes COVID-19 items which were acquired through direct procurement method without any justification contrary to Section 48 (4) (c) of the Public Procurement and Asset Disposal Act, 2015. Three suppliers who won bids worth Kshs. 258,974,400 through direct procurement were not in the prequalified list of suppliers. There was no evidence that any market survey was carried out and no reports on the direct procurements of values exceeding five hundred thousand shillings (Kshs.500,000) was made to the Public Procurement Regulatory Authority as required by the law.
  - iv. The cost of sales on non-pharmaceutical inputs includes procurement valued at Kshs.211,019,769 which relates to addendum contracts that were varied and signed before the lapse of twelve (12) months contract period. This is contrary to Section 139 (b) of the Public Procurement and Asset Disposal Act, 2015 which provides that no contract price shall be varied upwards within twelve months from the date of the signing of the contracts.
  - v. The cost of sales on non-pharmaceutical inputs balance includes purchase of dispensing envelopes (khaki) worth Kshs.10,534,000. However, two Members in the Opening Committee did not have letters appointing them to the Committee. This is contrary to Section 78(1) of the Public Procurement and Asset Disposal Act, 2015 which provides that: An Accounting Officer of a procuring entity shall appoint a Tender Opening Committee specifically for the procurement.
  - vi. The cost of sales further constitutes purchases of pharmaceutical and non - pharmaceuticals

goods from fourteen (14) suppliers worth Kshs.1,062,371,472. The purchases were based on expired contracts based on a memo dated 14 August, 2020 which extended the contracts to facilitate additional call down. However, the extensions were not based on the recommendation of an Evaluation Committee. This is contrary to Section 139(2) of Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer of a procuring entity, on the recommendation of an Evaluation Committee, may approve the request which request shall be accompanied by a certificate from the tenderer making a justification for such cost—(a) extension of contract period.

#### **Management response**

430. The management informed the Committee that, procurement from Kenya National Chamber of Commerce and Industry (KNCCI) was undertaken after authority was granted by the Accounting Officer in line with government policy of “Buy Kenya, Build Kenya”. This was in an effort to support local manufacturers and spur growth within small and medium enterprises (SME’s). KNCCI is an umbrella body for local manufacturers and was therefore contracted directly to supply reusable masks from its affiliates.

- i Direct Procurement from Rivatex EA Ltd was done on grounds that it is a public institution in line with Section 103(2) (e) of the Public Procurement and Asset Disposal Act,2015 which provides as follows” A procuring entity may use Direct Procurement for the acquisition of goods, works, or services provided by a public entity, provided that the acquisition price is fair and reasonable and compares well with known prices of goods, works or services in the circumstances.
- ii The manufacturer of the Covid-19 Test kits is SD Biosensor Korea, whose authorized sole distributor in Kenya is Steplabs technical services ltd. The Procurement of the kits from Steplabs technical services, was therefore done in line with Section 103 (2) (a) of the Public Procurement and Asset Disposal Act, 2015 which provides as follows “A procuring entity may use direct procurement if the goods, works or services are available only from a particular supplier or contractor, or a particular supplier or contractor has exclusive rights in respect of goods, works or services and no reasonable alternative or substitute exists.
- iii Delays in deliveries were occasioned by the outbreak of COVID-19 worldwide restricting movement and closure of the manufacturing factories, disrupting global supply chain operations.
- iv The procurement process was initiated using direct procurement method pursuant to Section 103 (b), (c) and 104 and Section 69 (2) of the PPADA 2015.
- v Most of the Covid 19 items were not items that KEMSA ordinarily stocks. There were therefore no prequalified suppliers for those items. The suppliers were identified through market knowledge.
- vi The Covid 19 outbreak was spontaneous and due to the urgency with which the commodities were required no market survey was done due to restriction of movement.

- vii All Direct Procurements exceeding Kshs.500,000 were reported to the Public Procurement Regulatory Authority as required by law.
- viii The outbreak of COVID-19 pandemic affected the supply market and therefore invitation to tender would not attract prospective bidders. Due to the urgency of the products to save lives, there was need to extend the existing contracts, also due the complication of logistics during that period, there was a surge in product prices.
- ix KEMSA has since closed out the expired contracts and entered into new framework contracts for supply of HPTs.
- x Two of the appointed officers were unavailable on the tender opening date due to self-isolation during the covid period on the due date.
- xi The outbreak of COVID-19 pandemic affected the supply market and therefore invitation to tender would not attract prospective bidders. The planned tenders could therefore not progress and the existing contracts were extended by the accounting officer before expiry, to facilitate continuous supply of medical commodities and avoid interruption in service delivery to Public Health Facilities. KEMSA has since closed out the expired contracts and entered new framework contracts for supply of HPTs.

#### **Committee observations**

##### **The Committee observed that –**

There were gaps in the procurement of COVID-19 related stocks which may have led to the non compliance with the public procurement procedures during pandemic and emergencies.

#### **Committee Recommendations**

##### **The Committee recommend that –**

Within three months upon adoption of this report, the Director General Public Procurement Regulatory Authority in collaboration with the Attorney General fasttrack the amendments to the Public Procurement and Asset Disposal Act, CAP 412C to introduce a provision under section 69 to providing for retrospective approvals under prescribed circumstances.

Further, amend the procurement regulations to effectively govern public procurement to the scale and duration of a pandemic. The regulations should facilitate rapid response, adherence to specified procedures and ethical practices to enhance efficiency and build public trust in the procurement systems.

### **13.0 Irregular Extension of Contracts**

#### **13.1 Extension of distribution contracts**

431. The Committee heard that, as disclosed in Note 9 to the financial statements, the statement of financial performance reflects distribution costs balance of Kshs.859,488,800. Included in this amount is Kshs.738,510,884 paid to suppliers under outsourced distribution costs. However, the expenditure was based on double extension of contracts for more than thirty (30) days.

#### **Management response**

432. The management informed the Committee that the Tender No. KEMSA/ONT2/2020-2023 for distribution of EMMS was advertised on 17th March 2020 and closed on 7th April 2020. The evaluation was completed however, the tender was terminated due to inadequate budget. The realized price was higher than the budgeted price. Therefore contract No. KEMSA/ONT5/16-19 was extended up to 31st Dec 2020 to avoid service disruption and facilitate mobilization of funds, to initiate and finalize the procurement process. The contract provided for extension or variation based on prevailing circumstances.
433. Bulito Suppliers and Transporters Ltd was contracted for transport services as a third-party carrier of KEMSA/MCP medical commodities effective 30th November 2016 until 30th April 2021. USAID extended the MCP project for one month necessitating an extension of the transport contract for the same period.

#### **Committee Observation**

##### **Committee observed that –**

The prolonged extensions, particularly without competitive re-tendering or cost benchmarking, raise the risk of inflated prices, collusion, and reduced value for money. further, The then Accounting Officer and head of procurement unit were in breach of section 58 of the Public Procurement and Asset Disposal Act, CAP. 412C which requires procuring entities use standard procurement documents to allow fairness, equitability, transparency, cost effectiveness and competition among tender applicants.

#### **Committee Recommendations**

The Committee reprimands the then Accounting Officer and the then head of procurement unit and directs that they ensure that future procurements allow for fairness, equitability, transparency, cost effectiveness and competition among tender applicants.

### **14.0 Extension of Insurance Covers**

434. The Committee heard that, the statement of financial performance reflects insurance expenses of Kshs.159,102,627 which, as disclosed in Note 10 to the financial statements, includes insurance costs balance of Kshs.15,795,502 out of which Kshs.4,261 566 relates to extension of insurance covers. The contracts were extended for more than thirty (30) days without review of the contract implementation and approval by the Board of Directors. This is contrary to Section 88 (3) of the Public Procurement and Asset Disposal Act, 2015 which provides that an extension under subsection (1) shall be restricted to not more than thirty days (30) and may only be done once.

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

### **Management Response**

435. The Management informed the Committee that the insurance Contracts are administered by user department and not contract Implementation team. The contract provided for extension or variation based on prevailing circumstances as supported by provisions of PPADA (2015). Further section 88 (3) of the Public Procurement and Asset Disposal Act, 2015 applies to extension of tender validity and not extension of contracts.

### **Committee Observation**

#### **Committee observed that –**

The extensions of insurance contracts without review of the contract implementation and approval by the Board of Directors might lead to risk of inflated prices, collusion, and reduced value for money. further, the then Accounting Officer and head of procurement unit were in breach of Section 88 (3) of the Public Procurement and Asset Disposal Act, 2015 which provides that an extension under subsection (1) shall be restricted to not more than thirty days (30) and may only be done once.

### **Committee Recommendations**

The Committee reprimands the then Accounting Officer and the then head of procurement unit and directs that they ensure that future procurements allow for fairness, equitability, transparency, cost effectiveness and competition among tender applicants.

## **15.0 Irregular Acquisition of Property, Plant and Equipment**

436. The statement of financial position reflects property, plant and machinery of Kshs.7,167,704,659 which, as disclosed in Note 33(a) to the financial statements includes an amount of Kshs.960,283,859 in respect of addition to plant and machinery. Review of the balances revealed that the balance includes procurement of laboratory equipment valued at Kshs.5,438,354 for items procured using restricted tender. Fifteen (15) firms had submitted bids but only three (3) were evaluated as responsive out of which the highest bidder was awarded. However, the lowest bidder was disqualified based on conditions which had not been included in the initial bid documents. This is contrary to Regulation 184 of the Public Procurement and Asset Disposal Regulations, 2015 requires that a procuring entity shall use standard asset disposal documents. In the circumstances, Management was in breach of the law.

### **Management response**

437. The Management informed the Committee that the Suppliers were required to submit a detailed brochure for technical evaluation. The brochure provided by Nesvax Innovation Limited did not meet technical specifications.

### **Committee Observation**

#### **Committee observed that –**

The lowest bidder was disqualified based on conditions that was not set by initial bid documents This is contrary to Regulation 184 of the Public Procurement and Asset Disposal Regulations, 2015 requires that a procuring entity shall use standard asset disposal documents.

The then Accounting Officer awarded contract for the procurement of laboratory equipment valued at Kshs.5,438,354 to the highest bidder contrary to Article 227 (1) of the Constitution which provides that “when organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective”.

#### **Committee Recommendations**

The Committee reprimands the then Accounting Officer for failure to comply with Article 227 (1) of the Constitution.

#### **16.0 Staff on Secondment**

438. The Committee heard that, the statement of financial performance reflects employee cost of Kshs.1,264,329,720 which, as disclosed in Note 8 to the financial statements, includes payment of salaries amounting to Kshs.8,682,676 to five (5) staffs who were on secondment and had served for more than six (6) years in the capacity without explanations for continued contract extensions. This is contrary to Part B.33(1) of the Public Service Commission (PSC) Human Resource Policies and Procedures Manual, May, 2016 which provides that secondment of officers from the public service to other organizations is applicable to pensionable officers, for a period not exceeding three (3) years and may be renewable once.

#### **Management response**

439. The management informed the Committee that KEMSA has been in contact with Ministry of Health who deployed the 5 seconded staff to KEMSA in February 2021. KEMSA then did a follow up in July 2021 to which a response has not been received.
440. The current status is that out of the 5 Seconded staff from the Ministry of Health, two (2) have been released back and we are in the process of releasing the remaining three (3) officers. All the Administration Police Officers who had been on deployment to KEMSA from the Security of Government Buildings (SGB) and had stayed for three (3) years, have since been replaced with new ones.

#### **Committee Observations and Recommendations**

The Committee observed that the issue of seconded staff was deliberated in its Third PIC-SSAA Report and upholds the observations and recommendations therein.

#### **17.0 Weaknesses in cash management**

441. The Committee heard that, as disclosed in Note 14 to the financial statements, the statement of financial performance reflects staff travel expenses of Kshs. 124,014,172. Examination of sampled payment vouchers revealed issuance of imprest before previous ones are surrendered or recovered in full from the salary. Further, the schedules presented for audit to support hire of taxi, staff travel lacked key details such as nature of the activities, location, purpose and number of days. Consequently, the existence of an effective internal control system could not be confirmed.

#### **Management response**

442. The Management informed the Committee that KEMSA management have put in place enhanced internal controls that will ensure that Imprest is not issued to an officer who has an un-

surrendered imprest. Imprest management is now fully automated to address all the identified weaknesses.

**Committee Observation**

**Committee observed that –**

Staff with outstanding imprest were issued with new one contrary to the provision of Regulation 93(4) of the PFM (National Government) Regulations, 2015 which prescribes that no new imprest shall be issued to an applicant with outstanding imprest.

**Committee Recommendations**

**The Committee recommends that –**

The Accounting Officers should ensure compliance with Regulation 93(4) of the PFM (National Government) Regulations, 2015

**18.0 Realized Exchange Loss**

443. The Committee heard that statement of financial performance reflects other operating expenses of Kshs. 398,193,149 which, as disclosed under Note 19 to the financial statements, includes bank charges and commission realized forex exchange loss of Kshs.174,723,450 which exposed the Authority to financial loss and no mitigating measures have been put in place.
444. In the circumstances, the management of fiscal responsibilities and controls of projecting, analyzing and hedging forex exchange losses are weak.

**Management response**

445. The management informed the Committee that the loss of Kshs. 174,723,450.00 is the difference in exchange rate between the Purchase order rate and the payment rate. KEMSA has in the past been allowing tenderers to submit bids in any freely convertible currency.
446. However, successful bidders whose bid price is in foreign currency have been paid in Kenya Shillings using the prevailing CBK exchange rate at the time of payment. Following the weakening of the shilling in the past two years, KEMSA has incurred losses due to the exchange rate fluctuations. To mitigate against this, KEMSA has put measures in place requiring local bidders to submit bids in Kenya Shillings for GOK supported tenders.

**Committee Observation**

**Committee observed that –**

The Authority incurred losses due to foreign exchange rate fluctuations amounting to Kshs.174,723,450 where successful bidders bid price in foreign currency was paid in Kenya Shillings using the prevailing CBK exchange rate at the time of payment. This was a breach of Section 68(1)(b) of the Public Finance Management Act, Cap.412A which requires effective and efficient use of resources.

**Committee Recommendations**

**The Committee recommends that –**

Within three months upon adoption of this report, the Inspector General of State Corporations to surcharge and recover from the then Accounting Officer (s) Finance Office, and the Board

members, the monies lost in foreign exchange transactions in accordance with section 19 of the State Corporations Act, CAP 446.

### **19.0 Weak Governance of the Authority**

447. The Committee heard that, the financial statements under fiduciary management indicates that key departments are headed by officers in acting capacity for more than six (6) months who have been paid cumulative salary of Kshs.29,703,231. This contrary to Section C.14 (1) of the Human Resource Policies and Procedures Manual for the Public Service 2016 states that "when an officer is eligible for appointment to a higher post and is called upon to act in that post pending advertisement of the post, he is eligible for payment of acting allowance at the rate of twenty percent (20%) of his substantive basic salary and the acting allowance will not be payable to an officer for more than six (6) months.
448. Under circumstances, firm and effective decision-making mechanism could not be established.

### **Management Response**

449. The management informed the Committee that in the FY 2020/2021 some officers were on acting appointment for a period longer than 6 Months. This was because the substantive office holders for those various positions had been suspended and were under investigations hence the positions could not be permanently filled.
450. In addition to this some of the officers overstayed on acting capacity because Public Service Commission (PSC) had frozen all recruitments for a period of two years, this happened when some of our officers were already on acting appointments hence the Authority could not substantively recruit/fill up those positions.

### **Committee Observation**

#### **Committee observed that –**

Several officers were in acting capacity for more than six (6) months contrary to section 34 (3) of the Public Service Commission Act, CAP 185, which requires that an officer may be appointed in an acting capacity for a period not exceeding six months.

#### **Committee Recommendations**

##### **The Committee recommended that –**

Within three months upon adoption of this report, the Inspector General of State Corporations to surcharge and recover from the then Accounting Officer (s) and Board members, the monies paid as acting allowances beyond the stipulated period of six months.

### **20.0 Unapproved establishment**

451. The Committee heard that, as disclosed in Note 8 to the financial statements, the statement of financial performance reflects employee cost of Kshs.1,264,329,720. The Authority has an approved staff establishment of three hundred and forty-one (341) staff. However, the staff register indicates that a total of nine hundred and eleven (911) employees in place resulting to unapproved staffing of five hundred and seventy (570).
452. Under the circumstances, it is not clear how the Authority identified the staffing needs thereby employing five hundred and seventy (570) extra members of staff which poses a risk of bloated staffing, duplication of duties which constrains Authority's finances.

### **Management response**

453. The Management informed the Committee that the approved staff establishment is 341 as approved by the Board of Directors' 37th meeting held on the 8th May 2014. At the time of Audit, the impost was nine hundred and eleven (911) employees as at 30 June, 2021, comprised of 321 permanent and pensionable staff and 590.

454. KEMSA engaged staff on short-term contracts due to changes within the organization as outlined below;

- i. Implementation of new business model to support the devolved county health facilities which necessitated KEMSA to come up with a business architecture and organizational structure that supports devolved healthcare system.
- ii. Implementation of the Universal Health Coverage (UHC), where KEMSA is a key implementing partner.
- iii. KEMSA offers supply chain services to various strategic partners who have variable and unpredictable workload.

455. Given the above scenarios, the engagement of staff on a short-term contract basis was inevitable.

### **Current status:**

456. In order to address the staff establishment issue, the Board has taken the following measures;

- i. Conduct a staff review and rationalization exercise. Arising from the rationalization exercise, a total of 170 employment contracts which lapsed on 30th June 2023 were not renewed. This decision was arrived at by the Board during its 97th Special Board meeting held on 5th June 2023. Currently, the Authority has a total 562 employees, being a reduction from the previous 912 staff.
- ii. Review of KEMSA's Human Resource Instruments. The Board initiated a review of KEMSA's Human Resource Instruments which include the Organization Structure, Staff Establishment, Career Progression Guidelines and the Human Resource Policies and Procedures Manual. Completion of this process will be within the FY 2024-25

### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of unapproved establishment in its report for the Financial Year 2019/2020, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein

### **SUBMISSIONS FROM THE PUBLIC PROCUREMENT REGULATORY AUTHORITY REGARDING THE PROCUREMENT OF COVID-19 MEDICAL SUPPLIES BY THE KENYA MEDICAL SUPPLIES AUTHORITY**

457. The Committee after examining the Reports of the Auditor-General on the financial statements of Kenya Medical Supplies Authority for the Financial Years 2019/2020 and 2020/2021

resolved to invite the Director General, Public Procurement Regulatory Authority to apprise it on the following;

1. The list and names of companies that were involved in the procurement of medical supplies during the Covid - 19 pandemic.
2. The regulatory role played by the Authority in ensuring that the provisions under Article 227 of the Constitution and relevant laws were adhered to by KEMSA in the procurement of medical supplies during the pandemic.
3. Whether there was value for money in the procurement of medical supplies through KEMSA for the purpose of combating the pandemic.
4. Whether there was value for money in the procurement of medical supplies through KEMSA for the purpose of combating the pandemic.

**The Director General Informed the Committee that;**

458. Public Procurement Regulatory Authority Vide a Ref. No. PPRA/DG/2/IIVOL.III (54) requested KEMSA to furnish information on the list and names of companies that were involved in the procurement of medical supplies during the Covid -19 pandemic.
459. In response KEMSA through the letter Ref. No. KEMSA/PROC/PPRA/10/21 dated 21<sup>st</sup> October, 2025 furnished PPRA with the requested information. (List attached as Annex-3.)
460. Further in the wake of COVID19 pandemic, The Authority issued PPRA Circular No. 02/2020 dated 27<sup>th</sup> March 2020 on Preventive Measures for Handling of Procurement Activities for Procuring Entities Due to Corona Virus. The circular served to guide procuring Entities preventive measures to ensure continuity of procurement process while adhering to the provisions of Article 227 of the Constitution of Kenya and the Public Procurement and Asset Disposal Act, Cap. 412C (the Act).
1. *Section 103 (2) (b) and (c) of the Act guides that a procuring entity may use direct procurement under the following circumstances:*
- a) *Due to war, invasion, disorder, natural disasters, there is an urgent need for the goods, works or services and engaging in tendering proceedings or any other method of procurement would therefore be impractical, provided that the circumstances giving rise to the urgency were neither foreseeable by the procuring entity nor the result of dilatory **conduct on its part**': and*
  - b) *'Owing to a catastrophic event, there is urgent need for the goods, works or services, making it impractical to use other method of procurement because of the time involved in using those methods'.*
- (b) Further, section 2 of the Act defines "**urgent need**" as 'the need for goods, works or services in circumstances where there is an **imminent or actual threat to public health**, welfare, safety or of damage to property such that *engaging in tendering proceedings or other procurement methods would not be practicable*'.

- (c) Section 104 of the Act provides the procedure for direct procurement which entails the preparation of a tender document, appointment of an adhoc evaluation committee, ensuring that appropriate approvals are granted and that the resultant contract is in writing and signed by both parties.
- (d) In view of the foregoing, a procuring entity may invoke direct procurement method where there is **extreme urgency** brought about by unforeseeable events. However, whereas the Authority recognizes that the procuring entity may use the direct procurement or Single Source Section, as the case may be, in response to **emergency** situation, there is need to interrogate whether the existing public procurement procedures in times of global pandemic such as COVID-19.
- (e) The above view point is informed by the recognition that while direct procurement is legally permissible, the unprecedented nature of COVID-19, which was a global pandemic, calls for a clearly defined legal and regulatory framework for emergency procurement during pandemics to safeguard the Constitutional principles of public finance management and, taking into consideration the concerns raised in the Kenyan legal and policy analyses

461. To understand the unique challenges that COVID19 created and the complexities that necessitated robust legal frameworks on emergency procurement under pandemics, Professor Arrow smith, *set al in the book* Global Lessons from the COVID-19 pandemic illustrates the environment under which regulating procurement in a crisis operated as follows:

- a) *Pandemics expose the limitations of traditional procurement laws which appear designed for short-term emergencies;*
- b) *A particular element of challenge, especially in the early phases, was speed, which itself created problems for the usual safeguards to ensure value for money, integrity and accountability in procurement.*
- c) *The global nature of te COVID-19 pandemic crisis, unlike regional environmental disasters or conflicts, the pandemic created urgent demand for virtually every country. As a result, a buyer's competition ensued for limited global resources, particularly PPEs and ventilators in the early phases. Engaging in tendering proceedings or other procurement methods would not be practicable*
- d) *The COVID-19 pandemic hit African countries later that most other parts of the world. Theoretically, this should have allowed them (Africa) more opportunity to prepare. At the same time, this posed significant challenges in securing critical pandemic related goods given the already high pressure on supply chains.*
- (f) The Authority avers that compliance to the law in procurement under COVID-19 pandemic extended beyond adherence to legal procedures.
- (g) Whereas assessment must focus on how KEMSA upheld the guiding principles of public procurement under Article 227 OF THE Constitution. The review of compliance to the Act and the Public Finance Management Act, 2012 should not be limited to, reviewing the adequacy of the justification for choice of the procurement method, price reasonableness of the procured medical supplies, contract award disclosures and ethical practices such as vetting of suppliers to

prevent any potential conflicts of interest but it must be appreciated under what circumstances KEMSA was undertaking such an unprecedented undertaking.

462. The risks of having to deal with limited resources of materials, opportunistic suppliers that could charge extremely high prices complicates anyone to take a position as to whether KEMSA obtained value for money. The United Nations Conference on Trade and Development identified Kenya as one of the countries where unprecedented price increases for essential hygiene products had been on the rise and called for firmer action by the government to protect consumers. The Competition Authority of Kenya (CAK) also lent its voice to the issue by invoking the Competition Act and it ordered a particular supermarket to refund all customers who had bought hand sanitizers at an inflated cost.
463. In making a determination as to whether KEMSA complied to Section 104 (c) of the Act on granting approvals under direct procurement, we make reference to Regulations 69 (2) and (3) and 90 (6) of the Public Procurement and Asset Disposal Regulations, 2020. The import of the aforementioned provisions is that the procurement law prohibits retrospective procurement approvals except for procurement in response to an urgent need. However, the law has not guided on the applicable procedure while undertaking retrospective approvals.
464. To address this legal gap, there are proposed amendments to the Act under the Public Procurement and Asset Disposal Bill, 2025 which now introduces a provision under section 69 that provides that, "The Cabinet Secretary may prescribe procedures for retrospective approvals.
465. There is need for procurement regulations that effectively govern public procurement to the scale and duration of a pandemic. The regulations should facilitate rapid response, adherence to specified procedures and ethical practices. This is to enhance efficiency and build public trust in the procurement systems.

### **Committee Observation**

#### **Committee observed that –**

- i. The Public Procurement Regulatory Authority issued a circular on Preventive Measures for handling procurement activities for procuring entities due to Covid-19. The circular served to guide procuring entities to ensure continuity of procurement process while adhering to the provisions of Article 227 of the Constitution and the Public Procurement and Asset Disposal Act, Cap. 412C.
- ii. COVID-19 related stocks worth Kshs.5,639,656,550 was lying at KEMSA warehouse despite the items having been procured using direct procurement method on the basis of urgency.
- iii. The then Accounting Officer, KEMSA failed to manage the inventory for the purpose of preventing wastage and loss contrary to section 160 of the Public Procurement and Asset Disposal Act, CAP412C which requires stocks to be kept to the minimum necessary for the efficient conduct of the authority to avoid unprofitable lock up of funds.

### **Committee Recommendations**

#### **The Committee recommends that –**

Within three months upon adoption of this report, the Director General Public Procurement Regulatory Authority in collaboration with the Attorney General fasttrack the amendments to the

Public Procurement and Asset Disposal Act, CAP 412C to introduce a provision under section 69 to providing for retrospective approvals under prescribed circumstances.

Further, amend the procurement regulations to effectively govern public procurement to the scale and duration of a pandemic. The regulations should facilitate rapid response, adherence to specified procedures and ethical practices to enhance efficiency and build public trust in the procurement systems.

## **EXAMINATION OF THE REPORT OF THE AUDITOR GENERAL ON THE AUDITED ACCOUNTS OF PUBLIC BENEFIT ORGANIZATION REGULATORY AUTHORITY (FORMERLY NGO COORDINATION BOARD) FOR THE FINANCIAL YEARS 2007/2008 –2023/2024**

**Dr. Laxmana Peter Kiptoo, PhD, OGW, Chief Executive Officer of Public Benefit Organization Regulatory Authority (Formerly NGO Coordination Board), accompanied by Mr. Bernard Bwona (Internal Audit and Risk), and Mr. David Njane (Finance and Accounts) appeared before the Committee to adduce evidence on the Audited accounts of Communications Authority of Kenya for the Financial year 2007/2008 –2023/2024.**

### **FINANCIAL YEAR 2007/2008**

#### **1.0 FINANCIAL POSITION**

466. The Committee heard that, the current liabilities of Kshs. 16,619,754 as at 30 June 2008 exceed current assets of Kshs. 6,347,088 by Kshs. 10,272,666. In addition, the Board was unable to meet its obligations as they fall due. In particular, it was unable to remit pensions deductions totaling Kshs. 11,090, 190 as well as audit fees amounting to Kshs. 780,000. The Board was technically insolvent and its financial statements have been prepared on a going concern basis on the assumption of continued financial support of creditors and the Government.

#### **Management Response**

467. The management informed the Committee that, management implemented targeted measures aimed at improving the working capital position. Cost cutting measures were initiated and critical services were allowed. These proactive initiatives led to notable improvements in working capital. Again, the management engaged in negotiations with the Parent Ministry to secure additional funding, further bolstering the organization's efforts to navigate financial constraints and enhance operational efficiency. This demonstrates a strategic approach and commitment to resolving the liquidity concerns effectively.

#### **Committee Observations**

**The Committee observed that-**

The current liabilities exceed current assets by Kshs. 10,272,666 giving a negative working capital arising from the Board's failure to remit pension deductions totaling Kshs. 11,090,190, meaning amounts already deducted from employees' salaries were not passed to the pension scheme. The Board also failed to pay Audit fees of Kshs. 780,000 implying its lack of capacity to meet arising obligations. The outstanding Statutory obligations will continue to attract penalties and interest.

**Committee Recommendations**

The Committee recommended that within three months upon adoption of the report, the Accounting officer should develop a comprehensive financing and budgeting strategy that will ensure the Authority operates efficiently within the available approved budget to avoid over commitment of the entity beyond means.

**FINANCIAL YEAR 2008/2009****1.0 FINANCIAL POSITION**

468. The Committee heard that, during the year ended 30 June 2009, the Board realized a deficit of Kshs.5,727,992 compared to a surplus Kshs.2,984,507 in 2008, thereby resulting in an accumulated deficit of Kshs.2,581,789.
469. Further, the current liabilities of Kshs.20,673,510 as at 30 June 2009 exceeded the current assets of Kshs.6,740,678 as at the same date by Kshs. 13,932,832.
470. The Board was therefore, technically insolvent and was even unable to remit pensions deductions of Kshs. 11,846,701 or pay audit fees of Kshs.690,000. The financial statements have therefore been prepared on a going concern basis on the assumption that the Board will continue to get financial support of creditors and the government.

**Management Response**

471. The management informed the Committee that, the current liabilities balance of Kshs. 20,673,510 largely constitutes statutory deductions and pension which had been carried forward from the previous years. The Board had been experiencing financial challenges as it did not get funding to clear the pending bills. This greatly affected the Board making it not able to pay statutory deductions and pension.
472. In the meantime, to improve the liquidity position, the management come up with various measures including negotiations through the parent ministry for more funding to improve the liquidity position.

**Committee Observations and Recommendations**

The Committee had deliberated on the issue of poor financial performance and the negative working capital in its report for the Financial Year 2007/2008, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

**2.0 GOVERNMENT GRANT AND MISAPPROPRIATION REVENUE****2.1 Government Grant**

473. The Committee heard that, during the year under review the Board received a Government grant of Kshs.92,900,000 against a budget of Kshs.90,000,000 resulting in a variance of

Kshs.2,900,000. Further information available indicates that the Board refunded part of the excess grant of Kshs. 1,450,000 against which it was issued with a receipt by the Office of the Vice-President, Ministry of State for National Heritage on 16 September 2009. The Board has not however explained why it failed to return part of the excess grant of Kshs. 1,450,000 to the Ministry. Further, note 2 to the financial statement include the amount purportedly refunded to the Ministry as part of the income for the year.

#### **Management Response**

474. The management informed the Committee that, the Board received a Government grant of Ksh. 92,900,000 during the year. This amount was disclosed in the financial statement under note number two. The initial budget of the Board was Ksh. 92,900,000. This amount was revised downwards after supplementary II. The Board had already received the full amount of Ksh. 92,900,000 and was unable to refund given the financial difficulties it was facing. As seen from the statement of Income which reflected a loss of Ksh. 5,727,992 while the Balance sheet reflected a negative working capital, the Board was technically insolvent and was not able to remit statutory deductions and pensions contained in the figure of total liabilities of Ksh. 20,673,510. This demonstrates that the Board was at financial situation which required urgent financial assistance.

#### **Committee Observations**

The Committee observed that the excess grant of Kshs.2,900,000 ought to have been repaid to the National exchequer and a statement prepared and submitted to the Controller of Budget and not refunded to the Parent Ministry. No satisfactory explanation was provided as to why the surrender was done to the Parent Ministry contrary to Section 45(2) of the PFM Act CAP412A.

#### **Committee Recommendations**

The Committee reprimands the then Accounting Officer for breach of Section 45(2) of the PFM Act CAP412A. The Committee further directs the Accounting Officer to institute stringent budgetary performance controls to ensure adherence to the provisions of the PFM Act and Article 201 of the Constitution on prudent financial management.

### **3.0 Misappropriation Revenue**

475. The Committee heard that, Appropriations in Aid figure of Kshs. 18, 909,018, under income includes revenue amounting to Kshs.691,700 misappropriated by the Boards employees during the year. Although the matter was reported to the police, no Communication on the investigation has been seen. In the circumstances, it has not been possible to confirm the correctness of the total revenue figure of Kshs. 115,076,643 reflected in the income statement as at 30 June 2009.

#### **Management Response**

476. The management informed the Committee that, the revenue amounting to Kshs.691,700 was misappropriated by the Boards' employees during the year. The matter as indicated was reported to the police. At the same time the matter was brought to the attention of the Board and resolved that this was a criminal act. The Board directed that anyone involved should be dealt with

according to the law. Consequently, the Board wrote to the Director of Public prosecution to investigate and take the necessary action.

477. The management further reviewed its internal policies of receiving cash to prevent any future occurrence. This involved no handling of cash payments at the office. All clients were directed to deposit cash direct into the bank.

#### **Committee Observations**

The Committee observed that the board employees misappropriated Kshs. 691,700. Although the case was reported to the police and referred to the Director of Public Prosecutions, no evidence of any legal action or any other administrative action had been taken against the implicated officers.

#### **Committee Recommendations**

The committee reprimands the then Accounting Officer, the then head of internal audit and the then Head of finance for failing to ensure proper cash management.

The committee recommends that within three months upon adoption of this report, the Accounting Officer submits a comprehensive report to the National Assembly on the measures taken to improve the internal control on cash handling and management. The report should also include a cash-handling and revenue policy that: prohibits staff from receiving cash, requires all payments to be made directly into designated bank accounts, enforces segregation of duties and timely bank reconciliations; and introduces periodic surprise checks and internal audits over revenue processes to prevent and detect fraud and the administrative actions to be taken against officers found culpable for misappropriation,

### **FINANCIAL YEAR 2009/2010**

#### **1.0. Prior Year Adjustment**

478. The Committee heard that, General Operating Expenses of Kshs.34,927,697 include a prior year! adjustment of Kshs.4,722,580 under miscellaneous expenses, which has not been analyzed. As a result, it has not been possible to ascertain that the recorded surplus of Kshs.21,530,461 as at 30 June 2010 is fairly stated.

#### **Management Response**

479. The management informed the Committee that, prior year adjustment of Kshs.4,722,580 under miscellaneous expenses has been analyzed and annexed.

#### **Committee Observations**

##### **The Committee observed that-**

The management did not provide an analysis of the prior year adjustment of Kshs. 4,722,580 charged under miscellaneous expenses, making it hard to ascertain its propriety.

#### **Committee Recommendations**

The Committee reprimands the Accounting Officer and the Finance Officer for dereliction of their duties in providing the relevant information and explanations required for audit contrary to Section 62(1) of the Public Audit Act Cap412B.

### **FINANCIAL YEAR 2010/2011**

### **1.0 Misappropriated Funds**

480. The Committee heard that, reported in the year 2008/2009 the income of Kshs. 15,076,643 included receipts from administrative fees (A.I.A) of Kshs. 18,909,018, out of which an amount of Kshs. 691,700 had been misappropriated by the Board's employees during the year then ended 30th June, 2009.
481. Although the matter was reported to the police and the employees involved suspended, no communication on the progress of investigations has been seen. In the absence of investigations up-date, it has not been possible to confirm the current status on the recovery of the loss funds.

### **Management Response**

482. The management informed the Committee that, appropriations in aid figure of income in the year ended 30th June 2009 included revenue amounting to Kshs 691,700 misappropriated by former Board employees. This matter was reported to the Police who also carried out investigations. The matter is now with Director of Public Prosecutions and Directorate of Criminal Investigations.

### **Committee's Observations and Recommendations**

The Committee had deliberated on the issue of misappropriated funds in its report for the Financial Year 2008/2009, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations made therein.

## **FINANCIAL YEAR 2011/2012**

### **1.0 Financial Position**

483. The Committee heard that, during the year under review, the Board reported a deficit of Kshs. 5,962,895 (2011 – deficit Kshs. 5,946,064). In addition, the current liabilities of Kshs. 10,403,926 exceed current assets of Kshs. 6,507,453 resulting to a negative working capital of Kshs. 3,896,473. The Board's financial position is therefore precarious, and its future operations depend on continued financial support by the Government, bankers and creditors.

### **Management Response**

484. The management informed the Committee that, the Board has been experiencing inadequate budgetary support from the National Government. The Board requested for more budget support to meet its financial obligation from the National Government.

### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of Financial position in its report for the Financial Year 2007/2008, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

### **2.0 Misappropriated Funds**

485. The Committee heard that, as reported in the year 2008/2009 the income of Kshs. 115,076,643 included receipts form administrative fees (A.I.A) of Kshs. 18,909,018 out of which Kshs. 691,700 had been misappropriated by the Board's employees during the year ended 30 th June, 2009. Although the matter was reported to the police and the employees involved suspended, no communication on the progress of investigations has been seen. In the absence of an up-date on

the investigations, it has not been possible to confirm the current status on the recovery of the lost funds.

#### **Management Response**

486. The management informed the Committee that, the appropriations in aid figure of income in the year ended 30th June 2009 included revenue amounting to Kshs 691,700 misappropriated by Former Board employees. This matter was reported to the Police who also carried out investigations. The matter was taken by the Director of Public Prosecutions and the Directorate of Criminal Investigations.

#### **Committee's Observations and Recommendations**

The Committee had deliberated on the issue of misappropriated funds in its report for the Financial Year 2008/2009, observed and made recommendations thereon. Consequently, the Committee upholds the observations and recommendations made thereon.

#### **3.0 Trade and Other Payables**

487. The Committee heard that, included in the trade and other payables balance of Kshs. 9,628,017 as at 30th June, 2012 is Kshs. 5,082,781 relating to PAYE and pension contributions which had not been remitted to the respective authorities. The management is therefore exposing the Board to penalties and fines due to non-remittance of the deductions within the statutory deadlines.

#### **Management Response**

488. The management informed the Committee that, the Board experienced budgetary reduction from the National Government and requested for enhanced budgetary support to address the challenge.

#### **Committee Observations**

##### **The Committee observed that-**

- i. The Authority had not remitted Kshs. 5,082,781 relating to PAYE and pension contributions to the Kenya Revenue Authority and pension schemes. This implies that the Accounting Officer irregularly reallocated Funds budgeted for the compensation of employees without Board, Parent Ministry and The National Treasury approval. The penalties and interest chargeable on the outstanding dues amount to nugatory expenditure that could be avoided by honouring the statutory deductions within the statutory timelines.
- ii. Non remittance of statutory deductions within the legal timeline exposes the Authority to penalties, interest, and possible legal enforcement action by the statutory bodies like KRA, Retirement Benefits Authority or group actions by individuals whose pensions or gratuities obligations are not honoured upon exit.

#### **Committee Recommendations**

The Committee reprimands the then Accounting Officer, the then Finance Officer and the then Board for breach of Section 19 of the Employment Act, CAP 226. The Committee further directs the Accounting Officer to develop a comprehensive financing and budgeting strategy that will ensure the Authority operates efficiently within the available approved budget to avoid over commitment of the entity beyond means.

#### **FINANCIAL YEAR 2012/2013**

## **1.0 Financial Position**

489. The Committee heard that, the board realized a deficit of ksh.11,696,179(2012- deficit Kshs.5,962,895) during the year under review which brought the accumulated fund deficit to Kshs.(4,617,065) (2012-7,079,114). The statement of financial position reflects current liabilities of Kshs.24,263,597 and current assets of Kshs.8,720,784 resulting to a negative working capital of Kshs.15,542,813. Although the board has explained the this was due to underfunding, the Board's members expenses increased by Kshs.8,236,743 (203%) from Kshs.4,040,568 (in 2012) to Kshs.12,277,311 (in 2013).In view of the foregoing, it would appear that the Board is technically insolvent and its continued existence as a going concern is dependent upon the support of the Government and its trade payables.

### **Management Response**

490.The management informed the Committee that, the Board has been experiencing budget cuts on grants from the National Government and the Board continued to seek more budgetary support to address this challenge.

### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of Financial position in its report for the Financial Year 2007/2008, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

## **2.0 Misappropriated Funds**

491.The Committee heard that, the report for the year 2011/2012 reference was made to a report for 2008/2009 in which a misappropriation of an income of Kshs. 691,700 by the Board's employees was reported.

492.During the year under review, no documentary evidence has been seen regarding an update on investigations and progress towards recovery of the loss funds.

### **Management Response**

493.The management informed the Committee that, the appropriations in aid figure of income in the year ended 30th June 2009 included revenue amounting to Kshs 691,700 misappropriated by Former Board employees. This matter was reported to the Police who also carried out investigations. The matter was taken by the Director of Public Prosecutions and the Directorate of Criminal Investigations.

### **Committee's Observations and Recommendations**

The Committee had deliberated on the issue of misappropriated funds in its report for the Financial Year 2008/2009, observed and made recommendations thereon. Consequently, the Committee upholds the observations and recommendations made thereon.

## **3.0 Trade and Other Payables**

494.The Committee heard that, trade and other payables balance of Kshs.22,714,787 as at 30th June, 2013 includes an amount of Kshs. 12,233,121 relating to PAYE and pension contributions which

had not been remitted to the respective authorities. The board has complied with various aspects of Income Tax and Retirement Benefits Acts costs which have been recognized in these financial statements.

#### **Management Response**

495. The management informed the Committee that, the Board experienced budgetary reduction from the National Government and requested for enhanced budgetary support to address the challenge.

#### **Committee's Observations and Recommendations**

The Committee had deliberated on the issue of trade and other payables in its report for the Financial Year 2011/2012, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations made thereon.

### **FINANCIAL YEAR 2013/2014**

#### **1.0 Going Concern**

496. The Committee heard that, the year under review, the Board realized a deficit of Kshs. 20,300,979 (2013-kshs. 11,696,179) which resulted to accumulated deficit of kshs.24, 917,862 (2013- Kshs. 4,617,065).
497. Further, the statement of financial position reflects a total current assets balance of Kshs 10,643,183 (2013-kshs. 8,720,784) while the total current liabilities as at the same date amounted to Kshs 45,004,312 (2013- Kshs. 24,263,597) resulting to a negative working capital of Kshs 34,361,129 (2013 –Kshs 15,543,813).
498. The Board was unable to pay employee pension statutory deductions amounting to KShS.31, 766,410 as at 30 th June 2014. In view of the foregoing, the Board is therefore technically insolvent and its continued existence as a going concern is dependent upon the support of the Government and its creditors.

#### **Management Response**

499. The management informed the Committee that, the board has been experiencing budget cuts on grants from the National Government and the Board has requested for enhanced budget.

#### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of Financial position in its report for the Financial Year 2007/2008, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **2.0 Misappropriated Funds**

500. The Committee heard that, the report for 2012/2013, reference was made to a report for 2008/2009 in which a misappropriation of an income of Kshs 691,700 by the Boards employees was reported.
501. Although the director of Public Prosecutions has taken up the matter with the Director of Criminal Investigations as per a letter Ref. DPP/CONF/G/804 dated 9<sup>th</sup> September 2014, no progress report has so far been made available for audit review towards the recovery of the lost funds.

#### **Management Response**

502. The management informed the Committee that, the appropriations in aid figure of income in the year ended 30<sup>th</sup> June, 2009 included revenue amounting to Kshs 691,700 misappropriated by Former Board employees. This matter was reported to the Police who also carried out investigations. The matter is now with Director of Public Prosecutions and the Directorate of Criminal Investigations.
503. The Board initiated a disciplinary process against the employees who were involved in the misappropriation of funds, and they were ultimately sacked.

#### **Committee's Observations and Recommendations**

The Committee had deliberated on the issue of misappropriated funds in its report for the Financial Year 2008/2009, observed and made recommendations thereon. Consequently, the Committee upholds the observations and recommendations made thereon.

#### **3.0 Board Expenses**

504. The Committee heard that, indicated under note 5 to the financial statements, the Board spent a total of Kshs 13,070,720 against a budget of Kshs.11, 064,320, resulting in an overall over expenditure of Kshs 2,006,400 or 18%. The expenditure on Board Expenses includes an amount of Kshs 614,000 paid to staff as allowances and honoraria contrary to the provisions of section 10(1) of the state corporations Act, (Cap 466) which requires that only the chairman and Board members can be paid allowances. Further no documentary evidence has been provided to show that the Board sought and obtained approval from the parent ministry and Treasury as required by section 12 of the state corporations Act, (CAP 466) in case of excess expenditure of state Corporations.

#### **Management Response**

505. The management informed the Committee that, the Board's appropriated budget for the year was Ksh.113,613,000 which is allocated among the budget lines. Within the year, the initial allocated budget for the Board members was Kshs. 11,064,320. These budget lines are reviewed on a quarterly basis when need arises. The increase was necessitated by strategic plan preparation resulting into more meeting which were not initially envisaged. However, it's important to note that the Board's budgetary expenditure did not exceed the appropriated budget.

#### **Committee Observations**

The Committee observed that the Authority irregularly exceeded the approved budget by Kshs. 2,006,400 without the requisite approval from the parent ministry and Treasury as required by section 12 of the state corporations Act, (CAP 466).

#### **Committee Recommendations**

##### **The Committee recommended that –**

Within three months upon adoption of this report, the Inspector General of State Corporations to investigate with a view to surcharge or recover from the then Accounting Officer (s) and Board members, the over expenditure of Kshs 2,006,400 in respect of Board.

#### **FINANCIAL YEAR 2014/2015**

##### **1. 0 Going Concern**

506. The Committee heard that, in the year under review, the Board had a surplus of Kshs.11, 314,560 which reduced accumulated deficit from Kshs 24,917,862 as at 30<sup>th</sup> June 2014 to

accumulated deficit of Kshs 13,603,302 as per statement of changes in net assets of 30<sup>th</sup> June, 2015. The statement of financial positions reflects an overdrawn bank balance of Kshs 237,952 and a negative net assets position of Kshs 13,380,744 (2014-24,599,922). The Board is unable to pay employees statutory deductions amounting to Kshs.27, 229,422 as of 30<sup>th</sup> June, 2015 and merchants of Kshs.6,221,994. In view of the foregoing, it would appear the Board is technically insolvent and its continued existence as a going concern is dependent upon the support of the Government and its creditors.

#### **Management Response**

507. The management informed the Committee that, the Board has been experiencing budget cuts on grants from the National Government and the Board continued to seek more budgetary support to address this challenge.

#### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of financial position in its report for the Financial Year 2007/2008, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **FINANCIAL YEAR 2015/2016.**

508. During the financial year 2015/16, the Board received unqualified opinion.

#### **FINANCIAL YEAR 2016/2017**

##### **1.0 Unremitted statutory deductions.**

509. The Committee heard that, report indicated that within the year under review the Board failed to remit an amount of Kshs. 9,711,383 relating to PAYE for the months starting February to May 2017, contrary to section 37A (1) of the Income Tax Act. Failure to remit PAYE deductions shall result in penalties specified in the Income tax Act. Further, an amount of Ksh. 3,930,370 relating to employer pension contributions had also not been remitted. No satisfactory explanation has been provided for failure to remit the employer pension contributions to the umbrella provident fund.

#### **Management Response**

510. The management informed the Committee that, within the year under review, the Board experienced drastic drop in Government Grant. In 2016-17 financial year, the total revenue amounted to Kshs. 125,150,000 while in the previous year it was Kshs. 185,831,875. This was a drop of Kshs. 60,681,875 from the Government. Owing to increase in the cost of goods and services, reduction in government grant and increase in expenditure contributed to the Board not being able to remit the statutory deductions.
511. Austerity measures were enforced to ensure the Board operates within its budget. Negotiations are ongoing with the Parent Ministry to look for extra funds to handle the pending bill.

#### **Committee's Observations and Recommendations**

The Committee had deliberated on the issue of statutory remittances in its report for the Financial Year 2011/2012 under Trade and Other Payables, and the subsequent years, as

misappropriated funds were observed and made recommendations thereon. Consequently, the Committee upholds the observations and recommendations made thereon.

## **2.0 Unsupported Board expenses.**

512. The Committee heard that, the statement of financial performance reflects Board expenses totalling Kshs. 7,391,208 for the year. However, payment vouchers for amount of Kshs. 3,080,000 were paid as the Board's expenses for sitting, local travel and mileage allowances which were not properly supported with signed attendance registers and payment schedules indicating cash received by Board members. Consequently, the validity and propriety of the expenditure of Kshs. 3,080,000 cannot be confirmed.
513. In addition, records show that the Board did not, during the year under review, have a quorum necessary for the conduct of official business as three Board Members attended the meetings instead of the authorized minimum number of six members contrary to Section 4 of the NGO Co-ordination Act 2012.

## **Management Response**

514. The management informed the Committee that, during the year under review, the Board Chairman was gazetted but he never reported. Three other board members were gazetted at the same time. Two of them took up the appointment.
515. The two Board members and the Executive Director held various consultative meetings thus being paid for mileage and daily subsistence allowances as per the regulations. Payment vouchers are supported by invitation letters and payment schedules.

## **Committee Observations**

### **The Committee observed that-**

The Authority paid Kshs. 3,080,000 as the Board's expenses without proper supporting document like signed attendance registers and payment schedules hence the validity and propriety of the expenditure could not be confirmed. Further, the validity of some of the meetings was questionable in that they lacked the pre-requisite quorum to be considered as validly held meetings and the business deliberation therein could then be challenged.

## **Committee Recommendations**

### **The Committee recommended that –**

Within three months upon adoption of this report, the Inspector General of State Corporations to investigate with a view to surcharge or recover from the then Accounting Officer (s) and Board members, the unsupported expenditure of Kshs. 3,080,000 and payments made when the quorum was deficient in respect of Board.

## **3.0 Undisclosed materiality uncertainty.**

516. The Committee heard that, statement of financial performance reflects an operating loss of Kshs. 26,583,046 for the year ended 30<sup>th</sup> June 2017. Total current assets and liabilities were Kshs. 13,518,566 and Kshs. 26,799,354 respectively giving a negative working capital of Kshs. 13,280,788. No disclosures have been made in the financial statements by the management concerning this material uncertainty regarding the Board's ability to sustain its services in view

of the precarious financial situation or any other arrangements in place for the continued financing of the Board's activities.

### **Management Response**

517. The management informed the Committee that, the financial performance statement reflected a deficit of Kshs. 26,583,046 this was attributed majorly by the drop in revenue. Within the year under review, the revenue for the period was Kshs. 165,836,479 while for the previous year was Kshs. 226,673,560. This was a reduction of more than Kshs. 60 million. This reduction in revenue greatly contributed to the deficit. At the same time, new employees were hired. Negotiations are on-going with the Parent Ministry for more funding including request to be granted money as forwarded in the Board's annual budget. The Board is also implementing several measures to clean its house with a view to change the Board image and boost revenue correction.

### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of financial position in its report for the Financial Year 2007/2008, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

### **Other Matters**

#### **4.0 Variation of contract for Staff Medical Insurance.**

518. The Committee heard that, the records available indicate that the original contract for the provision of medical Insurance services was awarded to Jubilee Insurance Company of Kenya at Kshs. 9,093,032. The Board purported to have renewed the contract on 26 th January, 2017 and awarded a new contract at Kshs. 13,390,902 for a period ending on 25 th January, 2018. This resulted in a variation of 47% of the original contract sum, which contravened Section 139 (4) (e) of the Public Procurement and Assets Disposal Act, 2015, which requires that the cumulative value of all contract variations should not result in an increment of the total contract price by more than 25% of the original contract price.

### **Management Response**

519. The Committee was informed that the Board had tendered for the medical Insurance for a term of one year, which was to be renewed for a further one-year, subject to performance satisfaction. The original tender price was Kshs. 9,093,032, for a population of 162 members. The population within the year increased to 183 members at a prorated cost of KShs. 1,280,013. This gave a total premium of Kshs. 10, 373,046 for the year 2016/17.
520. In 2017/2018, the contract was renewed at Kshs 13,390,902.00. with a new population of 183 members, which gave a quantity variation of 12.9%.
521. The Board did not base the variation for the new contract on cost but quantity as per Section 139 (4) part (b) of the Public Procurement and Asset Disposal Act 2015, which stipulates the "quantity variation for goods and services does not exceed fifteen per cent of original contract quantity".

### **Committee Observations**

The Committee observed that the Authority renewed the initial insurance contract entered into for the financial year 2015/2016 at Kshs. 9,093,032 to a new contract at Kshs. 13,390,902 for a period ending on 25<sup>th</sup> January, 2018 translating to 47% variation. However, the reason given of increase in the number of employees to 183 was not justified in terms of increased cover costs or improved premium services.

### **Committee Recommendations**

The Committee reprimands the then Accounting Officer, the then head of procurement and the Board for renewing the insurance cost at an inflated cost and contravening Section 139 (4) part (b) of the Public Procurement and Asset Disposal Act 2015.

### **5.0 Direct procurement of Legal services.**

522. The Committee heard that, during the year under review, the board through direct procurement method engaged a law firm at a fee of Ksh.2,000,000 to represent and defend its interests against the Cabinet Secretary's alleged disbandment of the Board. The use of direct procurement method for legal services contravened Section 103(2) (a) of the Public Procurement and Asset Disposal Act, 2015 as there were other law firms available that could offer the same services.

### **Management Response**

523. The management informed the Committee that, on 19th October, 2016 the Cabinet Secretary Ministry of Planning and Devolution dissolved the NGO Board of Directors and sent the Executive Director on compulsory leave. The Board of Directors engaged the firm of Ahmednasir, Abdikadir and Company Advocates to represent and defend them. The matter was filed under certificate of urgency, and was heard and the Board was granted conservatory orders.

524. The Public Procurement and Asset Disposal Act 2015 Section 103 (2) part (c) allows for direct procurement if there is an urgent need for goods, work or services required.

### **Committee Observations**

**The Committee observed that Authority** irregularly engaged a law firm at Kshs. 2,000,000 through direct procurement to challenge the Cabinet Secretary's decision to disband the Board citing Section 103(2) (c) Public Procurement and Asset Disposal Act 2015 as the guiding legal provision. However, the expenditure could not be justified as a proper charge to public funds.

### **Committee Recommendations**

The Committee reprimands the then Accounting Officer, the then head of procurement and the Board for irregularly engaging the law firm through direct procurement contrary to Section 103(2) (c) Public Procurement and Asset Disposal Act 2015.

## **FINANCIAL YEAR 2017/2018**

### **1.0 Fraudulent Salary Payments**

525. The Committee heard that, during the year under review, the Board incurred an expenditure totalling Kshs.129,500,484 on employees' costs. However, an examination of Salary Payment records revealed the following unsatisfactory matters.

526. Variances were noted between the approved and signed monthly payrolls and the actual amount remitted to the bank. This resulted in a loss of Kshs.3,822,764.00 which was fraudulently paid to one account number 01109528882100 using various fictitious names.

#### **Management response**

527. The management informed the Committee that, it is true that, the year under review there were variances between the signed payroll and what actually was disbursed. This necessitated an in-depth audit. From the analysis of the payroll anomalies were discovered on the list submitted to the bank. It was noted that various staff, whose pay points were elsewhere other than the bank list, also appeared on the bank list. In-depth scrutiny on that list noted that there was a bank account (01109528882100) which was the same on some staff who appeared twice. In total a sum totalling Kshs. 3,822,754 had been paid into this account.

528. This matter was brought to the attention of the Board and resolved that this was a criminal act; anyone involved should be dealt with according to the law. It also directed the management to report the matter to the Directorate of Criminal Investigations. The matter was reported to the Banking fraud.

529. Segregation of duties in payroll processing has been done, where by the officer processing the payroll is in HR department while the disbursement is in Finance department.

530. The matter was prosecuted under case number CR:113/60/2019.

#### **Committee Observations**

The Committee observed that an amount of Kshs.3,822,764.00 was fraudulently paid to one account number 01109528882100 using various fictitious names. Despite the matter being prosecuted under case number CR:113/60/2019, the outcome is not yet known.

#### **Committee Recommendations**

##### **The Committee recommends that**

- i Within three months upon adoption of this report the EACC should investigate the matter on the fraud of Kshs. 3,822,764 with a view to unearthing illegalities in the payroll management. Should any officer be found culpable, the DPP should take legal action with a view to recovering the amount with interest at the CBK prevailing rates.
- ii within three months upon adoption of this report the Accounting Officer should submit a comprehensive report of the mechanisms put in place to ensure proper controls to safeguard public resources with regard to payments and receipts as per the PFM Act CAP 412 Section 72(1)

##### **2.0 Unconfirmed Board Expense**

531. The Committee heard that examination of records maintained by the NGO Co-ordination Board showed that payments amounting to Kshs 5,046,360.00 were incurred to pay for sitting allowance, per diem and mileage allowances for board members. However, these payments were not properly supported with signed registers and payment schedules. In addition, payment vouchers in relation to Board Expenses amounting to Kshs 1,006,875.00 were not availed for audit.

#### **Management response**

532. The management informed the Committee that is in the process of retrieving and consolidating all the supporting documents and will be availed to the auditors for verification.

### **Committee observations**

#### **The Committee observed that-**

The Authority paid Kshs 1,006,875 as the Board's expenses without proper supporting document like signed attendance registers and payment schedules hence the validity and propriety of the expenditure could not be confirmed.

### **Committee recommendations**

#### **The Committee recommended that –**

Within three months upon adoption of this report, the Inspector General of State Corporations to investigate with a view to surcharge or recover from the then Accounting Officer (s) and Board members, the unsupported expenditure of Kshs. 1,006,875.

### **3.0 Irregular Staff Promotions**

533. The Committee heard that, examination of personal files revealed that various promotions and salary increase across various job groups were done during the financial year without approval from the board. These promotions had not been budgeted for, resulting in diversion of funds from other budget items.
534. These affected service delivery as some activities could not be undertaken due to lack of funds.

### **Management response**

535. The management informed the Committee that, there had been various promotions and salary increases across various job groups which were done during the 2017-18 financial year.
536. Given that they were not budgeted for and they did not comply with the due process, the promotions turned out to be irregular and unprocedural in nature. The board subsequently reversed the promotions and the related salary increments, which were fully recovered.

### **Committee Observations**

#### **The Committee observed that**

Various promotions and salary increment were done without approval from the board's resulted to diversion of funds from other budget lines contrary to section 43(2) of the PFM Act CAP412A, which provides that an accounting officer for a national government entity, other than a state corporation, may reallocate funds between programs, or between Sub-Votes, in the budget for a financial year.

Due to irregular nature of the promotions, the board subsequently reversed the promotions and the related salary increments.

### **Committee recommendations**

The committee reprimands the then accounting Officer for breach of section 43(2) of the PFM Act CAP412A.

### **4.0 Failure to disclose Material Uncertainty in relation to the sustainability of services**

537. The Committee heard that, the statement of financial performance reflects an operating deficit of Kshs.40,050,771 for the year ended 30<sup>th</sup> June 2018, which arose because total revenue was less than the total expenditure.

538. Further, the statement of financial position similarly reflects total current assets of Kshs.13,035,990 against total current liabilities of Kshs.63,721,080, meaning the board had a negative working capital of kshs.50,685,090 as at 30<sup>th</sup> June 2018 and was therefore technically insolvent. However, management has not disclosed in the financial statements any material uncertainties regarding the board's ability to sustain its services in view of the precarious financial situation, or any arrangements in place for the continued financing of the board's activities.

#### **Management response**

539. The management informed the Committee that, the financial performance statement reflected a deficit of Kshs. 40,050,771. This was attributed mainly to the drop-in revenue and increase in total expenditure. Within the year under review again, there was a negative working capital of Kshs. 50,685,090.

540. In the subsequent financial year, in case this material uncertainty arises, the Board will disclose it in the financial statements.

541. To improve the liquidity position, negotiations were done with the Parent Ministry for more funding including a request to be granted for more budgetary allocation as submitted in the Board's annual budget.

542. In 2019/2020, the Board was granted Kshs. 114,267,667.00 by the Government to clear all pending bills.

543. The Board cleared all pending bills.

#### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of Failure to disclose Material Uncertainty in relation to the sustainability of services in its report for the Financial Year 2007/2008, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **FINANCIAL YEAR 2018/2019**

##### **1.0 Failure to disclose material uncertainty in relation to sustainability of services**

544. The Committee heard that, during the year ended June 30 2019, the board recorded an operating deficit of (Kshs.56,654,332) from a previous year of (Kshs. 40,050,771). The current liabilities figure of Kshs. 111,138,484.00 exceeded the current assets amount of Kshs. 5,714,846 therefore creating a negative working capital of Kshs. 105,423,638.00. This precarious financial position is an indication of the existence of a material uncertainty that might cast a significant doubt on the board's ability to sustain its services and to meet its obligations as and when they fall due. The financials have been prepared on assumption that the board will continue to receive financial support from the government and its creditors. However, this material uncertainty in relation to sustainability of services and any mitigation measures put in place by the board to reverse the undesirable financial position has not been disclosed in the financial statements.

#### **Management Response**

545. The management informed the Committee that, the statement of financial performance reflects an operating loss of Kshs. (56,654,332) for the year ended 30<sup>th</sup> June, 2019. Total current assets and liabilities were Kshs. 5,714,846 and Kshs. 111,138,484.00 respectively giving a negative

working capital of Kshs. 105,423,638.00. Disclosure has been made in the financial statements by the management concerning this material uncertainty with regard to the Board's ability to sustain its services in view of the precarious financial situation or any other arrangements in place for the continued financing of the Board's activities. The Board engaged the parent Ministry and treasury for enhanced budget to address to the material uncertainty.

#### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of Failure to disclose Material Uncertainty in relation to the sustainability of services in its report for the Financial Year 2007/2008, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **2.0 Non-remittance of PAYE deductions and other statutory contributions**

546. The Committee heard that, the trade and trade payables of Kshs. 111,138,484.00, an amount of Kshs. 54,853,985.00 is stated as unremitted PAYE and Kshs. 9,816,669.00 as unremitted pensions contributions. Failure to remit salary deductions to relevant authorities contravenes section 19(4) of the employment act.

#### **Management Response**

547. The management informed the Committee that, the Board has been experiencing drop in total revenue since 2016-17 financial year, when the total revenue dropped from Ksh. 226,673,560 to Kshs. 165,836,479. This was a drop of Kshs. 60,837,081 from the Government grant. Owing to increase in the cost of goods and services, reduction in government grant and increase in expenditure resulted in the Board not being able to operate as expected. This greatly contributed to the Board not to remit the statutory deductions.

548. Through the effort of engaging relevant institutions for enhanced budget to address statutory deduction, in 2019/2020 the Board was granted an enhanced budget allocation by the Government to clear all pending bills. The Board cleared all pending bills including PAYE of Kshs. 54,853,985.

#### **Committee's Observations and Recommendations**

The Committee had deliberated on the issue of statutory remittances in its report for the Financial Year 2011/2012 observed and made recommendations. Consequently, the Committee upholds the observations and recommendations made thereon.

#### **3.0 Imprest Warrant/Register**

549. The Committee heard that, according to the information provided, the Board does not have an imprest register to track per diem and imprest given to individuals as should be according to the PFM regulation 2015 section 93(4) (c). Furthermore, the NGO Board does not use imprest warrants as per the PFM act and regulations and only surrenders by use of reports and petty cash. This does not make it possible for audit trail and there is a high risk of cash fraud without imprest surrenders.

#### **Management response**

550. The management informed the Committee that, the Board uses an electronic imprest register for Petty cash. The management has put in place an ERP system that supports financial transactions including an imprest register and records when an imprest is issued and when its due for surrender.

**Committee Observation**

**Committee observed that –**

The authority did not maintain an imprest register in accordance with Regulations 93 (4) (c) of the PFM (National Government) Regulations, 2015. It will therefore be hard to identify Staff with outstanding imprest.

**Committee Recommendations**

**The Committee recommends that –**

The Committee reprimands the Accounting Officers for failing to maintain an imprest register. Further the Committee directs that the Accounting Officer should always ensure compliance with Regulation 93(4) (c) of the PFM (National Government) Regulations, 2015.

**FINANCIAL YEAR 2019/ 2020**

**Committee observation**

551. The Authority received an Unqualified Report for the Financial Year 2019/ 2020

**Committee Recommendation**

552. The Accounting Officer should continue upholding sound financial management practices.

**FINANCIAL YEAR 2020/ 2021**

**Committee observation**

553. The Authority received an Unqualified Report for the Financial Year 2020/ 2021

**Committee Recommendation**

554. The Accounting Officer should continue upholding sound financial management practices.

**FINANCIAL YEAR 2021/2022**

**Committee observation**

555. The Authority received an Unqualified Report for the Financial Year 2021/2022

**Committee Recommendation**

556. The Accounting Officer should continue upholding sound financial management practices.

**FINANCIAL YEAR 2022/ 2023**

**1.0 Irregularities in Board Committee Meetings and Non-Qualified Board Members**

557. The Committee heard that, the Board of Directors records revealed that the Board established the Operations and Research Committee, Finance and Administration Committee, Human Resources Committee and Audit Committee to facilitate the smooth running of the Board.

558. However, the Board Committee documents provided for audit revealed that the Audit Committee as constituted did not meet the requirement of the provisions of Section 3.4(2b) of

the Mwongozo (Code of Governance for State Corporations), 2015 since at least one of the members of the audit committee did not have qualifications and expertise in audit, financial management or accounting with experience and knowledge in risk management and was not a member of a professional body in good standing as required by the Mwongozo.

559. Further, audit review of Board expenses and supporting documents revealed that, the Finance Committee was not fully constituted as it held its meetings with only two Board members contrary to the requirement. Section E4 of the Mwongozo which provides that the quorum for Board committee meetings will not be less than three (3) members. In addition, review of Board Members' files revealed that, four Board Members did not have degree qualifications and had not served in a senior position for a period of six years before appointment to the Board contrary to the appointment qualification requirements for board members contained in the Addendum to Mwongozo, 2015.

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

### **Management Responses**

561. The management informed the Committee that, during the year under review, the authority had only one Board member with relevant qualifications and expertise in audit, financial management and accounting, with experience and knowledge in risk management and is a member of a professional body in good standing. This Board member was serving as the Chairman of Finance Committee. We wish to state that this Board member could not sit in both Finance and Audit Committees due to the requirements of constituting committees.

562. As per the NGOs Coordination Board Act No. 19 of 1990, section 4 composition of the Board, it's the Cabinet Secretary who appoints the Board members. We believe that the Cabinet Secretary is well advised in terms of qualifications, skills and experience before any appointment is made. However, this was noted and the appointing authority was notified.

### **Committee observations**

- i. The Committee observed that the Board and its constituent Committees were not properly constituted in accordance with Mwongozo Code of Governance regarding the number of Membership and the requisite experience knowledge and professional requirements. This might affect the validity of the business conducted by the board and the Committee

### **Committee recommendations**

The Committee reprimands the then Accounting Officer and the Chairman of the Board for failing to convey the deficiency in the composition of the board to the appointing authority.

## **2.0 Delayed Remittance of Statutory Deductions**

563. The Committee heard that, the statement of financial position as at 30 June, 2023 and Note 18 to the financial statements reflects trade payables balance of Kshs. 14,331,157. Included in the balance was Kshs. 2,811,407 in respect of unremitted Pay As You Earn deductions payable to Kenya Revenue Authority. This was contrary to Section 19(4) of the Employment Act, 2007 which provides that an employer who deducts an amount from an employee's remuneration in accordance with subsection (1)(a), (f), (g) and (h) shall pay the amount so deducted in accordance with the time period and other requirements specified in the law, agreement, court order or arbitration as the case may be.

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

### **Management Responses**

565. The management informed the Committee that, towards the end of the 2022-23 financial year, the Board's annual budget was cut during the supplementary II amounting to Kshs.22.9 million in Government Grant. This reduction in budget greatly affected already planned activities. Various commitments had already been made based on the initial budget. This resulted into the Board not being able to make some payments including the statutory deductions.
566. Various measures have been put in place to ensure the Board submits statutory deductions in a timely manner. The Board will adhere to the timely remittance of all deductions.

### **Committee's Observations and Recommendations**

The Committee had deliberated on the issue of statutory remittances in its report for the Financial Year 2011/2012 observed and made recommendations. Consequently, the Committee upholds the observations and recommendations made thereon.

## **FINANCIAL YEAR 2023/2024**

### **1.0 Undisclosed Material Uncertainty Relating to Going Concern**

567. The Committee heard that, statement of financial position reflects total current assets of Kshs.3,208,094 against total current liabilities of Kshs.13,652,977 resulting to a negative working capital of Kshs. 10,444,883. Further, the Authority recorded a deficit of Kshs.8,732,306 compared to a deficit of Kshs.28,184,975 reported in 2022/2023 financial year, resulting to a decrease of the accumulated surplus from Kshs.44,234,714 to Kshs.35,502,408 as at 30 June, 2024. The Authority is, therefore, technically insolvent and its continued operation as a going concern is dependent upon support from the National Government and its creditors. However, the material uncertainty was not disclosed in the financial statements.

### **Management Response**

568. The management informed the Committee that, financial performance for the 2023/2024 fiscal year reflects a deficit of Kshs. 8,732,306, primarily attributed to the previous year's budget cut of Kshs. 22.9 million. This reduction in funding resulted in pending bills amounting to Kshs. 13.6 million, which significantly impacted planned activities for the current financial year.
569. Additionally, the rising cost of goods and services further constrained available financial resources, necessitating an adjustment in planned activities to remain within the revised budget. Despite these challenges, the Authority remained committed to maintaining essential operations.
570. To mitigate the financial strain, negotiations are ongoing with the Parent Ministry for additional funding, aimed at stabilizing operations and fulfilling outstanding obligations.
571. The Authority recognizes the importance of transparency in financial reporting and remains committed to strengthening fiscal management to ensure compliance and operational efficiency.

### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of Undisclosed Material Uncertainty Relating to Going Concern in its report for the Financial Year 2007/2008, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

**EXAMINATION OF THE AUDITOR GENERAL'S REPORT OF THE CHILD WELFARE SOCIETY OF KENYA FOR THE FINANCIAL YEARS 2019/2020 TO 2023/2024**

**Ms. Irine Mureithi CEO /Managing Trustee Child Welfare Society of Kenya (CWSK) was accompanied by Mr. Charles Maina (Finance), Ms. Florina Maganga (Internal Auditor), and Mr. Henry Kagondo (Finance) appeared before the committee to adduce evidence on the Audited accounts of the Child Welfare Society of Kenya (CWSK) for the Financial year 2019/2020 to 2023/2024.**

**FINANCIAL YEAR 2019/2020**

**1.0 Work-In-Progress**

572. The Committee heard that Note 12 to the financial statements reflects construction works in progress of Kshs.1,468,377,957. Examination of supporting records revealed the following anomalies:

- i) Most of the projects did not have a specified completion period, therefore, the implementation is open ended rendering the initial project cost estimates unsustainable since progress of works was based on availability of materials which was also dependent on finances. The Project in Joska which had a specified time period of 52 weeks from 4 April, 2014 had not been completed by the time of the audit in March, 2021.
- i) The cost variations ranging from 4.7% to 199% on the estimated costs of the projects were noted as analyzed below and no satisfactory explanation was given to justify the variations.
- ii) In addition, the viability of the projects that have not started in Embu, Baringo and Bomet could not be ascertained. The projects in Kisumu, Kisii, Nyahururu and Lodwar, which had stalled and had no budgetary allocation face uncertainty on completion timelines which may further lead to project cost escalation
- iii) Further, the final budget for the Projects during the year under review was Kshs.161,500,000 but the actual amount received was Kshs.40,375,000 which had minimal impact on the progress of works.

**Management Response**

573. The management informed the Committee that completion of the projects depended on the availability of funds and the Trustees were working to ensure that the projects were completed within the shortest time possible.

574. The management further informed the Committee that with regard to the audit query on the cost variations ranging from 4.7% to 199% on the estimated costs of the projects, there was no variation of the projects cost. There was no BQ for any given site as a whole. Every unit within the site had its own BQ e.g. bungalow, marionette, school, kitchen stores admin block, perimeter wall etc. The projects were implemented in phases depending on the need and availability of funds. The initial project costs included only units to be started at the time and did not include

units that were to be developed later at the site as a whole. The current costs indicated did not imply cost increment or variation, rather inclusion of additional units.

575. The management informed the Committee that with regard to the projects in Kisumu, Kisii, Nyahururu and Lodwar, the projects had not started. Further, there was a directive from the Government freezing all projects that were below 50% completion.

### **Committee Observations**

#### **The Committee observed that;**

Most of the construction projects did not have clearly defined completion timelines, resulting in open-ended implementation. This led to prolonged project durations, inflationary cost escalations, inefficiencies and poor project monitoring.

There were unjustified significant cost variations ranging between 4.7% and 199%. The variations did not have approved variation orders or other justified causes like changes in scope or environmental factors resulting to poor contract management, monitoring and oversight mechanisms thus compromising transparency, value for money, and financial accountability in project execution.

### **Committee Recommendations**

The Committee recommends that, within three months upon adoption of this report, the Accounting Officer to submit status report to the National Assembly of various projects in question including the feasibility studies report, the stringent project implementation planning, monitoring, and reporting structures instituted for ensuring project are implemented within the timelines, cost estimates, and deliverables for all construction works.

## **2.0 Property, Plant and Equipment**

576. The Committee heard that the statement of financial position as at 30 June, 2020 reflects property, plant and equipment balance of Kshs.2,913,722,900 which includes an amount of Kshs.1,151,313,276 in respect of land.
577. As previously reported, eighteen (18) parcels of land spread across the country had partial or no ownership documents. Although evidence availed by the Society shows progress in acquiring the ownership documents for some of the parcels of land, the process of resolving disputed land issues and Court cases appears to be slow.
578. Further the Society did not maintain a comprehensive register for property, plant and equipment. Only a listing of various properties was maintained.

### **Management Response**

579. The management informed the Committee that the Society was working with the Ministry of Lands to get all the documents and there was progress in the acquisition of the titles. The management stated that they had received titles and allotment letters for most of them.

### **Committee Observations and Recommendations**

The Committee observed that the issue of Property, Plant and Equipment was deliberated in its Fourth PIC-SSAA Report and upholds the observations and recommendations therein.

### **3.0 Unsupported airfare expenses**

580. The Committee heard that an amount of Kshs.1,788,800 was incurred on airfare. However, supporting documents including, the requisition, authorization and professional opinion on how the procurement for the service was approved were not provided for audit review. In view of the foregoing, the propriety of Kshs.1,788,800 could not be ascertained.

#### **Management Response**

581. The management informed the Committee that the supporting documents for the Air fare expenses were attached to the response.

#### **Committee Observation**

The Committee observed that the supporting documents for Kshs.1,788,800 incurred on airfare was not availed for audit review contrary to section 62 (1) (b) of Public Audit Act CAP 412B which states that a person shall not without justification, fail to provide information required under this Act.

#### **Committee Recommendation**

The Committee reprimands the then Accounting officer for breach of section 62 (1) (b) of Public Audit Act CAP 412B

### **4.0 Outstanding PAYE**

The Committee was informed that the Society had unremitted PAYE at the beginning of the financial year amounting to Kshs.18,954,676. However, a scrutiny of the PAYE ledger account revealed that the amount had not been remitted to KRA at the close of the financial year and was part of the accounts payable balance of Kshs.73,608,261. The continued failure to remit PAYE on due dates attracts interest and penalties.

In addition, the accounts payable balance includes a brought forward amount of Kshs.1,485,669 referred to as other creditors which has not been analyzed.

Consequently, the accuracy and completeness of the account payables of Kshs.73,608,261 could not be confirmed.

#### **Management Response**

582. The management informed the Committee that the outstanding amount in the ledger was as a result of mis posting in the prior years. This had now been corrected in FY 2023 and analysis of the amounts had been done.

#### **Committee Observation**

The Committee observed that the Society failed to remit PAYE amounting to Kshs.18,954,676 during the year. This may have exposed the society to additional penalties and fines. This is contrary to section 37(1) & (2) of the Income Tax Act (Cap.470), which requires employers to deduct and remit PAYE to KRA within prescribed timelines.

### **Committee recommendation**

The Committee reprimands the then Accounting officer for breach of section 62 (1) (b) of Public Audit Act CAP 412B.

### **5.0 Irregular Payment of Salaries for Officers on Secondment**

583. The Committee was informed that during the year under review the Society paid salaries for the months of October and November 2019 to three officers totaling Kshs.1,146,650 who are not their employees. No secondment letters or any communication from the Parent Ministry indicating the terms and conditions of their services in the Society. In the circumstances it's not possible to confirm the propriety of the expenditure of Kshs.1,146,650.

### **Management Response**

584. The management did not respond to the audit query.

### **Committee Observation**

The Committee noted that the management did not respond to this audit query. The society paid Kshs.1,146,650 to three officers who were on secondment, however, there were no secondment letters or any communication from the Parent Ministry indicating the terms and conditions of their services in the Society. Therefore, the propriety of the payments could not be ascertained.

### **Committee Recommendation**

The Committee reprimands the Accounting Officer for lack of proper documentation and further recommends that Management ensure in future supporting documentation relating to staff engagement, including secondment letters, deployment instructions, and approval from the Parent Ministry are maintained.

### **6.0 Unsupported Expenditure**

585. The Committee heard that the Society procured conference facilities, hotel accommodation and repair for motor vehicles amounting to Kshs.1,013,750 through cash which was not supported with cash sale receipts, work tickets and motor vehicle pre and post repair inspection reports.

### **Management Response**

586. The management informed the Committee that the payment vouchers and documents supporting the expenditure had now been provided.

### **Committee Observations**

The society procured various services in cash amounting to Kshs.1,013,750 without the requisite supporting documents.

### **Committee Recommendations**

#### **The Committee recommends that –**

The Committee reprimands the then Accounting Officer for breach of Regulation 104 of the PFM National (Government Regulations) 2015 which requires that payments are supported by the appropriate authority and documentation in accordance with Regulation 104 of the PFM National (Government Regulations) 2015.

## **Other Matter**

### **7.0 Budgetary Control and Performance**

587. The Committee heard that the summary statement of appropriation: recurrent and development combined reflects final payments budget and actual payments on comparable basis of Kshs.1,355,750,000 and Kshs.413,453,497 respectively resulting to an under-funding of Kshs.942,296,503 or 70% of the budget. The underperformance implies that the Society may have not achieved all the planned outcomes.
588. Further, the Society had an expenditure budget of Kshs.1,355,750,000 and actual expenditure of Kshs.627,918,274 resulting to a net under absorption of Kshs.727,831,726 or 54% of the budget.

### **Management Response**

589. The management informed the Committee that this was budgetary allocation which had not been released. The Society received only Ksh 413,453,497. Further, requests were made for the unreleased allocations. However, the situation had improved since the year 2019. The management further informed the Committee that the Society only spent what was received from the exchequer.

### **Committee Observations**

#### **The Committee observed that:**

The society was underfunded by Kshs.942,296,503 or 70% of the budget resulting to under absorption and hence underperformance implying that the Society may have not achieved all the planned outcome

The society received Kshs.413,453,497 but spent Kshs.627,918,274 resulting to over expenditure of Kshs.214,464,777 implying that the society irregularly utilized the cash brought forward.

### **Committee Recommendation**

The Committee recommends that the Accounting Officer should ensure expenditure are within the amount received and at all times that the budgets are realistic, achievable, and always adhere to annual work plans, procurement plans, and revenue collection schedules in compliance with Regulation 44(2) of the PFM (National Government) Regulations, 2015.

### **8.0 Failure to Appoint an Audit Committee**

590. The Committee heard that Section 174(1), (2) and (4) of the Public Finance Management (PFM) Act, Regulations, 2015 requires each National Government entity to establish an Audit Committee. During the year under audit, the Society operated without an Audit Committee contrary to the law.

### **Management Response**

591. The management informed the Committee that Legal Order No. 58 of 2014 had created a conflict between State Corporation and Child Welfare Society of Kenya irrevocable trust deed therefore interfering with the normal operations of the trust.

592. This was being resolved as the Legal order was awaiting de-gazettement. However, the matter had been resolved and the Board appointed, and copies of Board appointment letters had been attached.

#### **Committee Observations and Recommendations**

The Committee observed that the issue of failure to appoint an Audit Committee was deliberated in its Seventh PIC-SSAA Report and upholds the observations and recommendations therein.

#### **9.0 Information Technology (IT) Internal and Management Controls**

593. The Committee heard that a review of the Information Technology Environment revealed the following matters:

- i) The Society did not have an IT strategic committee. Non-establishment of an IT Strategic Committee at the Board level may have resulted in IT governance not being addressed adequately;
- ii) The Society did not have a formally approved IT security policy to ensure data confidentiality, integrity and availability;
- iii) The Society did not have an IT continuity plan and a disaster recovery plan, and its operations could have been affected in case there was a disaster.

#### **Management Response**

594. The management informed the Committee that the approved IT Policy, IT continuity plan and Disaster Recovery plan were now in place.

#### **Committee Observation**

The Committee observed that the society lacked IT Strategic Committee, IT security policy, IT continuity plan and a disaster recovery plan indicating a gap in IT governance, resulting in a lack of oversight and strategic direction for the entity's ICT functions, potentially impacting overall enterprise governance.

#### **Committee Recommendation**

The Committee recommends within three months of the adoption of this report, the Accounting Officer should provide to the Committee a comprehensive report on the IT continuity plan and Disaster Recovery plan implemented to avoid IT failures, the reasonable steps taken to ensure there is an oversight and strategic direction for the Authority ICT functions.

### **FINANCIAL YEAR 2020/2021**

#### **1.0 Property, Plant and Equipment**

##### **1.1 Lack of Ownership Documents**

595. The Committee heard that the statement of financial position reflects property, plant and equipment totaling Kshs.2,902,844,957 which includes land balance of Kshs.1,151,313,276.

- i) However, as previously reported, the eighteen (18) parcels of land located in various Counties lacked or did not have complete ownership documents registered in the name of the Society.
- ii) Further, Management did not maintain a comprehensive asset register for property, plant and equipment.

#### **Management Response**

596. The management informed the Committee that the Society was working with the Ministry of Lands to get all the documents. There was progress in the acquisition of the titles and the Society had received titles and allotment letters for most of the land parcels.

#### **Committee Observation and Recommendation**

The Committee observed that the issue of lack of ownership documents was deliberated in its Fourth PIC-SSAA Report and upholds the observations and recommendations therein.

#### **2.0 Work-in -Progress**

597. The Committee heard that the property plant and equipment balance further include work-in-progress totaling Kshs.1,473,374,925, as disclosed in Note 20 to the financial statements. However, examination of records on the balance revealed the following anomalies.

- i) An ongoing project at Joska in Machakos County contracted for completion in one year from 4 April, 2014 had not been completed as at 30 June, 2021, more than six years after its due date of completion.
- ii) As previously reported, the estimated initial cost of thirteen (13) out of fourteen (14) ongoing construction projects was Kshs.5,004,347,220. Note 20 to the financial statements indicates that expenditure totaling Kshs.1,473,374,925 had been incurred on the projects as at 30 June, 2021. However, the accuracy and fair statement of the balance could not be confirmed due to the following reasons:
  - (a) Although no funds were received by the Fund for development expenditure in the year under review, Note 20 to the financial statements indicates that Kshs.4,996,968 was spent on development projects and reflected in the financial statements as Work-in-Progress (WIP) as at 30 June, 2021. However, examination of the respective payment vouchers indicated that the expenditure related to maintenance of buildings under construction and was not, therefore, fairly stated in the financial statements.
  - (b) The Bills of Quantities (BQs) for a project in Bomet County were not provided for audit verification. As a result, the value of work completed on the project could not be confirmed.
- iii) Three (3) construction projects planned for Embu, Baringo and Bomet Counties had not started whereas those started in Kisumu, Kisii, Nyandarua and Turkana Counties had stalled and did not receive budgetary allocation in the year under review. As a result, it was uncertain when the projects would be completed for use by the children they were intended for.

#### **Management Response**

598. The management informed the Committee that the Trustees had been trying to raise funds and they had requested the Government to fund the buildings meant for daily use by the children and the progress was made based on the funds received. Further, the Society had been receiving the funds, though in small bits therefore affecting the completion dates of the projects.

599. The management informed the Committee that maintenance of the non-commissioned buildings was important to prevent them from degradation. The cost of Ksh 4,996,968 was part of W.I.P to ensure maintenance and prevent from wear and tear and degradation of the projects.

600. The management further informed the Committee that Bomet project had not been started and did not form part of Work- In- Progress.

601. The management further stated that three (3) construction projects planned for Embu, Baringo and Bomet Counties had not started. Further to this, there was a directive from Government pausing all projects that were below 50% complete.

**Committee Observation and Recommendation**

The Committee had deliberated on the issue of Work in progress in its report for the Financial Year 2019/2020 observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

**3.0 Cash and Cash Equivalent**

**4.0 Petty Cash**

602. The Committee heard that the statement of financial position as at 30 June, 2021 reflects cash and bank balance of Kshs.43,410,474 as further disclosed in Note 24 to the financial statements. The balance includes petty cash of Kshs.4,238,790, which in turn includes Kshs. 3,079,677 recoverable from staff who were no longer employed by the Society and from whom cash recoveries were uncertain.

**Management Response**

603. The management informed the Committee that the amount of KShs. 3,079,677 had now been fully paid.

**Committee Observation**

The Committee observed that petty cash balances amounting to Kshs. 3,079,677 recoverable from staff who were no longer employed by the Society. Although the management indicated that the amount was fully paid there was no evidence of such recoveries

**Committee Recommendation**

Within three months upon adoption of this report, the Accounting Officer should submit to the Auditor-General and the National Assembly evidence of recovery of Kshs. 3,079,677 failure to which the Inspector General, State Corporations should initiate the process of surcharging the then Accounting Officer in accordance with section 19 of the State Corporations Act, CAP 446.

**5.0 Cash at Bank**

604. The Committee heard that the cash and cash equivalents balance include a bank balance totalling Kshs.7,891,804 as at 30 June, 2021.

i) However, the bank reconciliation statements and bank certificate for the account were not provided for audit review.

ii) In addition, review of cash books and other records indicated that three (3) bank accounts had been overdrawn by a total of Kshs.129,161 as at 30 June, 2021. This was contrary to Regulation 82(7) of the Public Finance Management (National Government) Regulations, 2015.

iii) Management did not provide an explanation on why the accounts were not closed to save on bank charges. In the circumstances, the accuracy and completeness of cash and bank balance totalling Kshs.43,410,474 as at 30 June, 2021 could not be confirmed.

**Management Response**

605. The management informed the Committee that the documents could not be availed at the time of the audit because of the demise of one of the Signatories to the bank account. However, reconciliation was done at the end of the following year and the bank reconciliation, bank statements and bank confirmation are as attached.
606. The management further informed the Committee that with regard to the three (3) bank accounts had been overdrawn by a total of Kshs. 129,161, the Branch accounts were affected by the Legal Notice No. 58 of 2014 where CWSK could not operate as it used to as the branch committees were rendered ineffective thereby resulting in the bank accounts being non-operational. However, the Bank accounts are now active awaiting degazettement of the legal order in order to have branch committees to operate them as was the case before, as per the trust deed and the constitution.
607. The management further informed the Committee that with regard to the dormant accounts, the accounts could not be closed since they were to be used by the different units of the organization. These bank accounts are now active.

#### **Committee Observation**

The Committee observed that, the Accounting Officer did not provide bank reconciliation statements and confirmation certificates for one of the bank accounts contrary to Regulation 90 of the PFM (National Government) Regulations, 2015 which requires that a monthly bank reconciliation to be undertaken and any discrepancies noted should be investigated promptly and appropriate action taken including updating relevant cash books. Further, three (3) other bank accounts were overdrawn by a total of Kshs. 129,161. This was contrary Regulation to 82(7) of the Public Finance Management (National Government) Regulations, 2015, which prohibits public entities from operating overdrawn accounts.

#### **Committee Recommendation**

The Committee reprimands the then Accounting Officer for failing to adhere to the provisions of Regulation 82(7) of the Public Finance Management (National Government) Regulations, 2015 and Regulation 90 of the PFM (National Government) Regulations, 2015.

#### **6.0 Receivables**

608. The Committee heard that the statement of financial position reflects receivables totaling Kshs.16,036,895 as further disclosed in Note 23 to the financial statements. included in the balance are long outstanding receivables totaling Kshs.7,658,413. Evidence of efforts made by Management to recover the balances was not disclosed. Further, in spite of the debts being old, Management did not make any provision for bad and doubtful debts in the financial statements. In the circumstances, the accuracy and recoverability of the long outstanding receivables balance totaling Kshs.7,658,413 could not be confirmed.

#### **Management Response**

609. The management informed the Committee that the outstanding amounts related to sale of plots under Trustees Income Generating Activity (IGA) programs. The ownership documents had not been finalized due to the Ministry of Lands delays. The outstanding amount would be recovered at the point of transfer of ownership to the purchasers.

### **Committee Observation**

The Committee observed that despite the age of receivables amounting to Kshs.7,658,413, management did not any evidence of recovery efforts or make any provision for bad or doubtful debts in line with applicable financial reporting standards, such as the expected credit loss model.

### **Committee Recommendation**

The committee recommends that within three months upon adoption of this report, the Accounting Officer should develop and implement an approved comprehensive debt management policy and submit the copy to the National Assembly and Auditor General for review and reporting in the subsequent Audit Cycle.

### **7.0 Accounts Payables and Accruals**

610. The Committee heard that the statement of financial position reflects account payables and accruals totaling Kshs.70,587,131, as further disclosed in Note 26 to the financial statements. However, the balance includes payables with anomalies, as explained below:

- i) Long outstanding pensions totalling Kshs.10,923,971 reported by Management to have resulted from overprovision of pension in the accounts. No disclosure was made on how this had occurred and why the error was not corrected.
- ii) Unremitted Pay As You Earn (PAYE) taxes totalling Kshs.20,234,043 at the beginning of the financial year. Review of the PAYE ledger indicated that Kshs.25,528,942 was outstanding as at 30 June, 2021. The balance included penalties and interest totalling Kshs.18,412,243 that resulted from delay in payment of taxes. No satisfactory explanation was provided for the failure to settle the taxes in due time.
- iii) Unanalyzed other payables balance totalling Kshs. 1,485,670.
- iv) Other outstanding statutory deductions totalling Kshs.694,693 for which Management did not provide a satisfactory explanation for not prioritizing the payment of statutory deductions so as not to jeopardize the welfare of the Society's employees and avoid nugatory costs in interest and penalties.

### **Management Response**

611. The management informed the Committee that the overprovided amount was corrected in the year 2022 and the same no longer appeared in the list of Payables.
612. Further, that with regard to the unremitted PAYE, the issue as at 30th June 2023 had been settled as it was mis-postings in the past.
613. Further, that with regard to the unanalyzed other payables balance totalling Kshs. 1,485,670, this was as a result of double postings and journals have been done to reverse the same.
614. In addition, that with regard to other outstanding statutory deductions totalling Kshs. 694,693, the amounts were as a result of double posting of (NSSF, HELB, NHIF) which have been reversed by journals entries. As for Britam, cheques were issued but became stale. Payment of Ksh 488,208 was redone in December 2022 as per the enclosed voucher.

### **Committee Observation**

**The Committee observed that;**

The Authority had not remitted Kshs. Kshs.25,528,942 relating to PAYE, other statutory deductions amounting to Kshs.694,693 and Kshs.10,923,971 relating to pension overprovision that was not supported with documentary evidence. This implies that the Accounting Officer irregularly reallocated Funds budgeted for the compensation of employees without Board, Parent Ministry and The National Treasury approval. The penalties and interest chargeable on the outstanding dues amounts to nugatory expenditure that could be avoided by honouring the statutory deductions within the statutory timelines.

#### **Committee recommendation**

The Committee reprimands the then Accounting Officer, the then Finance Officer and the then Board for breach of Section 19 of the Employment Act, CAP 226. The Committee further directs the Accounting Officer to develop a comprehensive financing and budgeting strategy that will ensure the Authority operates efficiently within the available approved budget to avoid over commitment of the entity beyond means.

#### **8.0 Statement of Comparison of Budget and Actual Amounts**

615. The Committee heard that the review of the statement of comparison of budget and actual amounts for the year ended 30 June, 2021 indicated that the original revenue budget was reduced from Kshs.4,200,000,000 to the final budget totalling Kshs.872,340,000. Similarly, the original total expenditure budget was reduced from Kshs.4,200,000,000 to the final total expenditure budget of Kshs.872,340,000. However, the statement reflects Nil adjustments to the original revenue and expenditure budgets. Further, the revenue performance difference was erroneously reflected as Kshs.380,000,000, instead of Kshs.359,040,391 resulting in an unexplained variance of Kshs. 20,959,609.

#### **Management Response**

616. The management informed the Committee that Kshs 20,959,609 was an error that ought to have been adjusted in the budget performance report.

#### **Committee Observation**

The Committee observed that the statement of budget comparison did not reflect the adjustment amounts to arrive at the final budget figures and therefore incomplete also the unexplained variance of Kshs 20,959,609 allegedly through an arithmetical error could not be ascertained.

#### **Committee Recommendation**

Accounting officers should always comply with the provisions of Section 68(2) of the Public Finance Management Act of 2012 by submitting all the required information for audit within the stipulated timelines.

#### **Other Matter**

#### **9.0 Budgetary Control and Performance**

617. The Committee heard that the statement of comparison of budget and actual amounts reflects a final revenue budget and actual revenue totalling Kshs.872,340,000 and Kshs.513,299,609 respectively resulting to a revenue shortfall of Kshs.359,040,391 or 41% of the budget. Further, the statement reflects an expenditure budget of Kshs.872,340,000 and actual expenditure of Kshs.573,185,882 resulting to under-expenditure of Kshs.299,154,118 or 34% of the budget.

### **Management Response**

618. The management informed the Committee that the Society did not receive the full budgeted amounts and only spent what was received from the exchequer. Further, requests were made for the unreleased allocations.

### **Committee observation**

#### **The Committee observed that:**

The society was underfunded by Kshs.359,040,391 or 41% of the budget and had an over expenditure of Kshs.59,886,273 against the receipts. The underfunding implied that the Society may have not achieved all the planned outcome.

### **Committee Recommendation**

#### **The Committee recommends that;**

The Accounting Officer should ensure at all times that the budgets are realistic, achievable and always adhere to annual work plans, procurement plans and revenue collection schedules in compliance with Regulation 44(2) of the PFM (National Government) Regulations, 2015.

### **10.0 Unresolved prior year's issues**

619. The Committee heard that the audit report for the prior year ended 30 June, 2020 raised several issues in relation to the Report of Financial Statements, Report on Unlawfulness and Use of Resources and Report on Effectiveness of Internal Control and Risk Management. As disclosed by Management in the Report on Follow-up of Progress in Follow-up of Auditor's Recommendations attached to the Financial Statements, the issues had not been recommended as at 30 June, 2021. Management did not provide a satisfactory explanation for the delay in resolving the issues.

### **Management Response**

620. The management informed the Committee that most of the prior year issues raised had now been resolved.

### **Committee Observation**

#### **The Committee Observed that;**

Unresolved prior year issues were not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board hence the Management did not provide the reasons for the delay in resolving them contrary to Section 68 (2) (1) of the PFM Act CAP 412A that requires accounting Officer to take appropriate measures to resolve any issues arising from audit which may remain outstanding.

### **Committee Recommendation**

The Committee reprimands the then Accounting officer for dereliction of duties and recommends that the Accounting Officer, as a preliminary step, submit a report to the Parliament and the Auditor-General for review, on how it has addressed the recommendation made in respect of this report within three months upon adoption of this report.

statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time.

#### **11.0 Lack of functional internal audit department**

621. The Committee heard that, the review of the internal control system indicated that the Society did not have a functional internal audit unit. This was contrary to Section 73(1)(a) of Public Finance Management Act, 2012 which requires every National Government entity to establish means for conducting internal audit reviews in accordance with the guidelines issued by the Accounting Standards Board.

#### **Management Response**

622. The management informed the Committee that the society has an internal audit department with an internal auditor seconded from the National government and working towards strengthening this unit.

#### **Committee Observation and Recommendation**

The Committee observed that the issue of lack of functional internal audit department was deliberated in its Seventh PIC-SSAA Report and upholds the observations and recommendations therein.

### **FINANCIAL YEAR 2021/2022**

#### **1.0 Inaccuracies in Cash and Cash Equivalents**

623. The Committee heard that the statement of financial position and as disclosed in Note 24 to the financial statements reflects cash and cash equivalents balance of Kshs.273,023,560. The balance includes current account balance of Kshs.271,390,938 out of which Kshs.7,601,927 was for twelve (12) bank accounts which were not supported by bank reconciliation statements and cashbooks. Further, five (5) bank accounts had long outstanding reconciling items on bank deposits amounting to Kshs.2,591,326 and unrepresented cheques amounting to Kshs.100,880 with some dating back to year 2014. In addition, fourteen (14) bank accounts with a balance totalling to Kshs.6,256,226 remained dormant with no explanations for non-closure. Another three (3) foreign currency bank accounts with a balance of Kshs.3,387,030 differed with converted amount of Kshs.23,881 resulting to unexplained variance of Kshs.3,363,149.

#### **Management Response**

624. The management informed the Committee that;

- i) The bank reconciliation statements were done for the mentioned bank accounts after receipts of the outstanding bank statements from the banks.
- ii) The long outstanding items revealed in the bank reconciliation statements have now been adjusted and cleared in July 2022. Dormant bank accounts have been activated and allocated to respective CWSK branches.
- iii) Some bank accounts in the balance of Shs.6,256,226 are not dormant, e.g. Sidian Bank, Equity Supreme, Equity USD, Equity Euro, and BBK (Absa) Nanyuki.
- iv) The variances in the foreign currency bank accounts balances converted to Kenya Shillings originated in the year 2014. Adjustments will be effected in current financial year 2022/23

#### **Committee Observation**

The Committee observed that, the Accounting Officer did not provide bank reconciliation statements and confirmation certificates for twelve of the bank accounts, five other bank accounts had long outstanding reconciling items contrary to Regulation 90 of the PFM (National Government) Regulations, 2015 which requires that a monthly bank reconciliation to be undertaken and any discrepancies noted should be investigated promptly and appropriate action taken including updating relevant cash books. Further, fourteen (14) other bank accounts were dormant and could be attracting unnecessary bank charges.

#### **Committee Recommendation**

The Committee reprimands the then Accounting Officer for failing to adhere to the provisions of Regulation 90 of the PFM (National Government) Regulations, 2015.

#### **2.0 Long Outstanding Receivables**

625. The Committee was informed that the statement of financial position and as disclosed in Note 23 to the financial statements reflects receivable balance of Kshs.264,324,839. Included in the balance are long outstanding receivables totalling Kshs.24,574,273 for which no provisions for bad and doubtful debts have been made for their likely impairment. Further, Management has not indicated the efforts being made to recover long outstanding debts.

#### **Management response**

626. The management informed the Committee that the outstanding balances are income generating activities of sale of plots by the trustees. The title deeds of the plots allottees are still in process. The outstanding amounts will be recovered at the point of title deed issuance

#### **Committee Observation and Recommendation**

The Committee had deliberated on the issue of Long Outstanding Receivables in its report for the Financial Year 2020/2021, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **Other Matter**

#### **3.0 Budgetary Control and Performance**

627. The Committee heard that statement of comparison of budget and actual amounts reflects a final expenditure budget and actual on comparable basis of Kshs.1,379,928,824 and Kshs.919,825,915 respectively resulting in under-expenditure of Kshs.460,102,909 or 33% of the budget.
628. The significant under-expenditure may have affected implementing the strategic objective of providing legal and institutional framework for the care, control, protection and adoption of children.

#### **Management Response**

629. The management informed the Committee that this under-expenditure was due to the under-funding of the budgeted funds by the Exchequer. The Trustees had requested for more funding from the government.

#### **Committee Observation and Recommendation**

The Committee had deliberated on the issue of Budgetary Control and Performance in its report for the Financial Year 2019/2020, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **4.0 Non-Compliance with the One-Third of Basic Salary Rule**

630. The Committee heard that during the year under review, twelve (12) employees earned net salaries 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. Management has not explained the failure to comply with the policy. In the circumstances, Management contravened Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016 and this may expose the staff to pecuniary embarrassment.

#### **Management Response**

631. The management informed the Committee that this was as a result of Sacco deductions. Jogoo and Waumini Saccos are independent entities not in control of the Society and they don't consult CWSK when they are giving loans to CWSK staff. We have had consultations with the Cooperatives Saccos, and this has been addressed significantly.

#### **Committee Observation**

**The Committee observed that** twelve (12) employees earned a net salary of less than a third (1/3) of the basic salary contrary to section 19 (3) of the Employment Act, 2007 which requires that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages.

#### **Committee recommendation**

**The Committee recommends that –**

The Accounting Officer should at all times comply with Section 19 (3) Employment Act,

#### **5.0 Lack of Staff Establishment**

632. The Committee heard that Audit review of human resource records revealed that the Society did not have an approved staff establishment. This was contrary to Section 4.8.1(iii) of the Norms and Standards for Management of Human Resource in the Public Service, 2017 which provides that; Staff recruitment and selection will be based on human resource plans, authorized staff establishment and clear job descriptions and specifications. In the circumstances, Management was in breach of the law.

#### **Management Response**

633. The management informed the Committee that a detailed staff register of all employees containing all of their particulars was now available.

#### **Committee Observation**

The Committee observed the Society did not have an approved staff establishment.

#### **Committee Recommendation**

Within three months upon adoption of this report, the Accounting Officer should fastrack the approval and adoption of Human Resource Instruments by Public Service Commission.

## **6.0 Incomplete Building Works**

634. The Committee heard that the statement of financial position and as disclosed in Note 20 to the financial statements reflects property, plant and equipment balance of Kshs.2,980,742,574. Included in the balance is construction in progress balance of Kshs.1,534,086,077 which comprise of construction of building in six (6) sites of Joska, Isiolo, Nanyuki, Murang'a, Bungoma and Mama Ngina. The tenders for the construction were awarded at a contract sum of Kshs.3,951,587,738 in 2013 and were scheduled for completion in 2018. However, physical verification in March, 2023 revealed they were incomplete with Kshs.1,520,466,959 having been paid as at 30 June, 2022. Management has not indicated when they are likely to complete them for use by the children as intended. In the circumstances, value for money from the expenditure of Kshs.1,520,981,584 on construction works has not been realized.

### **Management Response**

635. The management informed the Committee that there was lack of budgeted adequate funding from the National government to compete the projects. But most of the projects are currently at over 60% complete. The cost of the vandalized Nyahururu perimeter wall on the disputed land was written off as per your previous advice.

### **Committee Observation and Recommendation**

The Committee observed that the issue of incomplete building works was deliberated in its Seventh PIC-SSAA Report and upholds the observations and recommendations therein.

## **7.0 Overdrawn Bank Accounts**

636. The Committee heard that the statement of financial position and as disclosed in Note 24 to the financial statements reflects cash and cash equivalents balance of Kshs.273,023,560. The balance includes current account balance of Kshs.271,390,938 out of which Kshs.219,448 relates to three (3) overdrawn bank accounts. This was contrary to Regulation 82(7) of the Public Finance Management (National Government) Regulations, 2015, which provides that no official National Government bank account shall be overdrawn, or any advance or loan be obtained from a bank account for official purposes beyond the limit authorized by The National Treasury in line with Section 28(4) of the Act. In the circumstances, Management was in breach of the law.

### **Management Response**

637. The management informed the Committee that the 3 bank accounts were not overdrawn by amounts being withdrawn. The balance of Kshs.219,448 relates to accumulated bank charges over time as the bank accounts were not active then. This has now been sorted.

### **Committee Observation and Recommendation**

The Committee had deliberated on the issue of overdrawn bank accounts in its report for the financial year 2020/2021, observed and made recommendations. Consequently, the Committee

## **8.0 Lack of an Audit Committee**

638. The Committee heard that a review of effectiveness of internal controls revealed that the Society did not constitute an Audit Committee. This was contrary to Regulation 174(1) of PFM Regulation, 2015 (National Government) on establishment of Audit Committee by each national government entity. In the circumstance, the effectiveness on internal controls, risk management and governance of the Society could not be confirmed.

**Management Response**

639. The management informed the Committee that CWSK now had a Board of Directors in place and consequently the Audit Committee will be set up in accordance with CWSK constitution. The CWSK is still awaiting degazetement to make it properly operational as a trust with all committees in place.

**Committee Observation and Recommendation**

The Committee observed that the issue of lack of an audit committee was deliberated in its Seventh PIC-SSAA Report and upholds the observations and recommendations therein.

**9.0 Weak Internal Audit Department**

640. The Committee heard that during the year under review, there was no evidence of an approved Internal audit charter, approved audit plan, audit reports or minutes from audit committee. This was contrary to Section 73(1)(a) of Public Finance Management Act, 2012 which requires every National Government entity to establish means for conducting internal audit reviews in accordance with the guidelines issued by the Accounting Standards Board.

**Management Response**

641. The management informed the Committee that CWSK now had an Internal Auditor who performed duties as per the operation needs of the society. The Internal Audit department would be strengthened in order to function efficiently as expected.

**Committee Observation and Recommendation**

The Committee observed that the issue of weak internal audit department was deliberated in its Seventh PIC-SSAA Report and upholds the observations and recommendations therein

**10.0. Lack of Approved Organizational Structure**

642. The Committee heard that a review of the Human Resource Instruments indicated that the Society did not have an up to date approved organizational structure.

**Management Response**

643. The management informed the Committee that CWSK is a membership society with an irrevocable Trust. Its operations are therefore based on the Trust Deed and the approved organizational structure was now being set up.

**Committee Observation**

The Committee observed the Society did not have an approved organization structure.

**Committee Recommendation**

### **The Committee recommends that;**

Within three months upon adoption of this report, the Accounting Officer should fastrack the approval and adoption of Human Resource Instruments by Public Service Commission.

### **FINANCIAL YEAR 2022/2023**

#### **1.0 Lack of Ownership Documents**

644. The Committee heard that the statement of financial position, and as disclosed in Note 14 to the financial statements reflects property, plant and equipment balance of Kshs.2,985,443,589. Included, in the balance is an amount of Kshs.1,151,313,276 for land. However, eighteen (18) parcels of land spread across the country did not have complete ownership documents while some had none at all. Although the Society provided some documents indicating progress in acquiring the ownership, the process had not been completed by the time of audit in January, 2024. Further, some parcels of land had ongoing court cases regarding ownership.

#### **Management Response**

645. The management informed the Committee that processing of documents for complete ownership of the land parcels was ongoing.

#### **Committee Observation and Recommendation**

The Committee observed that the issue of Lack of ownership documents was deliberated in its Fourth PIC-SSAA Report and upholds the observations and recommendations therein.

#### **2.0 Cash and Cash Equivalents**

646. The Committee heard that the statement of financial position reflects cash and cash equivalent balance of Kshs.635,250,211 as disclosed in Note 18 to the financial statements. However, eighteen (18) bank accounts with Kshs.1,130,382 balance remained inactive throughout the year, though Management has written to the bank to activate four (4) out of the eighteen accounts. Response from the bank on their status at April, 2024 was not provided for audit review. In addition, no explanation was provided for failure to close the remaining fourteen (14) of them.

#### **Management Response**

647. The management informed the Committee that bank accounts not yet reconciled are the dormant ones with nil balances in the Ledger. The bank accounts had been activated. The bank accounts were dormant due to demise of one of the officials. The activation process took a bit longer, but the bank accounts had now been activated.

#### **Committee Observation and Recommendation**

The Committee had deliberated on the issue of dormant accounts in its report in its the Financial Year 2020/2021, which is similar to the cash and cash equivalents, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **3.0 Long Outstanding Receivables**

648. The Committee heard that the statement of financial position, and as disclosed in Note 17 to the financial statements reflects receivables balance of Kshs.6,971,908 as at 30 June, 2023, which has been outstanding for a long time. However, Management has not indicated the effort being made to recover the long outstanding receivables.
649. In the circumstances, the accuracy and recoverability of the receivables balance of Kshs.6,971,908 could not be confirmed.

#### **Management Response**

650. The management informed the Committee that the accounts Receivable figure of kShs. 6,971,908 (Kshs. 7,971,908 as per Accounts, less kShs. 1,000,000 for general Provision of Doubtful debts and as evidenced in the revised Financial Statements was after correcting mispostings done in the past. The outstanding receivables were mainly for rent deposits and outstanding balances for plots sold by CWSK Trustees. The sale of plots by the Trustees were income-generating activities, and the outstanding amounts would be recovered at the point of title deeds issuance.

#### **Committee Observation and Recommendation**

The Committee had deliberated on the issue of long outstanding receivables in its report for the Financial Year 2020/2021, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **4.0 Budgetary Control and Performance**

651. The Committee was informed that the statement of comparison of budget and actual amounts reflects a final expenditure budget and actual on a comparable basis of Kshs.1,223,836,000 and Kshs.1,091,620,232 respectively resulting in under-expenditure of Kshs.132,215,768 or 11% of the budget.

#### **Management Response**

652. The management informed the Committee that this under-expenditure was due to the under-funding of the budgeted funds by the Exchequer. The Trustees had requested for more funding from the government.

#### **Committee Observation and Recommendation**

The Committee had deliberated on the issue of Budgetary Control and Performance in its report for the Financial Year 2019/2020, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **5.0 Incomplete Building Works**

653. The Committee was informed that the statement of financial position reflects property, plant and equipment balance of Kshs.2,985,443,589 as disclosed in Note 14 to the financial statements. The balance includes construction work in progress amount of Kshs.1,547,253,917 out of which Kshs.1,427,720,834 was in respect to construction of buildings in six sites of Isiolo, Nanyuki, Murang'a, Bungoma, Joska and Mama Ngina. As previously reported, the contracts for these projects were awarded at contract sums totalling Kshs.3,951,587,738 and were expected to be completed in 2018. However, a physical verification in February, 2024 revealed that they were

still incomplete despite Kshs.1,427,720,834 having been paid as at 30 June, 2023. Management has not indicated when these projects were likely to be completed for use by the children as intended.

#### Management Response

654. The management informed the Committee that there was lack of adequate budgetary allocation funding. For several years, CWSK had been requesting and waiting for Government funding to complete the projects. The projects were at 80% to occupation, and once CWSK got funds, the value of money would be achieved with the use of these projects by the children. The Trustees had made constant efforts to have the funds paid, but funds allocated had not been released. The Trustees had in all these years budgeted for the projects. However, upon request for the funds, no disbursements were made.

#### **Committee Observation and Recommendation**

The Committee had deliberated on the issue of work in progress in its report in its the Financial Year 2019/2020, which is similar to the incomplete building works, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **6.0 Non-Compliance with One-Third of Basic Salary Rule**

655. The Committee heard that a review of the payroll of the Society revealed that during the year under review, twenty- two (22) employees received a net salary of less than one-third (1/3) of their basic salaries contrary to Section C.1(3) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which provides that public officers shall not over commit their salaries beyond two thirds (2/3) of basic salary. Management did not provide satisfactory explanations for the failure to comply with the policy. In the circumstances, Management was in breach of the human resource policies and procedure manual.

#### Management Response

656. The management informed the Committee that this comes about as a result of Sacco deductions. Jogoo and Waumini Saccos were independent entities and were not controlled by CWSK. They were not consulting CWSK when they were giving loans to the staff, which in turn resulted to higher deductions from salaries.
657. However, CWSK had already had discussions with the Saccos who no longer give loans to the staff without first consulting with CWSK. The Saccos were now consulting with CWSK when giving out loans.

#### **Committee Observation and Recommendation**

The Committee had deliberated on the issue Non-Compliance with one-third of basic salary Rule in its report for the Financial Year 2021/2022, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **7.0 Overdrawn Bank Accounts**

658. The Committee heard that the statement of financial position reflects cash and cash equivalents balance of Kshs.635,250,211 as disclosed in Note 18 to the financial statements. The balance

includes Kshs.633,538,266 in respect of the current account balance, out of which, Kshs.176,420 relates to two (2) overdrawn bank accounts. This was contrary to Regulation 82(7) of the Public Finance Management (National Government) Regulations, 2015 which provides that no official government bank account shall be overdrawn, nor shall any advance or loan be obtained from a bank account for official purposes beyond the limit, authorized by The National Treasury in line with Section 28(4) of the Act.

#### **Management Response**

659. The management informed the Committee that the 2 bank accounts with negative Kshs. 176,420 in total (ABSA Nanyuki-KShs.88,009 and ABSA CPB – Kshs. 88,411) were not overdrawn. The negative balances were due to accumulation of bank charges over the years as the bank accounts were inactive. The 2 bank accounts were now active.

#### **Committee Observation and Recommendation**

The Committee had deliberated on the issue of overdrawn bank accounts in its report for the Financial Year 2020/2021, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **8.0 Lack of an Audit Committee and Weak internal Audit Unit**

660. The Committee was informed that as reported in the previous year, the Society did not have an Audit Committee contrary to Section 73 (5) of the Public Finance Management Act, 2012 which states that every national government entity shall establish an internal auditing committee whose composition and functions are to be prescribed by the regulations. Further, the Internal Audit did not have an approved internal audit charter and an approved audit plan. This was contrary to Section 73(1) and (2) of the Public Finance Management Act, 2012 which requires every National Government entity to establish means for conducting internal audit reviews in accordance with the guidelines issued by the Accounting Standards Board and regulations that prescribe requirements for conducting internal audits.

661. In the circumstances, the effectiveness of risk management measures and governance of the Society could not be confirmed.

#### **Management Response**

662. The management informed the Committee that the Board of Trustees of CWSK had put in place an Audit Committee in accordance with CWSK constitution. That further CWSK had an Internal Auditor who performed duties as per the operations needs of the society. This department would be strengthened in order to build its capacity.

#### **Committee Observation and Recommendation**

The Committee observed that the issues of lack of an Audit Committee and weak internal audit unit was deliberated in its seventh PIC-SSAA Report and upholds the observations and recommendations therein.

## **FINANCIAL YEAR 2023/2024**

### **1.0 Unsupported Board Expenses**

663. The Committee heard that the statement of financial performance and as disclosed in Note 10 to the financial statements reflects Directors expenses of Kshs.7,284,500. However, board minutes and attendance registers were not provided to support the expenditure.

#### **Management Response**

664. The management informed the Committee that the Board committee meeting minutes, attendance list, were now available for audit review. The management further informed the Committee that Honoraria were paid as per the SRC rates for the Chairmen of Trustee and Directors. This is the same for other members of both boards.

#### **Committee Observation**

##### **The Committee observed that –**

The Accounting Officer failed to ensure that eligible payments are supported by the appropriate authority and documentation that is board minutes and attendance registers in accordance with Regulation 104 of the PFM National (Government Regulations) 2015.

#### **Committee Recommendation**

The Committee reprimands the then Accounting Officer for breach of Regulation 104 of the PFM National (Government Regulations) 2015.

### **2.0 Land without ownership documents**

665. The Committee heard that statement of financial position and as disclosed in Note 14 to the financial statements reflects property, plant and equipment balance of Kshs.2,975,924,912. The balance includes Kshs.354,470,000 in respect of value for twelve (12) parcels of land whose ownership documents were not provided for audit review. In the circumstances, the accuracy and ownership of property, plant and equipment balance of Kshs.354,470,000 could not be confirmed.

#### **Management Response**

666. The management informed the Committee that the process of acquiring title deeds for some of the parcels of land owned by CWSK was a long one and it was currently ongoing. However, Allotment letters, Land Certificate and request for ownership letters had been attached.

#### **Committee Observation and Recommendation**

The Committee observed that the issue of Land without ownership documents was deliberated in its Fourth PIC-SSAA Report and upholds the observations and recommendations therein.

### **3.0 Lack of Trustees Account Ownership Documents**

667. The Committee was informed that the statement of financial position and as disclosed in Note 19 to the financial statements reflects trustees account balance of Kshs.136,053,837 which includes endowment fund income generating activities of Kshs.28,000,000 relating to purchase of

apartments. However, sale agreements for the purchase of the apartments were provided for audit review.

668. Further, the trustees account opening balance of Kshs.108,053,837 includes twelve (12) parcels of land spread across the country out of which five (5) did not have ownership documents and one (1) parcel had ongoing court case.

#### **Management Response**

669. The management informed the Committee that the Owner document was not available at the time of audit. The document had now been provided.

#### **Committee Observations and Recommendation**

The Committee noted that the issue raised in the current audit query had been previously deliberated in its 7<sup>th</sup> PIC report. Having reviewed the matter, the Committee upholds the observations and recommendations therein.

#### **4.0 Unsupported Provision for Doubtful Debts and Long Outstanding Receivables**

670. The Committee heard that the statement of financial position and as disclosed in Note 17 to the financial statements reflects receivables balance of Kshs.4,478,897. Further, Note 17 to the financial statements reflects total current receivables of Kshs.6,478,897 and provision for doubtful debts of Kshs.2,000,000. However, the approved rate of provision for doubtful debts was not disclosed in Note 17 under significant accounting policies. In addition, plot debtors of Kshs.4,978,650 were outstanding for more than two years.

#### **Management Response**

671. The management informed the Committee that outstanding balances of Kshs.4,978,650.00 related to income-generating activities from the sale of plots by the Trustees. The title deeds for the plot allottees were in the process. The outstanding amounts would be recovered at the point of title deed issuance, as this was the final step in the transaction. Further, the provision for doubtful debts was a general provision, not specific, at Kshs.1 million per year.

#### **Committee Observation and Recommendation**

The Committee had deliberated the issue of Unsupported provision for doubtful debts and long outstanding receivables in its report for the Financial Year 2020/2021, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **5.0 Budgetary Control and Performance**

672. The Committee heard that the statement of comparison of budget and actual amounts reflects final revenue budget of Kshs.900,000,000 and actual receipts of Kshs. 922,238,008 respectively, resulting to overcollection of Kshs.22,238,008 or 2%. Further, actual receipts of Kshs.922,238,008 includes development project government grant of Kshs.14,302,826 which was not budgeted for resulting to overcollection of 100%. Management did not provide satisfactory explanation for the failure to include the development project in the approved budget.
673. In addition, the statement of comparison of budget and actual amounts reflects actual expenditure of Kshs.838,824,099 against actual revenue of Kshs.922,238,008 resulting to under

absorption of Kshs.83,413,909. The under expenditure affected the planned activities and may have negatively impacted on the operations of the Society.

#### **Management response**

674. The management informed the Committee that the Society did not receive the full budgeted amounts and only spent what was received from the exchequer. Further, requests were made for the unreleased allocations.

#### **Committee Observations**

##### **The Committee observed that:**

The society reported an overcollection of Kshs.22,238,008 or 2% of budgeted revenue which included development project government grant of Kshs.14,302,826 not budgeted for resulting to overcollection of 100%. Additionally, the society had an under-expenditure of Kshs.61,175,967 which might have affected the planned activities and may have negatively impacted on the operations of the Society.

#### **Committee Recommendation**

The Committee recommends that the Accounting Officer should ensure expenditure are within the amount received and at all times that the budgets are realistic, achievable, and always adhere to annual work plans, procurement plans, and revenue collection schedules in compliance with Regulation 44(2) of the PFM (National Government) Regulations, 2015.

#### **Other Matter**

##### **6.0 Previous Year Audit Report Issues**

675. 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 recommended the issues as at 30 June, 2024 or given any explanation for the failure to resolve them.

#### **Management Response**

676. The management informed the Committee that most of the prior year issues raised had now been resolved.

#### **Committee Observation**

The Committee Observed that unresolved prior year issues were not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board hence the Management did not provide the reasons for the delay in resolving them contrary to Section 68 (2) (1) of the PFM Act CAP 412A that requires accounting Officer to take appropriate measures to resolve any issues arising from audit which may remain outstanding.

#### **Committee Recommendation**

The Committee reprimands the then Accounting officer for dereliction of duties and recommends that the Accounting Officer, as a preliminary step, submit a report to the Parliament and the Auditor-General for review, on how it has addressed the recommendation made in respect of this report within three months upon adoption of this report.

statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time.

#### **7.0 Retention in office of staff beyond the retirement age of 65 years**

677. The Committee heard that a review of the staff records provided revealed that the Society retained twelve (12) officers in the service beyond the mandatory retirement age of 65. This was contrary to Section D21 of Public Service Commission Human Resource Policies and Procedures Manual for Public Service, 2016 which states that all officers shall retire from the service on attaining the mandatory retirement age of 60 years and 65 years for persons with disabilities and/or as may be prescribed by the government from time to time.

#### **Management Response**

678. The management informed the Committee that CWSK is a special service giving institution with responsibilities as an exempt society and a Trust and as such all CWSK staff are employees of the Trust and are employed on contractual terms, with contracts renewed annually.

679. Further, the Society, being an exempt society to give special and critical service to children, also hires other staff on exceptional contracts, specifically assigned with the role of mentorship, to ensure continuity of care and protection of children expertise. This role demands a unique combination of expertise, passion, and a deep sense of willingness to serve, which is rare in the contemporary job market.

680. In addition, CWSK mostly gives services to children in special circumstances and with disabilities which require highly specialized attention.

681. It's for this reason that the society adopts a strategy of retaining staff for extended period to ensure stability while allowing the organization to implement a well-structured succession plan and facilitate gradual staff exits.

682. Additionally, CWSK has a Human Resource Management manual which has employees up to 65 years old on special basis and can also give special contracts for specialised services for an extra two periodic renewals. This is a highly specialised area of raising and mentoring children.

#### **Committee Observation**

The Committee noted that the Society retained twelve (12) officers in service beyond the mandatory retirement age of 65. This practice was contrary to Section D21 of the Public Service Commission (PSC) Human Resource Policies and Procedures Manual for Public Service, 2016, which stipulates that all officers shall retire from service upon attaining the mandatory retirement age of 60 years, or 65 years for persons with disabilities, or as otherwise prescribed by the government from time to time.

#### **Committee Recommendation**

The Committee reprimands the then Accounting Officer for contravening Section D21 of the Public Service Commission (PSC) Human Resource Policies and Procedures Manual for Public Service, 2016. The Committee further recommends that the Society adopts an effective succession plan to avoid retaining officers in service beyond the mandatory retirement age.

### **8.0 Staff earning less than one third of basic salary**

683. The Committee heard that a review of payrolls for five months between July to November, 2023 revealed that fifteen (15) staff received net salary which was less than one third of their basic salary. This is Contrary to the Section 19(3) of 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 law.

#### **Management Response**

684. The management informed the Committee that this was as a result of Sacco deductions. CWSK staff are members of Jogoo and Waumini Sacco's who are independent entities. CWSK has no control over the loans issued to the staff. This occasionally result in noncompliance with one third basic salary rule.

685. The management further informed the Committee that they already had these consultations with the staff in order to advise on the one-third rule. Having this being private and them having to deal with Saccos privately, it is difficult to completely eradicate it.

686. In addition, new compulsory levy, i.e. Housing Levy, and new higher NSSF rates have contributed.

#### **Committee Observation and Recommendation**

The Committee had deliberated on the issue of Staff earning less than one third of basic salary in its report for the Financial Year 2021/2022, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

### **9.0 Non-Compliance with Public Sector Accounting Standard Board Template**

687. The Committee heard that a review of the financial statements revealed Management did not include the related party disclosures, balances and transactions, contingent assets and liabilities, capital commitments, project implementation status report, transfers from other government entities, inter entity confirmation letter, reporting of climatic relevant expenditures and reporting of disaster relevant expenditure. This was contrary to the format prescribed in the Annual Financial Reporting Template issued by the Public Sector Accounting Standard Board. Section 81(3) of Public Finance Management Act, 2012 which states that the accounting officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time

688. In the circumstances, the financial statements were not fully compliant with the Annual Financial Reporting Template.

#### **Management Response**

689. The management informed the Committee that most of the schedules omitted in the Financial Statement had nil amounts or are not applicable to CWSK. But this will now be implemented fully with effect from financial year 2024/2025

#### **Committee Observation**

The Committee observed that the omission of disclosures was contrary to Section 81(3) of the Public Finance Management (PFM) Act, 2012, which requires the accounting officer to prepare financial statements in a form that complies with the relevant accounting standards issued and published by the Accounting Standards Board from time to time.

#### **Committee Recommendation**

The Committee reprimands the then Accounting Officer for contravening the reporting guidelines issued by the Public Sector Accounting Standards Board (PSASB).

#### **10.0 Dormant Bank Accounts**

690. The Committee was informed that the statement of financial position and as disclosed in Note 18 to the financial statements reflects cash and cash equivalent balance of Kshs.53,461,740 which includes current accounts balance of Kshs.52,022,736 relating to thirty-two (32) bank accounts operated by the Society. However, sixteen (16) bank accounts with account balance of Kshs.2,359,605 remained inactive throughout the year attracting bank charges.

#### **Management Response**

691. The management informed the Committee that CWSK has branches across the country. This has been activated and allocated to the branches. These accounts belong to the branches which have been temporarily not operating but the branches are now active.

#### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of Dormant Bank Accounts in its report for the Financial Year 2020/2021, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **11.0 Incomplete Asset Register**

692. The Committee heard that the statement of financial position and as disclosed in Note 14 reflects property, plant and equipment balance of Kshs.2,975,924,912. However, the asset register provided for audit was incomplete as it lacked corresponding values and dates of purchase.

#### **Management Response**

693. The management informed the Committee that a detailed Asset Register was provided.

#### **Committee Observation**

#### **The Committee observed that –**

The Society did not maintain an updated fixed assets register contrary to Regulation 143(1) of the Public Finance Management - National Government Regulations 2015, which requires the Accounting Officer to be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

## **Committee Recommendations**

### **The Committee recommends that –**

Within three months upon adoption of this report, the Accounting Officer, should submit to the National Assembly and the Auditor-General the updated fixed asset register detailing all the assets of the Society.

## **EXAMINATION OF THE REPORT OF THE AUDITOR GENERAL ON THE AUDITED ACCOUNTS OF KENYATTA UNIVERSITY TEACHING, REFERRAL AND RESEARCH HOSPITAL FOR THE FINANCIAL YEAR 2020/2021 TO 2024/2025**

**DR. Zainab Gura Chief Executive Officer Kenyatta University Teaching, Referral and Research Hospital was accompanied by Edward Maunda Chief Finance Officer, Samuel Muthu SSMO, Dr. Michael Bongo HSCM, Dr. Onyimbo Kerama Deputy Director Clinical, Margaret Wahsiku Corporation Secretary, Samuel Mwangi SHRO, Grace Wairimu Finance Officer appeared before the Committee to adduce evidence on the audited accounts of Kenyatta University Teaching, Referral and Research Hospital**

### **FINANCIAL YEAR 2020/2021**

#### **1.0 Lack of Ownership Documents and Valuation for Land**

694. The Committee heard that the statement of financial position reflects property, plant, and equipment balance of Kshs.8,489,271,968 as disclosed in Note 23 to the financial statements. The balance includes land and buildings with a net book value of Ksh.5,323,114,303. As previously reported, the land and building balance does not include the value of the land on which the Hospital has been built. However, as indicated under Note 28 to the financial statements, the land is owned by Kenyatta University, a Semi-Autonomous Government Agency in the Ministry of Education, and has been assigned a nominal value of Kshs 1 as at 30 June,2021 which is unrealistic. Management has disclosed that the Hospital has no documents on ownership and valuation of the land. Other records indicated that the ownership of the land was one of the items that were in transition discussions between the Hospital's Board and the Management of Kenyatta University under the guidance of the parent Ministries. The Hospital had, therefore, not acquired the title deed to the land or carried out any valuation thereof as at 30<sup>th</sup> June ,2021.
695. In the circumstances, the accuracy, completeness, valuation and ownership of the land and buildings balance of Kshs 5,323,114,303 as at 30 June,2021 could not be confirmed.

#### **Management Response**

696. The Management informed the Committee that they acknowledge that they do not possess the ownership documents for the land. The hospital sits on 59.94 Hectares of land under the ownership of Kenyatta University. KUTRRH Board wrote to the Head of Public Service through a letter referenced KUTRRH/CBD/F9/VOL.1/378 dated 21<sup>st</sup> October 2021 requesting for a title deed for the Hospitals land.

697. On 29<sup>th</sup> August 2022, the Director of physical planning in Ministry of Lands issued a public notice of completion of local physical and land use development plan that indicated that KUTRRH sits on 59.94 Hectares.
698. There have been deliberate efforts of follow up on the land ownership documents by the Management and the Hospital is still waiting for the Title deed to be issued as per the following documents from the Ministry of Lands and Physical Planning: REF: PPD/42/31/XIX/ (12) dated 30<sup>th</sup> August 2022 referring to a Cabinet memo and a public notice in September 2022 of the completion of local physical and land development plan no 42/31/2022/01.

#### **Current Status**

699. Management is still following up on this issue. The hospital has written several letters and been in correspondence with several government institutions on the land issue. See attached.

#### **Committee's observations and recommendations**

The Committee had deliberated on the issue of Lack of Ownership Documents and Valuation for Land in PIC-SSAA second report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations made therein.

#### **2.0 Budgetary Control and Performance**

700. The Committee heard that the statement of comparison of budget and actual amounts reflects a revenue budget and an actual amount of Kshs 3,523,205,757 and Kshs 3,812,571,773 respectively resulting to over-collection of Kshs 289,366,016 or 8% of the budget.
701. Similarly, the statement reflects an expenditure budget amount of Kshs 3,323,206,757 and actual expenditure of Kshs 3,770,990,727 resulting to an over-expenditure of Kshs 247,783,970 (or 21%). Therefore, the Hospital spent funds that had not been budgeted for. This was contrary to the provisions of regulation 43 (b) of the Public Finance Management (National Government) Regulations, 2015 which states that an Accounting Officer shall ensure that public funds entrusted to their care are safeguarded and are only applied for purposes which they were intended and appropriated by the National Assembly.

#### **Management Response**

702. The Committee was informed that the management acknowledges the over collection of revenue and over expenditure cited by the Auditor General and responds as follows:
- Being the second year of operation, the initial budget allocations were estimates due to a lack of historical financial trends. It is anticipated that, as the hospital continues to stabilize, these historical patterns will provide a firm basis for future budget projections on the expected income and expenditure. There was, however, no loss of funds.
  - The budget was cash based and the expenditure was on accrual basis.
  - The cash budget for the period was for Kshs 3,323,206,757 and the actual expenditure of Kshs. 3,770,990,727 included provisions for depreciation of Kshs. 466,632,713. This expense did not involve any outflow of funds.

#### **Current Status**

703. The hospital complied with the provisions of regulation 43 (b) of the Public Finance Management (National Government) Regulations, 2015 and formed the Budget Implementation Committee.

704. KUTRRH, through the Budget Implementation Committee, prepares informed budget estimates based on the hospital's current and past financial performance.
705. Consequently, periodic reviews are carried out to reallocate funds and prepare supplementary budgets in order to avoid over and under absorption of the budget. These reallocations and supplementary budgets are approved by the relevant authorities before the hospital spends the funds.

#### **Committee Observation**

The Committee observed that;

- i The Hospital over-collected by Kshs 289,366,016. Further, the Hospital overspent by Kshs 247,783,970, implying that it incurred expenditure that had not been budgeted for. This is contrary to the provisions of Regulation 43(b) of the Public Finance Management (National Government) Regulations, 2015, which require that an Accounting Officer ensure public funds entrusted to their care are safeguarded and applied only for the purposes for which they were intended and appropriated by the National Assembly.
- ii The Hospital reported an unbalanced budget where the budgeted receipts were Kshs 3,523,205,757 and the expenditure budget were Kshs 3,323,206,757 resulting to a deficit of Kshs 199,999,000 thus breaching regulation 33(b) that requires the budget be balanced.

#### **Committee Recommendation**

The Committee reprimands the then Accounting Officer for contravening regulations 33(b) and 43 (b) of the Public Finance Management (National Government) Regulations, 2015.

### **3.0 Unresolved Prior Year Matters**

706. The Committee heard that 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 has not resolved some of the issues.

#### **Management Response**

707. Management informed the Committee that on land ownership and valuation. It does not possess the ownership documents for the land. The hospital sits on 59.94 Hectares of land under the ownership of Kenyatta University. KUTRRH Board wrote to the Head of Public Service through a letter referenced **KUTRRH/CBD/F9/VOL.1/378** dated 21<sup>st</sup> October 2021 requesting for a title deed for the Hospitals land.
708. On 29<sup>th</sup> August 2022, the Director of physical planning in Ministry of Lands issued a public notice of completion of local physical and land use development plan that indicated that KUTRRH sits on 59.94 Hectares.

#### **Current Status**

709. Management is still following up on this issue. The hospital has written several letters and been in correspondence with several government institutions on the land issue. See attached. (**Annex (i)**)

### **4.0 Assets and Liabilities Registers.**

710. Management has developed the Assets Registers in line with the template from the National Treasury and KUTTRH Finance Policy and Procedure Manual. The register as at the end of the third quarter were submitted to the National Treasury on 14<sup>th</sup> April 2023 in line with regulations.

**Current Status**

711. The report is done quarterly and submitted to The National Treasury as per the requirements before the 15<sup>th</sup> of every quarter.

**5.0 Compliance with the National Cohesion and Integration Act, 2008**

712. The Hospital Management agrees with the audit observation and has taken measures to progressively ensure compliance with the provision of Section 7(2) of the National Cohesion and Integration Act, 2008.

713. The Management attributes the representation of the community to have been due to the recruitment exercise during the Covid 19 period, in which the majority of the applicants were from neighboring counties due to the lockdown and the difficulties in acquiring approval for travel.

714. From the ethnicity analysis of the period ending 2020-2021, the percentage of the majority ethnic group population stood at 46%

715. The Hospital has analyzed the data of representation and commits to progressively achieve compliance in the areas of under representation without compromising on merit requirements.

716. The Hospital has analyzed the data of representation and commits to progressively achieve compliance in the areas of under representation without compromising on merit requirements.

717. The Hospital has analyzed the data of representation and commits to progressively achieve compliance in the areas of under representation without compromising on merit requirements.

718. To encourage more applicants from various communities and to avoid skewed representation, the Hospital's job adverts are placed in 'my Gov' pull out in daily newspapers with a wide circulation. Encouragement for candidates from diverse backgrounds to apply is deliberately included in the job adverts to encourage diversity in the applications.

719.

**Current Status**

720. The hospital has increased the number of ethnic groups from 18(FY 2019-2020) to 28(FY 2024-2025) as well as reduced the percentage of the ethnic group with the highest population from 46% (FY2019-2020) to 42.6% (FY 2024-2025).

**Committee Observation**

721. The committee observed that the accounting officer failed to indicate the actions taken to resolve several issues raised in the report of the prior years Auditor General report contrary to section 31 of the Public Audit Act 2015 which states that. a State Organ or a public entity that had been audited shall, as a preliminary step, submit a report on how it has addressed the recommendations and findings of the previous year's audit.

**Committee Recommendation**

The Committee reprimands the then accounting Officer for breach of section 31 of the Public Audit Act CAP 412B.

#### **6.0 Inadequate Verification and Tagging of Fixed Assets**

722. The committee heard that the statement of financial performance reflects use of goods and services of Kshs. 1,000,759,531(FY 2020-2021) Ksh.298,592,838), as disclosed in Note 11 to the financial statements. The amount includes Hospital branding expenses totalling Kshs. 16,482,784 which further includes Kshs. 10,083,300 in respect to payments for provision of asset verification and tagging services whose contract sum was Kshs. 10,614,000. However, the report submitted by the contractor in respect to the assets did not include their estimated open market and insurance values, purchase prices, depreciation amounts, residual value, motor vehicles, land, buildings, and photos of the assets. In addition, the assets register provided for audit review had not been updated to incorporate all the assets reflected in the financial statements.
723. In the circumstances, the Hospital may not have achieved value for money from the expenditure of Kshs. 10,614,000 spent on branding its assets.

#### **Management Response**

724. The Management informed the committee that the scope of the original contract was to tag 10,000 assets. These were tagged. However, the additional assets were to be tagged in phase 2.
725. Management has developed the Assets Registers in line with the template from the National Treasury and KUTRRH Finance Policy and Procedure Manual. The registers were complete as from 31st March 2023 and are currently being submitted to the National Treasury in line with regulations. The exercise of printing tags and tagging equipment is expected to start in May of FY2024/2025.

#### **Committee Observation**

The committee observed that-

- i) The hospital paid Kshs. 10,083,300 for asset verification and tagging, however, the report submitted by the contractor did not contain their estimated open market and insurance values, purchase prices, depreciation amounts, residual value, motor vehicles, land, buildings, and photos of the assets.
- ii) The hospital did not have a complete asset register as required by Regulation 143 of Public Finance Management (National Government) Regulations 2015.

#### **Committee Recommendation**

The committee recommends that within three months upon adoption of this report, the Accounting Officer-KUTRRH to submit the updated Asset register to the National Assembly and the Auditor-General for review. The Auditor-General should confirm and report on the status of the asset verification and tagging process and whether value for money was achieved in the subsequent audit cycle

#### **7.0 Non-Adherence to Staff Ethnic Balance Requirement**

726. The committee heard that review of human resources records revealed that out of the nine hundred and ninety-nine (999) staff in service as at 30 June 2021, four hundred and forty-five (445) or 44% of the total number of staff were from the same ethnic, or dominant community. This was contrary to Section 7 (1) and (2) of the National Cohesion and Integration

Act, 2008 which requires “all public offices to seek to represent the diversity of the people of Kenya in employment of staff and that no public institution should have more than one third of its staff establishment from the same ethnic community”.

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

#### **Management Response**

728. The management informed the committee that-

- i It concurs with the findings of the auditor on the representation of 44% of the total staff population being from one (1) ethnic group.
- ii The Kenya Population and Housing Census Report of 2019 outlines population of each ethnic group in Kenya where the above ethnic group with a majority staff population representation was reported to be at 17.13%.
- iii Out of the forty-five (45) ethnic groups in Kenya, the Hospital had managed to recruit from twenty-eight (28) ethnic groups in an effort to have a Kenyan representation of the Hospital.
- iv The Hospital has analyzed the data of representation and commits to progressively achieve compliance in the areas of under representation without compromising on merit requirements.
- v To encourage more applicants from various communities to apply, and in order to avoid skewed representation, the Hospital’s job adverts are placed in ‘my Gov’ pull out in daily newspapers with a wide circulation. Encouragement for candidates from diverse backgrounds to apply is deliberately included in the job adverts to encourage diversity in the applications.

#### **Current Status**

729. The hospital has progressively reduced the percentage of the highest ethnic representation group from 46%(2021-2022) to 44% (2022-2023) to 42.6% (2023-2024).

#### **Committee Observations and Recommendations**

The Committee observed that the issue of Non-Adherence to Staff Ethnic Balance Requirement was deliberated in its second PIC-SSAA Report under Non-compliance with National Cohesion and Integration Act, 2008 and upholds the observations and recommendations therein.

#### **8.0 Staff Employed Beyond the Mandatory Retirement Age**

730. The committee heard that examination of records on personnel emoluments indicated that Kshs.20,840,928 related to payments to officers employed after attainment of the mandatory retirement age of sixty (60) years and others who had already attained the mandatory retirement age but were still in service. This was contrary to Section 14.3.2 (a) of the Kenyatta University Teaching, Referral and Research Hospital Human Resource Policy and Procedures Manual of October, 2019 which provides that the mandatory retirement age shall be sixty (60) years.

731. In the circumstances, Management was in breach of the Hospital’s Human Resource Policy.

#### **Management Response**

732. Management informed the committee that-

- a. There are currently no employees above the mandatory retirement age of 60 years.
- b. The employees herein mentioned by the auditor were over sixty (60) years old and were employed on contract.
- c. Some of the employees were already working at Kenyatta University and supporting the operationalization of the Hospital.

- d. Employees approaching retirement age are currently notified 3 months prior to their retirement and are subjected to mandatory pre-retirement training and are issued with timely notifications indicating the lapse date of their contracts

#### **Committee Observation**

The committee noted that at the time of audit the hospital had several employees who had attained mandatory retirement age of 60 contrary to Section 14.3.2 (a) of the Kenyatta University Teaching, Referral and Research Hospital Human Resource Policy and Procedures Manual of October,2019 which provides that the mandatory retirement age shall be sixty (60) years.

#### **Committee Recommendations**

The Committee recommends that within three months upon adoption of this report, the Accounting Officer should submit a status report of the composition of the current workforce and the approved human resource instrument to the National Assembly and the Auditor-General for review.

#### **9.0 Officers in Acting Capacity Beyond Stipulated Period.**

733. Review of Human Resource records revealed that three (3) officers were appointed in acting capacity for more than six (6) months. Review of personnel records revealed that the officers earned acting allowance amounting to Kshs. 456,790 for the period beyond the stipulated time of the acting appointment. This was contrary to Section C.14 of the Public Service Commission Human Resource Policy and Procedures Manual for the Public Service of May, 2016. In the circumstances, Management was in breach of the regulations.

#### **Management Response**

734. Management informed the committee that-

Management concurs with the auditors finding on officers working in an acting capacity for a period beyond the prescribed period in law for the officers herein mentioned and responds as follows:

- a. The recruitment and substantive filling of the three (3) positions took longer than was planned hence the extended acting period.
- b. The recruitment of a CEO has since been finalized and the role substantively filled w.e.f. 01st Jul 2022.
- c. The recruitment of the Deputy Director Nursing Services has been finalized and the role substantively filled w.e.f. 16<sup>th</sup> Feb 2023.
- d. The recruitment of the Deputy Director Space Management has since left the employment of the Hospital w.e.f. 01<sup>st</sup> Mar 2022 and the position is no longer in our ratified staff establishment.

#### **Committee Observation**

The Committee observed that three (3) officers were appointed in acting capacity for more than six (6) months contrary to section 34(3) of Public Service Commission Act, CAP 185 which provides that an officer may be appointed in an acting capacity for a period of at least thirty days but not exceeding a period of six months.

#### **Committee Recommendation**

The committee reprimands the then Accounting Officer for contravening section 34(3) of Public Service Commission Act.

## **10.0 Irregular Issuance of imprests**

735. The Committee heard that a review of records on local travel and accommodation and seminars and conferences revealed that the Hospital incurred expenditures of Kshs. 3,587,317 and Kshs.4,420,126 respectively on the two expenditure components. However, the amounts were paid directly to individuals, through per diems, without issuance of imprest warrants. This was contrary to Regulation 93 (2) of the Public Finance management (National Government) Regulations,2015 which states that an imprest shall be issued for a specific purpose, and any payments made from it, shall be only for the purpose specified in the imprest warrant. In then circumstances, management was in breach of the Regulations.

### **Management Response**

736. Management informed the committee that it acknowledges and has implemented corrective measures. The hospital is currently in compliance with Regulation 93 (2) of the Public Finance management (National Government) Regulations,2015 and no staff imprest is issued without imprest warrant. Staff are required to account for the imprest through the imprest surrender form.

### **Committee Observation**

The committee observed that the Hospital paid **Kshs. 3,587,317** for local travel and accommodation and **Kshs. 4,420,126** for seminars and conferences directly to individuals through per diems, without issuing imprest warrants. This contravenes Regulation 93(2) of the Public Finance Management (National Government) Regulations, 2015, which states that an imprest shall be issued for a specific purpose, and any payments made from it, shall be only for the purpose specified in the imprest warrant.

### **Committee Recommendation**

The Committee reprimands the then Accounting Officer for breach of the regulations. Committee further directs that the Accounting Officer develops a financial policy and proper accountable documents to ensure compliance to Regulation 93(2) of the Public Finance Management (National Government) Regulations, 2015.

## **11.0 Lack of an Updated Assets Register**

737. The committee heard that the statement of financial position indicates that the Hospital owned property, plant and equipment with a net book value of Kshs.8,489,271,968 (2019/2020 Kshs. 7,372,035,036) as at 30 June 2021,as indicated under Note 23 to the financial statements .However, Management did not maintain an updated asset register with details such as cost of assets, depreciation rates, location, for parcels of land and each building:-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 and maintenance contracts. In the circumstances, the Hospital Management may not be able to track the value, location and status of every fixed asset. Therefore, the Hospital's assets are at risk of misuse and loss.

### **Management Response**

738. Management informed the committee that it has developed the Asset Register in line with the template from the National Treasury and KUTRRH Finance Policy and Procedure

Manual. The registers are complete from 31st March 2023 and are currently being submitted to the National Treasury in line with regulations.

#### **Committee Observations and Recommendations**

The Committee observed that the issue of Lack of an Updated Assets Register was deliberated in its second PIC-SSAA Report under non submission of assets and liabilities register and upholds the observations and recommendations therein.

#### **12.0 Irregularities of Human Resource Management**

739. The Committee heard that a review of sampled personal files revealed lack of clear recruitment specifications and uncompetitive filling of some positions. Further, some positions filled were not in the staff establishment and the incremental amount of some employees' basic salaries was not supported by any criterion. In the circumstances, the Hospital's human resources instruments and practices are not aligned to the Public Service Commission Human Resource Policy and Procedures Manual for the Public Service of May, 2016 thus posing a risk to the operations of the Hospital.

#### **Management Response**

740. Management acknowledges the auditor's finding and admits that there were gaps in HR management in the year under review FY 2020-2021.

#### **Current Status**

741. Management submitted HR Instruments to PSC and SRC in September 2023. The hospital has received approved HR instruments in March 2025. Further, management has appointed the Advisory Committee for the Approved HR Instruments, HR Recruitment Committee and Human Resource Management Advisory Committee (HRMAC) to align all HR matters with the approved HR instruments. The advisory committee's report to management will address the identified gaps by the Auditor General.

#### **Committee Observations**

The Committee observed that-

- i. Sampled personal files revealed absence of clear recruitment specifications and uncompetitive filling of certain positions. In addition, some roles were filled despite not being part of the approved staff establishment.
- ii. Salary increments to some employees were made without any supporting criteria.

#### **Committee Recommendation**

The Committee reprimands the then Accounting Officer for failing to align the Hospitals Human Resource Instruments and practices to Public Service Commission Human Resource Policy and Procedures Manual. The Committee further directs the Accounting Officer to submit a report on the recommendations of Human Resource Management Advisory Committee (HRMAC) and the actions taken to align all HR matters with the approved HR instruments to the National Assembly.

#### **FINANCIAL YEAR 2021/2022**

##### **1.0 Inaccuracies on Employee Costs**

742. The Committee heard that the statement of financial performance reflects employee costs balance of Kshs. 2,352,734,668 as disclosed in Note 12 to the financial statements. However, the following inconsistencies were noted

- i. **Basic Salaries:** -Included in the salaries and wages amount of Kshs.1,076,067,874 is basic pay of Kshs.5,322,400 paid to various members of staff above the approved rate. Conversely, basic salaries amounting to Kshs.14,927,450 was under paid as the rate applied was lower than the approved.
- ii. **House Allowances-** Included in the housing benefits and allowances of Kshs.247,536,777 is an amount of Kshs.3,255,613 which was paid to various staff members below the approved rate. Conversely, house allowances amounting to Kshs.6,715,000 was under paid as the rate applies was lower than the approved. In the circumstances, the accuracy of employee costs of Kshs.2,352,734,668 could not be confirmed.

#### **Management Response**

- 743. The Management acknowledges that there were anomalies in the staff compliment data which had not been updated. KUTRRH salary processing is based and adheres to the appointment letters/contracts.
- 744. Based on this finding, the staff compliment was reviewed for grade errors and updated.  
Current Status
- 745. Management is implementing the government directive on G-HRIS system by June 30th, 2025, that will help control the errors in the staff compliment.

#### **Committee Observation**

The Committee observed that the Hospital paid basic allowances over and above the approved rate amounting to Kshs.5,322,400 on other instances the Hospital paid basic salaries below the approved rates amounting to Kshs.14,927,450. Further, the Committee observed that the Hospital paid housing benefits amounting to Kshs.3,255,613 below the approved rate resulting to unjustified inconsistencies and possible risk of fraud.

#### **Committee Recommendations**

Within three months upon adoption of this report, the EACC to investigate the variances with a view to establishing any irregularities or fraud with a view to recover any monies that might have been fraudulently paid to staff. should any improprieties be established the DPP should take legal action against the culpable officers to recover the amounts involved with interest at the prevailing CBK rate.

#### **2.0 Missing Land Ownership Documents**

- 746. The committee heard that the statement of financial position reflects property, plant, and equipment balance of Kshs.9,609,138,079 as disclosed in Note 23 to the financial statements. The balance includes land and buildings balance of Kshs. 5,268,306,620 whose ownership documents were not provided for audit. In the circumstances, the rightful ownership to land and buildings valued at Kshs.5,268,306,620 could not be confirmed.

#### **Management Response**

- 747. Management informed the committee that there have been deliberate efforts of follow up on the missing land ownership documents by the Management and the Hospital is still waiting for the Title deed to be issued as per the following documents from the Ministry of Lands and Physical

Planning:REF: PPD/42/31/XIX/ (12) dated 30th August 2022 referring to a Cabinet memo and a public notice in September 2022 of the completion of local physical and land development plan no 42/31/2022/01.

#### **Committee's observations and recommendations**

The Committee had deliberated on the issue of Lack of Ownership Documents in the second PIC-SSAA report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations made therein.

### **3.0 Non-Compliance with Executive Order No.2 of 2018.**

748. The committee heard that the statement of financial performance reflects use of good and services amount of Kshs.1,289,346,350 as disclosed in Note 11 to the financial statements. Included in the use of goods and services expenditure are advertising, internet connectivity, office expenses, mortuary expenses and consumables of Kshs.42,670,836, Kshs.4,558,625, Kshs.19,392,484, Kshs.10,379,420 and Kshs.616,674,571 respectively. However, the tender notices, ongoing tenders, and contracts for the financial year 2021/2022 on the expenditures were not published in Public Procurement Information Portal. This was contrary to the Executive Order No.2 of 2018 which requires all public procurement entities to publish the tender and supplier data. In the circumstances, Management was in breach of the law.

#### **Management Response**

749. The management informed the committee that the Hospital acknowledges the observation on the matter and wish to respond as follows, that: Initially there was a challenge on uploading on the PPIP as teams were not trained on the system since it was rolled out. Management has trained an officer who later trained other officers in the department around October 2024.

#### **Committee Observation**

Advertising, internet connectivity, office expenses, mortuary expenses and consumables of Kshs.42,670,836, Kshs.4,558,625, Kshs.19,392,484, Kshs.10,379,420 and Kshs.616,674,571 respectively were not published in Public Procurement Information Portal.

#### **Committee Recommendation**

The committee reprimands the then Accounting Officer and further recommends that the Accounting Office should always adhere to the Executive Order No.2 of 2018.

### **4.0 Failure to Notify Direct Procurement**

750. The Committee heard that the statement of financial performance reflects use of goods and services amount of Ksh.1,289,346,350 as disclosed in Note 11 to the financial statements. Included in the use of goods and services expenditure are consumables expenditures of Kshs.616,674,571 out of which Kshs. 16,837,941 was procured by way of direct procurement method. However, Management did not report within fourteen days after the notification of the award of the contracts to the Public Procurement Regulatory Authority. This was contrary to Regulation 90 (1)(b) which states that an accounting officer shall, within fourteen days after the notification of the award of the contract, report any direct procurement of a value exceeding five hundred thousand shillings to the Authority in a format provided by the Authority. In the circumstances, Management was in breach of the law.

#### **Management Response**

751. The committee was informed that the Hospital acknowledges the error and omission to report the following procurements within the timeframe required.

- 1) M/s Angelica Medical Supplies KES 6,408,078/=
- 2) M/s Microbiology E.A Limited KES 4,804,707/= and,
- 3) M/s Philips Healthcare Technologies KES 5,625,156/=

752. However, the Hospital reported the same to the Public Procurement Regulatory Authority on 14<sup>th</sup> January 2023.

#### **Committee Observation**

The Committee observed that the Hospital procured goods amounting to Kshs. 16,837,941 by way of direct procurement. However, the management did not notify the Public Procurement Regulatory Authority within fourteen days after the notification of the award of the contracts contrary to Regulation 90 (1)(b) of Public Procurement and Asset Disposal Regulations, which states that an accounting officer shall, within fourteen days after the notification of the award of the contract, report any direct procurement of a value exceeding five hundred thousand shillings to the Authority in a format provided by the Authority.

#### **Committee Recommendation**

The committee reprimands the then Accounting Officer for failure to comply with the Regulation 90 (1)(b) of Public Procurement and Asset Disposal Regulations.

### **5.0 Inaccuracies of Fixed Assets**

753. The committee heard that the statement of financial position reflects property, plant, and equipment balance of Kshs. 9,609,138,079 as disclosed in Note 23 to the financial statements. However, the fixed asset register for Gatundu Level 5 was not submitted for audit verification. In addition, there was no evidence of receiving assets amounting to Kshs. 161,579,046 transferred to the Hospital. In the circumstances, the effectiveness of controls of fixed assets held at Gatundu Level 5 Hospital could not be confirmed.

#### **Management Response**

754. The Committee was informed that the assets for Gatundu Level 5 Hospital are under the County Government of Kiambu asset registers. All the purchases meant for Gatundu Level Five Hospital were received through delivery notes signed and acknowledged by the relevant users. The assets procured through KUTRRH amounting to Kshs. 161,579,046 have been recorded in the KUTRRH-Gatundu Assets List.

#### **Committee Observation**

The committee observed that although the fixed assets register for Gatundu level 5 were said to be under the county Government of Kiambu, the assets procured through KUTRRH amounting to Kshs. 161,579,046 have been recorded in the KUTRRH-Gatundu Assets List. However, there was no documented Memorandum or any documentation on the form of engagements between KUTRRH and Gatundu Level 5 Hospital.

#### **Committee Recommendations**

Within three months upon adoption of this report, The Accounting Office KUTRRH should provide the approved Memorandum for Cooperation between the two hospitals detailing the terms and conditions of engagements, the funding model and the accountability of assets and liabilities arising from the engagements to the National Assembly and the Auditor-General for review.

## **FINANCIAL YEAR 2022/2023**

### **1.0 Inaccuracies in Employee Costs**

755. The Committee heard that the statement of financial performance reflects the employee costs of Kshs.3,036,708,820 as disclosed in Note 12 to the financial statements. However, the following inconsistencies were noted:

#### **2.0 Basic Salaries:**

756. Included in the salaries and wages of Kshs.1,200,549,146 is basic pay of Kshs.2,439,000 paid to various employees above the approved rate while basic salaries amounting to Kshs.1,105,258 were paid below the approved rate. Further, eight (8) members of staff had more than one annual increment applied to their basic pay during the year.

#### **3.0 House allowances:**

757. Included in the housing benefits House and allowances of Kshs.324,740,965 is an amount of Kshs.13,309,209 which was paid to various staff members below the approved rate

#### **Management Response**

758. The committee was informed that the management acknowledges that there were anomalies in the staff compliment data which had not been updated. KUTRRH salary processing is based and adheres to the appointment letters/contracts. Based on this finding, the staff compliment was reviewed for grade errors and updated.

#### **Committee Observations and Recommendations**

The Committee had deliberated on the issues on Inaccuracies in Employee Costs in its report for the Financial Year 2021/2022, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

### **4.0 Missing Land Ownership Documents**

759. The statement of financial position reflects a balance of Kshs.9,496,555,965 under property, plant and equipment as disclosed under Note 23 to the financial statements, included is Land and Building with a Net Book Value of Kshs.5,195,361,485 which the Hospital is yet to receive title documents from the Government.

#### **Management Response**

760. There have been deliberate efforts of follow up on the missing land ownership documents by the Management and the Hospital is still waiting for the Title deed to be issued as per the following documents from the Ministry of Lands and Physical Planning: REF: PPD/42/31/XIX/ (12) dated 30th August 2022 referring to a Cabinet memo and a public notice in September 2022 of the completion of local physical and land development plan no 42/31/2022/01. Annex (v)

#### **Committee's observations and recommendations**

The Committee had deliberated on the issue of Lack of Ownership Documents in the second PIC-SSAA report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations made therein.

### **5.0 Obsolete Stock**

761. The Committee heard that the statement of financial position reflects inventory balance of Kshs.286,742,904 as disclosed in Note 22 to the financial statements. Included in the balance is Kshs.15,111,800 relating to non- pharmaceuticals whose physical verification revealed that they were obsolete.

#### **Management Response**

762. The Committee was informed that the Hospital acknowledges the observation on the matter. The stock was Personal Protective Equipment (PPE) received in kind from partners during the Covid-19 pandemic to be used by medics attending patients. However, after the pandemic the items could not be used thus being documented as redundant.

#### **Current Status**

763. The items were disposed by burning as per disposal minutes.

#### **Committee Observations**

The committee observed that the Hospital had obsolete non-pharmaceutical stock amounting to Kshs.15,111,800. Although the management indicated that the stocks were Personal Protective Equipment (PPE) were disposed by burning the relevant documentation relating to the appointment letter of Adhoc Disposal Committee, their minutes recommending the mode of disposal and an approval from the National Environment Management Authority were not provided for review.

#### **Committee Recommendation**

Within three months upon adoption of this report the Accounting Officer should submit the appointment letter of Adhoc Disposal Committee, their minutes recommending the mode of disposal and an approval from the National Environment Management Authority to the National Assembly and the Auditor-General for review.

### **6.0 Long Outstanding Receivables**

764. The Committee heard that the statement of financial position reflects receivables from exchange transaction balance of Kshs.1,289,417,347 as disclosed in Note 19 to the financial statements. Included in the balance is Kshs.123,533,941 in respect to individual receivables out of which a provision of Kshs.61,609,788 was made. The provision comprises debts which have been outstanding for more than three years and its recoverability was doubtful.

#### **Management Response**

765. The Committee was informed that the Hospital Management recognizes the issue of long-standing receivables and clarifies that a significant portion of these debts originated during the COVID-19 pandemic. To address this challenge, the Hospital has implemented the following measures:

- i **Standard Operating Procedure (SOP) for Debt Management-**  
A Standard Operating Procedure (SOP) was established to guide hospital staff on effective debt

management and recovery strategies. This SOP provides a structured approach for handling debts.

- ii **Continuous Validation and Debtor Schedule Preparation-** The Hospital conducts ongoing validation of long-standing debts and compiles a comprehensive debtor schedule. This schedule informs additional recovery measures
- iii **Dedicated Debt Reconciliation Team** - a dedicated team of staff members is assigned specifically to debt collection and follow-up efforts.
- iv **Provision Of Bad and Doubtful Debts-** The Hospital provides for bad and doubtful debts that are outstanding for more than one year as per the KUTRRH Credit Policy.

766. Simultaneously, the following proactive measures have been adopted to prevent the accumulation of potentially unrecoverable debts:

- i **Socio-Economic Assessments-** Socio-economic assessments are conducted upon patient admission to identify high-risk cases. This proactive approach enables early financial discussions with families facing challenges, aiding better debt recovery strategies. To support this initiative, a full-time social worker has been stationed at the Accident and Emergency Department, where the admission process begins.
- ii **Guarantor involvement and Risk Assessment Guarantors** are engaged in credit payment agreements to enhance accountability and ensure timely payments.

767. These measures demonstrate the Hospital Management's commitment to addressing long-standing debts and implementing sustainable practices for debt prevention and recovery.

#### **Committee Observation**

The Committee observed that-

- i. The Hospital made a provision for doubtful debts totaling Kshs.61,609,788 on the receivable balance of Kshs.123,533,941 relating to debts that have remained outstanding for several years.
- ii. Although the Hospital indicated that it has introduced several measures to address the issue of piling receivables, there was no evidence to support the recovery of the stated outstanding receivables.

#### **Committee Recommendations**

The Committee recommends that, within three months, upon adoption of this report the Accounting Officer should submit to the National Assembly and the Auditor-General a comprehensive status report on the debt recoveries made, the debts recovery mechanisms put in place and the approved debt policy in place to control the continued pile up of debts.

### **7.0 Outstanding Trade and other payables**

The Committee heard that the statement of financial position and Note 24 to the financial statement reflects trade and other payables balance of kshs 366,831,471 as at 30 June ,2023 which is mainly attributable to outstanding payment for pharmaceutical products.

#### **Management Response**

768. The Management informed the Committee that the hospital operates on accrual basis of accounting. The trade and other payables were paid in the financial year 2023-2024.

### **Committee Observation**

#### **The Committee observed that-**

The Hospital reported an outstanding payables balance of Kshs 366,831,471 as at 30 June ,2023, relating to pharmaceutical products. The delay in settling its debts affects its future credit worthy or rating that may deny it the most needed services.

The Prolonged non-payment of payables may negatively impact the entity's reputation and supplier relationships which may expose the entity to legal disputes, penalties, or additional interest charges.

### **Committee Recommendation**

The Accounting should at all times ensure prompt settlement of financial obligations to avoid unnecessary disputes.

### **8.0 Non-Compliance with Executive Order No.2 of 2018.**

769. The Committee heard that the statement of financial performance Note 11 to the financial statement reflects use of goods and services amount of Kshs 1,818,472,561 .Review of Public Procurement Information Portal(PPIP) revealed that the ongoing contracts for the financial year 2021/2022 and the current contracts for the financial year 2022/2023 were not published .This was contrary to the Executive Order No.2 of 2018 which state that all public procurement entities shall maintain and continuously update and publicize (through the websites of the public procuring entity ,ecitizen, public procurement regulatory Authority platforms, public Notice Boards and /or Official Government publications.

### **Management Response**

770. The Hospital Management acknowledges the observation on the matter and wish to respond as follows, that:

771. Initially there was a challenge on uploading on the PPIP as teams were not trained on the system since it was rolled out. Management has trained an officer who later trained other officers in the department around October 2024.

### **Current Status**

772. Currently the ongoing procurements are being uploaded as per Executive Order No.2 of 2018.

### **Committee Observations and Recommendations**

The Committee had deliberated on the issue of Non-Compliance with Executive Order No.2 of 2018 in its report for the Financial Year 2021/2022, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

### **9.0 Non-Compliance With the One-Third Rule of Basic Salary**

773. The Committee heard that during the year under review, three hundred and eighty-six (386) 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 which requires the total amount of all deductions which may be made by an employer from the wages of his employee at any one time not to exceed two-thirds of the basic pay.

### **Management Response**

774. The Hospital Management acknowledges and regrets the violation of a third (1/3) rule.

775. The Hospital Management has identified the existing gap in the operationalized check off system and noted the anomaly was occasioned by:

- i The operationalization of the staff pension scheme from February 2022 that saw a reduction in the net pay for permanent and pensionable employees,
- ii Employees who were facing disciplinary process and on suspension and their basic salary reduced.
- iii Introduction of National Social Security Fund (NSSF) Act No. 45 of 2013 (“the Act”) in Feb 2023, giving rise to new NSSF rates.

### **Current Status**

776. The Hospital Management has reviewed and complied with the 1/3 rule regulations from March 2024 payroll.

### **Committee Observation**

The Committee observed that three hundred and eighty six (386) employees earned a net salary of less than a third (1/3) of their basic salary contrary to Section 19 (3) of the Employment Act, 2007 which requires the total amount of all deductions which may be made by an employer from the wages of his employee at any one time not to exceed two-thirds of the basic pay.

### **Committee Recommendations**

The Committee reprimands the then Accounting Officer for Contravening Section 19 (3) of the Employment Act, 2007.

## **10.0 Non-Compliance with the Ethnicity Rule**

777. The Committee heard that during the year under review, 44% of members of staff were from one ethnic community. Further, 41% of employees recruited in the year 2022/2023 were from the same ethnic group. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which stipulates that no public establishment shall have more than one third of its staff from the same ethnic community.

### **Management Response**

778. The Committee was informed that the Hospital Management acknowledges the auditor's findings that 44% of the Hospital's staff population is from one ethnic community, a violation of section 7(2) of the National Cohesion and Integration Act 2008. The Hospital Management is committed to the progressive compliance of the National Cohesion and Integration Act 2008.

779. In FY 2021-2022 the highest representation of staff from one ethnic community stood at 44.77%, in FY 2022-2023 the percentage was at 44.0% and in FY 2023-2024 the representation stood at 43.87%. From the analysis, there has been a positive trajectory towards rationalization of ethnic composition in an attempt to comply with the provisions of the law.

780. Out of the forty-five (45) ethnic groups in Kenya, the Hospital has managed to recruit from twenty-eight (28) ethnic groups as of 30th June 2024 up from eighteen (18) communities as of 30th June 2020.

781. To encourage more applicants from various communities to apply for advertised positions, and to avoid skewed representation, the Hospital's job adverts are placed in 'my Gov' pull out in daily newspapers with a wide circulation. All KUTRRH advert contain a Statement that

KUTRRH is an equal opportunity employer and qualified candidates from diverse backgrounds are encouraged to apply.

### **Current Status**

The hospital has increased the number of ethnic groups from 18(FY 2019-2020) to 28(FY 2024-2025) as well as reduced the percentage of the ethnic group with the highest population from 46% (FY2019-2020) to 42.6% (FY 2024-2025).

### **Committee's observations and recommendations**

The Committee observed that the issue of Non-Compliance with the Ethnicity Rule was deliberated in its second PIC-SSAA Report under Non-compliance with National Cohesion and Integration Act, 2008 and upholds the observations and recommendations therein.

### **11.0 Officers in acting capacity beyond Six Months**

782. Review of the human resources records revealed that four (4) officers were appointed in acting capacity for more than six (6) months contrary to Section C.14 of the PSC Human Resource Policies and Procedure Manual, 2016

### **Management Response**

783. The Hospital Management acknowledges that it engaged four (4) staff in an acting capacity term for more than six (6) months. This was occasioned by the circumstances that would not allow the substantive filling of these four (4) positions within the anticipated time of six (6) months. However, the Hospital has made the following progress as of the date of this finding; -

The following positions have been resolved as follows:

- i Catering manager- retired Aug 2024
- ii Deputy director nursing- retired and position substantively filled
- iii COO-position reviewed in the ratified instrument and no longer exists.
- iv Ag. Head TISN resigned in 05<sup>th</sup> May 2024 and currently the Director is overseeing operations in TISN awaiting implementation of the approved Human Resource Instruments

### **Committee's observations and recommendations**

The Committee had deliberated on the issue of Officers in acting capacity beyond Six Months in its report for financial year 2020/2021 observed and made recommendations. Consequently, the Committee upholds the observations and recommendations made therein.

## **FINANCIAL YEAR 2023/2024**

### **1.0 Inaccuracies in Employee Cost**

784. The Committee heard that the statement of financial performance reflects employee cost amount of Kshs.4,099,600,670 as disclosed in Note 12 to the financial statements.

### **2.0 House allowance**

785. Included in the housing benefits and allowances of Kshs.405,578,822 is an amount of Kshs.2,679,194 which was paid to thirty-four (34) staff members below the approved rate resulting to underpayment of house allowance.

### **3.0 Responsibility Allowance**

786. Included in the travel, motor car, accommodation, subsistence and other allowances is an amount of Kshs.1,254,740,488 out of which responsibility above the approved rates. Similarly, Kshs.489,516 was paid to six (6) employees above the approved rates allowance of Kshs.962,915 was paid to fifty-six (56) employees below resulting to underpayment and overpayment of responsibility allowance respectively.
787. In the circumstances, the accuracy and completeness of employee cost amount of Kshs.4,099,600,670 could not be confirmed.

#### **Management Response**

788. The Committee was informed the management acknowledges the auditor's observation that different Housing allowance rates were applied contrary to SRC Circular Ref: No. SRC/TS/MDP/3/1/2(2).
789. Management has corrected the anomaly with effect from 1st July 2024 as per attached summary.
790. In compliance with the audit finding, the Management will clear the arrears for the prior periods in phases in FY 2025-2026.
791. The Committee was informed that, Management submitted HR Instruments to PSC and SRC in September 2023.
792. The hospital has received approved HR instruments in March 2025. Further, management has appointed the Advisory Committee for the Approved HR Instruments, HR Recruitment Committee and Human Resource Management Advisory Committee (HRMAC) to align all HR matters (including responsibility allowances) with the approved HR instruments.
793. The advisory committee's report to management will address the identified gaps by the Auditor General.

#### **Committee's observations and recommendations**

The Committee had deliberated on issues similar to House Allowance and Responsibility Allowance in its report for financial year 2021/2022, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations made therein.

#### **4.0 Long Outstanding Debts**

794. The Committee was informed that the statement of financial position reflects receivables from exchange transaction balance of Kshs.1,401,348,757 as disclosed in Note 19 to the financial statements. Review of the aging analysis revealed amounts totalling Kshs.512,245,293 had been outstanding for over one year with some dating back to the year 2020. Failure to follow-up on debts may result to bad debts and losses to the Hospital. In the circumstances, the recoverability of receivables from exchange transactions balance of Kshs.512,245,293 is doubtful.

#### **Management Response**

795. The Committee was informed that the Hospital Management recognizes the issue of long-standing debts and clarifies that a significant portion of these debts originated during the COVID-19 pandemic. To address this challenge, the Hospital has implemented the following measures:
- i Standard Operating Procedure (SOP) for Debt Management**  
A Standard Operating Procedure (SOP) was established to guide hospital staff on effective debt management and recovery strategies. This SOP provides a structured approach for handling debts.

**ii Continuous Validation and Debtor Schedule Preparation**

The Hospital conducts ongoing validation of long-standing debts and compiles a comprehensive debtor schedule. This schedule informs additional recovery measures.

**iii Dedicated Debt Reconciliation Team**

A dedicated team of staff members is assigned specifically to debt collection and follow-up efforts.

**iv Engagement with SHA and Insurance Companies**

Management has made extensive efforts to follow up on outstanding amounts with NHIF/SHA and insurance providers.

**v Provision of Bad and Doubtful Debts**

The Hospital provides for bad and doubtful debts that are outstanding for more than one year as per the KUTRRH Credit Policy.

796. Simultaneously, the following proactive measures have been adopted to prevent the accumulation of potentially unrecoverable debts:

**i Socio-Economic Assessments**

Socio-economic assessments are conducted upon patient admission to identify high-risk cases.

This proactive approach enables early financial discussions with families facing challenges, aiding better debt recovery strategies. To support this initiative, a full-time social worker has been stationed at the Accident and Emergency Department, where the admission process begins.

**ii Guarantor Involvement and Risk Assessment**

Guarantors are engaged in credit payment agreements to enhance accountability and ensure timely payments.

797. These measures demonstrate the Hospital Management's commitment to addressing long-standing debts and implementing sustainable practices for debt prevention and recovery.

**Committee's observations and recommendations**

The Committee had deliberated on the issue of Long Outstanding Receivable in its report for financial year 2021/2022, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations made therein.

**5.0 Lack of Land Ownership Documents**

798. The Committee heard that the statement of financial position reflects a balance of Kshs.9,659,599,417 in respect to property, plant and equipment as disclosed in Note 23 to the financial statements. The balance includes Kshs.5,753,996,947 for land and buildings. Review of Hospital documents revealed that it occupies approximately 64.53 hectares land whose title deed was in the name of Kenyatta University. In the circumstances, the accuracy, completeness and ownership of land and buildings balance amounting to Kshs.5,753,996,947 could not be confirmed.

**Management Response**

**6.0 Land ownership and valuation.**

799. The Committee was informed that the management acknowledges that it does not possess the ownership documents for the land. The hospital sits on 59.94 Hectares of land under the ownership of Kenyatta University. KUTRRH Board wrote to the Head of Public Service through

a letter referenced **KUTRRH/CBD/F9/VOL.1/378** dated 21<sup>st</sup> October 2021 requesting for a title deed for the Hospitals land.

800. On 29<sup>th</sup> August 2022, the Director of physical planning in Ministry of Lands issued a public notice of completion of local physical and land use development plan that indicated that KUTRRH sits on 59.94 Hectares.

#### **Current Status**

801. Management is still following up on this issue. The hospital has written several letters and been in correspondence with several government institutions on the land issue.

#### **Committee Observation and Recommendation**

The Committee had deliberated on the issue of Land Ownership and valuation in PIC-SSAA second report, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations made therein

#### **7.0 Budgetary Control and Performance**

802. The statement of comparison of budget and actual on comparable basis of Kshs.6,137,600,000 and Kshs.7,426,489,217 respectively resulting to an over-expenditure of Kshs.1,288,889,217 or 21% of the approved budget.

803. The over-expenditure is mainly attributed to compensation of employees and use of goods and services of Kshs. 319,323,146 and Kshs. 852,834,041 respectively totalling to Kshs 1,172,157,187. Management attributed the over expenditure on use of goods and services to the upsurge in patient numbers which has strained existing budgetary provisions for pharmaceuticals, non-pharmaceuticals and catering expenses. However, there was no evidence of budget reapproval for expenditure items exceeding 10% of the approved budget.

804. In the circumstances, the budget over expenditure was not authorized.

#### **Management Response**

805. The Hospital budget for the FY2023/2024 was KES 7,286,251,507 billion. The actual funding was KES 6,137,600. The financing gap was not addressed in the supplementary budget. The budgets were further cut by 30%. The personnel emoluments were underfunded by KES 1.4 billion which could not be rationalized. There was a further implication of increased employer contribution to NSSF and Housing Levy.

#### **Committee Observations**

The Committee observed that the Hospital overspent by Kshs Kshs.1,288,889,217 or 21% of the approved budget. This implies that the management irregularly spent the amounts that were not budgeted. This implies that the Hospital incurred an unapproved expenditure of the same amount contrary to Section 12 of the State Corporations Act, CAP 446. The section provides that no state corporation shall, without the prior approval in writing of the Minister and the Treasury, incur any expenditure for which provision has not been made in an annual estimate prepared and approved in accordance with section 11.

#### **Committee recommendation**

The Committee reprimands the Accounting Officer of the Society for breach of Section 12 of the State Corporations Act, CAP 446.

### **8.0 Property Plant and Equipment**

806. The Committee heard that the statement of financial position reflects property plant and equipment balance of Kshs.9,659,599,417 as disclosed in Note 23 to the financial statements. However, the following irregularities in the procurement process were noted.

#### **9.0 Delayed Delivery of Computers**

807. The Committee heard that included in the balance is Kshs.47,327,628 for computers and accessories out of which Kshs.7,275,320 was awarded for supply and delivery of computers on wheels. The contract was signed on 12 May 2023 for six (6) weeks, but the computers were delivered on 6 November, 2023 being six (6) months after the expiry of the contract. This was contrary to Section 48 (4) (c) of Public Procurement and Asset Disposal Act, 2015 which states that the inspection and acceptance committee shall ensure that the goods, works or services have been delivered or completed on time, or that delays have been noted.

#### **Management Response**

808. The Committee was informed that Management acknowledges the auditors' finding and responds as follows: M/s Intermass Technologies E.A Limited was indeed awarded the contract to supply computers on wheels to the Hospital on 12th May 2023 and the goods were delivered and received.

#### **Committee Observation**

The Committee observed computers worth Kshs.7,275,320 were delivered six (6) months after the expiry of the contract contrary to Section 48 (4) (c) of Public Procurement and Asset Disposal Act, 2015 which states that the inspection and acceptance committee shall ensure that the goods, works or services have been delivered or completed on time ,or that any delay has been noted

#### **Committee Recommendation**

The Committee reprimands the then accounting officer for contravening Section 48 (4) (c) of Public Procurement and Asset Disposal Act, 2015

### **10.0 Delayed Completion of Cancer Centre**

809. The balance also includes Kshs.117,789,538 for work in progress out of which Kshs.40,133,353 was for extension of cancer centre at a contract sum of Ksh.255,735,162 and was to be executed in two phases of eight-four (84) weeks. Review of progress report and physical verification in the month of December, 2024 revealed delayed completion of the project by six (6) months. Further, the project was extended to 30 January 2025 without evidence of recommendation from the evaluation committee. This was contrary to Section 139 (2A) of Public Procurement and Asset Disposal Act, 2015 which states that an accounting officer of a procuring entity on the recommendation of an evaluation committee or as prescribed in the signed contract agreement, may approve the request for the extension of the contract period, which request shall be accompanied by a letter from the tenderer making justifications for such extension.

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

### Management Response

811. The project was structured to compensate suppliers and contractors primarily through certificates, which represent completed work. However, due to the budget cuts the hospital has been unable to honor the contractors obligations Ultimately these issues not only affected the project completion but also led to expiry of the performance bond. A copy of Performance Bond is hereby attached

<b>The project was structured to compensate suppliers and contractors primarily through certificates, which represent completed work. However, due to the budget cuts the hospital has been unable to honor the contractors obligations Ultimately, these issues not only affected the project completion but also led to expiry of the performance bond. A copy of Performance Bond is hereby attached. Annex (xxi)</b>		
<b>Project Cost</b>		
<b>Budget Allocation by National Treasury (2021/22 and 2023/24)</b>		
<b>Disbursement received from National Treasury</b>		
<b>Donations received from Chandaria Foundation</b>		
<b>Total Amount Received</b>		
<b>Date Of Payment</b>		
<b>09.09.2022</b>	<b>Payment for Interim Certificate 1</b>	<b>38,524,057.40</b>
<b>22.11.2022</b>	<b>Payment for Interim Certificate 2</b>	<b>26,933,402.50</b>
<b>30.01.2023</b>	<b>Payment for Interim Certificate 3</b>	<b>12,381,023.00</b>
<b>24.08.2023</b>	<b>Payment for Interim Certificate 4</b>	<b>17,473,647.00</b>
<b>08.12.2023</b>	<b>Payment for Interim Certificate 5</b>	<b>37,417,500.00</b>
<b>13.02.2024</b>	<b>Payment for Interim Certificate 6</b>	<b>34,940,770.70</b>
	<b>Consultancy Fees Paid</b>	<b>16,907,580.00</b>
	<b>TOTAL PAID</b>	
	<b>Balance from Received Funds after Payments</b>	<b>2,072,669.40</b>
	<b>Funding Gap</b>	

### Committee Observation

The Committee observed that the project for extension of cancer centre was delayed by six months and later extended to 30 January 2025 without evidence of recommendation from the

evaluation committee for extension of contract duration contrary to contrary to Section 139 (2A) of Public Procurement and Asset Disposal Act, 2015 which states that an accounting officer of a procuring entity on the recommendation of an evaluation committee or as prescribed in the signed contract agreement, may approve the request for the extension of the contract period, which request shall be accompanied by a letter from the tenderer making justifications for such extension.

#### **Committee Recommendation**

The Committee reprimands the then Accounting Officer for contravening Section 139 (2A) of Public Procurement and Asset Disposal Act, 2015.

#### **10.0 Stalled Children Hospital Project**

812. The Committee heard that, included in the balance is Ksh.5,753,996,947 for land and buildings. Review of documents revealed that the Hospital has 64.53 hectares of land out of which the Children Hospital was allocated 11.57 hectares. Further, correspondences between the Hospital and the University revealed an allocation of Kshs.500million to start the project by 2015 which was utilized for construction of site houses, provision of amenities such as water, purchase of equipment & building materials and construction of Hospital foundation. However, review of documents and physical verification in the month of December, 2024 revealed that the project stalled in the year 2016 at foundation level.
813. In the circumstances, the value for money of Kshs.500million incurred towards the construction of Children Hospital could not be confirmed.

#### **Management Response**

814. The Children's Hospital Project was started by Kenyatta University and is yet to be handed over to the Hospital. As a result, the Hospital has had challenges getting sufficient funding for the project. The Management has been following up with Kenyatta University to ensure project continuity.

#### **Committee Observation**

**The Committee observed that** Kenyatta University was allocated Kshs.500 million at the start of 2015 for development of the Children Hospital on 11.57 hectares of land. This amount was utilized to construct site houses, provision of amenities purchase of equipment & building materials and construction of Hospital foundation. However, the project stalled at the foundation level and the available records and correspondences indicated that the project had not yet been handed over to KUTTRH by the University.

#### **Committee Recommendation**

##### **The Committee recommends that-**

Within three months upon adoption of this report, the Accounting Officer of Kenyatta University Teaching, Referral and Research Hospital (KUTTRH), in collaboration with the Cabinet Secretary for Health, the Cabinet Secretary for Education, the Cabinet Secretary for the National Treasury, and the Accounting Officer of Kenyatta University, to fast-track the process of handing over, funding and subsequently completion of the Children's Hospital to avoid further diminution in value due to wear and tear on exposure of the incomplete stalled structures.

Within three months upon adoption of this report, the Ethics and Anti-Corruption Commission (EACC) should initiate investigation into the utilization of the Ksh. 500 million allocated for the Children's Hospital project. The investigation should cover the tender advertising and awarding of the contract. If any officer is found culpable he/she should be personally liable and the DPP should initiate a legal process to recover the money so lost at the applicable CBK interest rate.

#### **11.0 Non-Compliance with the Ethnicity Rule**

815. The Committee heard that, during the year under review, 43% of members of staff were from one ethnic community and 39% of employees recruited in the year 2023/2024 were from the same ethnic group. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which stipulates that no public establishment shall have more than one third of its staff from the same ethnic community.
816. In the circumstances, Management was in breach of the law.

#### **Management Response**

817. The Committee was informed that-
- i The Management concurs with the findings of the auditor on the representation of 44% of the total staff population being from one (1) ethnic group.
  - ii The Kenya Population and Housing Census Report of 2019 outlines population of each ethnic group in Kenya where the above ethnic group with a majority staff population representation was reported to be at 17.13%.
  - iii Out of the forty-five (45) ethnic groups in Kenya, the Hospital had managed to recruit from twenty-eight (28) ethnic groups in an effort to have a Kenyan representation of the Hospital.
  - iv The Hospital has analyzed the data of representation and commits to progressively achieve compliance in the areas of under representation without compromising on merit requirements.
  - v To encourage more applicants from various communities to apply, and in order to avoid skewed representation, the Hospital's job adverts are placed in 'my Gov' pull out in daily newspapers with a wide circulation. Encouragement for candidates from diverse backgrounds to apply is deliberately included in the job adverts to encourage diversity in the applications.

#### **Committee's observations and recommendations**

The Committee observed that the issue of Non-Compliance with the Ethnicity Rule was deliberated in its second PIC-SSAA Report under Non-compliance with National Cohesion and Integration Act, 2008 and upholds the observations and recommendations therein.

### **FINANCIAL YEAR 2024/2025**

#### **1.0 Inaccuracies in Employee Costs**

818. The statement of financial performance and as disclosed in Note 12 to the financial statements reflects employee costs amount of Kshs.4,612,650,229. The amount includes housing benefits and allowances of Kshs.416,339,062 out of which Kshs.780,000 was paid to various members of staff in excess of the approved rates and an amount of Kshs.1,986,729 was paid using lower rates. Further, commuter allowance amount of Kshs.1,814,000 was paid to various staff above the approved rates while Kshs.1,517,135 was paid using lower rates.
819. In the circumstances, the accuracy of employee costs of Kshs.4,612,650,229 could not be confirmed.

**Management Response**

820. Management has reviewed the Auditor’s observation regarding the accuracy of employee costs amounting to Kshs. 4,612,650,229 as disclosed in Note 12 to the financial statements, particularly relating to housing and commuter allowances. We provide the following clarifications:

Management has reviewed the Auditor’s observation regarding the accuracy of employee costs amounting to Kshs.4,612,650,229 as disclosed in Note 12 to the financial statements, particularly relating to housing and commuter allowances. We provide the following clarifications:

**Housing Allowance**

In respect to overpayment of housing of Kshs.780,000, the table below summarizes the management responses which are detailed in the attached annex. **Annex 1.1(a)House Allowance -Over payment.**

<b>Housing Overpayment Summary</b>	<b>No. Of Entries</b>	<b>Amount</b>
Variance was as a result of Staff Grade change not accurately reflected in the Staff Compliment resulting from CBA negotiation with KMPDU for medical staff. The Compliment has since been updated to correct the error.	32	160,000
Variance was as a result of Staff Grade change not accurately reflected in the Staff Compliment resulting from review of terms. The Compliment has since been updated to correct the error.	106	620,000
<b>Total</b>	<b>138</b>	<b>780,000</b>

Similarly, in respect to underpayment of housing of **Kshs.1,986,729**, the table below summarizes the responses which are detailed in the attached annex.

**Annex 1.1(b)House Allowance -Under payment**

<b>Housing Underpayment Summary</b>	<b>No. Of Entries</b>	<b>Amount</b>
Staff Exit-House allowance prorated in the month of final dues after service period	65	1,040,548
Applied Contract rates as issued to staff and paid as per Board Approval of Sept 27, 2024 and arrears paid in Oct 2024	53	316,500
New Hires- Prorated house allowance with date of joining service	53	158,229
Recovery of salary Overpayment made from this allowance	3	30,000
Correction and rates applied as per Board Approval of Sept 27, 2024 and arrears paid in Oct 2024 and compliment updated to close the matter.	65	435,000
HRMAC-paid half of basic pay and prorated at commencement of suspension	1	6,452
<b>Total</b>	<b>240</b>	<b>1,986,729</b>

**Commuter Allowance**

**In respect to the finding of Kshs.1,814,000** paid above the approved rates, Management has summarized the responses as shown in the table below.

The detailed responses are in **Annex. 1.2 (a) Commuter Allowance-Over payment**

<b>Commuter Overpayment Summary</b>	<b>No. of Entries</b>	<b>Amount</b>
Paid as per Board Approved rates and Contracts Issued to Staff (SRC K6- Kshs8,000 while board approved Kshs12,000) Allowance paid in line with Staff Contracts (K5 & K7)	440	1,760,000
Staff compliment updated with Review of Terms letters issued to staff based on Board Approval	54	54,000
<b>Total</b>	<b>494</b>	<b>1,814,000</b>

**In respect to the finding of Kshs.1,517,135** paid below the approved rates,

Management has summarized the responses as shown in the table below. The detailed responses are in the annex.

<b>Commuter Underpayment Summary</b>	<b>No. of Entries</b>	<b>Amount</b>
Correction and rates applied as per Board Approval of Sept 2024 and arrears paid in Oct 2024 to close the matter	117	468,000
Staff Exits- prorated rates applied and processed after end of service period	63	267,187
New Hires- prorated pay with date of joining service applied	53	51,847
Recovery -correction of overpayments recovered from this allowance	8	40,000
Study Leave-HR Training policy application where staff on study leave do not qualify for commuter allowance	38	304,000
Prorated Salary for staff exits in July paid in August	1	3,096

HRMAC- Policy dictates half pay which is prorated at commencement	73	383,005
<b>Totals</b>	<b>353</b>	<b>1,517,135</b>

**Committee’s observations and recommendations**

The Committee had deliberated on the issue of inaccuracies in employee cost in its report for financial year 2021/2022, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations made therein.

**2.0 Unsupported Waiver of Patient Bills**

- 821. The Committee heard that the statement of financial performance and Note 17(a) to the financial statements reflects impairment of receivables amount of Kshs.139,270,498. The amount relates to waivers granted to patients due to their inability to pay for services rendered which was not supported by documents such as assessment reports and reasons for the waivers. In addition, a four-year trend analysis from 2021/2022 financial year revealed accumulated patient waiver amount of Kshs.669,781,907 to 30 June 2025.
- 822. In the circumstances, the accuracy and completeness of impairment of receivables amount of Kshs.139,270,498 could not be confirmed.

**Management Response**

- 823. Management informed the Committee that, the Hospital provides essential healthcare services to patients from diverse socio-economic backgrounds, including indigent and vulnerable groups who are occasionally unable to meet the cost of medical services rendered. In such cases, waivers are granted on humanitarian and social welfare grounds, consistent with the Hospital’s public service mandate to ensure equitable access to healthcare.
- 824. The hospital receives and onboards patient to the SHA platform on admission to try and reduce the burden to patients. However, waivers may arise from situations where the cost of care exceeds the amount covered by the Social Health Authority (SHA). For example, SHA covers only 12 days of ICU care, yet some patients require extended ICU stays, leaving them unable to settle the additional cost due to their socio-economic circumstances.
- 825. Management clarifies that all waiver cases have supporting assessment reports and documentation. The Hospital has an established procedure where each case is first evaluated by the Medical Social Worker, who compiles and presents the findings to the Waiver Committee. The Committee deliberates each case and makes recommendations to the Chief Executive Officer (CEO) for final approval. The hospital also receives court orders or directives from the Office of the Ombudsman compelling the hospital to unconditionally release patients or bodies.
- 826. See attached sample waiver committee reports and sample court order(s). Refer to Annex 2.

**Committee Observation**

The Committee observed that the Hospital granted waivers to patients amounting to Kshs.139,270,498 without any supporting documents. The waivers had accumulated to the tune of Kshs.669,781,907.

#### **Committee recommendation**

The Committee recommends that within three months upon adoption of this report the Accounting Officer together with the board should develop and approve a waiver policy that outlines the conditions necessary for granting such waivers, who is eligible and the process of identifying and assessing the needy cases, the documentation required and a final report by the vetting Committee established as per the policy this should be submitted to the National Assembly.

#### **3.0 Material Uncertainty Related to Going Concern**

827. The statement of financial performance reflects a deficit of Kshs. 526,433,084 from previous year's deficit of Kshs. 1,458,007,559 resulting in further depletion of retained earnings to negative Kshs. 1,447,239,496 from negative Kshs. 941,679,405 reported in previous year. In addition, the hospital has recorded deficits for two consecutive years which raises concerns about its ability to sustain operations and meet financial obligations as they fall due.
828. In the circumstances, the hospital is technically insolvent and may not be able to meet obligations as and when they fall due.
829. No management response was provided.

#### **Committee Observation**

The Committee observed that, the Hospital recorded a deficit of Kshs. 526,433,084 during the year under review. This position indicates that the Hospital is technically insolvent, and its continued ability to discharge its core mandate is heavily reliant on creditors and government grants.

#### **Committee Recommendation**

The Committee recommends that the Hospital to develop a comprehensive income generating strategies and ensure it operates efficiently within the approved budget and to avoid over commitment beyond its means.

#### **4.0 Unauthorized Expenditure**

830. The statement of comparison of budget and actual amounts reflects final budget expenses of Kshs.7,556,096,000. However, the approved budget reflects an amount of Kshs.1,346,760,875 for twenty-seven (27) items whose actual expenditure was Kshs.1,710,365,890 resulting to unauthorized over expenditure of Kshs.363,605,015. This was 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.
831. Failure to adhere to budget provisions may affect the planned activities of the Hospital.

#### **Management Response**

832. The hospital's recurrent budget earmarked for payment of salaries was cut by 30% at the beginning of the FY 2024-25. This shifted the burden of bridging the additional PE gap to be

catered for by Appropriations-in-Aid (AIA). The over-expenditure was mainly driven by the inadequate budget allocation for Personnel Emoluments (PE) and operations and maintenance.

833. Honourable members, the hospital was allocated 40% of its payroll costs by National Treasury. Consequently, the hospital has to prioritise the 60% from (AIA) collected to bridge the PE funding gap. As a result, the remaining AIA balance is insufficient to adequately cater for the other operational expenses, leading to the observed variances in several budget lines. In addition, carryovers from prior financial years further contributed to the observed over-expenditure. It is noteworthy that, cumulatively, the 10% threshold as stipulated by National Treasury Circular No. 22/2019 on revision of budget was not exceeded.
834. Management will henceforth be seeking approval of any expenditure before committing funds and will strengthen budget planning, enhance cost controls, and continue engaging the relevant authorities to ensure adequate budget allocation for PE to prevent similar occurrences in future financial periods.

#### **Committee Observation**

The hospital incurred unauthorized over-expenditure of Kshs. 363,605,015 across 27 budget items, in contravention of Regulation 52(1)(b) of the Public Finance Management (National Government) Regulations, 2015, which restricts AIE holders to spending only within approved limit. Over-expenditure may limit resources for planned critical hospital activities.

#### **Committee Recommendation**

The Committee reprimands the then Accounting Officer for breach of Regulation 52(1)(b) of the Public Finance Management (National Government) Regulations, 2015.

Further, the Accounting Officer should ensure at all times that the budgets are realistic, achievable, and always adhere to annual work plans, procurement plans, and revenue collection schedules in compliance with Regulation 44(2) of the PFM (National Government) Regulations, 2015.

### **5.0 Inadequacy of Debt Collection Strategies**

835. The statement of financial position reflects receivables from exchange transactions balance of Kshs.2,215,655,748 compared to Kshs.1,401,348,757 reported in financial year 2023/2024. However, there was no provision made for the balance of Kshs.1,401,348,757 which has been outstanding for over twelve months. Further, analysis revealed a turnover ratio of 2.36 translating to an average collection period of one hundred and fifty-five (155) days.
836. In addition, analysis of the ageing analysis revealed that trade receivables of Kshs.595,473,121 has been outstanding for more than one year. In addition, trend analysis revealed that corporate claims of Kshs.127,038,723 were due from twenty (20) providers for three years from 2020/2021 to 2022/2023 while one insurer had unsettled claims of Kshs.213,842,107 for the previous two financial years. Review of billing report revealed unclaimed outpatient bills of Kshs.53,391,255 and inpatient bills of Kshs.365,330,569 from Social Health Authority.
837. In the circumstances, the financial sustainability of the Hospital is affected due to huge accumulation of debts and the effectiveness of internal controls on collecting receivables could not be confirmed

#### **Management Response**

838. Management acknowledges the audit observation.

839. The Kshs.1,401,348,757 relates to the closing balance for FY 2023/24 as well as opening balance for FY 2024/25. The management made a provision for bad debts for individual debtors which are high risk debt, amounting to Kshs.61,689,592 for FY 2024/25 but did not provide for corporates, NHIF and SHA since these are collectible debts which the hospital is actively following up for settlement.
840. Kshs.1,401,348,757 comprises Kshs.857,391,612 relating to NHIF and Kshs.483,281,953 for corporates and Kshs.60,675,192 individual debtors. The management is reviewing the credit policy from 12 months to two years to accommodate the debtors who pay after the 12 months. The extended receivables collection period was primarily due to the transition from the defunct National Health Insurance Fund (NHIF) to the Social Health Authority (SHA) in October 2024. The total outstanding amount from NHIF to date is Kshs.1,062,786,715 whereas SHA had accumulated to Kshs.390,950,375 as at the end of June 2025 leading to a significant buildup of outstanding balances. The Kshs.127,038,723 relates to corporate clients, for whom the hospital has issued follow-up letters and suspended some of the accounts.
841. The Kshs.127,038,723 relates to corporate clients, for whom the hospital has issued follow-up letters and demand notices from time to time
842. Medical Administrators Kenya Limited (**MAKL**) had outstanding claims of Kshs.213,842,107, of which Kshs.113,788,071 had been paid as at December 2025. The management suspended this account due to non-payment and is following up with MAKL for full settlement before reinstating.
843. The unclaimed outpatient bills amounting to Kshs.53,391,255 and inpatient Kshs.365,330,559 reports were generated from the HMIS system, which had not yet been integrated with the SHA portal. SHA claims are processed exclusively through the SHA portal, which operates as an independent system separate from HMIS.
844. The hospital has submitted claims totaling Kshs.1,280,386,337 through the SHA portal. There are no unsubmitted claims.
845. Management is actively following up with the defunct NHIF and MOH to recover pending payments and therefore we cannot provide/write off the outstanding amount of Kshs.1,062,786,715 that is over one year as we are hopeful that we shall get the money.
846. Delays in remittances from corporate clients have also contributed to the prolonged collection period.
847. To mitigate these challenges, management has implemented the following measures:
- i Engagement with SHA: Continuous follow-up to expedite the processing and settlement of outstanding claims.
  - ii Recovery from NHIF: Active efforts to recover payments from the defunct NHIF.
  - iii Enhanced Credit Control: Strengthening the Credit Control Unit to monitor and follow up on all debtors effectively.

- iv Reconciliation Efforts: Ongoing reconciliation with insurance companies and corporate clients to verify and collect outstanding balances.
- v Policy Enforcement: Reinforcing adherence to the Credit Control and Insurance Policy, which stipulates a 60-day credit period for all new transactions.

848. Management remains committed to improving receivables management and enhancing the Hospital's financial sustainability.

#### **Committee Observation and Recommendation**

The Committee had deliberated on the issue of Long Outstanding Receivables in its report for the Financial Year 2023/2024, observed and made recommendations. Consequently, the Committee upholds the observations and recommendations therein.

#### **6.0 Long outstanding Payables**

849. The Committee heard that the statement of financial position and as disclosed in Note 25 to the financial statements reflects trade and other payables balance of Kshs.1,185,771,024. However, analysis of the ageing analysis revealed that Kshs.147,564,143 has been outstanding for more than one year.

850. Failure to settle debts when they are due distorts the budgeting process.

#### **Management Response**

851. The Committee was informed that Management acknowledges the auditors' findings and states that this was occasioned by constrained cash flow during the financial year and budget cuts in the year, as funds received were prioritized towards critical operational and statutory obligations to ensure continuity of essential services. KUTRRH will ensure that it tries to meet its obligations in line with the National Treasury Circular No. 7/2023 going forward. Find attached payment plan.

#### **Committee Observation**

The Committee observed that the hospital had not settled its debt to the tune of Kshs.147,564,143 for a period of more than one year. Failure to settle the debts when they fall risks expose the Hospital to risk of penalties and fines.

#### **Committee Recommendation**

##### **The Committee recommends that**

The Accounting should at all times ensure prompt settlement of financial obligations to avoid unnecessary disputes.

#### **7.0 Unresolved Prior Year Matters**

852. In the prior year's audit report, 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, respectively. Review of the status during audit of the Hospital in 2024/2025 revealed that the following matters remained unresolved as at 30 June, 2025.

## **Management response**

### **Inaccuracies in Employee Cost**

- 853. House Allowance- The Board corrected the anomaly to align with SRC rates as per Board approval of 27<sup>th</sup> Sept 2024. The arrears for the three months were paid in Oct 2024 payroll.
- 854. Responsibility Allowance - alignment of responsibility allowance is awaiting approval of the reviewed HR Instruments by PSC to allow engagement with SRC.
- 855. Board approval of 27<sup>th</sup> Sept 2024 and a copy of forwarding letter to PSC are available for confirmation.

### **8.0 Long Outstanding Receivables from Exchange Transactions**

- 856. Management is still following up on this issue.
- 857. Engagement with SHA: Continuous follow-up to expedite the processing and settlement of outstanding claims.
- 858. Recovery from NHIF: Active efforts to recover payments from the defunct NHIF.
- 859. Enhanced Credit Control: Strengthening the Credit Control Unit to monitor and follow up on all debtors effectively.
- 860. Reconciliation Efforts: Ongoing reconciliation with insurance companies and corporate clients to verify and collect outstanding balances.
- 861. Policy Enforcement: Reinforcing adherence to the Credit Control and Insurance Policy, which stipulates a 60-day credit period for all new transactions.
- 862. Management remains committed to improving receivables management and enhancing the Hospital's financial sustainability.

### **9.0 Land without Ownership Documents**

- 863. Management is still following up on this issue.

### **10.0 Budgetary Control and Performance**

- 864. The Hospital management continues to engage the relevant stakeholders through the budget supplementary process for an allocation to bridge the funding gap.

### **11.0 Delayed Delivery of Computers**

- 865. Management acknowledges the auditors' findings and responds as follows: M/s Intermass Technologies E. A Limited was indeed awarded the contract to supply computers on wheels to the Hospital on 12th May 2023. The computers on wheels were specialized and had to be imported which caused delays, the goods were delivered and received despite the delay.
- 866. Delayed Completion of Cancer Centre- Currently only one certificate remains pending from the initial contract, and we hope to finalize the payment in the FY25-26. We are seeking more funds to equip the building, and we hope to have a resolution on the funding gap affecting the equipment of the Cancer Centre extension.

### **12.0 Stalled Children Hospital Project**

867. The Children's Hospital Project was started by Kenyatta University; they were allocated 500 million for the project. The University is yet to hand over the project to KUTRRH. As a result, the hospital has had challenges getting sufficient funding for the project as well as implementing the project.
868. The Management of KUTRRH has made continuous efforts to engage Kenyatta University regarding the site handover and project continuity. Despite these efforts, there has been no conclusive resolution

### **13.0 Non-Compliance with the Ethnicity Representation**

869. The hospital has progressively reduced the percentage of the highest ethnic representation group from 46% (2021-2022) to 44% (2022-2023) to 42.6% (2023-2024).

#### **Committee Observation**

The Committee noted that the Hospital had not resolved several issues raise in the audit report contrary to section 31 of Public Audit Act 2015 which states a State organ or a public entity that had been audited shall, as a preliminary step, submit a report on how it has addressed the recommendations and findings of the previous year's audit

#### **Committee Recommendation**

The Committee reprimands the then Accounting Officer for breach of 31 of Public Audit Act 2015

### **14.0 Non-Compliance with the Ethnicity Rule**

870. The Committee heard that the Analysis of the staff compliment revealed that 43% of the employees were from one ethnic community. In addition, 34% of employees recruited during the year were from the one ethnic group. This was contrary to Section 7(2) of the National Cohesion and Integration Act 2008 states that no public establishment shall have more than one third of its staff from the same ethnic community.
871. In the circumstances, Management was in breach of the law.
872. The hospital has progressively reduced the percentage of the highest ethnic representation group from 46% (2021-2022) to 42.9% in FY 2024/2025.
873. Historically, the representation of the communities was mainly informed by the number of applications received from the advertised posts in which majority of the applicants were from neighbouring counties. However, the Hospital has progressively addressed the matter by increasing the diversity through enhancing the level of compliance to the National Cohesion Act going forward.
874. Given that the Hospital is yet to fill its full staff establishment, the remaining establishment targets to have not more than 33.33% of the staff from one community.
875. The Hospital's job adverts encourage applications from underrepresented communities. The advertisements are carried out in the government paper "MyGov" which is well circulated across the country.

#### **Current updates**

876. Management is committed to progressively ensure ethnic balance at both shortlisting and interviews whenever positions are advertised, to ensure no community is overrepresented

### **Committee Observations and Recommendations**

The Committee observed that the issue of Non-Compliance with the Ethnicity Rule was deliberated in its second PIC-SSAA Report under Non-compliance with National Cohesion and Integration Act, 2008 and upholds the observations and recommendations therein.

### **15.0 Procurement Irregularities**

877. The Committee heard that review of the procurement processes during the year under following unsatisfactory matters were noted.

### **16.0 Irregular Extension of Contracts**

878. Analysis of purchase orders revealed that goods valued at Kshs.351,111,314 were procured from various suppliers whose contracts ended in the year 2023 and Management extended these contracts and continued to trade with them without competitive bidding. This was contrary to Section 131(2) of the Public Procurement and Asset Disposal Act, 2015 which states that an accounting officer of a procuring entity, on the recommendation of an evaluation committee, may approve the request for the following, which request shall be accompanied by a certificate from the tenderer making a justification for such cost (a) extension of contract period.

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

880. Management notes the audit observation regarding the alleged irregular extension of contracts.

#### **Management Response**

881. The management informed the Committee that Based on the documents referenced in the audit findings, Tender No. KUTRRH/TNDR/G/002/SDP/2022-2023 commenced in February 2023. See Annex 7(a). In accordance with Clause 23.2 of the contract, the contract period is two years from the date of contract signing (Contract signing date 15th Feb 2023 – End date 14th Feb 2025), and therefore the contract remains within its valid contractual period.

882. Similarly, Tender No. KUTRRH/TNDR/G/094/SDRC/2022-2023 commenced in 11<sup>th</sup> December 2023 (see attached contract – Harely's Pharmaceuticals signed 5<sup>th</sup> February 2024 end date 10<sup>th</sup> December 2025). Clause 4 on contract duration clearly provides that the contract is valid for two years from the date of execution. This contract is also still within its active and lawful period.

883. Based on the above, the Hospital confirms that the referenced contracts have not been irregularly extended and continue to operate within their respective legally defined durations.

#### **Committee Observation**

The Committee observed that goods worth Kshs.351,111,314 were procured from suppliers whose contracts expired and were not extended contrary to Section 131(2) Public Procurement and Asset Disposal Act, 2015 which states that an accounting officer of a procuring entity, on the recommendation of an evaluation committee, may approve the request for the following, which request shall be accompanied by a certificate from the tenderer making a justification for such cost (a) extension of contract period.

#### **Committee Recommendation**

The Committee reprimands the then Accounting Officer for breach of Section 131(2) of the Public Procurement and Asset Disposal Act, 2015

### **17.0 Unsupported Legal Fees**

884. The Committee heard that the Use of goods and services amount includes legal costs amount of Kshs.3,235,650. However, review of payment records revealed that the procurement of legal

services did not indicate clear terms of engagement and contract details including contract number, contract sum, contract start date. This was contrary to Section 68(1) of the Public Procurement and Asset Disposal Act, 2015 which states that an accounting officer of a procuring entity shall keep records for each procurement for at least six years after the resulting contract has been completed or, if no contract resulted, after the procurement proceedings were terminated.

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

#### **Management Response**

886. Committee was informed that Management acknowledges the audit observation regarding the procurement of legal services. Management wishes to clarify that the legal services were procured under a valid and existing contract.

887. The legal firm is duly registered as a supplier in the hospital's procurement system, and all procurement processes were carried out in accordance with the Public Procurement and Asset Disposal Act, 2015, and the hospital's internal procurement procedures.

888. With respect to the contract sum, Management clarifies that legal services cannot be assigned a fixed contract value at inception. Each matter/instruction issued to the advocate is independently costed based on its nature and complexity. Fees are strictly guided by the provisions of the Advocates Remuneration Order, 2014, as expressly stipulated in the contract. Consequently, it is not practicable to predetermine or cap the overall contract sum.

889. Further, it was not possible to cap the contract term as the assignments envisaged in the contracts could not have been carried out within a foreseeable duration and are subject to judicial timelines and external factors beyond the control of the Hospital. Imposing a capped contract term could prejudice ongoing matters in court in the event the contract lapses before conclusion of proceedings.

890. Management will ensure that for all future procurement, there will be clear terms of engagement the contract details are clearly referenced on each instruction from the client to improve documentation and ease audit verification.

#### **Committee Observation**

The Committee observed that contract for legal services lacked clear terms of engagement and contract details making it impossible to determine the scope of the contract. This was contrary to Section 68(1) of the Public Procurement and Asset Disposal Act, 2015 which states that an accounting officer of a procuring entity shall keep records for each procurement for at least six years after the resulting contract has been completed or, if no contract resulted, after the procurement proceedings were terminated.

#### **Committee Recommendation**

The Committee reprimands the then Accounting Officer for breach of Section 68(1) of the Public Procurement and Asset Disposal Act, CAP 412C.

#### **18.0 Failure to Use E-Procurement System**

891. The Committee heard that Management did not use an E-procurement system. This was contrary to Regulation 54 of the Public Procurement and Asset Disposal Regulation, 2020 which requires procuring entities to have an e-procurement system to carry out the different procuring activities

from initiation of the procurement process to the tracking of payments and deliverables among other processes.

892. In the circumstances, management was in breach of the law.

#### **Management response**

893. The Committee was informed that the Hospital acknowledges the observation and responds as follows:

- a. The Hospital has been using its own Hospital Management Information System with different modules including procurement -:
- b. The Procurement Module was implemented in phases and currently the module is automated to perform the following procurement functions:
  - i) Generates Local Purchase Orders (LPOs) and Local Service Orders (LSOs)
  - ii) Fully supports inventory receipt through Good Receipt Notes (GRN).
  - iii) Facilitates distribution and management of inventory (Issue voucher)

894. The Hospital acknowledges the finding that the systems hasn't been able to provide end to end processes.

895. As provided under Regulation 54 of the Public Procurement and Asset Disposal Regulations, 2020, the National Treasury is currently. At the time of review, the Hospital was not yet onboarded but is already registered and started implementing on 7<sup>th</sup> October 2025 with publishing of Procurement Plan FY 25/26.

896. In view of the above, the Hospital confirms that it has not deliberately deviated from the applicable regulations and is taking all necessary steps to operationalize the eGP system. The Hospital remains committed to achieving full compliance with the National Treasury directives.

#### **Committee Observation**

Committee observed that the Hospital failed to use the approved E-procurement system contrary to Regulation 54 of the Public Procurement and Asset Disposal Regulation, 2020 which requires procuring entities to have an e-procurement system to carry out the different procuring activities from initiation of the procurement process to the tracking of payments and deliverables among other processes.

#### **Committee Recommendation**

The Committee reprimands the then Accounting Officer for breach of Regulation 54 of the Public Procurement and Asset Disposal Regulation, 2020.

### **19.0 Irregular Procurement of Medical Supplies**

897. The Committee heard that review of procurement records revealed that six (6) suppliers were contracted to install laboratory equipment in exchange for supply of laboratory reagents for a period of five years. Subsequently, renewable and reagents of Kshs.139,660,824 were supplied during the year. However, details on the cost of the equipment installed which forms the basis for recouping through supply of reagents were not provided for audit.

### **Management Response**

898. The management informed the Committee that placement of laboratory equipment is one of the options of acquiring laboratory equipment. It involves acquisition of an equipment at no capital cost on the equipment with an engagement on purchasing the reagents and consumables from the vendor who placed the equipment. This is given for a stipulated time e.g. 5 years. The acquisition through this mode, is done through an open tender. There are several cost benefits associated with placement of laboratory equipment and that is why the option is gaining momentum globally.
899. Further, a negotiation team was officially appointed and given TORs to renegotiate on prices of consumables for equipment under placement.
900. In the circumstances, value for money on the reagent's expenditure of Kshs.139,660,824 could not be confirmed.

### **Committee Observation**

The Committee observed that the Hospital engaged in a procurement arrangement where six suppliers installed laboratory equipment in exchange of reagent supplies over a period of five years. However, the method of procurement is not described in the Public Procurement and Asset Disposal Act CAP 412C, and it was not clear how the market values of the two products or how the suppliers were identified. Eventually, reagents worth Kshs.139,660,824 were supplied but the Hospital failed to disclose the cost of the equipment installed making it difficult ascertain the value for money.

### **Committee Recommendation**

The Committee recommends that;

Within three months upon adoption of this report, the Accounting Officer should submit a comprehensive analysis on how the values of the equipments and the reagents were determined and the technical advice and support offered by the PPRA if so sought in accordance with Section 9(1)(g) of the Public Procurement and Asset Disposal Act CAP 412C.

Within three months upon adoption of this report, EACC should investigate the procurement engagement with a view to establishing whether any form of irregularity or illegality was involved and whether value for money was achieved through the arrangement. If any officer is found culpable, he/she should be personally liable and the DPP to initiate legal proceedings to prosecute culpable officers.

## **20.0 Unconfirmed Testing of Health Products**

901. The Committee heard that review of the hospital management system revealed receipts of health medical drugs valued at Kshs.519,659,282 but there was no evidence of inspection and acceptance or testing to confirm that they comply with specifications approved by the Kenya Essential Medicines List of 2023. This was contrary to Section 35D(1)(c) of the Pharmacy and Poisons Act, 2012 which requires the National Quality Control Laboratory to test on behalf of the Government all locally manufactured and imported drugs or medicinal substances to determine whether they comply with the set rules.
902. In the circumstances, Management was in breach of the law.

### **Management Response**

903. The Hospital informed the Committee that

- i The Hospital procures medical drugs and related health products from prequalified suppliers and manufacturers who are duly licensed by the Pharmacy and Poisons Board (PPB). These suppliers are required to comply with all applicable regulatory standards, including product quality testing by the National Quality Control Laboratory (NQCL) as established under Section 35D(1)(c) of the Pharmacy and Poisons Act, 2012.
  - ii While the Hospital is not directly mandated to conduct laboratory testing of drugs upon receipt, it relies on the established regulatory oversight mechanisms to ensure the quality, safety, and efficacy of pharmaceuticals supplied. In particular, the Hospital depends on the role of the Pharmacy and Poisons Board (PPB) and the National Quality Control Laboratory (NQCL), which are responsible for verifying and authorizing both locally manufactured and imported drugs before they are allowed into the market.
904. In addition, as part of our evaluation criteria, all drugs must be registered and retained by the Pharmacy and Poisons Board of Kenya.
905. To further strengthen compliance and ensure the procurement of quality pharmaceuticals, the Hospital's procurement documentation requires suppliers to provide verifiable proof of the following for all pharmaceutical products:
- a) Valid Regulatory Approval (Note: import permits are only applicable for orphan drugs).
  - b) International Non-proprietary Name (INN) or British Approved Name (BAN).
  - c) Reference to an acceptable compendia or monograph, such as the British Pharmacopoeia (BP), United States Pharmacopoeia (USP), French VIPAL, International Pharmacopoeia, or relevant innovator product monograph, where applicable.
  - d) Full name and address of the manufacturer.
  - e) Detailed pharmaceutical formulation, strength of active ingredients, and unit of issue.
  - f) Clear indication of batch number, date of manufacture, and expiry date.
  - g) Specific storage instructions to ensure proper handling and preservation.
  - h) Directions for use, including route of administration, and, where applicable, instructions for reconstitution, dilution, and stability—all provided in English.
  - i) Assurance of integrity of external and internal packaging, labels, and closures.
  - j) Availability of appropriate dispensing measures, accessories, and consideration for ease of use.
  - k) Visual and physical consistency and uniformity in terms of formulation and cooler.
  - l) Proof of valid Marketing Authorization from relevant regulatory bodies.
906. These requirements, in combination with national regulatory mechanisms, form a robust quality assurance framework that the Hospital uses to ensure the integrity and therapeutic effectiveness of all drugs received through its procurement process.
907. To further strengthen internal assurance, the Hospital is taking steps to:
- a) Collaborate more closely with the Pharmacy and Poisons Board and the National Quality Control Laboratory to ensure routine post-market surveillance results are accessible;
908. The Hospital reaffirms its commitment to safeguarding public health and will continue to align its procurement and supply chain processes with applicable national laws and quality standards to ensure only safe, effective, and approved medical products are administered to patients.

### **Committee Observation**

The Committee observed that the Hospital did not undertake the testing of Health Products in compliance with Section 35D(1)(c) of the Pharmacy and Poisons Act, 2012 which requires the National Quality Control Laboratory to test on behalf of the Government all locally manufactured and imported drugs or medicinal substances to determine whether they comply

with the set rules. In particular, the Hospital lacked documented evidence of inspection and quality testing for drugs received worth Kshs.519,659,282 to confirm compliance with specifications approved by the Kenya Essential Medicines List of 2023.

### **Committee Recommendations**

Within three months upon adoption of this report, the Accounting Officer should submit to the National Assembly the documented mechanisms and procedures in place for ensuring that health products procured and in use by the facility adhere to the statutory medical standards required by the Pharmacy and Poisons Board (PPB) and the National Quality Control Laboratory (NQCL).

Within three months upon adoption of this report, the Pharmacy and Poisons Board (PPB) and the National Quality Control Laboratory (NQCL) to initiate investigation to establish whether the drugs supply to the Hospital have been in compliance with statutory quality standards set in the medical field. If anyone is found in violation, the DPP to initiate legal proceedings against the culprit.

#### **21.0 Delays in the Procurement Process**

909. The Committee heard that review of fifteen (15) sampled contracts revealed delays in the procurement process from tender opening to contract award for an average 331 days and in one case on the supply of pharmaceuticals, it took 147 days from the tender opening to evaluation and a further 594 days to award the tender. This was contrary to Section 80(6) of the Public Procurement and Asset Disposal Act, 2015 which requires evaluation be carried out within a maximum period of thirty days. In addition, analysis of goods received notes of medical commodities amounting to Kshs.441,235,574 revealed delays in deliveries ranging from 32 to 572 days without corrective actions being taken against the suppliers. This was contrary to Regulation 53(1) and (2) of the Public Finance Management (National Government) Regulation, 2015 states that 'A local purchase order or local service order shall be valid for a period of thirty days from the date of issue.

910. In the circumstances, management was in breach of the law.

#### **Management Response**

911. The Committee was informed that the Hospital acknowledges the observations raised by the Office of the Auditor-General regarding delays in certain procurement processes and supplier deliveries.

912. With respect to the timelines between tender opening and contract award, the delays were largely attributable to the complexity of technical evaluations for specialized medical commodities, budgetary alignment processes, and the need for clarifications from bidders. While these factors contributed to extended timelines, Management recognizes the requirement under Section 80(6) of the Public Procurement and Asset Disposal Act to complete evaluations within thirty (30) days and has since strengthened internal monitoring mechanisms to ensure strict adherence going forward.

913. Regarding delayed deliveries of medical commodities, some were affected by global supply chain disruptions and phased delivery arrangements based on hospital storage capacity and usage

needs. However, Management acknowledges that documentation and enforcement of contractual remedies require improvement.

914. To address the issues raised, the Hospital has implemented enhanced procurement planning, strict tracking of evaluation timelines, strengthened oversight by the Contract Implementation Committee, and reinforced supplier performance monitoring to ensure compliance with the Public Finance Management (National Government) Regulations and other applicable laws.
915. Management remains committed to full compliance with procurement and financial regulations and has taken corrective measures to prevent recurrence.

### **Committee Observation**

#### **The Committee observed that-**

- i. There were delays in contract evaluation and award, far beyond the statutory thirty-day limit under Section 80(6) of the Public Procurement and Asset Disposal Act, 2015 which requires evaluation be carried out within a maximum period of thirty days.
- ii. Medical commodities were delivered well past the thirty-day validity period of local purchase orders, contrary to Regulation 53 of the Public Finance Management (National Government) Regulations, 2015.

### **Committee Recommendation**

The Committee reprimands the then Accounting Officer for breach of Section 80(6) of the Public Procurement and Asset Disposal Act, 2015 and Regulation 53 of the Public Finance Management (National Government) Regulations, 2015.

Further, the committee recommends that within three months upon adoption of this report, EACC should investigate the delayed procurement proceedings with a view to establishing whether any form of irregularity or illegality either canvassing or other forms of collusion were involved and whether value for money was achieved in the event of the delay in form of price variations and fluctuations to benefit any party. If any officer is found culpable, he/she should be personally liable and the DPP to initiate legal proceedings to prosecute culpable officers.

### **22.0 Deficiencies in the Procurement Plan**

916. The Committee heard that, during the year under review, the consolidated procurement plan did not have description of the goods being procured, unit of purchase or issue, and quantity expressed in universally acceptable terms. This was contrary to Regulation 41(a) of the Public Procurement and Assets Disposal Regulation, 2020 which states annual consolidated procurement plan for each procuring entity shall include a detailed breakdown of the goods, works, or services required; and Regulation 42 of the Public Procurement and Assets Disposal Regulation, 2020 which states that Pursuant to section 53(2) of the Act, the annual procurement plan shall be done in accordance with the format specified in the Third Schedule.
917. In the circumstances, Management was in breach of the law.

### **Management response**

918. The Hospital informed the Committee that:

1. The Procurement Plan for FY 2024–2025 was prepared in accordance with Regulations 40(4) and 42 of the Public Procurement and Asset Disposal Regulations, 2020 and aligned with the Third Schedule – Threshold Matrix (Refer to Annex 13(a).

2. A detailed description of the goods, works, and services to be procured is documented in the respective Departmental Procurement Plans (Refer to Annex 13(b)).
919. In conclusion, the Hospital confirms that it has complied with all applicable laws, regulations, and best practices in the preparation, approval, and ongoing monitoring of the Procurement Plan for FY 2024–2025.

#### **Committee Observation**

The Committee observed that the Hospital's consolidated procurement plan lacked essential details such as item descriptions, units of purchase, and quantities contrary to Regulation 41(a) and 42 of the Public Procurement and Assets Disposal Regulation, 2020.

#### **Committee Recommendation**

The Committee reprimands the then accounting Officer and the then Head of procurement unit for breach of Regulations 41 and 42 of the Public Procurement and Asset Disposal Regulations, 2020. Further, the Committee recommends that the Hospital should at all times ensure compliance with the Public Procurement and Asset Disposal Act CAP 412C and the attendant Regulations, 2020.

#### **23.0 Stock Out of Medical Commodities**

920. The Committee heard that statement of financial position and as disclosed in Note 22 to the financial statements reflects inventory balance of Kshs.516,534,172 which includes pharmaceuticals balance of Kshs.69,402,247. However, review of inventory ledger revealed that five hundred and nine (509) commodities were out of stock while ten (10) commodities were below the minimum required stock levels resulting to missed sales amounting to Kshs.34,746,223.
921. In the circumstances, the effectiveness of controls over inventory management could not be confirmed.

#### **Management Response**

922. The Hospital informed the Committee that;
  - i The stock-out of the referenced medicines is primarily attributed to budgetary constraints. There is a high demand to ensure adequate provision of medicines to cover the full KUTRRH Pharmacy List, which consists of approximately 1,200 items. In addition, stock-outs have been brought about due to cash flow challenges necessitating the suspension or closure of our account by some suppliers, thereby affecting continued supply.
  - ii In accordance with the Procurement and Asset Disposal Act, 2015, procurement processes cannot commence without confirmed availability of funds. Consequently, the hospital's ability to maintain full availability of all medicines is significantly affected by these financial constraints.
923. Management will continue to ensure that all crucial and essential medicines are adequately budgeted for and planned, in line with existing regulations and legal requirements.

924. The Master Pharmaceuticals list, contains all products that the hospital needs while operating fully operational and the budget needs are met. At a given time an item can be out of stock because of the following :
- i When the budget available does not meet the requirements, stock optimization can be done to stock the strength of the drug that serves majority of patients. E.g Amoxicillin 500mg can be out of stock while 250mg is in stock as the 250mg can serve both adults and children.
  - ii Some services were not be available during the period of audit and hence the drugs used in those services were out of stock. E.g. in the 2024/2025 financial year, the hospital had not started offering the Kidney transplant services and as such the drugs for this service were not stocked but upon starting the procedures, those drugs were stocked

**Committee Observation**

The Committee observed that the Hospital experienced instances of commodities stock that led and could lead to lost sales during the year under review.

The Hospital attributed the stockout to cashflow challenges experienced by the hospital implying poor budgeting. This could have impacted negatively on the service delivery of the core mandate of the Hospital.

**Committee Recommendation**

The Committee recommends that within three months upon adoption of this report, the accounting officer should submit a comprehensive inventory and financial management strategy that ensure commodity stocks are monitored for re-order levels for restocking to ensure timely re-order, sustenance of quality medical service, safeguard service delivery and ensure compliance with its core mandate.

**24.0 High Mortality Rates**

925. The Committee heard that analysis of the Hospital mortality data revealed four hundred and thirty-four (434) live births out of which eleven (11) between 0-28 days died and seven (7) women died at birth translating during the year under review. This translates to neonatal mortality ratio of 25 per 1,000 births and maternal mortality ratio of 1,613 per 100,000 live births. In addition, fifty (50) children under five years also died at the hospital translating into a ratio of 115 per 1,000 live births. These ratios are higher than threshold set out under Sustainable Development Goal number 3 which targets to reduce global maternal mortality ratio by less than 70 per 100,000 live births, neonatal mortality to at least as low as 12 per 1,000 live births and under-5 mortality to at least as low as 25 per 1,000 live births.
926. In the circumstances, effectiveness of hospital services in managing mother and baby mortality rates could not be confirmed.

**Management response**

927. The management informed the Committee that as a national referral facility, KUTRRH receives a significant number of mothers who have undergone various procedures elsewhere, often without success. By the time they arrive at our hospital, many cases are complex or classified as high-risk. Despite these challenges, the hospital remains committed to achieving the best possible outcomes for both mother and child.
928. To strengthen oversight and drive continuous improvement, KUTRRH conducts monthly Maternal and Perinatal Death Surveillance and Response (MPDSR) meetings, as mandated by the Ministry of Health. These sessions provide a structured platform to review all maternal and infant mortalities, identify gaps, and implement corrective actions.

929. It is worth to note that the maternal mortality rates are comparable to other level 6 referrals in the region - over 1,000 per 100,000 live births, due to the referral nature of high-risk maternal patients from all over the country.

#### **Committee Observation**

The Committee observed that there were high cases of infant mortality rates with neonatal mortality ratio of 25 per 1,000 births more than double the Sustainable Development Goal number 3 target of 12 per 1,000 births. The maternal mortality ratio was recorded at 1,613 per 100,000 live births, far exceeding the SDG 3 threshold of less than 70 per 100,000 live births. Further, the under-five mortality ratio stood at 115 per 1,000 live births, compared to the SDG 3 target of 25 per 1,000 live births.

#### **Committee Recommendation**

Within three months of adopting this report, the PS state Department for Medical services and KMDPC should undertake a comprehensive review of the Hospital operation with a view to establishing and addressing the high mortality ratios and report to National Assembly on its findings and recommended remedies. If any officer is found culpable for negligence or medical malpractice, he/she should be personally liable and the DPP to initiate legal proceedings to prosecute culpable officers.

#### **25.0 Rejected Claims**

930. The Committee heard that analysis of billing reports revealed that four hundred and ninety-nine (499) patients accessed services of Kshs.41,435,823 but the related claims were rejected by the Social Health Authority due to failure to attach required documentation, provision of services beyond insured limits and offering uninsured services.
931. In the circumstances, the effectiveness of internal controls on management of claims could not be confirmed.

#### **Management Response**

932. The Committee was informed that management acknowledges the concerns and states that the rejected claims arose from several factors, including pre-authorizations were approved for specific procedures but later rejected at the point of claiming due to exceeding set limits and KUTRRH had no visibility of the limits at the point of pre-authorization.
933. Public Civil Servant cover claims that receive pre-authorization but are subsequently rejected during claim processing.
934. Claims flagged for missing documents despite the documents having been attached during submission and no pathway for resubmission.
935. The Hospital is actively following up the rejected claims with SHA for guidance and resolution, particularly regarding the Civil Servant medical cover and cases of exceeded limits where the Hospital does not have visibility on patient entitlement balances as well as in advising SHA on the challenges being encountered.
936. The management has submitted these claims to SHA requesting consideration as well as a resubmission pathway.

#### **Committee observation**

The Committee Observed that here were 499 patients accessed services worth Kshs.41,435,823, but the related claims were rejected by the Social Health Authority. The rejections arose from

missing documentation, provision of services beyond insured limits, and offering uninsured services.

The Committee further, observed that-

- i. Many claims were rejected due to missing documentation, even though documents had been attached during submission
- ii. Claims were rejected because services exceeded insured limits, yet the Hospital had no visibility of patient entitlement balances at the point of pre- authorization.
- iii. Certain claims, particularly under the Public Civil Servant medical cover, were pre- authorized but later rejected during claim processing.

### **Committee Recommendation**

Within three months of adopting this report, the Auditor-General conduct a forensic audit on the Social Health Authority review and processing of claims, including the pre-Authorization process, the management of accepted and reject claims, basis of rejections and eventual payment with a view to establishing the fairness and completeness of the process and report to the National Assembly (PIC-SSAA).

### **26.0 Long Waiting Time for Cancer and Cardiology Patients**

937. The Committee heard that review of patient booking records at the Cancer Treatment Centre revealed that patients wait for an average of sixty-two (62) days from the date of the booking to the availability of a clinic. Similarly, patients with heart conditions experience an average waiting period of eighty-two (82) days, with the waiting time ranging from thirty-one (31) to one hundred and thirty (130) days.
938. In the circumstances, the effectiveness of internal controls on managing cancer and cardiology patients could not be confirmed.
939. Kenya is facing a growing cancer crisis. Cancer has overtaken cardiovascular disease as the second leading cause of death in the country, accounting for approximately 24,000 deaths annually and 75 deaths every day. The burden is immense, with over 45,000 new cancer diagnoses reported each year.

### **Management esponse**

940. The Committee was informed that KUTRRH acknowledge the challenge of a six-week waiting time for new oncology consultations. This delay is driven by two key factors:
1. High Patient Influx: The rising cancer incidence nationwide, combined with a severe shortage of specialists—Kenya currently has only about 100–120 practicing oncologists for over 54 million people—creates bottlenecks in care delivery.
  2. Referral Pressure: Many regional cancer centers, including KNH, lack essential resources such as chemotherapy drugs, targeted therapies, and radiotherapy. As a result, patients increasingly seek care at KUTRRH, which offers comprehensive cancer services under one roof, including PET scans for staging, surgeries, targeted therapies, and radiotherapy. Some patients also visit for second opinions while continuing treatment elsewhere.

941. The General Oncology consulting clinic waiting time is currently at 1<sup>st</sup> April 2026 (5 weeks or 35 days). Mainly due to the staff shortage.
942. Despite the initial waiting period, once patients are seen, chemotherapy is typically initiated within one week. To address the backlog and improve access, management has taken decisive steps including:
- i. Recruitment: We have advertised positions for two clinical oncologists, one radiation oncologist, and one hematologist.
  - ii. Capacity Building: The hospital is currently training two clinical oncologists.
943. We are confident these measures will significantly reduce waiting times and enhance patient care.
944. For Radiotherapy Services: The waiting time is 3 months (18th May) down from previous 5-6 months. We experience machine downtime of 2-3 days per quarter due to breakdown- machines and maintenance of the machines and the hospital has a handicap having only one linear accelerator (Linac) machine. We are actively working with the Ministry of Health to secure a second Linac, which will further improve service delivery.

### **27.0 Cardiology Services**

945. We have a functional cathlab with almost 100% uptime, which means we have been getting referrals from all over the country as other units experience downtime (KNH) or are far (Coast General). This has put pressure on the cardiology services in terms of high number referred patients. So, all these patients have to pass through the clinic before they are booked for any Cath lab procedures.
946. The Hospital has 5 cardiology doctors with only 3 employed at KUTRRH and 2 empanelled doctors. The empanelled doctors work part-time, giving only 1 day per week to the Hospital. The Hospital needs full-time cardiologists to help reduce this by increasing the number of clinics and procedures. Not able to hire more doctors due to the PE budget issues. Also considering telemedicine for doctors to see patients.

### **Committee Observation**

#### **The Committee observed that-**

- i. At the Cancer Treatment Centre patients wait an average of 62 days from booking to clinic availability. Management attributes this to high patient influx, shortage of oncologists, and referral pressure from other facilities.
- ii. Patients with heart conditions experience an average waiting period of 82 days, ranging from 31 to 130 days, before accessing cardiology clinics. Management attributed the delays to high referral volumes, limited full-time cardiologists (only 3 employed and 2 part-time), and budgetary constraints preventing recruitment.

### **Committee Recommendations**

The Committee recommends that within three months of adopting this report, the PS Department of Medical Services should undertake a **comprehensive review** of the Hospital's cancer and cardiology services with a view to establishing financial and capacity gaps to improve effectiveness and efficiency. The report of the review should form the basis for the National Treasury, the Departmental committee for health and the Budget and appropriation Committee to review the budgetary allocations to the Hospital.

### **28.0 Trainings without Training Needs Assessments**

- 947. The Committee heard that a review of the training schedules revealed that these trainings were conducted without training needs assessments that identifies performance gaps and links the trainings to such gaps.
- 948. In the circumstances, the effectiveness of internal controls on assessing training needs could not be confirmed.

#### **Management response**

- 949. Management informed the Committee that Clause 11.4.1 of the KUTRRH HR Policies and Procedures Manual (Page 76) provides that a Training Needs Assessment (TNA) is required to be conducted every three (3) years to inform the development of the Annual Training Plan.
- 950. The last comprehensive TNA was undertaken in the FY 2022/23, and the Hospital recently concluded the subsequent assessment in the FY 2025/26, as communicated through the attached memo from the CEO inviting all staff to participate.
- 951. The resulting TNA report has since undergone review by the Staff Training Advisory Committee (STAC) and is in the process of adoption. Upon adoption, the report will form the basis for deriving the Annual Training Plan.
- 952. The TNA undertaken in the FY 2022/23 was therefore valid for the financial year under audit.

#### **Committee Observation**

The Hospital conducted trainings to its staff without determining the training needs by staff. In view of this the value for money might have not been achieved.

#### **Committee Recommendation**

The Committee recommends that within three months upon adoption of this report, Accounting Officer should develop a training needs assessment approved by the Board.

### **29.0 Underutilized Hospital Management Information System**

- 953. The Committee heard that the statement of financial performance reflects total expenses of Kshs.7,980,022,425. It was noted that Management procured a Hospital Management Information System (HMIS) in 2019 at a contract sum of Kshs.69,819,660. However, the expenditure modules have not been utilized since the system was procured and transactions were manually recorded on an excel sheet without clear references to budget and ledger entries.
- 954. In the circumstances, the effectiveness of internal controls on recording expenditures could not be confirmed.

#### **Management Response**

- 955. The Committee was informed that management acknowledges observation regarding the non-utilization of the expenditure modules within the Hospital Management Information System (HMIS). While these modules are yet to be fully operationalized, the expenditure transactions recorded manually on Excel were properly referenced to the approved budget lines and corresponding ledger entries. Therefore, the manual process did not compromise the traceability or accuracy of the underlying financial information.
- 956. The delay in activating the HMIS expenditure modules arose from system configuration challenges and pending integration with the existing financial reporting structure.
- 957. To address this gap, Management has initiated the following actions:

**30.0 System Configuration and Integration**

958. The HMIS vendor has been engaged to finalize the configuration of expenditure, budget, and general ledger modules to ensure full functionality and seamless integration with the Hospital's financial systems.

**31.0 Strengthening Internal Controls**

959. Management is reinforcing internal controls to ensure a phased transition from manual Excel-based processing to a fully system-driven process in line with PFM regulations.

**32.0 Progressive Automation**

960. Full utilization of the HMIS expenditure modules is being prioritized, with the goal of eliminating manual processes to enhance accuracy, efficiency, and auditability.

961. Management remains committed to strengthening financial reporting processes and ensuring compliance with Regulation 23(1)(d) of the Public Finance Management (National Government) Regulations, 201

962. There is currently an ongoing audit by the ICT-Authority of Kenya on the HMIS functionality so that the hospital can know the next steps on matters

**Committee Observation**

The Committee noted that despite significant investment of Kshs.69,819,660 in a Hospital Management Information System (HMIS), the expenditure modules remain unutilized, with financial transactions still being processed manually through excel. This reliance on manual recording undermines the intended automation hence value for money not being achieved.


**Committee Recommendation**

The Committee recommends that within three months upon adoption of this report, the Accounting officer should ensure that all the procured modules in the system are operational, staff are trained on its use and a monitoring report of its functionality of the Hospital Management Information System (HMIS) submitted to the National Assembly and the Auditor-General.

Signature.....  


Date.....  
*12/03/2026*

**HON. EMMANUEL WANGWE CBS, MP**  
**CHAIRPERSON – PUBLIC INVESTMENTS COMMITTEE ON SOCIAL SERVICES,**  
**ADMINISTRATION AND AGRICULTURE**

 <b>THE NATIONAL ASSEMBLY</b> <b>PAPERS LAID</b>	
DATE: <b>12 MAR 2026</b>	DAY: <b>THUR</b>
TABLED BY:	<i>Spkny Leader of the Majority Party</i> <b>KEN. DILEN BAIAM</b>
CLERK-AT THE-TABLE:	<b>MERCY CAUMO</b>



THE NATIONAL ASSEMBLY  
13<sup>TH</sup> PARLIAMENT – FIFTH SESSION (2026)

PUBLIC INVESTMENTS COMMITTEE ON SOCIAL SERVICES  
ADMINISTRATION & AGRICULTURE

REPORT WRITING ADOPTION LIST

6 6/3/2025

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