



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT- SECOND SESSION

THE NATIONAL ASSEMBLY

THE NATIONAL ASSEMBLY
PAPERS LAID

DATE: 24 JUN 2023

DAY:
Tuesday

TABLED
BY:
CLERK-AT
THE-TABLE:

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20/6/23

THE FIRST REPORT OF THE
PUBLIC INVESTMENTS COMMITTEE ON GOVERNANCE & EDUCATION

ON THE EXAMINATION OF THE REPORTS OF THE AUDITOR GENERAL ON THE
FINANCIAL STATEMENTS OF STATE CORPORATIONS (REGULATORY AND
GOVERNANCE AGENCIES) FOR THE FINANCIAL YEARS 2018/19, 2019/20 &
2020/21

Directorate of Audit, Appropriations & Other Select Committees

The National Assembly

Parliament Buildings

NAIROBI

JUNE 2023

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LIST OF ABBREVIATIONS/ACRONYMS

Ag.	-	Acting
CEO	-	Chief Executive Officer
CS	-	Cabinet Secretary
DCI	-	Directorate of Criminal Investigations
EACC	-	Ethics and Anti-Corruption Commission
ERP	-	Enterprise Resource Planning
FY	-	Financial Year
GoK	-	Government of Kenya
IAS	-	International Accounting Standards
IPSAS	-	International Public Sector Accounting Standards
KES/ KSHS.	-	Kenya Shillings
MD	-	Managing Director
PFMA	-	Public Finance Management Act, No. 18 of 2012
PPAD	-	Public Procurement and Asset Disposal Act, No. 33 of 2015

CHAIRPERSON'S FOREWORD

The Public Investments Committee on Governance and Education (hereinafter referred to as “the Committee”) 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 probity, efficiency, and effectiveness in the use of public funds. The Committee is established pursuant to National Assembly Standing Order 206 to examine the working of public investments based on their audited reports and accounts. This ensures implementation of *Article 229(8)* of the Constitution of Kenya, 2010 on reports laid before the House by the Auditor-General. The Committee was hived off the hitherto singular Public Investments Committee, alongside two others, for efficiency of examination of audit reports.

In examination of the reports, the Committee determined to go back three financial years, after analysis showed that matters beyond that time had either been overtaken by events, or those that were outstanding and needed address had been recurring in subsequent audits.

The Committee resolved to examine the reports of the Auditor General based on regional domicile of each agency and the nature of operations of the agency, to enable an organized schedule of hearings, countrywide. This report is the first of such and covers state agencies domiciled with the Nairobi and Central regions.

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

This report contains observations, findings and recommendations arising from examination of reports of the Auditor-General for twenty-three (23) state corporations for three financial years running up to the latest, 2020/21 FY. The report is structured as follows:

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

In this report, the Committee makes policy recommendations that it deems will cure financial and audit challenges and at the same time recommends specific actions against specific officers who may have acted contrary to the law. It further recommends further investigations of certain matters by the relevant investigative agencies such as the EACC and the DCI. All this is geared towards ensuring prudent use of public resources and holding all persons that have misappropriated public funds accountable, in accordance with Article 226 (5) of the Constitution.

The Committee appreciates the Offices of the Speaker and the Clerk of the National Assembly for the support accorded to it to enable it to perform its mandate. The Committee further extends its appreciation to the Office of the Auditor-General for the services it offered to the Committee during the entire period, as well as those Accounting Officers who complied with audit timelines, and provided satisfactory responses to queries raised.

I also extend my appreciation to my fellow Members of the Committee and the secretariat whose immense 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 Governance and Education, and pursuant to National Assembly Standing Order 199(6), it is my pleasant duty and honour to present to the 1st Report of the Public Investments Committee on Governance and Education on Audited Financial Statements for twenty-three (23) State Corporations.

HON. WANAMI WAMBOKA, MP

**CHAIRMAN, PUBLIC INVESTMENTS COMMITTEE ON GOVERNANCE AND
EDUCATION**

EXECUTIVE SUMMARY

The 1st Report of the Public Investments Committee on Governance and Education (PIC-G&E) contains the Committee's examination of audited financial statements of twenty-three (23) State Corporations.

In its examination and scrutiny of the audited financial statements of the various State Corporations, the Committee's primary approach was to elicit background information as to why particular course of financial and/or management actions were or were not taken. This was done guided by the relevant public financial management principles in the Constitution of Kenya, 2010, the Public Audit Act, 2015, the Public Finance Management Act, 2012 and the attendant Regulations, the Public Procurement and Asset Disposal Act, 2015 and the attendant Regulations, the International Public Sector Accounting Standards (IPSAS) and the International Financial Reporting Standards (IFRS) relevant for commercial state corporations.

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 in the discharge of its mandate.

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

Part three of the report contains reports of the specific State Corporations whose financial statements were examined; the financial years considered for each state corporation; the specific audit reservations raised by the Auditor-General in each financial year; management response to each audit reservation raised by the Auditor-General; Committee observations/ findings after consideration of the respective audit reservation; and finally, Committee recommendations on each audit query.

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Public Investments Committee on Governance and Education is established under the National Assembly Standing Order (S.O.) 206 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 the public investments;
 - ii. examine the reports, if any, of the Auditor-General on the public investments; and
 - iii. examine, in the context of the autonomy and efficiency of the public investments, whether the affairs of the public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices.
2. The Committee in considering the Audited accounts of State Corporations is guided by the Constitution of Kenya and the following statutes and codes/regulations in undertaking its mandate: -

a) Chapter Twelve of the Constitution on Public Finance

Part I-Principles of Public Finance

Article 201 sets out the principles of public finance which includes: -

- openness and accountability, including public participation in financial matters (Article 201(a)); use of public money in a prudent and responsible way (Article 201(d)); and
- responsible financial management and clear fiscal reporting (Article 201(e)).

Part 6-Control of Public Money

Article 226 deals with the accounts and audit of public entities and provides that:

- the accounting officer of a national public entity is accountable to the N.A for its financial management(Article 226(2)); and
- the holder of a public office, including a political office, who directs or approves the use of public funds contrary to law or instructions, is personally liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not (Article 226(5)); and

Article 227 deals with the procurement of public good and services. Article 227 (1) in particular, provides that “when a State 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”.

the Public Finance Management Act, No. 18 of 2012

Section 68 sets out the responsibilities of accounting officers for national government entities, Parliament and the Judiciary. This includes accountability to

the National Assembly for ensuring that the resources of the respective entity for which he or she is the accounting officer are used a lawful, authorized, effective, efficient, economical and transparent manner (section 68(1)).

Section 72 focuses on the accounting officers' responsibility to manage the assets and liabilities of national government entities.

Apart from the above-named laws, the Committee was further guided by the following: -

- (i) the Parliamentary Powers and Privileges Act, No. 29 of 2017;
- (ii) the Public Finance Management (National Government) Regulations, 2015;
- (iii) the Public Procurement and Asset Disposal Act, No. 33 of 2015;
- (iv) the Public Procurement and Asset Disposal Regulations, 2020;
- (v) the State Corporations Act, No. 11 of 1986;
- (vi) the Public Audit Act, No. 34 of 2015;
- (vii) The Fair Administrative Action Act, No. 4 of 2015;
- (viii) the Accountants Act, No. 15 of 2008; and
- (ix) the National Assembly Standing Orders

1.2 Committee Membership

3. The Committee comprises of the following fifteen (15) Members;

Chairperson

The Hon. Wanami Wamboka, M.P.
Bumula Constituency
DAP-K Party

Vice Chairperson

The Hon. Naisula Lesuuda, OGW, MP
Samburu West

Kenya African National Union (KANU)

The Hon. (Amb.) Francis Sigei, EBS, MP
Sotik
UDA Party

The Hon. Mark Mwenje, MP.
Embakasi West Constituency
Jubilee Party

The Hon. Thuddeus Nzambia, MP.
Kilome Constituency
WDM Party

The Hon. James Wamacukuru, MP.
Kabete Constituency
UDA Party

The Hon. Maurice B. Kakai, MP.
Kiminini Constituency
DAP-K Party

The Hon. Rebecca Tonkei, MP.
Narok County
UDA Party

The Hon. Alfah Miruka, MP.
Bomachoge Chache Constituency
UDA Party

The Hon. Bonaya Gollo, MP
Isiolo County
Jubilee Party

The Hon. Shadrack Mwiti, MP.
Imenti South Constituency
Jubilee Party

The Hon. Moses Kirima, MP
Imenti Central Constituency
UDA Party

The Hon. Daniel Karitho, MP
Igembe Central Constituency
Jubilee Party

The Hon. Chiforomodo Munga, MP
Lungalunga Constituency
UDM Party

The Hon. Joseph Tonui, MP
Kuresoi South Constituency
UDA Party

1.3 Committee Secretariat

4. The secretariat facilitating the Committee comprises the following technical staff;

Mr. Victor Weke

Senior Clerk Assistant/ Lead Clerk

Mr. Victor Mutugi

Clerk Assistant III

Ms. Jane Ouko

Clerk Assistant III

Ms. Faith Chepkemai

Legal Counsel II

Ms. Eunice Liavuli

Research Officer III

Mr. Edwin Machuki

Fiscal Analyst II

Ms. Georgina Okoth

Research Officer III

Mr. Collins Mahamba

Audio Officer

Mr. Albert Atunga

Sergeant at Arms

Mr. Jared Onyancha

Protocol Officer

Mr. Derrick Kathurima

Media Relations Officer

1.3 Committee proceedings

5. To produce this report, the Committee held eighteen (18) sittings in which it examined the Reports by the Auditor-General on the financial statements of twenty-three (23) State Corporations.
6. In its inquiry into whether the affairs of public investments are managed in accordance with sound business principles and prudent commercial practices, the Committee heard and received both oral and written evidence from Chief Executive Officers, Principals and Directors-General (Accounting Officers) of various State Corporations and other relevant witnesses.
7. The Committee recommendations on the issues raised by the Auditor-General for the various State Corporations are found under appropriate sections of the report on each of the State Corporations examined.

8. 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 made in the governance and education sectors as a whole.

2.0 GENERAL OBSERVATIONS AND RECOMMENDATIONS

9. In consideration of reports of various state agencies, the Committee encountered cross-cutting and at times recurring matters that informed the general observations and recommendations. Specific observations and recommendations are however made in relation to the respective agency.

2.1 Poor accounting standards and general incapacity of some accounting officers

10. The Committee found that due to previous lack of exposure to the audit process culminating in parliamentary review, some accounting officers were ignorant of/ or non-compliant with the various provisions of the PFM Act, 2012 and Public Audit Act, 2015. Audit queries spanning as far back as FY 2018/19 remained unresponded to by some agencies who were only jolted to action once invited by the Committee.

The Committee recommends that the National Treasury and the Office of the Auditor-General conducts annual sensitization and capacity building for all accounting officers and finance staff in State Corporations on their responsibilities during the audit cycle and adherence to IPSAS.

2.2 Late submission of supporting documentation

11. The Committee observed that some accounting officers failed to submit supporting documentation to the Auditor-General on time (during the audit cycle) as required under section 68 of the PFM Act and section 13 of the Public Audit Act. This invariably led to the Committee discussing matters that should ordinarily not feature in the final report, some as mundane as accounts not balancing.

The Committee recommends that Accounting Officers henceforth comply with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act and Public Audit Act, by providing supporting documentation on time. The Committee in subsequent audits will prescribe punitive measures to those accounting officers that fail to adhere to requirements of the law in this regard.

2.3 Unsecured/ untitled land holdings

12. The Committee also observed cases where land held by various institutions were not secured and titled accordingly. This led to encroachment in some cases, with the potential of eventual forfeiture or loss.

The Committee recommends that the National Land Commission and the relevant ministries immediately ensure that all State Corporations secure titles to all their parcels of land. These institutions and the National Treasury must also prioritize fencing off of all land holdings to

forestall further encroachment. The Committee recommends that encroachers face full extent of the law, and are evicted and charged in court.

2.4 Long outstanding construction works

13. The Committee encountered cases where construction projects in some State Corporations had taken inordinately long to complete, leading to escalating costs through accrued interest and prolongation costs. A classic case is the new Mitihani House by KNEC that has taken thirty-seven (37) years to complete, spanning seven different contracts.

The Committee recommends that the National Treasury should only approve projects that it can guarantee funding and completion within the medium-term economic framework.

2.5 Expensive consultancies

14. Related to long outstanding construction works discussed above, the Committee observed that some projects had huge components for consultancies for project conception (architectural drawings) and supervision. Given that the consultants deliver their project designs, beforehand, public agencies are forced to pay them upfront, from meagre resources that would otherwise be directed towards construction. This state of affairs has been compounded by a weak public works function that would ordinarily oversee public projects.

The Committee recommends that the Ministry responsible for public works revamps the Public Works Department and employs adequate and competent staff. Moreover, certain technical institutions including the Kenya Technical Training College (K TTC) undertake technical training in public works and related technical skills and may assist the government in the management of government projects. K TTC has now been engaged by KNEC to complete the new Mitihani House through government-to-government arrangements. The relevant Departmental Committee should consider amending the Public Procurement and Assets Disposal Act, 2015 to provide for first priority consideration of government agencies that have the capacity to provide certain services.

2.6 Failure to adhere to gender, ethnicity, regional balance and other considerations in staffing

15. A number of institutions had skewed ethnic diversity within their staff complement especially at the senior management level. This was especially manifest in those agencies domiciled in areas predominantly inhabited by a particular ethnic community. Despite explanations from Accounting Officers that the lack of diversity was prevalent in the lower cadres, the Committee is of the view that with the rife unemployment countrywide, attracting an ethnically diverse pool of applicants for advertised jobs was tenable.

The Committee recommends that all public agencies must comply with the constitutional provision on equity and inclusiveness buttressed by the National Cohesion and Integration Act, No. 12 of 2008.

Further, the Committee recommends that the National Cohesion and Integration Commission together with the Inspectorate of State Corporations conduct bi-annual examination of ethnic composition in these state-owned enterprises, to confirm compliance with the constitutional and statutory requirements.

3.0 CONSIDERATION OF THE REPORTS OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF SPECIFIC STATE CORPORATIONS

3.1 KENYA INSTITUTE OF SPECIAL EDUCATION (KISE)

16. Dr. Norman Kiogora, Director, led his team in adducing evidence on the audited accounts of Kenya Institute of Special Education (KISE), on 8th March 2023.

3.1.1 Audited Financial Statements for Financial Years 2018/19 and 2019/2020

17. The institute had no audit queries in the subject financial years.

3.1.3 Audited Financial Statements for Financial Year 2020/21

3.1.0 Inaccuracies in Cash and Cash Equivalents

18. The statement of financial position and as disclosed in Note 20 to the financial statements reflects cash and cash equivalents of Kshs.124,968,954. Review of the records provided for audit revealed that the KCB Fee Collection Account and KCB Call Accounts shared the same account number. Management did not provide for audit the bank statement for the KCB Call Accounts and supporting documents for the balance of Kshs.104,790,000 reported under KCB Call Accounts. In addition, the movement in balances of the Call Account from the previous financial year of Kshs.30,000,000 to the current financial year of Kshs.104,790,000 was not supported.
19. In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.124,968,954 could not be confirmed.

Management Response

20. The Institute negotiated with KCB Bank with the intention to earn some interest on the amounts available in the fee collection current account. To facilitate this, the bank placed the amount on call. The schedule for the movement represented by a ledger for the Call deposits is available and maintained as a control record. All movements in tranches originate from and are liquidated to KCB Bank A/c 1128797836 whose statement we provided as well as the confirmation statement for the call account. It is our submission therefore, that reconciliation of amount held in call is ascertainable at any point in time.

Committee Observations

21. The Committee observed that the matter had been resolved.

Committee Recommendation

22. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, by providing supporting documentation to the Auditor General on time.

Unsupported Fees and Student Contribution

23. The statement of financial performance and as disclosed in Note 8 of the financial statements, reflects fees and student contribution amounting to Kshs.73,555,096. The fees and students' contribution include administration fees and activity fees amounting to Kshs.9,018,100 and Kshs.346,000 respectively. However, the amount could not be confirmed as information and documentation relating to the student population was not provided to give a basis for confirmation.
24. In the circumstances, the accuracy and completeness of fees and student contribution of Kshs.73,555,096 could not be confirmed.

Management Response

25. The student population is available and the amounts were constituted using the applicable fee structures. The Institute's residential students pay activity fees at Kshs. 2,000 per student and the 173 students who joined in 2021 were invoiced as applicable. The administration fees is paid at varying amounts for respective programs, year of study and the term in question.

Committee Observations

26. The Committee observed that the matter had been resolved.

Committee Recommendation

27. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, by providing supporting documentation to the Auditor General on time.

3.1.1 Unsupported Trade and other Payables

28. The statement of financial position and Note 25 to the financial statements reflects a trade and other payables balance of Kshs. 19,591,079. The amount includes an amount of Kshs. 8,805,480 due to the Kenya National Examinations Council while the council's book reported a nil balance resulting in an unexplained and unreconciled variance of Kshs.8.805,480. Further, the amount includes an amount of Kshs.7,034,566 due to JKUAT&SABs project office, an amount that is not reflected in the accounting of the University. Consequently, the accuracy of trade and other payables balance of Kshs. 19,591,079 as at 30 June, 2021 could not be confirmed.

Management Response

29. The KNEC liability was recognized based on the number of students already uploaded on KNEC SNE Exam platform as at end of the year. Whilst only proformas were already issued on the platform, the Institute deemed it prudent to recognize the obligation. The process of

registration and payment was not completed until after 30th June 2021. The JKUAT &SABs office debt arose from a consultancy work on a construction project. The amounts were anchored on an MoU between the two organizations. This was before JKUAT formed JKUATES which now raises invoices for such arrangements. This could be the possible reason they may have missed the revenue and the respective debt. The Institute has since settled the amount and we expect the revenue to be effectively recognized on the other end. We avail with this response the confirmation of this discharge from JKUATES.

Committee Observation

30. The Committee observed that the matter had been resolved.

Committee Recommendation

31. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, by providing supporting documentation to the Auditor General on time.

3.1.2 Unsupported Refundable Deposits from Customers

32. The statement of financial position and as disclosed in Note 27 to the financial statements reflects a balance of Kshs.19,984,633 in respect of refundable deposits from customers. The balance includes an amount of Kshs.13,196,480 refundable to Kenya National Examination Council (KNEC) which was not reflected in the KNEC's accounting records resulting in an unexplained and unreconciled variance of the same amount. Further, the Institute Management did not provide supporting evidence for fees by sponsors amount of Kshs.4,232,329.
33. In the circumstances, the accuracy and completeness of refundable deposits from customers amounting to Kshs.19,984,633 could not be confirmed.

Management Response

34. The KNEC fees account is a clearance account that acts as a control for funds received from students meant to cater for KNEC exams registration. This is to ensure that such funds are not used in other areas of expenditure. It does not represent the amount owed to KNEC, but rather obligation of the Institute to register students, when time for registration is due. As at 30th June 2020, the amount had not been paid though collected from students.

Committee Observations

35. The Committee observed that the matter had been resolved.

Committee Recommendation

36. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, by providing supporting documentation to the Auditor General on time.

3.1.3 Unsupported and Unexplained Deferred Income

37. The statement of financial position and Note 26 to the financial statement reflects deferred income amounting to Kshs.9,811,116. However, the movement of the balance from the previous year of Kshs.42,858,379 was not supported by an equivalent recognition of the income amounting to Kshs.33,047,263 in the statement of financial performance. Further, the deferred income includes an amount totalling Kshs.6,854,631 that had no movement in the financial year 2018/2019.
38. In the circumstances, the completeness and accuracy of accounting of deferred income amounting to Kshs.9,811,116 could not be confirmed.

Management Response

39. The explanation has been done by the management in form of a table which could not fit in the relevant template.

Committee Observations

40. The Committee observed that the matter had been resolved.

Committee Recommendation

41. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, by providing supporting documentation to the Auditor General on time.

3.1.4 Unsupported Research Expenses

42. The statement of financial performance reflects operations and maintenance amount of Kshs.77,128,996 and as detailed on Note 13 to the financial statements. Included in this amount is research expenses of Kshs.2,220,871 out of which an amount of Kshs.400,000 was not supported with details of services rendered and goods supplied.
43. In the circumstances, the accuracy and completeness of research expenses of Kshs.2,220,871 could not be confirmed.

Management Response

44. The payment of the Kshs 400,000 has been explained and the necessary documents now provided.

Committee Observations

45. The Committee observed that the matter had been resolved.

Committee Recommendation

46. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, by providing supporting documentation to the Auditor General on time.

3.1.5 Unsupported Receivable from Exchange Transactions

47. The statement of financial position and as disclosed in Note 21 to the financial statements reflects receivables from exchange transactions of Kshs.65,421,637. The following anomalies were observed;
- i) The student debtors listing had a total of 5,462 student debtors while the Institute's capacity is less than 500 students in a year. Review of the debtor listing revealed that there were debtors with outstanding amounts of more than ten (10) years raising doubt on the recoverability of the students' debts;
 - ii) The trade debtors balance of Kshs.7,0372,520 includes amounts of Kshs.3,135,437 in respect of receivables from various entities that were not reflected in the balance of their respective accounting records as detailed below;

Name of Entity	Balance as Per KISE Financial Statements (Kshs.)	Balance as Per Entity (Kshs.)	Unreconciled Variance (Kshs.)
Higher Education Loans Board	737,920	-	737,920
Kenya National Commission for UNESCO	30,000	-	30,000
Kenya Literature Bureau	215,517	-	215,517
Kenya Pipeline Company	1,179,000	-	1,179,000
Maseno University	1,000,000	-	1,000,000
Total	3,135,437		3,135,437

- iii) The general debtors' balance of Kshs.10,937,830 includes amounts receivable from various institutions which are not included in the entity accounting records as detailed below;

Name of Entity	Balance as Per KISE Kshs.	Balance as Per Entity Kshs.	Unexplained and Unreconciled Amount Kshs.
Ministry of Education	1,993,000	-	1,993,000
Teachers Service Commission	253,080	-	253,080
Jomo Kenyatta Foundation	498,500	-	498,500
Directorate of Personnel Management	630,000	-	630,000
Total	3,374,580		3,374,580

48. In the circumstances, the accuracy, completeness, recoverability, and validity of receivables from exchange transactions of Kshs.65,421,637 could not be confirmed.

Management Response

49. The student debtors listing is historical and therefore lists students with balances since 2001. Many of the students were on distance learning mode and hence not affected by the Institute residential capacity. The Institute has already started the process to write them off as most of the debtors are those who dropped off the courses and we do not hold any certificates against such balances which is in concurrence to the observation made on the Emphasis of matter on the Audit report. The Institute expected the other organizations to report the same in their books accordingly.
50. The Institute confirms that service was rendered invoices issued, and as such these balances are authentic. The other organizations were to report for these in their statements independently.

Committee Observations

51. The Committee observed that the management had already written to their counterparts in the other organizations for reconciliation.

Committee Recommendation

52. The Committee recommends that the Accounting Officer obtains the concurrence of his counterparts and reconciles their accounts by the time the next audit is due.

3.1.7 Receivables from Exchange Transactions

53. As disclosed in Note 21 to the financial statements, the receivables from exchange transactions balance of Kshs.65,421,637. Included in this balance is outstanding fees due from students of Kshs.89,970,293 before provision for bad and doubtful debts which have been outstanding for over eleven (11) years and whose recoverability is doubtful.

Management Response

54. The student debtors listing is historical and therefore lists students with balances since 2001. Many of the students were on distance learning mode and hence not affected by the Institute residential capacity. The Institute has already started the process to write them off as most of the debtors were those who had dropped off the courses and the institute held no certificates against such balances.

Committee Observations

55. The Committee observed that the matter had taken inordinately long to conclude.

Committee Recommendation

56. The Committee recommends that the National Treasury writes off the amounts at the end of the current financial year.

3.1.8 Non-Compliance with International Public Sector Accounting Standard (IPSAS) and Public Sector Accounting Standards Board (PSASB) Guidelines

57. The financial statements provided for audit did not conform to the IPSAS and PSASB prescribed format of preparation of financial statements as indicated below;
- (i) The approval for the financial statements is indicated as 30 August, 2020.
 - (ii) Accounting policy on taxation is incomplete.
 - (iii) The accounting policy indicates that the Institute accounts for deferred tax is not included in the financial statements.
58. In the circumstances, the Management did not follow the prescribed format and guidelines prescribed and published by the Board.

Management Response

59. The Institute has since received and used the latest IPSAS Formats for its accounts. The Institute has also initiated capacity building of the accountants in this respect to eliminate such occurrences moving forward.

Committee Observations

60. The Committee observed that the matter had been resolved as the Auditor-General was satisfied with the management response.

Committee Recommendation

61. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, by providing supporting documentation to the Auditor General on time.

3.1.9 Irregular Payment of Sitting Allowance to Members of Staff

62. During the year under review audit, twelve (12) members of staff were paid sitting allowances totaling Kshs.195,000 for different council and committee meetings while they were not members of the council. This is contrary to State Corporations Act, Cap 446 Section 10 (1) on remuneration and expenses of chairman and members which states that the chairman and members of a Board other than the chief executive and public officers in receipt of salary, shall be paid out of the funds of the corporation such sitting allowances or other remuneration as the Board may, within the scales of remuneration specified from time to time by the Committee, approve.
63. In the circumstances, Management was in breach of the law.

Management Response

64. The above was not paid as a sitting allowance but honorarium for extended efforts and hours towards preparatory work. This is paid as per the circular for honoraria payment to staff. The KISE Council vote schedule provided to the audit team supports payments that are paid only to *bona fide* council members.

Committee Observations

65. The Committee observed that the matter had been resolved as the Auditor-General was satisfied with the management response.

Committee Recommendation

66. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, by providing supporting documentation to the Auditor General on time.

3.1.10 Unbalanced Budget

67. The Management prepared a budget that reflects the final budgeted receipts of Kshs.336,302,981 against the budgeted expenditure of Kshs.311,939,627 resulting in a budget variance of Kshs.24,363,354. This was contrary to Regulation 33(c) of the Public Finance Management (National Government) Regulations, 2015 which provides that the budget *shall* be balanced.
68. In the circumstances, Management was in breach of the regulations.

Management Response

69. This arose after inclusion of additional Kshs. 24 million from deferred tuition fees income in the resources for the year under review. This had been previously omitted and added to equity.

Committee Observations

70. The Committee observed that the matter had been resolved.

Committee Recommendation

71. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , by providing supporting documentation to the Auditor General on time.

3.1.11 Delay in Implementation of the Enterprise Resource Planning (ERP) System

72. The Institute procured an Enterprise Resource Planning (ERP) System at a contract sum of Kshs.9,822,233.30. The contract was to run for a period of seventeen (17) weeks, from 5 June, 2020 to 12 October, 2020. The firm was to implement and customize eighteen (18) modules for the easier and more efficient running of the Institute's operations. It was noted that the final payment of Kshs.7,057,556 was made to the firm on 12 July, 2021. However, a review of the records in respect of the system confirmed the following anomalies;
- i. According to the Internal auditor report dated 12 February, 2021, the project was behind schedule and most of the modules were either facing challenges or were at the 0% implementation stage. The key modules that had challenges included financial management, academic and admission management, purchase and procurement management, human resource and payroll, staff and student portal, and the store and inventory management;
 - ii. It was observed the system was unable to do reconciliations, edit erroneous postings, print cheques, and meals control to distinguish various categories of students thus making meals available for all. The procurement module's inability

to edit an item when an LPO had been raised, the disappearance of posted LPO, and updating stores inventory amongst other issues;

- iii. The payment of Kshs.7,057,556 was not supported with a certificate of completion and therefore the basis of payment could not be confirmed;
- iv. Management did not provide evidence of approval of the extension of contract duration as required by Section 139(1)(a) of the Public Procurement and Asset Disposal Act, 2015; and,
- v. The approval for contract variation from the original contract sum of Kshs.9,143,526.30 to Kshs.9,822,233.30 was not provided. No commissioning report or handover report from the supplier to the Institute was not provided for audit.

In the circumstances, value for money has not been realized on the expenditure of Kshs.7,057,556 for the acquisition of the Enterprise Resource Planning system.

Management Response

73. The Implementation of the system design stage was started in June 2020 as planned. However, the incidence of COVID-19 closures and interference with the academic cycle affected completion of key modules especially those relating to training and examination management. This was compounded further by the fact that on resumption, the accelerated calendar almost denied the Academic Team any space for meetings and engagements on the system development. The final instalment was paid as the contracted developer had put in place all the agreed modules and the only pending matter was the utilization and full testing by the Institute.

Committee Observations

74. The Committee observed that the matter had been resolved.

Committee Recommendation

75. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act 2015, by providing supporting documentation to the Auditor General on time.

3.1.12 Unauthorized Council Retreat Expenditure

The statement of financial performance and Note 14 to the financial statements reflect an amount of Kshs.3,843,045 in respect of Council expenses. Included in the amount is Kshs.1,829,793 in respect of retreat allowance paid to Council Members. However, the approval for the retreat by the Cabinet Secretary was not provided for audit.

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

Management Response

77. The Maanzoni Lodge activity was a retreat to conceptualize the Special Needs Education Diploma Curriculum. It was to allow for stakeholder engagement and participants were drawn from KISE, KICD and KNEC. The Council members were therefore participants as owners of the Institute's strategy and hence paid the night outs in line with SRC circular ref: SRC/TS/3/17 VOLV (171) of December 2017.

Committee Observations

78. The Committee observed that the matter had been resolved.

Committee Recommendation

79. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation to the Auditor General on time.

3.2 KENYA INSTITUTE OF CURRICULUM DEVELOPMENT (KICD)

80. Prof. Charles Ong'ondo, Chief Executive Officer, led his team in adducing evidence on the audited accounts of Kenya Institute of Curriculum Development (KICD), on 8th March 2023.

3.2.1 Audited Financial Statements for Financial Year 2018/19

3.2.0 Budget control and performance

81. The statement of comparative budget and actual amounts for the year ended 30 June, 2019 reflects actual expenditure of Kshs.9,240,351 against final expenditure budget of Kshs.7,812,081 resulting in an over expenditure of Kshs.1,428,270 or 18% of the total budget. Management has not provided any explanation on the over expenditure.

Management Response

82. The over expenditure was on donor programme activities, especially textbook distribution which was a delegated activity to the institute by Ministry of Education. Towards the end of financial 2018/2019 the ministry disbursed more funds than what was initially budgeted thus the institute had more funds for the distribution of books than was initially budgeted for.

Committee Observations

83. The Committee observed that the matter had been resolved.

Committee Recommendation

84. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, by providing supporting documentation to the Auditor General on time.

3.2.1 Prior year audit matters

86. In the audit report of the previous year, issues on work in progress and budget control and performance were raised under the Report on Financial Statements. However, although the Management has indicated that the issues have been responded to, the matters have remained unresolved as the National Assembly has not deliberated on the same.

Management Response

87. The Institute has since addressed the matters.

Committee Observations

88. The Committee observed that the matter had been resolved.

Committee Recommendation

89. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, by providing supporting documentation to the Auditor General on time.

3.2.2 Compliance with the National Cohesion and Integration Act, 2008

90. A review of the staff data for the Institute as at 30 June, 2019 revealed that one ethnic community accounted for 40.82% of the senior management staff as was the case in the previous year. This is contrary to section 7(2) of the National Cohesion and Integration Act, 2008 which states that no public establishment shall have more than one third of its staff from the same ethnic community. The Institute has failed to improve the regional balance as similar percentages remain relatively un-changed compared to last years.

Management Response

91. The issue of ethnic imbalance has been an historical issue. The Institute has put in place the following measures to improve staff distribution to ensure that there is not more than one third of the staff from the same ethnic community;

- i) Taking affirmative action measures to ensure proportionate representation of members of the unrepresented and underrepresented ethnic communities, minorities, and marginalized groups.

- ii) Advertising available job vacancies in a manner that will reach the diverse ethnic groups including established Government channels and social media
- iii) Adopting a shortlisting criterion that does not in any way disadvantage the diverse communities and groups.

Further, senior management distribution by ethnicity of the community that was 40.82% in 2018/2019 dropped to 33.33% in 2019/2020.

Committee Observations

92. The Committee observed that despite the matter being historical, a number of institutions failed to satisfactorily address the issue.

Committee Recommendation

93. The Committee recommends that the Accounting Officer ensures affirmative action is employed in subsequent recruitments to address the imbalance and demonstrates this within a year of the adoption of this report.

3.2.2 Audited Financial Statements for Financial Year 2019/20

3.2.2 Staff regional diversity

94. The Committee observed that the matter was recurring from the previous financial year and reiterates its recommendation on the same.

3.2.3 Audited Financial Statements for Financial Year 2020/21

3.2.3 Unclear basis for corporate taxation

95. The statement of financial performance and as disclosed in Note 19 to the financial statements reflects corporation tax of Kshs. 38,245,000 (2020- Kshs. 1,384,000). However, the basis and computation of the taxation charge for the year have not been disclosed. In the circumstances, the accuracy and completeness of the reported taxation charge for the year could not be confirmed.

Management Response

96. As per the operation of the Institute, the corporation tax is assessed on four streams of income namely; business, rent income, interest income and other income. After adjustment for corporation tax all income streams had losses except for interest income. The provision for corporation tax was therefore self- assessed at 30% on interest income less the withholding income tax paid directly by banks for the financial year 2020-2021 shown below;

i) Gross interest income (note 8)	Kshs.140,486,261
ii) 30 % corporation tax on gross interest income	Kshs.42,145,878
iii) Less withholding tax paid by banks as per Itax ledger	Kshs.3,900,504

iv) Provision on corporation tax for the year

Kshs.38,245,374

Committee Observations

97. The Committee observed that the matter had been resolved as the Auditor-General was satisfied with the management response.

Committee Recommendation

98. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, by providing supporting documentation to the Auditor General on time.

3.2.4 Unsupported decrease in provision for doubtful debts

99. The statement of financial performance reflects other income amounting to Kshs.73,195,000. The amount, as disclosed in Note 9 to the financial statements include a decrease in provision for doubtful debts of Kshs.6,300,000. The decrease was recorded despite an increase in receivables of Kshs.56,769,000 or 91%. However, the decrease in provisions reflected which is also reflected in Note 21 to the financial statements were not supported by of a detailed schedule and analysis. Further, disclosure Note 27 referenced to the provisions relates to refundable deposits from customers. The policy of the Institute requires a specific provision for decreased debtors and a general provision 5% of all the remaining receivables. It was not clear if any of the specific provisions from the prior year period were recovered.

In the circumstances, the accuracy and completeness of decrease in provisions for doubtful debts could not be confirmed.

Management Response

100. The increase in 2020/2021 financial year total receivables was Kshs.50,468,587. This figure includes deposit of KICD Mortgage & Car loan schemes (Ksh50million) which does not attract any provision for doubtful debts. In addition, no provision for doubtful debts is provided for exchange debtors relating to the current financial year. A detailed debtor aging analysis showing the workings on the provision for doubtful debt has been availed which shows decrease in provision for doubtful debts by Kshs. 6,300,595.

Committee Observations

101. The Committee observed that the matter had been resolved.

Committee Recommendation

102. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, by providing supporting documentation to the Auditor General on time.

3.2.5 Unsupported donor and partners expenditure

103. The statement of financial performance reflects donors and partners expenditure amounting to Kshs.3,002,722,000 as disclosed in Note 15 to the financial statements. The expenditure relates to programs for curriculum reform, digital literacy, secondary education quality improvement programme, textbook program, Covid-19 education and other donors and partners expenses which are supported through external partners loans and grants. However, supporting documents for the expenditure such as payment vouchers and procurement records were not provided for audit.

Management Response

104. The donor expenditure of Kshs.3,002,722,000 and the supporting documentations were provided to the auditors which relate to note 15 of the financial statements and are available for any further verification.

Committee Observations

105. The Committee observed that the matter had been resolved as the Institute had now availed an analysis of all donor projects' expenditure.

Committee Recommendation

106. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, by providing supporting documentation to the Auditor General on time.

3.2.6 Unsupported adjustments to property, plant and equipment

107. The statement of financial position reflects property, plant and equipment with a net book value of Kshs.4,490,172,000. However, review of the financial statements revealed that the values were adjusted during post-audit from an initially reported book value of Kshs.4,178,013,000 resulting in a variance of Kshs.312,159,000. The adjustments were not supported by detailed workings and journal entries.

In addition, the property, plant and equipment values include work-in-progress valued at Kshs.1,271,340,000. However, the works were not supported by a summary of projects being undertaken, the status report of the projects, valuation reports, certificates for certified works and the location of the individual projects.

Management Response

108. It true there was post audit adjustment of the financial statements. The initial reported property plant and equipment was Ksh. 4, 478,013,000 and not Ksh 4,178,013,000. The following are the journal vouchers used to make the post audit adjustments.

Committee Observations

109. The Committee observed that the matter had been resolved.

Committee Recommendation

110. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , by providing supporting documentation to the Auditor General on time.

3.2.7 Lack of assets capitalization policy

The statement of financial position reflects net book value of property, plant and equipment of Kshs.4,490,172,000. The amount includes Kshs.130,575,000 in respect of asset additions during the year as reflected in Note 24 to the financial statements. However, review of the accounting policies as stated in the financial statements revealed that the Management has not put in place any policy on capitalization of assets acquired during the year.

Further, the statement reflects intangible assets of Kshs.5,710,000. However, a 30% rate for amortization of intangible assets does not explicitly amortize the assets to zero and no salvage values are assigned to the intangible assets.

Management Response

111. It is true that the approved Finance and Accounts Policy does not contain a guideline in regards to capitalization of assets acquired by the Institute. The Policy provides that assets are capitalized if they have an estimated useful life of one year or more from the date of acquisition. The assets are recorded at historical cost as of the date of acquisition or valuation cost as at the time of valuation. The Policy guides on the rates and method of depreciation of assets. The Management has included the assets threshold under clause 8.7 which will be presented for approval by the KICD Council. The amortization of intangible asset at a rate of 30% translates to life expectancy of 3.3 years and hence intangible assets are written down to zero value for a period of 3.3 years on a straight-line basis.

Committee Observations

112. The Committee observed that the matter had been resolved.

Committee Recommendation

113. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , by providing supporting documentation to the Auditor General on time.

3.2.8 Unresolved prior year audit matters

114. The Committee notes that the matters were addressed in the succeeding financial year.

3.2.9 Slow progress in completion of education resource centre

115. The Institute initiated a project of construction of an Education Resource Centre (ERC) in 2011 with the purpose to strengthen the capacity of the Institute in developing practical, quality, and relevant curricula that conforms to the ideals of Kenya Vision 2030. The ERC project was envisaged to have six phases comprising laboratories and workshops, educational media studios and e-learning building, a demonstration hall, seminar rooms and administration building, an auditorium building, accommodation and conference facilities buildings and entrepreneurial and business development and materials dissemination.

116. Upon completion, the facility would enhance the development of curricula that would improve quality, equity and access to education, through the promotion of science, technology and innovation. Works for phase 1 of the project were tendered through a restricted tender and awarded to a local contractor at a sum of Kshs.786,583,506.80 in May, 2013.

117. Review of the contract implementation and analysis of payments provided for audit revealed that the contractor was required to submit two performance guarantee equivalents to 10% of the contract price or Kshs.78,658,351. However, the performance bond was not provided for audit. In addition, the site was handed over in July, 2013, and works were expected to be completed in April, 2015.

118. As at the time of audit, several elements of the contractual works were pending, and no evidence was provided for audit on the request and approval of the extension of works by the contractor. Council minutes of a meeting held on 20 December, 2016 indicated that a variation to the contract amounting to Kshs.67,811,448 was approved. However subsequent approvals of the variations were not available for verification. Consequently, the current estimated cost of phase 1 of the project could not be confirmed.

119. Further, the supervising consultant architect had been paid a total of Kshs.577,279,587. However, the terms, extent, and cost of the engagement with the Institute could not be confirmed since no contract was provided for audit.

Management Response

120. The project started in 2011 which is a phased GOK funded project. Phase one was ongoing and the Management complied with PPAD Act 2015 in undertaking variation as per the law. There was only one variation of Kshs.67,811,448 which was approved by the Council. The contract document confirms that performance guarantee equivalent to 10% of the contract price was submitted to KICD. The PPAD Act 2015 section 135(2) provide that a performance security shall not be required where a professional indemnity cover is submitted by the

consultant. Construction on the project depends on the provision and disbursement of the development funds which has been very low. For example, during the year 2020-2021 the provision was Kshs. 100million and only Kshs. 50million was remitted to KICD. The Institute utilized the amount Kshs. 30million to pay pending bills and the balance of kshs 20 million was not utilized as it was not possible to undertake any significant work.

121. The Management was concerned by the slow progress in completion of Education Resource Centre. The Management had formally requested the Government to avail sufficient resources to complete the project. The contract with the consultant architect is available for verification.

Committee Observations

122. The Committee conducted a site visit of the institute on 14th March 2023 to verify status of works, and made the following observations;

- i) The project was a Vision 2030 flagship project and is even more relevant currently in the roll-out of the competency-based curriculum (CBC);
- ii) The contractor had been slow in executing the project, despite the institution not owing him money;
- iii) The institute and the overseeing consultant had phased works in 'anticipation of slow availability of funds' and this invariably delayed the project;
- iv) The institute relied on an expired performance bond due to delays in completion; no works was ongoing thereafter;
- v) The contract between the Institute and the contractor had expired;
- vi) The consultant had exploited provisions of the law (Cap 525 of the Laws of Kenya and the Conditions of Engagement and Scales of fees for professional services for building and civil engineering works 1987), providing for payment of 70% of his fees on delivery of total designs, being a percentage of the entire six phases. This fee had invariably eaten into immediately available funds;
- vii) In light of the foregoing, the Committee observed that there were a lot of grey areas shrouding the project.

Committee Recommendation

123. The Committee recommends that it conducts a special inquiry into the project, and report its findings to the House, within one month of adoption of this report.

3.2.10 Loss on the National Resource Centre

124. The statement of financial performance reflects a net loss of Kshs.4,604,000 from the National Resource Centre (NRC). According to Note 6 to the financial statements, the Institute operates the Resource Centre for purposes of income generation. However, the Centre made a loss

during the year under review implying that the Institute resources were utilized to operate the Centre. The Management needs to review the business model of the Centre and implement strategies that will ensure it is able to break even.

Management Response

125. The NACECE Resource Centre was established to provide resource centre facilities for curriculum development. Previously, the Institute had to outsource facilities for the curriculum development panels which was expensive. The centre takes in external bookings only when there are no curriculum development activities. In the year under review there were many internal curriculum development panels which were developing Competency Based Curriculum (CBC) Materials. It also houses the early childhood development library. NRC therefore supports the core business of the Institute and is not for profit making. Further, there was low business due to the COVID-19 pandemic.

Committee Observations

126. The Committee observed that the matter had been resolved.

Committee Recommendation

127. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, by providing supporting documentation to the Auditor General on time.

3.2.11 Non-compliance with the law on ethnic composition

128. The Committee notes that the matter was recurring in the previous financial years and reiterates its recommendation on the same.

3.2.12 Unapproved council meetings

129. The statement of financial performance reflects Council expenses of Kshs.11,501,000 as disclosed in Note 11 to the financial statements. Review of the Institute Council activities revealed that nineteen (19) Council meetings and twenty-eight (28) Committee meetings were held. The number of meetings during the year exceeded the stipulated maximum of six (6) meetings in a financial year. This was contrary to Circular Ref. OP/CABS/IA which requires justification and approval by the relevant Cabinet Secretary for any extra Board meetings including Special Board meetings above the maximum number specified.

Management Response

130. It is true the Council held 19 Council and 28 committee meetings which were both regular and special. The 47 meetings are as stipulated below:

	Ordinary	Special	Total	Extra	Approved
Full Council meeting	9	10	19	13	10
Curriculum	3	3	6	0	
HRM	3	8	11	5	5
Audit	4	0	4	0	
Finance	7	0	7	1	1
Total	26	21	47	19	16

From above it is true that the Council held 19 extra meetings of which approval was given.

The extra Council meetings were held to address Competence Based Curriculum emerging issues and recruitment of KICD Chief Executive Officer/Director among other key staff.

Committee Observations

131. The Committee observed that the matter had been resolved as the management had submitted the supporting documentation for the nineteen (19) extra meetings.

Committee Recommendation

132. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, by providing supporting documentation to the Auditor General on time.

3.3 NATIONAL COUNCIL FOR SCIENCE, TECHNOLOGY & INNOVATION (NACOSTI)

133. Prof. Walter Oyawa, Chief Executive Officer, led his team in adducing evidence on the audited accounts of NACOSTI, on 8th March 2023.

3.3.1 Audited Financial Statements for the Financial Year 2018/19

3.3.0 Loss of Inventory

134. As previously reported, the statement of financial position reflects an inventories balance of Kshs.18,100,138 which includes stock of partitioning materials worth Kshs.5,746,188 removed from the Commission's offices at Emperor Plaza Building way back in 1997 to the Ministry of Public Works which have not been accounted for as at the date of this report.

According to information available, the materials disappeared from the Ministry's godown at Industrial Area where they had been kept for safe custody. Although, the matter has been under investigation by the Criminal Investigations Departments over the last seventeen (17) years, the Director Criminal Investigations Department had indicated that no records were found to enable the investigation to determine what really happened as the police files were not traced after five (5) years. On September, 2015, during their twentieth sitting, the Public Investment Committee deliberated on the issue and observed that the CID had taken an inordinately long time to conclude investigations.

135. The Committee recommended that the then Chief Executive Officer, the Corporation's officers assigned to supervise the exercise of relocating the stocks and the Ministry of Public Works Officers then in charge of the godown at Industrial Area be held accountable and be surcharged for the loss of the materials. However as at the time of this report no surcharge or recovery of the amount has been instituted. In the circumstances, it has not been possible to confirm the accuracy and validity of inventories balance of Kshs.5,746,188 reflected in the statement of financial position as at 30 June, 2019

Management Response

136. The stock of partitioning materials worth Kshs. 5,746,188 relate to old partitioning material that were removed from the former offices of the Commission in Emperor Plaza Building in 1997 but got lost in the Public Works go-downs. As noted in your letter, the matter has been under Police investigation but the Director of Criminal Investigation Department in their letter of 19th October 2015 indicated that the records relating to the case cannot be found. This matter was discussed by the Public Investments Committee (PIC) of the National Assembly and in their 20th Report on the Audited Financial Statements of State Corporations, they made recommendations on the matter. These recommendations were submitted to the Inspectorate of State Corporations for implementation and the Commission has provided documents within its disposal to the Inspectorate.

The Commission is in receipt of a copy of a letter from the Inspectorate of State Corporations dated 26th November 2018 addressed to the Clerk of the National Assembly recommending that the matter be brought to a closure.

Committee Observations

137. The Committee observed that the matter had previously been handled by the predecessor Committee.

Committee Recommendation

138. The Committee recommends that the matter be closed and written off the Commission's books in the subsequent financial year following the adoption of this report.

3.3.1 Grants not Received

139. As disclosed under Note 19 to the financial statements, the statement of financial position reflects receivables from non-exchange transactions balance of Kshs.136,642,133. This relates to grants expected from the Government in the financial year 2014-2015 which were not received. The amount represents budgeted Exchequer appropriation which ought to lapse at the close of the accounting year. In the circumstances, it has not been possible to confirm the accuracy and validity of receivables from non-exchange transactions balance of Kshs.136,642,133 reflected in the statement of financial position as at 30 June, 2019

Management Response

140. The grant receivable from GoK was the balance of budget allocation for FY 2014/2015 which the Commission expected to receive and recognized as a receivable at the end of that FY but was not disbursed by GoK. The Commission will seek guidance from the National Treasury on whether this amount will still be disbursed to the Commission and if not then request for authority for write off this amount from the books. The Commission is consulting with its Parent Ministry and the National Treasury on how to handle this receivable.

Committee Observations

141. The Committee observed that it is inconceivable that the National Treasury would release exchequer funding that ought to have been disbursed in the FY 2014/15.

Committee Recommendation

142. The Committee recommends that the amount be written off the Commission's books in the subsequent financial year following the adoption of this report.

3.3.2 Delay in Completion of Commission Headquarters

143. As previously reported in the previous year, the Ministry of Higher Education, Science and Technology entered into a contract on behalf of the Commission for the construction of office block, hostel and swimming pool and associated civil works at Kabete at a contract sum of Kshs.990,990,990. The contractor took possession of the site on 2 April, 2012 and the work was to be completed in 22.5 months or 90 weeks from the date of site possession. However, the contract duration was initially extended by 52 weeks up to 22 December, 2014, then later to December, 2015 and finally to April, 2016. The contractor had requested for a further extension of the contract period to 31 May, 2017 so as to ensure the transition of takeover is done smoothly.

144. Though the Commission moved to the office block in the month of May, 2017, a review of the project status financial appraisal in the final account report dated 19 January, 2020, availed for audit review, indicated that total certified work amounted to Kshs.1,297,971,643 therefore exceeding the contract sum by Kshs.306,980,653 equivalent to 31% although the work was behind schedule. Management has attributed to the excess amounts to variations due to cost fluctuations above the bills of quantity provisions, interest on delayed payment and contractual claims already provided in clause 23.3 of conditions of contract and penalties due to contractual breaches on the part of the Commission. The Commission may continue to incur penalties on the certified works that remain unpaid.

Management Response

145. As noted in the audit report, the Ministry of Higher Education, Science and Technology entered into a contract on behalf of the Commission for construction of office block, hostel and swimming pool and associate civil works at Kabete at a contract sum of Kshs 990,990,990. The contractor took possession of the site on 2 April 2012 and the works were to be completed in 22.5 months or 90 weeks from the date of site possession. However, the contract duration was initially extended by 52 weeks up to 22 December 2014, then to December 2015 and finally to April 2016. The contractor had requested for a further extension of the contract period to 31 May 2017 to ensure a smooth transition.
146. The Commission moved to the office block in the month of May 2017, and has been using the premises even as issues of claims by the contractor are handled through legal processes since they declared a dispute.
147. The additional costs in the project are attributed the excess amounts to variations due to cost fluctuations above the Bills of quantity provisions, interest on delayed payment and contractual claims already provided in clause 23.3 of conditions of the contract. The final amount payable to the contractor will be known upon conclusion of the legal processes.

Committee Observations

148. The Committee observed that government contracts may not be legally sound as contractors seem to exploit the government based on weak contractual clauses.

Committee Recommendation

149. The Committee recommends that the Commission expeditiously finalizes the said ongoing legal processes.

3.3.3 Trade and Other Payable from Exchange Transactions

150. As disclosed under Note at Note 22 to the financial statements, the statement of financial position reflects trade and other payables amounting Kshs.304,768,870 as at 30 June, 2019, which includes an amount of Kshs.281,868,113 in respect of work in process. Available

information indicates that the amount constitutes certified works which has not been paid. Further, the contract states that interest on any certificate not paid within thirty (30) days from the date for approval will be calculated at 3% above the Central Bank's average lending rate of the period overdue which was 9% and therefore the interest rate for the year was 12% for all overdue certificates. A review of outstanding payment certificates revealed that interest amounting to Kshs.147,659,596 arising from delay in payment of certified work which had accrued as at 30 June, 2019. This wasteful expenditure could have been avoided had the parent Ministry settled the bills on time. There was no provision for any liquidated damages arising from delays on the part of the contractor who took over 5 years from after the contractual agreement to completion date. In the circumstances, I am unable to confirm the value for money in use of public funds in the penalties paid.

The Committee notes that the matter is related to the above and reiterates its recommendation.

3.3.2 Audited Financial Statements for the Financial Year 2019/20

151. The Commission had queries similar to those of the previous financial year. The Committee reiterates its observations and recommendations.

3.3.3. Audited Financial Statements for the Financial Year 2020/21

152. The Commission had queries similar to those of the previous financial year. The Committee reiterates its observations and recommendations.

3.4 COUNCIL OF LEGAL EDUCATION (CLE)

153. Ms. Mary Mutugi, Acting Chief Executive Officer, led her team in adducing evidence on the audited accounts of CLE, on 22nd March 2023.

3.4.1 Audited Financial Statements for the Financial Year 2018/19

3.4.0 Cash and cash equivalents

154. The statement of financial position reflects a balance of Kshs.477,237,835 under cash and cash equivalent as disclosed in 16 to the financial statement is National Bank of Kenya (NBK) revenue account cashbook balance of Kshs.457,455,920 as at 30 June 2019. A scrutiny of the bank reconciliation statement for the month of June 2019 shows receipts (credits) in bank not in cashbook amounting to Kshs.2,021,712 with some remaining outstanding since 2015 that had not been cleared as at the time of the audit in January 2020. No explanation has been provided for this anomaly.

155. In the circumstances, the accuracy of cash and cash equivalents balance of Kshs.477,237,835 as at 30 June 2019 could not be confirmed.

Management Response

156. Council notes that the bank reconciliation as at 30th June 2019 has credits in bank not in cashbook amounting to Kshs. 2,021,712.30 of which Kshs. 1,400,512.30 has been outstanding for more than six months. This has been occasioned when individuals deposit money in the account but do not present themselves for the service they have paid for. In such a case, the Council is not in a position to recognize the funds received in bank as revenue because service has not been rendered and the individual has not presented the evidence of payment as per our procedures which is the original deposit slips. Direct deposit in bank not in cashbook are in most cases relate to candidates who deposit examination fee in Council bank account but they do not register for examination and in this case the period is more than six months. The reconciling items listed in the credits in bank not in cashbook is only cleared when the candidate presents the original deposit slip and registers for examination or seeks service for which they have paid. The Council in consultation with the bank endeavors to clear the direct deposits in time when there is sufficient information to recognize the funds in its books.

Committee Observations

157. The Committee observed that the Council ought to develop a bank deposit/ payment system that captures all student details for ease of reconciliation. The Council provided a schedule of all unconfirmed funds.

Committee Recommendation

158. The Committee recommends that the Accounting Officer develops a bank deposit system that captures all students details within three months of adoption of this report. Further, the Council should hold the funds in interest earning accounts rather than current accounts.

3.4.1 Budgetary control and performance

159. The statement of comparison of budget and actual amounts reflects actual receipts of Kshs 382,245,200 against a budget receipt of kshs. 370,566,800 resulting in an over collection of Kshs. 11,678, 400. Further the Council's actual expenditure for the year amounted to Kshs 321,347,426 against an expenditure budget of Kshs 370,566,800 resulting to an under expenditure of Kshs 49,219,374 or 13%. The under expenditure may have impacted negatively on service delivery.

Management Response

160. The Council has since improved its budgetary absorption rate.

Committee Observations

161. The Committee observed that the Council ought to fully implement its budget and procurement plans. For instance, the Council decried the lack of adequate personnel, a situation that would have been remedied with the idle funds.

Committee Recommendation

162. The Committee recommends that the Accounting Officer develops realistic budgets and work-plans, and conducts periodic reviews based on quarterly performance. Further the Committee recommends that the Auditor General reports status on this aspect in subsequent audit.

3.4.2 Non-compliance with National Cohesion and Integration Act

163. A review of the ethnic composition report indicates that out of the eleven (11) Council Members who served during the year, five (5) were from the same ethnic community which translates to 45% of the total number of Council Members. This is contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which provides that no public establishment shall have more than one third of its staff from same ethnic community. The Council was therefore, in breach of the law.

Management Response

164. The Council has endeavored to comply with the National Cohesion and Integration Act, 2008. The Council currently has seven (7) members, three (3) of which are from same ethnic community representing 42% of the Council. The remaining four (4) are from different ethnic communities.

Committee Observations

165. The Committee observed that despite the Accounting Officer having no role in the nomination of Council members by respective authorities, she had a responsibility of guiding the appointing authorities in the appointment of new Council members to fill the vacant positions.

Committee Recommendation

166. The Committee recommends that the Accounting Officer henceforth expressly indicates the prevailing ethnic representation in the Council, in her communication to appointing authorities during the nomination process of new Council appointments.

3.4.3 Employee costs

167. Included in employee costs of Kshs.101,982,602 for the year ended 30 June 2019 is salary for an employee amounting to Kshs.4,657,920 who has been on contract for the last five years, despite the officer having attained the mandatory retirement age of 60 years. This is in contravention to Section D.21 of the Public Service Commission (PSC) Human Resource Policies and Procedures that sets the mandatory retirement age at 60 years and 65 years for persons with disabilities.
168. Management is therefore in breach of the PSC regulations.

Management Response

169. The Council notes that Officer CLE2014003 served beyond the mandatory retirement age. The officer was the longest serving officer for the defunct and re-established Council of Legal Education. The Council in its wisdom determined to offer contract extension to in managing the transition having the institutional memory.
170. Council made this decision based on section 11(5) of the Legal Education Act, 2012.

Committee Observations

171. The Committee observed that the matter had been resolved.

Committee Recommendation

172. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, by providing supporting documentation to the Auditor General on time.

3.4.4 Unremitted statutory deduction and taxes

173. The statement of financial position reflects trade and other payables from exchange transaction balance of Kshs 11,490,006 as disclosed in Note 20 to the financial statements reflect trade and other payables from non-exchange transactions balance of Kshs.11,490,006 as at 30 June 2019 out of which Kshs.2,934,680 relate to PAYE-Kshs.2,036,585, withholding tax-Kshs.296,977 and VAT withholding payable Kshs.601,118 which have been outstanding for more than one year. Management has not given reasons for not settling the long outstanding amount due to Kenya Revenue Authority. This is in contravention to Section 130 of the Income Tax Act, Cap 470 which require pay as you earn deducted from employees' earnings to be remitted by the tenth day of the month following the deduction and withholding tax and VAT to be remitted by the twentieth day of the month following the charge. Management is therefore in breach of the law.

Management Response

174. Council made all the outstanding payments amounting to Kshs. 2,938,961.00 to Kenya Revenue Authority vide cheque no. 006663 dated 24th May 2021.

Committee Observations

175. The Committee observed that the matter had been resolved.

Committee Recommendation

176. The Committee recommends that the Accounting Officer henceforth complies with relevant provisions of the Income Tax Act in remittance of statutory deductions.

3.4.2 Audited Financial Statements for the Financial Year 2019/20

3.4.5 Cash and cash equivalents

177. The Committee observed that the matter recurs from the previous financial year and reiterates its recommendation.

3.4.6 Budgetary performance and control

178. The Committee observed that the matter recurs from the previous financial year and reiterates its recommendation.

3.4.7 Non-remittance of taxes

179. The Committee observed that the matter recurs from the previous financial year and reiterates its recommendation.

3.4.3 Audited Financial Statements for the Financial Year 2020/21

3.4.8 Inaccuracy in financial statements

180. The Office of the Auditor General submitted as follows:

- a) The statement of cash flows reflects an increase in trade and other payables from non-exchange transaction of Kshs 40,193,583 against a recasted amount of Kshs 47,662,697 resulting to a variance of Kshs. 7,469,114.
- b) The statement of cash flows reflects a transfer to car and mortgage reserve balance of Kshs. 12,093,800 while note 28 reflects Kshs.57,093,800 resulting to unexplained variance of Kshs. 45,000,000
- c) The statement of change in net assets and statement of cashflows reflect prior year adjustment of Kshs 802,750. However, supporting documentation in respect of the adjustment were not provided for audit review.

- d) The statement of changes in equity reflects a capitalization of bar examination loan balance of Kshs. 80,000,000 while note 19 to the financial statement indicated an amount of Kshs 100,000,000 resulting to unexplained difference of Kshs. 20,000,000.

Management Response

181. The management submitted as follows:

- a) The total current liabilities change is Kshs.40,193,583;
- b) The figure of Kshs.12,093,800 is income from investment. The Kshs. 45,000,000 reflected under note 28 is provision for transfer from retained earnings approved by the National Treasury;
- c) Kshs.802,750 is amount that was captured previously as an error under income 2018-2019;
- d) The actual amount for bar loan was Kshs.100,000,000 represented by Kshs.20,000,000 was captured as payables to HELB and capitalized amount of Kshs.80,000,000.

Committee Observations

182. The Committee observed that the matter had been resolved as the Auditor-General confirmed that the financial statements had been adjusted accordingly.

Committee Recommendation

183. The Committee recommends that the Accounting Officer henceforth complies with accounting standards.

3.4.9 Unreconciled revenue from non-exchange transactions and exchange transaction

184. Financial statements of State Law Office and Department of Justice for the year ended 30 June, 2021 reflects an amount of Kshs.312,578,249 in respect of transfer to the Council for Legal Education, while the Council's financial statements reflects Kshs.314,905,909 resulting in an unreconciled variance of Kshs.2,327,750.

Management Response

185. The actual income for the Council for the year is Kshs.314,905,909.

Committee Observations

186. The Committee observed that the matter will be confirmed by the Auditor-General in subsequent audits.

Committee Recommendation

187. The Committee recommends that the Accounting Officer reconciles the figures and the Auditor General confirms this in the subsequent audit.

3.4.10 Unsupported Repairs and Maintenance costs

188. The statement of financial performance for the year ended 30 June, 2021 reflects repairs and maintenance costs of Kshs.1,079,015. The costs include an expenditure of Kshs.643,984 in respect of motor vehicle repair which was not supported by procurement documents including pre and post inspection reports on the defects on the vehicle.
189. In the absence of procurement documents and inspection reports, the validity and propriety of the expenditure of Kshs.643, 984 could not be confirmed.

Management Response

190. The Council takes all its vehicles for service to the dealers upon attaining serviceable number of KMs. The transport department fills in the required service to be done in logbook which is then checked and approved by the officer in charge.

Committee Observations

191. The Committee observed that the Accounting Officer had belatedly availed the requisite supporting documentation.

Committee Recommendation

192. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , 2015, by providing supporting documentation on time.

3.4.12 Unsupported refundable deposits

193. The Committee observed that the matter recurs from the previous financial year and reiterates its recommendation.

3.4.13 Budgetary control and performance

194. The Committee observed that the matter recurs from the previous financial year and reiterates its recommendation.

3.4.14 Irregular insurance expenditure

195. The management spent an amount of Kshs 792,997 relating on insurance expenses, the services for which were sought from five (5) service providers in the financial year under review. However, the service providers were not in the prequalified list contrary to Section 95(3) of the Public Procurement and Disposal Act, 2015 which states that a procuring entity shall invite tenders from only the approved persons who have been pre-qualified.

Management Response

196. The Council used a list of pre-qualified suppliers of another government agency, the Kenya School of Law.

Committee Observations

197. The Committee observed that the Council used another agency's (Kenya School of Law) list of pre-qualified suppliers as provided for under section 56 of the PPAD Act 2015. The KSL did not avail its approved list of pre-qualified suppliers as at the time of adoption of this report.

Committee Recommendation

198. The Committee recommends that the Auditor-General confirms that the contractor was indeed pre-qualified by the Kenya School of Law in subsequent audit, and that the law was properly applied.

3.4.15 Underpayment of house allowance

199. The statement of financial performance for the year ended 30 June, 2021 reflects employees' costs of Kshs.94,451,803 out of which an amount of Kshs.11,275,031 relates to house allowance paid to the Council's Staff. However, it was observed that the members of staff were paid house allowances which were below the recommended rates as per Salaries and Remuneration Commission (SRC) Circular Ref. 022/12/2015 on review of allowances in the public service dated 10 December 2014.

Management Response

200. Management has since implemented the recommended rates as per SRC circular of 2014 effective.

Committee Observations

201. The Committee observed that the management risks demoralizing its employees by paying them house allowances less than the SRC-approved rates.

Committee Recommendation

202. The Committee recommends that the Accounting Officer henceforth complies with SRC circulars on all matters of employee remuneration and benefits.

3.4.16 Non-implementation of E-procurement

203. During the year under review, the Council had not implemented e-procurement contrary to Executive Order No.2 of 2018. Further, the Council has been using Quick books for financial management and manual procurement system.

Management Response

204. The Council has developed E-procurement system on its website, which will be updated frequently with add-ons to improve it.

Committee Observations

205. The Committee observed that the Council has implemented E-procurement in the year 2022-2023 which is awaiting usage.

Committee Recommendation

206. The Committee recommends that the Auditor General confirm usage of the E-procurement system and report in the subsequent audits.

3.4.17 Delayed completion of ERP system

207. The Council contracted a local company for supply, delivery, installation, testing of the Microsoft Dynamics Navision 2018 at a contract price of Kshs.6,425,060 for a period of twelve (12) months and the project was to commence on 13 January, 2020. Audit review in January, 2022 revealed that the project was still in progress and the contractor had been paid an amount of Kshs.6,425,060 or 100% of the contract sum. There has, therefore, been a delay in completion of the project by over twelve months without justification.

Management Response

208. The Council has since completed the implementation of the ERP systems and the modules are functional.

Committee Observations

209. The Committee observed that the Council only reported that all the ERP modules were functional but did not provide a certificate of completion, inspection and acceptance committee report.

Committee Recommendation

210. The Committee directs that the Auditor-General confirm the requisite documentation and actual usage of the system and report in the subsequent audit.

3.4.18 Inadequate staffing

211. A review of staff establishment of the Council of Legal Education reflects that the Council had thirty-five (35) employees against staff establishment of sixty-five (65) employees resulting to understaffing of employees with thirty-five (35) personnel.

Management Response

212. The Council has approval to recruit in phases and during the year 2021/2022 Council recruited phase I. Phase II did not get any budgetary allocation in both 2022/2023 and 2023/2024 financial year. The Council is still pursuing the allocation of funds from National Treasury to enable recruitment of the vacant positions in the establishment.

Committee Observations

213. The Committee observed that the Council did not comply with its own establishment, despite being found to have budgetary underperformance in previous financial year audits.

Committee Recommendation

214. The Committee recommends that the Council completes recruitments in the envisaged phases and populates critical departments such as procurement.

3.5 KENYA NATIONAL QUALIFICATIONS AUTHORITY (KNQA)

215. Ms. Alice Kande, Acting Chief Executive Officer, led his team in adducing evidence on the audited accounts of KNQA, on 15th March 2023.

3.5.1 Audited Financial Statements for the Financial Years 2018/19 and 2019/2020

216. The authority had no audit query in the subject financial years.

3.5.2 Audited Financial Statements for the Financial Year 2020/21

3.5.0 Budgetary control and performance

217. The statement of comparison budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.180,000,000 and Kshs.188,198,946 respectively resulting to an over-funding of Kshs.8,198,946 or 4.5% of the budget. Similarly, the Authority expended Kshs.147,393,642 against an approved budget of Kshs.130,257,000 resulting to an over-expenditure of Kshs.17,136,642 or 13% of the budget.

Management Response

218. KNQA surpassed the target set for 20M and generated 28.198M which was 40% above target. The amount was properly disclosed in the financials for the year

The over expenditure was as a result of depreciation of 16,231,614 against a budget of 3.7Million. However, depreciation is a non cash transaction hence no additional funds were spent.

Committee Observations

219. The Committee observed that the matter had now been settled as the auditors were satisfied with the response.

Committee Recommendation

220. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , by providing supporting documentation and explanations to the Audit General on time.

3.5.1 Untagged assets

221. As disclosed in Note16 to the financial statements, the statement of financial position reflects property plant and equipment balance of Kshs.72,704,378. Included in the amount are additions of Kshs.7,614,897 in respect of purchase of computers and office equipment and furniture and fittings of Kshs.35,455,525, out of which Kshs.13,525,690 was incurred in purchase of office furniture. However, physical verification revealed that the assets procured during the year were not tagged. This is contrary to the provisions of Regulation 166 4 (a) and (b) of the Public Procurement and Asset Disposal Regulations, 2020, which assigns responsibility to the accounting officer to develop measures that will prevent theft and enable safe custody of assets and tracking of assets.
222. In the circumstances, existence of effective control measures of assets could not be confirmed.

Management Response

223. All tangible assets for KNQA were tagged and a report issued.

Committee Observations

224. The Committee observed that the matter had now been settled as the auditors were satisfied with the response.

Committee Recommendation

225. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.6 KENYA EDUCATION MANAGEMENT INSTITUTE (KEMI)

226. Dr. Maurice Ondondo, Chief Executive Officer, led his team in adducing evidence on the audited accounts of KEMI, on 15th March 2023.

3.6.1 Audited Financial Statements for the Financial Year 2018/19

3.5.2 Unverified Electronics Data Processing Equipment

227. The property, plant and equipment balance of Kshs. 2,363,038,735 includes Electronic Data Processing (EDP) equipment valued at Kshs.2,419,237 issued to the Ministry of Education Staff who had been seconded to the Institute. Available information indicates that the total

amount of Kshs. 2,419,237 was recovered from the employees but Ministry had only remitted Kshs.1,399,800 to the Institute. Management has not provided an explanation for failure to recover the outstanding balance of Kshs.1,019,437 as at 30 June, 2019.

Management Response

228. The equipment was issued to Ministry of Education (MoE) officers who were on secondment at KEMI. The Institute wrote to MoE to have the officers surcharged however the recovered money was not remitted to KEMI.

Committee Observations

229. The Committee observed that the funds due are attributable to officers of the Ministry of Education and the ministry should therefore have no excuse in remitting the same, having done so for part of the dues.

Committee Recommendation

230. The Committee recommends that the Accounting Officer Ministry of Education recovers and remits the balance of Kshs. 1,019,437 within three months of adoption of this report.

3.5.3 Encroached land

231. Property, Plant and Equipment balances include an amount of Kshs.2,050,000,000 being the value of the Institutes parcel of land at Kayole in Nairobi which has been partially encroached by informal settlers. Management contracted a law firm on 18th October, 2010 to seek court orders for eviction of the informal settlers and notice of eviction was issued on 28 November, 2017. Management also sought for the intervention of the parent ministry to evict informal settlers but the matter has not been resolved.

232. Consequently, the existence, ownership and accuracy of the reported property, plant, and equipment balance of Kshs.2,363,038,735 could not be confirmed.

Management Response

233. The Institute sought for a court order to evict the informal settlers and the court gave a five (5) months' notice via court order ELC SUIT NO. 352 of 2012 dated 25 March 2014 for eviction of the squatters. KEMI placed the eviction notice in daily Newspapers i.e The standard and the star dated 28 November 2017.

234. The Court order was also forwarded to the Cabinet Secretary Ministry of Education to support its implementation and eviction of the informal settlers.

Committee Observations

235. The Committee observed that the institute having failed to secure its land enabled encroachers to hive off 6 acres out of 38 acres of its land.

Committee Recommendation

236. The Committee recommends that the National Treasury and the Accounting Officer prioritizes financing for fencing of the remaining 32 acres of the institutions land to forestall further encroachment. Further, the Inspector General of Police ensures that encroachers of the institution's land are immediately evicted, and the DCI to initiate their prosecution within six months of adoption of this report.

3.5.4 Long Outstanding Receivables

237. As disclosed in Note 9 to the financial statements, the statement of financial position reflects receivables from exchange transactions balance of Kshs.45,529,308 as at 30 June, 2019. Included in the balance are debts totalling Ksh.29,395,696 or 51% which as previously reported, have been outstanding for over six (6) years. Although the management has made a provision of Kshs. 1,408,123 for the bad and doubtful debts, the provision is not adequate.

Management Response

238. The management is actively following up on the outstanding receivables balances through physical visitations and demand letters. In addition, the Institute has established a debt collection unit to coordinate and streamline collection of debts.

Committee Observations

239. The Committee observed that the outstanding receivables are due from government agencies and the ministry, some of which are not in dire financial needs as KEMI.

Committee Recommendation

240. The Committee recommends that the Accounting Officer Ministry of Education and the relevant government agencies owing to provide for and settle their dues in the budget cycle FY 2023/24.

3.5.5 Budget Control and Performance

241. The statement of comparison of budget and actual amount reflects a final revenue budget and actual on comparable basis of Kshs. 209,447,450 and Kshs.141,847,100 respectively resulting to an underfunding of Kshs.67,600,350 or 32% of the budget. Similarly, the Institute expenditure amounted to Kshs. 157,660,736 against an approved budget of Kshs.195,368,247 resulting to an under expenditure of Ksh.37,707,511 or 19% of the budget.
242. The underfunding and under performance affected the planned activities and may have impacted negatively on service delivery to the stakeholders.

Management Response

243. The Institute's main source of revenue generation is fees collected from training programmes.

244. Under collection of revenue by the Institute was occasioned by the following: The delay in constitution of schools Boards of Management (BoM) and launching of Education Management Course (EMC) by MoE; Restriction on provision of training to holidays; Lack of training funding by MoE; and court cases which deferred launching of the Teacher professional development program (TPD).

Committee Observations

245. The Committee observed that the matter had now been settled.

Committee Recommendation

246. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.6.2 Audited Financial Statements for the Financial Year 2019/20

247. The Committee notes that the institute had recurring audit issues from the previous financial year and reiterates its recommendations, except the following;

3.5.6 Non-appointment of director

248. A review of the Human Resource records revealed that the Institute was headed by an Acting Director since 7th October 2019 more than nine (9) months after the acting appointment. However, an advertisement for the post was placed in the dailies in August 2020 and after shortlisting of the candidates, no interviews were conducted. The Acting Director has been drawing a twenty percent allowance of the basic salary at job group R for more than six months contrary to Section C.14(1) of Human Resource Policies and Procedures Manual for the Public Service of May, 2016 which states that acting allowance will not be payable to an officer for more than six (6) months. Lack of substantive Director has affected the duties and responsibilities of a director in offering direction, organization and administration of programs of the Institute.

249. The Institute is therefore in breach of the law.

Management Response

250. The office of the CEO has since been competitively filled as provided in law.

Committee Observations

251. The Committee observed that the matter had now been settled.

Committee Recommendation

252. The Committee recommends that the board and parent ministry inculcate succession planning and substantively fills top positions as and when they fall vacant.

3.6.3 Audited Financial Statements for the Financial Year 2020/21

253. The Committee notes that the institute had recurring audit issues from the previous financial year and reiterates its recommendations, except the following;

3.5.7 Irregular composition of council members

254. Review of the Institute's documents revealed that the Institute's Council had five (5) committees namely audit, training, human resource management, business and finance and general-purpose committees. This is contrary to Section 1.7 (1)(a) of the code of Governance for state corporations (Mwongozo Guideline), 2015 on establishment of Board Committees' which states that the board/council should establish not more than four (4) committees of the board/institute provided that the board shall be at liberty to establish such ad-hoc committees as required to deal with any ad-hoc matters requiring focused attention such as recruitment of the Chief Executive Officer

255. Further, the appointment of Ministry representative was not gazetted. This was contrary to Circular reference OP/SCAC.9/73A (48) of 4 May, 2015 on letters of appointment for Chairpersons and Board members of State Corporations states that, in order to ensure uniformity in implementation of Mwongozo, it was required that from the date of the circular; All board appointments, including representatives from the Ministry, shall be by gazette notice. Members so appointed shall signify their acceptance by signing the declaration in the appointment letters.

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

Management Response

257. The Institute has since adjusted the council committee to four (4) as provided in Mwongozo.

Committee Observations

258. The Committee observed that the matter had now been settled.

Committee Recommendation

259. The Committee recommends that the board and management complies with government policy and practices good corporate governance.

3.5.8 Lack of a risk Management policy and Strategy

260. Review of records revealed that management had not put in place Risk Management Policy and Strategies. It was therefore not clear how risk exposures are managed by Management.

Management Response

261. The Institute has an approved and operationalized risk management policy.

Committee Observations

262. The Committee observed that the matter had now been settled as the auditors had received the approved and operationalized risk management policy.

Committee Recommendation

263. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.9 Lack of Imprest Register

264. Review of the records revealed that the Institute did not maintain an imprest register to confirm the validity of the issuance of imprest both domestic and foreign.

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

Management Response

265. The Institute has always maintained a manual imprest register.

Committee Observations

266. The Committee observed that the matter had now been settled as the auditors had received the manual imprest register.

Committee Recommendation

267. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act and section 13 of the Public Audit Ac, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.10 Lack of Succession Planning

268. Review of the documents revealed that the term of the Council members came to an end in May 2021 where all the members exited. This is contrary to the requirements of Section 1.14 of Mwongozo on succession planning which states that the appointing authority should ensure staggering of board appointments so that the respective expiry dates of the members' terms fall at different time to ensure continuity.

269. In this circumstance, lack of succession planning denied the institute the benefit of oversight and governance.

Management Response

270. A notice of expiry of the term of KEMI Council was sent to the Cabinet Secretary vide letter Ref.: KEMI/CON/4/VOL.10/166 dated 10 May 2021 where the Institute requested the appointing authority to facilitate the appointment of the new Council for the management of the Institute.

271. A new Council was however appointed as per the KEMI Legal Notice 19/2010 and Gazette Notice No.8041 and 8042 in the Kenya Gazette dated 8th July 2022.

Committee Observations

272. The Committee observed that the matter had now been settled as the auditors were satisfied with the appointment of a new board.

Committee Recommendation

273. The Committee recommends that the board and parent ministry inculcate succession planning and substantively plans for and fills positions as and when they fall vacant.

3.7 SCHOOL EQUIPMENT PRODUCTION UNIT (SEPU)

274. Dr. Joel Mabonga, PhD, Chief Executive Officer, led his team in adducing evidence on the audited accounts of SEPU, on 15th March 2023.

3.7.1 Audited Financial Statements for the Financial Year 2018/19

3.5.11 Unsupported Receivables and Prepayments

275. As previously reported and as disclosed in Note 16 to the financial statements, the statement of financial position reflects a balance of Kshs.84,054,800 under receivables and prepayments. The balance includes trade receivables totalling to Kshs.33,942,817, out of which an amount of Kshs.22,621,361 has been outstanding for more than ten (10) years. Supporting documents for the amount were not provided for audit review. Further, the balance of Shs.84,054,800 includes staff advances of Kshs.982,040, out of which an amount of Kshs.829,984 was in respect of staff advances from deceased employees and those who had since left the Unit. Recoverability is therefore doubtful. Management has however, indicated that a fire broke out in the Unit's headquarters in 2007 and destroyed supporting schedules relating to receivables and therefore, recovery of debtors has been affected by lack of evidence. Additional information indicated that the Management wrote to the parent Ministry in November, 2017

requesting for authority to write off the outstanding debts but lack of the relevant information and documentation has delayed the write off process.

Management Response

276. Included in the receivables and prepayments balance of Kshs.84,054,800.00 as at 30 June, 2019 were trade receivables balance of Kshs.33,942,817.00 as at 30 June, 2019. The balance includes debts totaling Kshs.21,816,268 that have been outstanding for more than ten (10) years and whose supporting documents are not available. The outstanding amount was incurred before 30 June, 2007. The fire gutted the Unit in the year 2007 and destroyed all evidences relating to receivables. A letter to DCI on the fire Incident and its conformation that fire gutted SEPU premises has been provided.

277. SEPU Management in November 2017 wrote a letter to the Ministry of Education on writing off long standing debts. SEPU has now prepared a Credit and Debt Policy that will guide in the writing off long outstanding debts. SEPU Board will sit in April 2023 to approve this policy.

287. The reported balance of Kshs.829,984.00 was in respect of staff advances due from deceased employees and others who have left the Unit as shown below;

1. Deceased staff	-	Mr. John Kahiro	1998	(Kshs. 675,980)
2. Resigned staff	-	Mr. Thomas Mageto	2007	(Kshs. 122,884)
3. Suspended staff	-	Mr. Benson Anyona	2010	(Kshs. 31,120)

The amount owed by the deceased person of Kshs.675,980 may not be recoverable. For the staff that left SEPU more than ten years ago the Board approved policy on Debts and credits will guide the writing off. A letter was written to the employer of the third officer but no response has been forthcoming.

Committee Observations

278. The Committee observed that the fire incident took place in 2007 and burned down supporting documentation. Despite the possibility of the fire being sabotage, the DCI had been unable to establish cause. Recoverability of the amounts is therefore highly doubtful.

Committee Recommendation

279. The Committee recommends that the Accounting Officer writes afresh to the ministry and National Treasury and commences the process of write-off that should be concluded within three months of adoption of this report.

3.5.12 Trade and other payables

280. As previously reported, the trade and other payables balance of Kshs.23,991,099 reflected in the statement of financial position includes trade payables of Kshs.8,239,115 out of which payables totalling to Kshs.7,209,565 has been outstanding for more than ten (10) years. Further, supporting documents for the payables totalling to Kshs.7,209,565 were not availed for audit review. The Management explained that the fire of 2007 in the Unit's Headquarters destroyed supporting schedules relating to the payables. The Management placed advertisements in the daily papers in November,2016 requesting creditors to present documents supporting the services offered to the unit but with little success. Further, the Management wrote to the Parent Ministry in November,2019 for concurrence and approval by The National Treasury to write off the outstanding creditors. However, no such approval had been availed as at the date of this report.

Management response

281. The trade and other payables balance of Kshs.30,050,509 as at 30 June 2020 includes liabilities totalling to Kshs.8,239,115 that have been outstanding for more than ten (10) years and whose supporting documents were not availed for audit review. This was because of a fire that engulfed the Unit in the year 2007 destroying all the documents relating to the above.
282. An advertisement was placed in the Nation Newspapers on the 3rd November, 2017 informing creditors who SEPU owed money, to avail evidence that SEPU actually owed them. Those who responded were paid their dues but those who did not the amount is still outstanding.

Committee Observations

283. The Committee observed that the trade and other payables are as a result of the fire which burnt the unit's documentation, as discussed above.

Committee Recommendation

284. The Committee reiterates its recommendation above.

3.5.13 Land

285. As disclosed in Note 14 to the financial statements, the property, plant and equipment balance of Kshs.93,350,238 reflected in the statement of financial position includes land at a cost of Kshs.63,000,000. The parcel of land identified as plot No.LR.209/14009 and measuring 5.1 hectares, is situated at Imara Daima Estate, Industrial Area and is registered under the Unit's name. Although the land was allocated to the Unit in 1996, the Unit has not been able to develop it due to subsequent invasion by informal settlers. Although Management has requested the National Land Commission to reclaim the land for development by evicting the informal settlers progress made in this regard has not been disclosed.

Management response

286. The property, plant, equipment balance of Kshs.93,350,238 as at 30 June 2019 includes the value of land Kshs.63,000,000.00 which was allocated to the Unit by the Kenya Government in the year 1996. Due to financial challenges the Unit was facing, the land was not developed which resulted to the land being encroached by squatters. The Management of SEPU is determined to reclaim the land.
287. In June 2021, Principal Secretary Ministry of Education wrote to National Lands Commission to assist SEPU evict squatters and occupy Imara Daima land. National Lands Commission team in a site visit report dated 8th September 2021 called for a stakeholders' forum to draw modalities of evicting the squatters. SEPU has written to Principal Secretary State Department for Basic Education for guidance on the formation of a stakeholders' forum guide on the eviction of squatters from SEPU land.

Committee Observations

288. The Committee observed that the unit having failed to secure its land enabled encroachers to occupy the entire subject land.

Committee Recommendation

289. The Committee recommends that the National Treasury and the Accounting Officer prioritizes financing for fencing of the remaining acreage of the institutions land to forestall further encroachment. Further, the Committee recommends that the Inspector General of Police ensures encroachers of the institution's land are immediately evicted, and the DCI to initiate their prosecution within six months of adoption of this report.

3.7.4 Supply of School Equipment

290. As reported in the previous years, the Unit entered into a contract in the year 2006 with a local Company for the supply of various pieces of laboratory equipment, chemicals and teaching aids to 1,457 secondary schools across the Country, at a contract, price of Kshs.226,772,450. According to records available, the Unit in 2008/2009 financial year received an amount of Kshs.261,326,532 from the Ministry of Education for the purpose. The Unit used direct procurement and made an advance payment of Kshs.75,086,880 to the supplier.

Management response

291. In July 2009, a grant of Kshs.261,326,532.00 was received from the Ministry of Education, Science and Technology to supply science materials and equipment to 1,457 schools. A contract was entered between SEPU and Vulcan Laboratory Equipment to supply Science Equipment at a cost of Kshs.226,772,450.00. An advance payment was made to Vulcan

Laboratory Equipment of Kshs.75,086,880.00 via Cheque No.002540. Officials of the then Kenya Anti-Corruption Commission intercepted the payment and four (4) officers of the Unit were arraigned in court on 14th July, 2010 for not following procurement procedures. The case was concluded on 28th August, 2013. In the court's ruling, Vulcan was directed to surrender Kshs.70 million to the National Treasury and an additional of Kshs.10 million to be paid as a fine. National Treasury confirmed that the Kshs.70 million was received.

292. Vulcan had appealed the 28th August 2012 but lost the case.

Committee Observations

The Committee observed that the appeal had been struck out on 16 March 2021 and the matter deemed settled.

293. The management has however failed to pursue Kshs. 10 million fine awarded by court, with no explanation. Further, Kshs. 5,086,880 that was part of the advance paid to the contractor was not refunded. Management explained that the then Kenya Anti-corruption Commission laid a counter claim for the amount since the courts found that the Unit flouted procurement Regulations.

294. The four responsible individuals, including the then Accounting Officer were dismissed from service.

Committee Recommendation

295. The Committee recommends that the Principal Secretary reprimands the previous Accounting Officers for not pursuing the Kshs. 10 million awarded by courts a decade later and recommends that the incumbent Accounting Officer initiates the recovery of the Court award and reports to the Committee on progress within six months of adoption of this report.

3.6.5 Financial performance

296. The statement of financial performance reflects a loss of Kshs.18,840,675(2018: Kshs.28,567,266) thereby reducing the retained earnings from Kshs.31,563,455 to Kshs.12,695,780. The loss-making trend of the Unit, if not reversed, may wipe out the accumulated reserves.

Management response

297. The Unit had faced stiff competition from its competitors and less orders were received from clients resulting in low revenues. Unpredictable remittances from National Treasury also contributed to low revenues. The Unit had since re-engineered its products, enhanced market presence and was on an upward trajectory of performance.

Committee Observations

298. The Committee observed that the loss-making nature of the Unit was because of over-reliance on government contracts which they had no control over. The Unit was not engaging in rigorous marketing to attract business.

Committee Recommendation

299. The Committee recommends that the Auditor General confirms the Unit's assertion that they were on an upward performance trajectory, in subsequent audit. Further, the Unit should engage in rigorous marketing of its products in the open market, and should demonstrate this in a business plan submitted to auditors within three months of adoption of this report.

3.6.6 Budgetary Control and Performance

300. The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.93,000,000 and Kshs.73,692,327 respectively, resulting to an under-funding of Kshs.19,307,673 or 21% of the budget. Similarly, the Unit incurred an expenditure of Kshs 64,882,110 against an approved budget of Kshs 63,770,000 resulting in an over-expenditure of Kshs 1,112,110. The under-funding and over-expenditure affected the planned activities of the Unit and may have impacted negatively on service delivery to the public.

Management response

301. Budget execution was affected by delayed exchequer remittances.

Committee Observations

302. The Committee observed that this was as a result of delay in Treasury exchequer releases.

Committee Recommendation

303. The Committee recommends that Treasury releases exchequer when and as due. Moreover, budgetary reviews should be taken quarterly to reflect changes in appropriation realities.

3.6.7 Investment in Call Deposits

304. As disclosed in Note 18 to the financial statements, the statement of financial position reflects a balance of Kshs 22,232,649 representing investment in a call deposit at a local bank. This is contrary to The National Treasury Circular Ref. DMD 4/02 'H'(63) of 26 March, 2018 which directed all State Corporations and SAGAs to invest surplus funds in Treasury Bills and/or Treasury Bonds directly through Central Bank of Kenya without intermediaries.

Management response

305. The deposit call account arrangement was discontinued as recommended by the Auditor General.

Committee Observations

306. The Committee observed that even though the call deposit account had since been closed, the management was in breach of the Treasury circular.

Committee Recommendation

307. The Committee recommends that the Principal Secretary should reprimand the then Accounting Officer and Head of Finance at the Unit and further recommends that accounting officer henceforth strictly adhere to the law and Treasury circulars.

3.7.2 Audited Financial Statements for the Financial Year 2019/20

308. The Committee observed that substantive matters contained in the subject financial year had been addressed in the previous financial year report, while accounting matters would be addressed in subsequent audits.

3.7.3 Audited Financial Statements for the Financial Year 2020/21

309. The Committee observed that substantive matters contained in the subject financial year had been addressed in the previous financial year report, while accounting matters would be addressed in subsequent audits.

3.8 TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING AUTHORITY (TVETA)

310. Dr. Kipkirui Langat, PhD, Chief Executive Officer, led his team in adducing evidence on the audited accounts of TVETA, on 15th March 2023.

3.8.1 Audited Financial Statements for the Financial Year 2018/19

3.5.14 Partitioning and Refurbishment Works on 8th Floors at Utalii House

311. The Management vide contract number CQS/D106/12/2017-2018 awarded the tender for partitioning and refurbishment of their offices to the lowest bidder, M/s Kodaji Building at a contract sum of Kshs. 43,946,078. The contractor however did not complete the works as per the contract and was issued with a default notice by the Regional Works Officer on 4th January 2019.

312. In April 2019, the client informed the Regional Works Officer that they had mutually agreed to terminate the contract. However, on 6 August 2019, the contractor issued a notice of non-payment of Kshs. 6,659,710 which was disputed by the Authority who indicated only Kshs.

2,194,359 being 5% was outstanding. Review of payment records revealed that the contractor had been paid a sum of Kshs. 39,498,464 as at the time of this report. A physical verification as well as renovations status revealed outstanding issues on wooden doors at Director Generals office, boardrooms, toilets, and plumbing works where leaking taps were noted.

313. In the circumstances, it was not possible to confirm when the works will be completed and whether the Authority obtained value for money regarding the expenditure of Kshs 39,498,464.

Management Response

314. The works were completed and final account done by the Project Managers, Ministry of Public Works (Nairobi Regional Architect and Quantity surveyor). Final Accounts dated 27th April 2021 were provided.

Committee Observations

315. The Committee observed that the matter was settled as auditors were satisfied with the response, and considering partitioning was completed and offices were in use.

Committee Recommendation

316. The Committee recommends that the Accounting Officer ensures that procurement laws and regulations are adhered to henceforth.

3.8.2 Audited Financial Statements for the Financial Year 2019/20

3.5.15 Budgetary Control and Performance

317. The Authority recorded a surplus of Kshs 11,459,469. However, there was no budgetary provision for donor support despite the Authority receiving Kshs 8,767,413. This contravened the PFM Regulations 2015 section 31(2) (a) which states that the Accounting Officer is responsible, in particular for ensuring that all services which can be reasonably foreseen are included in the estimates and that they are within the capacity the entity during the financial year
318. Similarly, the Authority had a budget expenditure of Kshs 265,000,000 against actual expenditure of Kshs 252,523,261 resulting in net under-expenditures of Kshs 12,476,739.

Management Response

319. Management has been able to do a trend analysis on estimates of donor funds it receives and has been budgeting for Kshs 15 million which is the average of donor support towards its activities of quality assurance for the last 3 years.

320. The under-expenditure on the approved budget was due to the COVID-19 Pandemic that led to the closure of TVET training Institutions in March 2020 and eventual lock down of the whole country.

Committee Observations

321. The Committee observed that the matter had now been settled as the auditors were satisfied with the explanation.

Committee Recommendation

322. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.8.3 Audited Financial Statements for the Financial Year 2020/21

3.5.16 Employee Costs

323. Records to reconcile the monthly payrolls with the monthly payments have not been provided for audit review, hence unexplained and unreconciled variance of Kshs 20,780,750 remains outstanding.

Management Response

324. Reconciliations were done and submitted to the office of the Auditor General.

Committee Observations

325. The Committee observed that the matter had now been settled.

Committee Recommendation

326. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.17 Field inspection by board members

327. The Authority's Board members were involved in the quality assessment of Technical and Vocational Education Training institutions alongside the technical officers during the year under review. A total of Kshs.3,980,790 was paid to the board members being subsistence and sitting allowances during the exercise. However, section 1.22.1 of the code of governance for State Corporations (Mwongozo) provides that the role of the Board should be clearly separated from that of the management. In addition, Circular No. OP/CAB.9/1A dated March 11 2020 provides that field inspection visits as well as international engagements are an executive function that falls in the domain of the executive team led by the chief executive officer. The

board involvement should be minimized since the executive team or the Board's internal Audit team bring up required reports to the board.

328. In the circumstance, it could not be confirmed that the expenditure of Kshs 3,980,790 was a proper charge to public funds.

Management Response

329. Board Stake holder engagement forums undertaken as reported in the financial statements was captured in the Board ALMANAC FY 2020-2021 which is usually submitted to the Cabinet Secretary, Ministry of Education. Based on approval the activities are then implemented.

330. The Authority therefore spent Kshs 3,980,790 on approval of the ALMANAC and Board budget thus was a proper charge on its voted provision.

Committee Observations

331. The Committee observed that the authority had included the activities in the work plan but still had to submit approved requisite documentation to auditors.

Committee Recommendation

332. The Committee recommends that auditors confirm compliance in subsequent audit.

3.9 TVET CURRICULUM DEVELOPMENT, ASSESSMENT AND CERTIFICATION COUNCIL (TVET CDACC)

333. Mrs. Zipporah Wanjiku- Messo, Acting Chief Executive Officer, led her team in adducing evidence on the audited accounts of TVET CDACC.

3.9.1 Audited Financial Statements for the Financial Year 2018/19

334. The Committee notes that the Council had no audit query in the subject financial year.

3.9.2 Audited Financial Statements for the Financial Year 2019/20

3.5.18 Budgetary control and performance

335. The statement of comparison of budget and actual amounts reflects final revenue budget and actual on comparable basis of Kshs. 429,529,269 and Kshs. 428,819,769 respectively resulting to an under-collection of Kshs. 709,500. Similarly, the council spent Kshs. 383,321,245 against an approved budget of Kshs. 429,529,269 resulting to an under-expenditure of Kshs. 46,208,024 of the budget.

Management Response

336. The under collection was occasioned by a challenging business environment. Similarly, the institution was undergoing structural changes that saw non-performance of certain functions.

Committee Observations

337. The Committee observed that the Accounting Officer had failed to review budgetary projections to reflect emerging realities.

Committee Recommendation

338. The Committee recommends that the Accounting Officer makes realistic budgets and reviews the same in subsequent financial years.

3.9.3 Audited Financial Statements for the Financial Year 2020/21

3.5.19 Unsupported Accounts Payable

339. The statement of financial position reflects accounts payable balance of Kshs.821,190 that includes other creditors of Kshs.321,190 as disclosed in Note 16 to the financial statements. However, Management did not support the balance with invoices, fee notes or demand notes. Further, the other creditors balance has been outstanding for over 365 days.

340. In the circumstances, the accuracy of other creditors balance of Kshs.321,190 could not be confirmed.

Management Response

341. The amount Ksh. 321,190 was payments to contracted experts during the Competency Based Assessment training that were not paid because we were unable to confirm the correct bank details of the recipients. The Ksh. 321,190 was reversed back in the cashbook.

Committee Observations

342. The Committee observed that the matter had now been settled as the auditors were satisfied with the explanation.

Committee Recommendation

343. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.20 Unauthorized Expenses Related to Preparation of Budget

344. The statement of financial performance and Note 11 to the financial statements reflects an amount of Kshs.246,314,866 in respect to general expenses which includes Kshs.91,836,030 in respect to competence assessment and certification expenditure. Included in the amount is Kshs.1,391,775 paid to officers for preparation of the organization's budget. Although budget preparation is an activity that is not related to competence assessment and certification,

Management did not provide any budget reallocation approvals to support the charging of this activity under the expenditure item.

In the circumstances, the regularity of expenditure of Kshs.1,391,775 on competence assessment and certification could not be confirmed.

Management Response

345. The Budget preparation activity does not apply to a specific line item as it cuts across all the departments within the Council. Budget preparation has no vote of its own in the TVET CDACC budget where the same can be charged that's why it was charged under competence assessment and certification.

346. The council's budget was taken through the board and the same approved and copies of payment vouchers.

Committee Observations

347. The Committee observed that the matter had now been settled as the auditors were satisfied with the explanation.

Committee Recommendation

348. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.21 Unsupported Payments on Development of Curriculum

349. The statement of financial performance reflects general expenses amount of Kshs.246,314,866 as disclosed in Note 11 to the financial statements. Included in this amount is development of curriculum expenditure amounting to Kshs.110,207,509. However, the surrenders provided in support of the expenditure amounting to Kshs.51,553,594 could not be matched with the work plan, program budget, approvals for travel and reports for work done.

350. Further, payments totalling Kshs.47,152,715 were paid in the name of the Chief Executive Officer and not benefiting individuals. However, details of the payees, services rendered, acknowledgement of the monies and bank statements reflecting these payments were not provided for audit verification.

351. In the circumstances, the accuracy and regularity of expenditure of Kshs.98,706,309 on development of curriculum could not be confirmed.

Management Response

352. Development of curriculum expenses is well within the workplan which allocated the development of curriculum. The payments were well supported with the pre-approval memo,

attendance, report and work tickets. Most of the activities were paid on 30th June since TVET CDACC received the exchequer remittances on 29th June 2021 as per bank statement. Making most of the expenses to be paid between 29th June and 30th June 2021.

The amounts totalling kshs 47,152,715 paid in the name of CEO were just bulk payments, which relate to several individuals only that, such bulk payments are named CEO on the vouchers but as explained during the audit, are paid to individual bank accounts. The same can be confirmed from the bank payment slip and bank statement.

Committee Observations

353. The Committee observed that the matter had now been settled.

Committee Recommendation

354. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.22 Budgetary Control and Performance

355. The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.331,125,000 and Kshs.331,125,000 respectively. Similarly, the Council spent Kshs.331,613,491 against an approved budget of Kshs.331,125,000 resulting to an over-expenditure of Kshs.488,491.

356. Further, the Council recorded an over expenditure of Kshs.5,681,430 on employees costs. Management did not provide an explanation for the over expenditure of Kshs.5,681,430 on employee costs.

Management Response

357. The Accounting Officer admitted that there was an over expenditure on Personal Emolument of Ksh. 5,681,430.00. During the year ended June 2020, the council included recruitment of additional new staff budget but this was not utilized due to covid 19 resulting to a surplus that was utilized in the year ended June 2021. The said recruitment was then carried out and the previous year's surplus used for the intended purpose of paying the newly recruited staff.

358. The recruitment of new staff was budgeted in the financial year 2019/2020 but it took place in the financial year 2020/2021.

359. This was not a reallocation. Attached under appendix is a copy of work plan for 2019/2020 and approved 2019/2020 budget.

Committee Observations

360. The over-expenditure of Kshs. 488,491 was eventually used for recruitment in the succeeding FY due to late approval of the exercise, two months to the end of the subject FY. Despite the council provisioning for the recruitment in the subsequent financial year's work plan, the Accounting Officer failed to regularize this as per section 45 of the PFMA 2012 by securing advance approval of the National Treasury.

Committee Recommendation

361. The Accounting officer is reprimanded for this breach and must seek Treasury approval for any expenditure that rolls over to different financial years.

3.5.23 Mismanagement of Imprests

362. Review of imprests records revealed that advances totalling Kshs.986,450 were issued to staff before surrender of previous imprests. This is contrary to Regulation 93(8) of the Public Finance Management (National Government) Regulations, 2015 which states that in order to effectively and efficiently manage and control the issue of temporary imprests, an accounting officer or AIE holder shall ensure that no second imprest is issued to any officer before the first imprest is surrendered or recovered in full.
363. In the circumstances, Management was in breach of the law.

Management Response

364. It is true that several employees were issued with multiple imprest but the imprests were not of the same nature and purposes example one was for safari and for purchase of low value items. Hence one was not required to surrender one imprest before receiving another imprest thus no Employee held two related temporary imprest at the same time.

Committee Observations

365. The Committee observed that the matter had now been settled.

Committee Recommendation

366. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.24 Irregular Payment of Board Sitting Allowances

367. Note 8 to the financial statements reflects an amount of Kshs.8,350,832 as Council expenses. Review of payment documents revealed instances where the Chief Executive Officer and Council staff were paid sitting allowances during Board meetings of Kshs.219,986 and

Kshs.1,353,198 respectively contrary to the provisions of the State Corporation Advisory Committee guidelines and Mwongozo code of governance for State Corporations.

Further, non-Board members were paid sitting allowances amounting to Kshs.540,000 without appointment letters from the Cabinet Secretary and gazette notice there of contrary to Circular Ref No. OP/SCAC.9/73A (48) of 4 May, 2015 on letters of appointment for Chairpersons and Board Members of State Corporations.

In the circumstances, the validity on the amount of Kshs.2,113,184 paid as sitting allowances could not be confirmed.

Management Response

368. The payments were procedurally made to staff for tasks outside their regular duties with requisite approvals.

Committee Observations

369. After examination of now availed documentation, auditors confirmed that Kshs. 219,986 was outstanding as irregularly paid to the then Accounting Officer.

Committee Recommendation

370. The Committee recommends that the Accounting Officer recovers Kshs. 219,986 from the then Accounting Officer, within six months of adoption of this report.

3.5.25 Competence Assessment and Certification

371. Note 11 to the financial statements reflects general expenses amount of Kshs.246,314,866 which includes competence assessment and certification expenditure of Kshs.91,836,030. However, review of the ledger in support of the expenditure is a payment of Kshs.310,000 to a Council staff. The payment was used for procurement of printing papers, software upgrade and epson ink. The purchases were made through direct procurement method instead of using quotations. Further, the purchases were not related to competence assessment and certification and therefore the expenditure constituted unauthorized reallocation of funds.

In the circumstances, Management was in breach of the law and value for money incurred on cash purchase of Kshs.310,000 could not be confirmed.

Management Response

372. It is true that the above items were procured through low value procurement method. The Council procured most of these items using the method because during this period, Covid-19 effects had posed a great challenge to procuring entities in the country. Some restrictions like lockdown were in place and therefore some of our officers who would participate in the procurement processes were unavailable to carry out some of these activities and most of the

goods and equipment's were needed urgently. The goods were received into stores with S13 and re-issued for proper use by stores.

Committee Observations

373. The Committee observed that the matter had now been resolved.

Committee Recommendation

374. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.10 AUCTIONEERS LICENSING BOARD (ALB)

375. Hon. Kenneth Cheruiyot, Board Secretary, led his team in adducing evidence on the audited accounts of the ALB, on 22nd March 2023.

3.10.1 Audited Financial Statements for the Financial Year 2018/19

3.5.26 General Expenses

376. Included under general expenses of Kshs.1,749,221 as disclosed at note 12 to the financial statements are conference costs totalling to Kshs.400,000 being cost of four conferences at Kshs.100,000 each. Available information indicate that the amount was paid in respect of a three-day workshop in Kisumu between 23 August 2018 and 25 August 2018, another three-day workshop in Kisumu between 25 October 2018 and 27 October 2018, a three-day workshop in Machakos between 21 March 2019 and 23 March 2019 and a one-day workshop in Kisii on 24 April 2019. However, attendance lists for the four workshops were not availed for audit verification. In addition, the justification for payment of a flat rate of Kshs.100,000 per workshop was not provided given that the Kisii workshop took only one day.

Management Response

377. The basis of the payment of a flat rate of Ksh 100,000/- per workshop regardless of number of meetings was based on the board resolutions dated 19th January 2018 and 25th January 2019.

Committee Observations

378. The Committee observed that the matter had now been settled. The supporting documentation including board resolution and attendance sheets were submitted as required by the Auctioneers Act No. 5 of 1996.

Committee Recommendation

379. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.27 Cash and Cash Equivalents

380. The statement of financial position reflects cash and cash equivalent balance of Kshs.1,101.80 for the Kenya Commercial Bank (KCB) current account cashbook. The reconciliation statement for this account reflects balance as per bank statement of Kshs.910,351.80 as at 30 June 2019. However, management did not avail bank confirmation certificate for the balance of Kshs.910,351.80 reflected in the bank reconciliation statement.

Management Response

381. The board had a bank certificate as at 30th June 2019. The delay was caused by the bank requirement that all signatories sign the requests for bank certificates for such accounts.

Committee Observations

382. The Committee observed that the matter had now been settled as the bank confirmation certificate dated 20 April 2020 was availed for audit review.

Committee Recommendation

383. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.10.2 Audited Financial Statements for the Financial Year 2019/20

3.5.28 Lack of segregation of duties

384. The Board has four (4) staff seconded from the Judiciary. Among the four (4) is an Accountant who manages the finance unit in a sole capacity and performs all the duties including vote book control (budget) voucher preparation, examination and authorization, cashbook maintenance and bank reconciliations. This poses risk of errors and misstatements in the accounting records.

Management Response

385. Shortage of staff has been a serious challenge beyond the control of the management of the board because it involves funding from the state.

Committee Observations

386. The Committee observed that the board has serious staffing challenges as its operational staff is all seconded from the Judiciary and/ or the State Law Office.

Committee Recommendation

387. The Committee recommends that the Accounting Officer in liaison with the National Treasury fully operationalizes the board by providing adequate funding in the financial year 2023/24.

3.10.3 Audited Financial Statements for the Financial Year 2020/21

3.5.29 Late submission of financial statements

388. The financial statements for the year ended 30 June, 2021 were submitted for audit on 22 October, 2021.

Management Response

389. The shortage of staff discussed in the previous financial year audit was the cause of this as the two officers tasked with the duties contracted covid-19 during the audit period.

Committee Observations

390. The Committee reiterates its observation that the board has serious staffing challenges as their operational staffs are all seconded from the Judiciary and/ or the State Law Office.

Committee Recommendation

391. The Committee recommends that the Accounting Officer in liaison with the National Treasury fully operationalizes the board by providing adequate funding in the financial year 2023/24.

3.5.30 Non-preparation of itemized budget

392. The Auctioneers Licensing Board provided the Annual Work Plan and Procurement Plan for the year 2020/2021 that majorly contained aggregated amounts for various activities. However, itemized budget activities and their cost estimates were not disclosed in the budget. Further, budget proposals and sector work plans prepared and submitted by the Auctioneers Licensing Board management to the line Ministry (Office of the Attorney General and Department of Justice) were not approved by the Solicitor General.

Management Response

393. The board had an approved budget together with itemized budget and work plan for financial year 2020/2021 which has since then been shared with the Auditor for verification. Subsequent ones have been submitted on time.

Committee Observations

394. The Committee observed that the matter had since been resolved as subsequent work and procurement plans had been signed by the Solicitor General.

Committee Recommendation

395. The Committee recommends that the Accounting Officer henceforth complies with the requirements of section 53 of the Public Procurement and Assets Disposal Act.

3.5.31 Irregular appointment of a board members alternate representative

396. The statement of financial performance for the year ended 30 June 2021 and as disclosed in Note 10 to the financial statements, reflects directors' remuneration totalling Kshs.15,701,274. Supporting records provided for audit review indicated that one member of the board was appointed as a second alternate director to the Principal Secretary - State Department of Interior on 8 November, 2016 and completed the first term on 8 December, 2019.

Management Response

397. The board had sought clarification from the Principal Secretary, State Department for Interior and National Coordination for possibility of regularizing the re-appointment of the alternate member whose term had expired, and was yet to receive a response.

Committee Observations

398. The Committee observed that the Principal Secretary State Department of Interior had failed to regularise the re-appointment of his/her representative to the board, and as such, the person was a stranger to the board's activities.

Committee Recommendation

399. The Committee recommends that the Principal Secretary State Department of Interior regularizes the appointment of a representative to the board within one month of adoption of this report, failure to which the individual be surcharged for the allowances earned during the period commencing 9th December 2019.

3.5.32 Lack of segregation of duties

400. The Committee observed that the matter was handled in the report of FY 2018/19 above and reiterates its recommendation.

3.11 HIGHER EDUCATION LOANS BOARD (HELB)

401. Mr. Charles Ringera, CEO and Board Secretary, led his team in adducing evidence on the audited accounts of the HELB, on 22nd March 2023.

3.11.1 Audited Financial Statements for the Financial Year 2018/19

3.5.33 Land dispute

402. As disclosed under note 37 to the Financial Statements, the statement of financial position reflects property, plant, and equipment balance of KShs.859,322,062, which constitutes KShs.717,500,000 in respect of land. Included under land is a parcel of land LR No. 209/13515 measuring 0.6 hectares situated at Upper Hill area, Nairobi, recorded at KShs.44,588,742.
403. However, although the ownership documents indicate that the parcel of Land belongs to the Board, a discrepancy exists between the deed plan at the then Ministry of Lands, Housing and Urban Development and the actual position on the ground which shows that the higher Education Loans Board's perimeter wall on one side was put up in a straight line while the deed plan has a curve. Further, the Kenya Railways Corporation claims that the plot was illegally exercised from the Corporation's Land, by the then Commissioner of Lands.
404. The management has indicated in a letter dated 27 March 2020 to the Principal Secretary, Ministry of Lands and Physical Planning, that a tripartite meeting was held between the Board, Kenya Railways Staff Retirement Benefits Scheme and Kenya Railways following a circular reference DGIPE/A/1/10 dated 10 February 2020 from Cabinet Secretary, the National Treasury which directed that all court cases where all parties involved are public institutions should withdraw the cases and have such matters resolved amicably. However, no resolution has been attained as of this report's date.

Management Response

405. The discrepancy between the deed plan and the perimeter wall was pointed out by the experts engaged by the Board to carry out a feasibility study on the land's development. Within their report, they stated that the shape of one side of the perimeter wall was different from the shape of the boundary on the deed plan. In particular, the perimeter wall on the ground was straight instead of a two-sided bend. The solution provided by the experts in their report was that there was need to re-survey the land to allow establishment of the correct measurements of the bend and rectify the anomaly on the perimeter wall. However, there is a court injunction not to interfere with the land hence nothing can be done on the land including re-surveying.
406. The Title Deed of the land is in the name of HELB which has been paying land rent and rates for over Twenty (20) years. The Kenya Railways Staff Retirement Benefits Scheme (Pension Scheme) claims that the land belongs to the scheme because the same was ceded to the Pension Scheme in the year 2006 by the Kenya Railways Corporation. HELB purchased the land in

the year 2000 hence by the time of ceding; HELB was already the legal owner. The Pension Scheme moved to court to challenge the ownership and obtained an injunction.

407. Management had commenced discussions with the Kenya Railways Retirement Benefits Scheme to explore the possibility of an out of court settlement and a meeting was held on 24th March 2020 where it was agreed that further discussion be scheduled after the valuation of the land as directed by the CS Treasury. The land was valued. The parties have had two meetings, on 22nd September 2020 and 12th October 2020. As per the circular that requires parties to withdraw the matter from court. Between February and March 2021, both Kenya Railways Corporation and HELB requested the court to hold on the matter as they pursued out of Court settlement with the Head of Public Service. However, to date, there has been no communication from the Office of the Head of Public Service. The court has now directed that the matter should proceed to full hearing.

Committee Observations

408. The Committee observed that the government has implored on public institutions that have sued each other to pursue out-of-court settlements, and the institution's letter to the Head of Public Service on the same, as advised by CS Treasury, lay unresponded to.

Committee Recommendation

409. The Committee recommends that the Head of Public Service, facilitates HELB, the plaintiffs, Kenya Railways Staff Retirement Benefits Scheme and Kenya Railways Corporation to work out modalities for an out-of-court settlement, resolve and withdraw the case within three months of adoption of this report.

3.5.34 Matured loans to students

410. As disclosed under Note 28 to the financial statements, the statement of financial position reflects matured students' loans balance of KShs.29,478,131,466. An examination of the records indicated that the balance includes loans totalling to KShs.6,322,666,795 which represents matured students' loans which have been outstanding over the stipulated period of 10 years. The balance is however, net of provision for bad debts and doubtful debts of KShs.1,551,480,608. Management has however, indicated that various measures have been put in place to ensure that all matured loans are fully recovered.

Management Response

411. HELB loan is a social loan by the government to improve the standards, competence, and social status of its citizen and with no collateral and credit score of loanees like commercial loans. HELB loans take a minimum of five (5) years to mature (commence repayment) while repayment of the same takes an average period of ten (10) years. Repayment of HELB loan commences when a beneficiary becomes economically engaged otherwise the loan remains

un-serviced. Also, the students who complete their education are expected to start repayments, but this does not happen due to unemployment or underemployment due to various macro-economic factors affecting the Kenyan economy hence affecting loan recovery rate.

412. Despite the factors stated above, the performing loans as at 28th February 2023 were at 75% which is a competitive performance in the banking sector, and this has been increasing by an average of 1% annually. The total outstanding matured loans was KShs. 60,328,870,757 out of which KShs. 8,454,241,989 is for outstanding loans over 10 (ten) years and beyond. Various measures are in place to ensure the long outstanding debt is recovered. Accordingly, the Board has initiated significant mitigating measures particularly to enhance recovery of loans in default for more than 10 years.

Committee Observations

413. The Committee observed that despite concerted effort by the agency to collect outstanding loans, there were defaulters that had the ability to pay but may have immigrated or operated out of the formal system.

Committee Recommendation

414. The Committee recommends that HELB makes provisions for loss per debtor, since they fall in different categories. The Committee further recommends that HELB liaises with the Department of Immigration to trace and demand payment from defaulting immigrants.

3.11.2 Audited Financial Statement for the Financial Year 2019/20

3.5.35 Land dispute

415. The Committee observed that the matter was recurring and had been handled in the previous financial year report. The Committee reiterates its recommendation on the matter.

3.5.36 Budget control and performance

416. The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of KShs. 16,108,565,275 and KShs.13,598,102,160 respectively resulting to an under-funding of Kshs. 2,510,463,115 or 16% of the budget. Similarly, the Board expended Kshs.16,400,436,006 against an approved budget of Kshs.16,645,314,872 resulting to an under-expenditure of Kshs. 244,878,866 or 1.2% of the budget. The underfunding and underperformance affected the planned activities and may have impacted negatively on issuance of loans to students and service delivery to stake holders.

Management Response

417. HELB's approved budget was KShs. 16,957,248,552 for FY2019/2020 of which KShs. 11, 434,248,542 was to be received from Exchequer and KShs. 5,523,000,000 was to be received

from AIA. The Board did not receive capitation for the last quarter of the financial year totaling to Kshs 2,833,562,135 hence the underfunding (Received Capitation Kshs. 8,575,686,406).

418. Most of the activities planned for the third and fourth quarters of the financial year 2019/2020 were suspended or scaled down due to the COVID 19 Pandemic impact.

Also, to note that the loans are committed to students as and when they apply so long as it is within the approved budget regardless of whether the actual funds have been received or not hence the expending of KShs. 16,400,436,006 against the actual cash received of Kshs. 13,598,102,160.

Committee Observations

419. The Committee observed that Treasury disburses funds to HELB bi-annually, which may be at variance with regular schools' calendar, hence the underperformance. Further, underfunding had seen up to 140,000 students miss out on financing.

Committee Recommendation

420. The Committee recommends that -

- i) HELB and the National Treasury should in the next financial year's sector working group explore ways to synchronize their disbursements to regular school calendars to avoid late disbursement of funds to students.
- ii) the National Treasury should consider increasing financing to HELB to benefit as many poor students as possible.
- iii) HELB should within six months of the adoption of this report by the House revise its qualification criteria to ensure only needy students in public schools receive funding.

3.5.37 Outstanding matured loans

421. The Committee observed that the matter was recurring and had been handled in the previous financial year report. The Committee reiterates its recommendation on the matter.

3.11.3 Audited Financial Statements for the Financial Year 2020/21

3.5.38 Land dispute

422. The Committee observed that the matter was recurring and had been handled in the previous financial year report. The Committee reiterates its recommendation on the matter.

3.5.39 Procurement of computers

423. During the year under review, the Board procured sixty-five (65) computers through restricted tendering for a contract sum of KShs. 10,436,700. Review of the procurement records revealed that the professional opinion by the head of procurement was dated 5 February 2019 while the procurement proceedings had started on 2 September 2019. Further, the Inspection and

Acceptance Report did not describe the items purchased as per the specifications and were not signed by the head of the procurement department and the Chief Executive Officer. In addition, the list of registered suppliers from the ICT (Information Communication Technology) was used in procurement. However, the firms were subjected to competition to determine the costs instead of using the negotiated framework costs.

Management Response

424. The professional opinion by the head of procurement dated 5 February 2019 had a typo error on the date, supposed to be 5th September 2020 instead of February 2019. All other documents on this transaction's proceedings were done in September/October 2020 as evidenced by the attached documents.
425. The 2005 Act had properly guided and even had a template for Inspection and acceptance, but the 2015 Act lacks the Regulations as per the time of inspecting the supplied items. Institutions including HELB have varied ways of operation in this area of inspection and acceptance of supplied items. We designed a template internally with the feedback we received from internal and external auditors to improve this process as we await PPRA guide.
426. The Inspection and Acceptance Report was signed by the head of the procurement department and the Chief Executive Officer as per attached.
- The Act requires that we invite at least ten firms for restricted tender, which is why we included other firms from our market knowledge to make ten.
- The specifications given by our ICT department were higher than those on the negotiated laptop framework contract by Ministry of ICT, hence the reason for competitive bidding and the variation in price.

Committee Observations

427. The Committee observed that the matter had now been settled.

Committee Recommendation

428. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.40 Procurement of Information, Communication and Technology

429. During the period under review, the Board engaged two suppliers to undertake supply delivery, installation and configuration of SAN system and the provision of computer equipment respectively at a contract sum of KShs.31,059,140 through direct procurement method. However, the board did not justify the procurement method used. Further, a comprehensive market survey report was not provided for audit.

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

Management Response

431. The request for direct procurement for parts, licenses and warranty for the SAN system was because the SAN system which houses the ERP (Enterprise Resource Planning) and other business applications malfunctioned and shut down and no business could be conducted for three days hence this became an emergency which required a speedy resolution. The authority to use this procurement method was duly sought from the accounting officer as provided for in the procurement ACT (PPADA Sec 103(2) (d)).

432. HELB was already in contract with Telenet for maintenance of the SAN system as the bona fide custodians of the DELL warranties and for them having implemented the system as certified by DELL incorporation, the equipment manufacturer, they are the only channel through whom DELL could easily ensure that they put us back into business without any loss of data. DELL as the manufacturer of equipment was consulted to confirm the continued dependence on Telenet Solutions as a skilled service provider befitting the delicate handling of the equipment to make it operational and sustainable in the long run.

433. The sizing of the solution was done by Dell (Original Equipment Manufacturer) engineers and pricing estimates compared with what is provided for in their website (<https://www.dell.com/en-ca/shop/partsforyourdell>) hence the organization was properly guided. The contract sum is principally for parts, licenses and warranties covering three (3) years.

434. The costs for repairing and maintaining the system ride on risk mitigation premised on qualified and experienced skills, licenses and warranties every year for a three-year cumulative cost of KShs. 31,059,140. The expected deliverables for year one was fully met with the swift impact of removing the system from danger and overall stability created over the critical business systems. The certified deliveries have been availed.

Committee Observations

435. The Committee observed that the matter had now been resolved following a satisfactory explanation.

Committee Recommendation

436. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.41 Irregular payment of staff bonuses

437. The balance includes trade payables of Kshs.112,732,810 that constitute an amount of Kshs.21,868,000 in the ledger which has been recognized as staff bonuses. However, the Board's Human Resources Policy does not recognize staff bonuses as part of employees' compensation. Further, correspondences between the Board and the Public Service Commission (PSC) or the Salaries and Remuneration Commission (SRC) were not availed for audit.

Management Response

438. The accrued Bonus Payment to staff was anticipated due to the excellent performance rating of HELB by the Public Service Performance Management Coordination Unit. The provision of the staff bonus is based on section 12 of the State Corporations Act.

The correspondence between the Board and parent ministry has been availed. The funds for the anticipated bonus accrual of Kshs. 21,868,000 were not paid out. No funds were lost.

Committee Observations

439. The Committee observed that the matter had now been resolved following a satisfactory explanation.

Committee Recommendation

440. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.42 Outstanding matured loans

441. The Committee observed that the matter was recurring and had been handled in the previous financial year report. The Committee reiterates its recommendation on the same.

3.12 KENYA LITERATURE BUREAU (KLB)

442. Mr. Victor Lomaria, OGW, the CEO, led his team in adducing evidence on the audited accounts of the KLB, on 22nd March 2023.

3.12.1 Audited Financial Statements for the Financial Year 2018/19

3.5.43 Contingent Liability

443. As disclosed in Note 24 to the financial statements, a contingent liability exists from a demand notice based on a tax audit conducted by the Kenya Revenue Authority (KRA) for the years 2007 to 2010 amounting to Kshs.125,560,306 being principal amounts for which a waiver of

penalties and interests was approved by the Ministry of Finance in April, 2013. Management has explained that discussions are ongoing with the Kenya Revenue Authority with a view to having the liabilities waived. However, the outcome of the negotiations, that has been ongoing for nine (9) years, has not been disclosed.

Management Response

444. The matter of the Kenya Revenue Authority (KRA) tax demand Kshs. 125,560,306 appeared as an emphasis of matter in the financial statements for the financial years 2016/17 and 2017/2018, which were examined by the Public Investment Committee and captured in its 23rd Report on consideration of the Auditor General's Report on the financial statements of State Corporations. The Committee had recommended that KRA should consider waiving the principal tax amount as recommended by the then Ministry of Finance.
445. KLB and KRA Management had held various meetings in 2018 and 2019 with the objective of resolving the outstanding matter and KRA had agreed to halt the issuance of further demand notice on the matter. Since then, no further demand had been issued by KRA.
446. The then Ministry of Finance had recommended the abandonment of Principal Tax and waiver of penalties and interest, on account of the possibility of grounding the operations of the Bureau, which does not receive any exchequer funding. The waiver of penalties and interest was approved by KRA and effected. The abandonment of principal tax had not been fully acted upon by KRA and which was the subject of discussion for consideration.
447. From the previous discussions in the meetings held, KRA had indicated that it was positively considering the abandonment of principal tax.
448. KRA wrote a letter to the Auditor General on 18th February 2021 confirming the outstanding tax held with Kenya Literature Bureau and in the letter the Principal Tax Kshs. 125,560,306 were not captured as outstanding. The principal tax does not also appear on KLB Tax ledger. The matter appears to have been resolved though no communication has been relayed to KLB by KRA.

Committee Observations

449. The Committee observed that the previous Public Investment Committee had recommended that KRA should consider waiving the principal tax amount as recommended by the then Ministry of Finance.
450. KLB and KRA Management had held various meetings in 2018 and 2019 with the objective of resolving the outstanding matter and KRA had agreed to halt the issuance of further demand notice on the matter.

Committee Recommendation

451. The Committee reiterates the previous Committee's recommendation, and further recommends that discussions between the Kenya Literature Bureau and Kenya Revenue Authority be concluded and the liabilities waived within six months of adoption of this report.

3.12.2 Audited Financial Statements for the Financial Year 2019/20

3.5.44 Contingent Liability

452. The Committee observed that the matter was recurring and had been handled in the previous financial year report. The Committee reiterates its recommendation on the matter.

3.12.3 Audited Financial Statements for the Financial Year 2020/21

3.5.45 Trade and other receivables

453. The statement of financial position reflects trade and other receivables balance of Kshs.2,155,803,953 as disclosed in Note 13 (a) to the financial statements. The following observations were noted;
454. The trade and other receivables balance includes trade receivables- books and printing of Kshs.1,632,495,743 and Kshs.147,309,621 respectively. The balances further includes book debtors and print debtors of Kshs.1,049,921,477 and Kshs.90,708,416 respectively which have been outstanding for over 90 days with some dating back to the year 2011.
455. Further, other receivables balance of Kshs.77,298,885 include staff receivables of Kshs.1,412,448 which further includes staff loans and advances of Kshs.1,054,273 that were not repaid during the year under review. Management also issued several advances to staff including education advance, laptop advance and medical advance whose criteria of grant or entitlement was not provided for audit.
456. In addition, other receivables balance of Kshs.77,298,885 differ from analysis in support of the balance of Kshs.77,064,882 resulting to unreconciled variance of Kshs.234,003. Other receivables also include cash losses of Kshs.571,264, and Kshs.890,794 which occurred in year 2018 and 2010 respectively that are yet to be recovered and KCB mortgage advances balance of Kshs.19,285,424 which was not supported.

Management Response

457. The Bureau has an established stringent policy and procedures for granting of credit and collection of debts as contained in the Debt and Credit Management Policy.
- Of the stated outstanding book debts of Kshs.1,049,921,476.74, a proportion of 84% is owed by Kenya Institute of Curriculum Development (KICD) totaling to Kshs.881,238,230 for GoK/MOE textbooks supplied directly to schools, which have specific contractual terms and conditions that goes beyond the 90 days standard period.

458. Kenya Institute of Curriculum Development (KICD) has been paying the debts as they received the funds from the Ministry of Education, and the over 90 days debt for sale of books has reduced to Kshs.201,164,309 as at 28th February 2023 (Annex 3). The debt reduction has been facilitated by the release of Inspection and Acceptance Field reports (based on the verification at the school level) by KICD for various projects, which is a requirement for payment of the final balance of 20%. The progress of the related debt collection has been commendable.
459. Of the over 90 days debts for print sales Kshs.90,708,416, Kenya Institute of Curriculum Development (KICD) owed Kshs.57,997,022 which represented 64% of the total debt. This debt has since been reduced to Kshs.34,454,410 as at 28.02.2023, which is paid based on the receipt of the Inspection and Acceptance Field Reports (based on the verification at the school level). The debt is also affected by the contractual terms and conditions.
460. Most of the other debts are owed by the Ministries, Departments and Agencies including State Corporations for which KLB has offered printing solutions on a Governmental Agency to Governmental Agency basis.
461. Several County Governments such as Muranga and Tharaka Nithi have partly paid their debt in the FY 2022/23. We continue to aggressively follow up the outstanding debts including having written to the Controller of Budget to seek assistance in the recovery of the pending bills, which is bearing fruits.
462. Of the staff Loans and Advances of Kshs.1,054,273, the provisions, terms and conditions of staff advances under various categories of Education Loan, Car Loan and Salary Advances are incorporated in the approved Human Resources Policies and Procedures Manual, 2018, which had been provided to the audit team and hereby attached.
463. The emergence of COVID-19 pandemic adversely affected the economy and the business environment and the year that bore the brunt of that adversity is FY 2020/2021. Learning institutions were closed during the year under review from March to June 2021, when the Bureau debt recovery activities should have been at their peak. This was an exogenous factor that affected most businesses as well as the Kenyan and World Economy. Businesses have rebound and debt repayments have continued improved.
464. The cash losses of Kshs.571,264 occurred in year 2010 through a theft by former staff Mr. Robert Omenda, who was working in cash office and whose services were terminated and a criminal case instituted by the State. The outcome of the case has remained unclear, since the prosecution was led by the State and KLB is following up the matter.
465. The bureau has since considered recommending to the Board of Management to make a full provision for the cash loss in the financial statements of FY 2022/23 which will be done after obtaining the Board and other necessary approvals.

466. The cash losses of Kshs.890,794 occurred in 2008 through the theft by former staff Ms. Rachael Chebet, whose employment services were terminated. The matter was still in progress.
467. We have since considered recommending to the Board of Management to make a full provision for the cash loss in the financial statements of FY 2022/23 which will be done after obtaining the Board and other necessary approvals.
468. The Management has since tightened the internal controls on handling of cash, including payments through MPESA, direct bank transfers, cheques, and credit cards. There has been no theft by staff since 2010 and now cash sales account for 0.1% of the total book net sales turnover.
469. The KCB mortgage advance balances Kshs.19,285,424 have been supported by General Ledger. The certificate of balance issued by KCB had an error, showing the balance as Kshs.10,041,917.45. we have since engaged the KCB Bank to correct the error on their part.

Committee Observations

470. The Committee observed that the matter had now been settled following the explanation by management.

Committee Recommendation

471. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.46 Unsupported reconciliation in Value Added Tax (VAT) receivable

472. The statement of financial position and Note 13 (a) to the financial statements reflects trade and other receivables balance of Kshs.2,155,803,953 which includes a VAT recoverable amount of Kshs.91,847,273. However, the VAT returns for June, 2021 in support of the balance had a VAT recoverable of Kshs.117,509,212 resulting in a variance of Kshs.25,661,939. The variance has been explained as due to amendment of February 2020 VAT return of Kshs.32,257,342 and other unsupported reconciling items amounting to Kshs.6,555,403.
473. In the circumstances, the accuracy and recoverability of trade and other receivables balance could not be confirmed.

Management Response

474. The bureau had now attached the reconciliation for the VAT recoverable Kshs.91,847,273 and figure Kshs.117,509,212 on the VAT Return for June 2021.

Committee Observations

475. The Committee observed that the matter had now been resolved.

Committee Recommendation

476. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.47 Inaccuracy of intangible assets balance

489. The statement of financial position and Note 11 to the financial statement reflects intangible assets of Kshs.306,250. However, recomputation of the balance based on acquisition and amortization during the year results in a balance of Kshs.149,999. The variance of Kshs.156,251 has not been reconciled.

490. In the circumstances, the accuracy of intangible assets balance of Kshs.306,250 could not be confirmed.

Management Response

491. The details of the computation of the amortization of intangible assets from the date of purchase at the amortization rate of 30% p.a. as per the accounting policy. The amortized costs as at 30th June 2021 leading to the intangible asset balance of Kshs. 306,250.

Committee Observations

492. The Committee observed that the matter had now been resolved following and explanation by the management.

Committee Recommendation

493. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.48 Inaccuracies of Income Tax Expense

494. The statement of comprehensive income and Note 8(a) reflects an income tax expense for the year amounting to Kshs.27,107,916. However, the workings include a depreciation adjustment of Kshs.1,120,378 amortization on intangible assets of Kshs.607,500 that was already accounted for in the loss on disposal amount of Kshs.1,644,413. Further, deferred tax has not been accounted for in the financial statements despite timing differences arising out of capital allowances exchange gains and, general provisions for slow-moving stocks.

Management Response

495. The computation and reconciliation of the Income Tax expense Kshs.27,107,916, which had incorporated the capital allowances, exchange gains and general provisions has now been provided.

Committee Observations

496. The Committee observed that the matter had now been resolved.

Committee Recommendation

497. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.49 Unexplained Reduction in Inventories Balance

498. The statement of financial position and Note 12 to the financial statements reflect a balance of Kshs.1,049,986,950 which is net of the provision of slow-moving stocks of Kshs.2,899,966. Although the Bureau's provision based on the accounting policy is 10% of the slow-moving titles determined at end of the year, the drastic reduction from Kshs.11,474,930 to Kshs.2,899,966 has not been explained.
499. In the circumstances, the accuracy of inventories balance of Kshs.1,049,986,950 could not be confirmed.

Management Response

500. The reduction in the slow-moving inventories as at 30th June 2021 to Kshs.2,899,966 from Kshs.11,474,930 as at 30th June 2020, was mainly a result of the reclassification of general books that had previously been classified as slow-moving, but whose sales generation was determined to have increased with sales to Non-Governmental Organizations and open market. The provision for slow-moving stocks as at 30th June 2020, was Kshs.8,606,323.
501. The Notes to the Financial Statements Item no. 5 on Significant Judgements and Sources of Estimation uncertainty, subsection (c) on Provisions subsection (i) on Provision for Slow Moving stocks, provides as follows:

A provision for slow moving stocks is made at the rate of 10% of the slow-moving titles determined at the end of the financial year based on the annual title sales, the nature, the category of the title, the state of the market and the currency of the Education Syllabus and the Competency Based Curriculum Designs.

502. The slow-moving stocks are assessed on yearly basis, to determine their status.

Committee Observations

503. The Committee observed that the matter had now been with the explanation by management.

Committee Recommendation

504. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.50 Inconsistencies in Valuation of Cost of Sales - Work-In-Progress

505. The statement of comprehensive income reflects cost of sales of Kshs.834,253,008 as disclosed in Note 1(b) to the financial statements. Included under Note 1(b) cost of sales are opening balances and closing balances of work in progress of Kshs.17,193,516 and Kshs.84,083,839 respectively. However, inconsistency was noted in the valuation of work-in-progress. Further, the opening work in progress of Kshs.17,193,516 included job orders with no movement over the last twenty-four (24) months. In addition, the opening and closing balance of printed books reflect balances of Kshs.988,910,465 and Kshs.950,671,737 respectively whose reconciliation was not provided for audit.

506. In the circumstances, the cost of sales balance of Kshs.834,253,008 could not be confirmed.

Management Response

507. The valuation of work in progress includes the costs related to direct materials, direct labour, direct costs and production overheads. During the year, part of the work in progress convert to finished goods (printed books), while other work in progress remains at the end of the financial year.

508. The book titles under the valuation of opening work in progress as at 30th June 2020 was Kshs. 17,193,516, which becomes the opening work in progress as at 1st July 2022. The closing work in progress as at 30th June 2021 was Kshs. 84,083,839 as supported by the work in progress schedules.

509. On job orders with no movement over the last twenty-four (24) months, the Bureau is a commercial state corporation, with no funding from exchequer, which is required to execute its mandate, to generate revenue resulting to profitability.

510. In the advent of the devolution of powers to the County Governments under the Constitution of Kenya, 2010, the Bureau in furtherance of the performance of its commercial objectives embarked on aggressive marketing and sale of branded books to County Governments for the Early Childhood Development Education (ECDE), which is a devolved function.

511. The branding would include putting in the books a *Foreword* done by the Governor, placing of the County Government Logo on the book covers and inscribing the words, "Not for Sale" with the County Government name, just like the branding done to the Government of Kenya Books supplied to the Ministry of Education public schools.
512. To minimize losses of stripping off covers on the printed books, the Bureau prints book blocks without covers which remain as work in progress awaiting sales orders from the County Governments and National Government Constituency Development Fund (NG-CDF). The Bureau has been engaging in aggressive sales generation on that front and has been engaging the customers including writing to all County Government and NG-CDF. The Bureau has continued to convert work in progress into branded printed books.
513. Indeed, the Bureau has sold most of the ECDE books to County Governments having signed Memorandum of Understanding with thirty (30) out of forty-seven (47) counties as at 30th June 2021.
514. On, opening and closing printed books, the opening balances of the printed books as at 1st July 2020 Kshs. 988,910,465 is provided in the stock report as at 30th June 2020 (Annex 15), while the closing balance is as per the Stock Report as at 30th June 2021.

Committee Observations

515. The Committee observed that the matter had now been settled as the auditors were satisfied with the explanation.

Committee Recommendation

516. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.51 Non-compliance with the one-third of basic salary rule

517. During the year ended 30 June, 2021, twenty-one (21) employees 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 has not given an explanation for the failure to comply with the policy as it may expose the staff to pecuniary embarrassment.
518. In the circumstances, Management was in breach of the law.

Management Response

519. The Bureau is committed to abiding and enforcing the requirements of the Employment Act, 2007 section 19 (a) on the one third basic pay rule.

520. The Bureau has put in place internal control measures to ensure that staff net salary remain above the one third basic salary, by notifying the concerned staff in writing to find alternative ways of servicing their loans and insurance facilities by placing bank standing orders.

521. There was an inadvertent oversight where some staff earned net pay which was below one third basic pay. This situation was rectified through the stoppage of the recovery of third-party loans through the payroll after issuance of notification to the concerned staff members.

Committee Observations

522. The Committee observed that the matter had now been settled.

Committee Recommendation

523. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.52 Unsupported procurement of printing services

524. During the year under review, the Bureau Procured printing services valued at Kshs.558,518,432 from printing firms through prequalification advertised on 19 May, 2021 for financial years 2020-2022. However, the evaluation minutes, professional opinion and the contracts were not provided for audit.

Management Response

525. The procurement of printing services in question were done under open tender with a view to prequalify the suppliers, who have the capacity to offer the high-volume printing services. This was the requirement to ensure initial competition within the interested firms. The prequalification tenders were advertised through the print media on 19th May 2020.

526. The tenders went through the evaluation and a professional opinion was raised and approved by the Managing Director as required, resulting in three (3) firms being shortlisted as the most responsive after undertaking the due diligence exercise. The letters of notification were sent to the concerned firms who accepted and duly returned the same to the Bureau.

527. The Bureau issues Local Purchase Orders to the lowest responsive evaluated bidder on the specific items under procurement.

Committee Observations

528. The Committee observed that the matter had now been settled since the bureau had now supplied auditors with the tender advertisement, evaluation minutes, professional opinion,

letters of notification of award and letters of acceptance of award, and the auditors were satisfied with the documentation.

Committee Recommendation

529. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.53 Unauthorized board retreat expenditure

530. The statement of comprehensive income reflects administration costs of Kshs.359,749,136 as disclosed in Note 4 (a) to the financial statements. The expenditure includes board expenses of Kshs.7,489,188 which further includes retreat allowance of Kshs.1,003,431 paid to board members contrary to Office of the President Circular OP/CAB.9/1A dated 11 March, 2020 on State Corporations which requires all board retreats to be approved by the respective Cabinet Secretary. Further, amount of Kshs.120,000 was paid on 28 November, 2020 as sitting allowance for a virtual meeting where the agenda and board minutes were not provided for audit.

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

Management Response

532. The Board session in question was to conduct the Board Evaluation for the FY 2019/2020 as per the requirements of the Circular from the Executive Office of the President, No. OP/SCAC.9/1 dated 5th June 2020 and No. OP/SCAC.9/1A dated 11th March 2020 which was facilitated by the State Corporations Advisory Committee (SCAC).

533. The Bureau filed Board of Management ALMANAC (which is mandatory requirement) for FY 2020/21 to SCAC even though we inadvertently did not seek approval from the Cabinet Secretary, Ministry of Education as required by the Office of the President Circular OP/CAB.9/1A dated 11th March 2020. The Bureau commits to comply with the requirements of the Circular going forward.

534. The Board session held on 28th November 2020, was a physical meeting being the continuation of the Board Retreat to deliberate on various agenda.

535. The Board of Management assessed and determined that they could not manage to deliberate on all the critical agenda items within the projected timelines. They then decided to extend the sessions into the morning of 28th November 2020, which was to be the day of departure for the Board members.

Committee Observations

536. The Committee observed that the Accounting Officer had sought approval post-facto.

Committee Recommendation

537. The Committee recommends that the Accounting Officer ensures strict compliance with all circulars and legal provisions, before incurring expenditure.

3.13 COMMISSION FOR UNIVERSITY (CUE)

538. Prof. Mike Kuria, the CEO, led his team in adducing evidence on the audited accounts of the CUE, on 22nd March 2023.

3.13 1 Audited Financial Statements for the Financial Year 2018/19

3.5.54 Long outstanding receivables

539. The statement of financial position as at 30 June 2019 reflects trade receivables of Kshs. 1,055,950,862. Included in this balance is Kshs 1,045,795,218 relating to quality assurance-exchange receivables due from universities. Examination of the aging analysis of these receivables revealed that Kshs. 990,751,219 relate to the year 2017/2018 and earlier years. The recoverability of older debts still remains doubtful, and Management has not availed for audit review confirmations from respective universities acknowledging these debts.

540. In the circumstances the accuracy of the trade and receivable balance of Kshs 1,055,950,862 could not be ascertained.

Management Response

541. The Commission has had an engagement with the universities regarding the outstanding debts. The Commission has visited all the institutions and reconciliation of accounts has been undertaken. Some institutions have since cleared their debts and some have given payment plans.

542. Universities have expressed challenges in settling the amounts due to cash flow and a total of twenty-six Institution have requested for credit notes amounting to Kshs 588 million being charges for 2014/2015 and 2015/2016 being the period the universities were negotiating the charges. During the said period the Universities did not secure the charges from the students.

543. The Commission is considering case by case with the view of escalating the matters to the Ministry of Education.

Committee Observations

544. The Committee observed that the Council was in the process of completing reconciliations with various universities.

Committee Recommendation

545. The Committee recommends that the Council completes the reconciliations and institute recovery measures the Committee further recommends that the Auditor General verifies and reports the status in the subsequent audit.

3.5.55 Financial performance

546. The Commission's financial performance deteriorated in the year under review from a surplus of Kshs 122,077,937 in 2017/2018 to a deficit of Kshs 4,630,579 representing 103% decrease. Should the commission fail to put strategies in place to reverse the trend, the Commission may experience financial difficulties in future.

Management Response

547. During the FY 2018/2019 the Commission strived to operate within the approved budget and in so doing incurred total expenditure of Kshs.375.7 million against approved budget of Kshs.379.3 million therefore recording a favorable variance of Kshs.3.6 million in expenditure. Notwithstanding the saving on expenditure, the Commission was challenged by reduced capitation from Kshs.227 million in the FY2017/2018 to Kshs.181 million in FY2018/2019 and also a drop in A-I-A from Kshs.285 million to Kshs.190 million. During the FY2017/2018 the universities availed more student numbers than in the following year which resulted in reduced income. During the year FY2018/2019 the Commission occupied office space that had been let out hence a drop in rental income.

548. The Commission realigned and continues to realign its activities to ensure that deficits are not recorded as it delivers its mandate.

Committee Observations

549. The Committee observed that the matter had now been settled.

Committee Recommendation

550. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.13.2 Audited Financial Statements for the Financial Year 2019/20

3.5.56 Long outstanding receivables

551.The Committee observed that the matter was recurring from the previous financial year and reiterates its recommendation on the same.

3.5.57 Budgetary control and performance

552.The Committee observed that the matter was recurring from the previous financial year and reiterates its recommendation on the same.

3.13.3 Audited Financial Statements for the Financial Year 2021/22

3.5.58 Inaccuracies in financial statements

553.The auditors from the office of the auditor general submitted as follows:

- i) The statement of financial performance reflects donor funds-NICHE comparative amount of Kshs.10,067,686 that has no explanatory note;
- ii) Note 5 to the financial statements on page 15 reflects a surplus of Kshs.10,979,479 as at 30 June, 2020 instead of a surplus of Kshs.10,368,968 reported on the statement of financial performance resulting to an unexplained variance of Kshs.610,511;
- iii) The statement of comparison of budget and actual amounts reflects a nil adjustment for total income and expenditure. However, a recast of the adjustments results to an amount of Kshs.6,041,444 and negative Kshs.44,935,483 respectively;
- iv) The statement of comparison of budget and actual amounts reflects original and final budget in respect of rendering of services amounting to Kshs.198,000,000 and Kshs.122,400,000 respectively. However, the adjustment column indicates a nil adjustment to the budget and the difference of Kshs.75,600,000 was not explained or reconciled;
- v) The statement of comparison of budget and actual amounts reflects original budget deficit of Kshs.47. However, a recast of the amounts results to a nil balance.
- vi) The statement of financial position reflects cash and cash equivalents balance of Kshs.431,708,635. However, note 18 to the financial statements reflects a balance of Kshs.431,873,335 for the same items resulting to an unexplained and an unreconciled variance of Kshs.164,700.
- vii) Note 4 to the financial statements on page 10 indicates the financial year as 2019/2020 instead of 2020/2021 under the budget information.

Management Response

554.The errors have been corrected in the 2021/2022 financial statements.

Committee Observations

555.The Committee observed that the matter had now been settled.

Committee Recommendation

556.The Committee recommends that the Accounting Officer henceforth complies with accounting standards, in this case IPSAS 1 paragraph 27 which requires financial statements to present fairly the financial position, financial performance, and cash flows of an entity.

3.5.59 Property, plant and equipment

557.The statement of financial position reflects property, plant and equipment of Kshs.440,931,781. However, the property, plant and equipment balance include land and buildings that have been carried at revalued amounts of Kshs.314,000,000 and Kshs.168,550,821 respectively with the last revaluation having been done in the year 2010. However, the Commission's accounting policy does not support revaluation model of accounting for assets. The property, plant and equipment balance also includes an amount of Kshs.3,958,002 in respect of motor vehicles whose individual values differed materially from one year to another but was not supported by any revaluation hence a contravention of IPSAS 17 paragraph 44 on use of revaluation model.

558.Further, note 21 to the financial statements reflects work in progress balance of Kshs.7,447,200 relating to undefined project for which no supporting documents were provided for audit review.

559.In the circumstances, the accuracy of the property, plant and equipment balance of Kshs.440,931,781 as at 30 June, 2021 could not be confirmed.

Management Response

560.The Commission has not been able to revalue its land, buildings and motor vehicles due to budgetary constraints. However, in the financial year 2022/2023, a budget provision is available for the valuation of assets and the commission has initiated the procurement process.

561.The work in progress as disclosed in Note 21 relates to the payments in respect to management Information system (MIS) under implementation, supporting documents for the procurement of the service and payment vouchers have since been provided for audit review.

Committee Observations

562.The Committee observed that revaluation was in progress.

Committee Recommendation

563. The Committee recommends that the revaluation exercise be completed and that the Auditor General reports status in the subsequent audit.

3.5.60 Trade and Other Payables from Exchange Transactions

564. The statement of financial position reflects trade and other payables from exchange transactions balance of Kshs. 60,159,839 as detailed in Note 27 to the financial statements. However, the balance has not been supported by a listing of the payables indicating names, amounts due to each supplier and verifiable documentation to support the payables balance. In addition, as disclosed in Note 27 to the financial statements, the balance includes an amount of Kshs. 11,045,195 in respect of research funds which has been outstanding for over three years.

565. In the circumstances, the completeness of the trade and other payables from exchange transactions balance of Kshs. 60,159,839 as at 30 June, 2021 could not be confirmed.

Management Response

566. A listing of payables totaling to Kshs. 60,159,839 is available. Research funds of Kshs. 11,045,195 was allocated to support research activities on universities Competency Based Curriculum in the 2022/2023 financial year.

Committee Observations

567. The Committee observed that documentation for Kshs. 60,159,839 had been availed to auditors and they had verified. Those for Kshs. 11,045,195 were still outstanding as at the time of writing this report

Committee Recommendation

568. The Committee recommends that the Principal Secretary reprimands the Accounting Officer for failing to submit documents to the Auditor General as required under section 13 of the Public Audit Act, 2015 and further the Committee recommends that, the Accounting Officer immediately avails documentation in support of Kshs. 11,045,195 to the Auditor General for audit review and reporting in the subsequent audit.

3.5.61 Receivables from Exchange Transactions

569. The Committee observed that the matter was recurring and had been handled in the financial year 2018/19 report. The Committee reiterates its recommendation on the matter.

3.5.62 Unsupported General Expenses

570. The statement of financial performance for the year ended 30 June, 2021 reflects general expenses amounting to Kshs.53,645,658 as detailed in Note 17 to the financial statements. However, expenses totalling to Kshs.46,284,531 were not supported by a schedule or ledger.

571. In the circumstances, the accuracy and completeness of general expenses totalling to Kshs.46,284,531 for the year ended 30 June, 2021 could not be confirmed.

Management Response

572. The ledger accounts and supporting documents for Kshs.46,284,531 have been provided to the auditors.

Committee Observations

573. The Committee observed that the matter had now been resolved.

Committee Recommendation

574. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.63 Repairs and Maintenance

575. The statement of financial performance and Note 15 to the financial statements reflects repairs and maintenance expenditure of Kshs.3,718,294. However, the supporting schedule provided for audit review did not have identity of the service provider and it was not possible to review the selection and award of the supplier. Further, included in this expenditure is amount of Kshs.251,195 for purchase of sanitizers which was wrongly charged to repairs and maintenance expenses.

576. In addition, an amount of Kshs.1,356,942 was spent on construction of perimeter wall for Loresho House while another amount of Kshs.468,896 was spent for renovation of the same house. The ownership and proof of use of the house for the benefit of the Commission could not be ascertained as the land ownership documents were not provided for audit review.

577. In the circumstances, the accuracy and regularity of repairs and maintenance expenditure of Kshs.3,718,294 for the year ended 30 June, 2021 could not be confirmed.

Management Response

578. The support schedule for repairs and maintenance Kshs.3,718,294 indicating identity of service providers has been provided. The purchase of sanitizers Kshs.252,195 has been reclassified and adjusted in the financial statements of FY 2021/2022.
579. The Loresho house is owned by the Commission and the title deed was provided to the auditors and is in the name of the Commission for University Education hence Commission Asset.

Committee Observations

580. The Committee observed that the matter had now been settled following the satisfactory response by management.

Committee Recommendation

581. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.64 Cash and Cash Equivalents

582. The statement of financial position as at 30 June, 2021 reflects cash and cash equivalents balance of Kshs.431,708,635 as detailed in Note 18 to the financial statements. However, the bank reconciliation statements reflect unpresented cheques totalling Kshs.15,914,679 that includes payments to banks of Kshs.6,403,044 whose particulars and dates cleared by the banks were not disclosed. In addition, unbanked receipts reflected on the bank reconciliation statements amounting to Kshs.320,000 did not have details of when they were banked and could not be traced to the bank statement.
583. Further, note 18 to the financial statements reflects an opening fixed deposit account balance of Kshs.11,408,093 and a nil closing balance. Although, the Management indicated that the account was closed with the approval of The National Treasury, the approval and evidence of transfer of the account balance was not provided for audit review.
584. In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.431,708,635 as at 30 June, 2021 could not be confirmed.

Management Response

585. The list of unpresented cheques Kshs.6,403,044 with clearance dates has been provided to the auditors and the date of unbanked receipt was provided. The unbanked receipt of Kshs.320,000 was from Maseno University for programme evaluation. It was deposited on 5th July 2021.

586. The evidence of transfer of Kshs.11,408,093 to the Commission Main Account was provided and the amount was deposited in the KCB main account.

Committee Observations

587. The Committee observed that the matter had now been resolved.

Committee Recommendation

588. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.65 Mortgage and Car Loan Deposit

589. The statement of financial position as at 30 June, 2021 reflects mortgage and car loan deposit of Kshs.84,515,037. However, no supporting documents have been provided to support creation and operation of the mortgage and car loan scheme by the Commission. Further, details of loans issued by the Scheme, interest earned if any were not provided for audit review. The Management did not also provide any approved regulations governing the operation of the Scheme to justify the transfer of the amount to deposit account.

491. In the circumstances, the accuracy and regularity of the mortgage and car loan deposit of Kshs.84,515,037 as at 30 June, 2021 could not be confirmed.

Management Response

590. The regulations governing the operation of the Mortgage and car loan scheme was approved by the National treasury vide the letter ref. ZZ/26/03A/C/ (72) dated 5th July 2019.

591. The funds deposited were disbursed to eleven members of staff as at 30th June 2021.

592. The approval of the CUE Mortgage and Car loan deposit was approved by the National Treasury vide letter ref: AG.3/88/1/Vol.37/ (2) dated 3rd June 2020.

Committee Observations

593. The Committee observed that the matter had now been settled.

Committee Recommendation

594. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.66 Remuneration of Commissioners

595. The statement of financial performance and Note 13 to the financial statements reflects remuneration of Commissioners amounting to Kshs.5,544,258 for the year ended 30 June, 2021. Included in the expenditure are sitting allowances totalling to Kshs.3,060,000 out of which payments amounting to Kshs.2,020,000 were not supported by minutes detailing attendance and deliberations of the meetings.
596. In the circumstances, the regularity of the remuneration of the Commissioners expenditure of Kshs.2,020,000 for the year ended 30 June, 2021 could not be confirmed.

Management Response

597. All Minutes were signed and the same have been provided to support Kshs.2,020,000.

Committee Observations

598. The Committee observed that the matter had now been resolved following the response by management.

Committee Recommendation

599. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.67 Rendering of services Income

600. The statement of the financial performance for the year ended 30 June, 2021 and as detailed in Note 7 to the financial statements reflects rendering of services income of Kshs.161,779,175 which includes quality assurance charge of Kshs.124,889,000. However, the revenue increased from an amount of Kshs.45,455,000 in the financial year 2019/2020 to Kshs.124,889,000 in the current year or an increase of 274% which has not been explained and the basis of charging the various institutions was not provided for audit review.
601. In addition, the program accreditation revenue dropped from Kshs.39,601,665 to Kshs.26,561,250 for which no explanation and verifiable documents have been provided while invoices amounting to Kshs.62,911,240 for the year 2018/2019 have been included as revenue for the year.
602. Further, the basis of charging equation of qualification revenue amounting to Kshs.10,328,926 reporting in the financial statements was not provided for audit review.

603. In the circumstances, the accuracy and completeness of rendering of services income of Kshs.161, 779, 176 for the year ended 30 June, 2021 could not be confirmed.

Management Response

604. The quality assurance charge is based on the number of admitted students as provided by the universities and which causes variation in income as the number is determined by the students who are admitted at the Universities. The basis for charging is as per gazette notice 6853 of 30/06/2016 and which was provided. Schedule supporting quality assurance charges of Ksh.124,889,000, programme accreditation of ksh.26,561,250 and equation of qualification revenue has been provided.

Committee Observations

605. The Committee observed that the matter had now been settled.

Committee Recommendation

606. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.68 Contracted Services

607. The statement of financial performance for the year ended 30 June, 2021 reflects contracted services expenditure of Kshs.26,622,593 as detailed in Note 16 to the financial Report of the Auditor-General on Commission for University Education for the year ended 30 June, 2021. This expenditure in turn includes payments to resource persons amounting to Kshs.13,894,076. However, the resource persons payments which includes accommodation, honoraria and sitting allowances amounting to Kshs.1,560,000, Kshs.9,627,300 and Kshs.2,045,240 respectively have not been supported by any legal or statutory documentation on basis of the rates used.

608. In the circumstances, the accuracy and regularity of the contracted services expenditure of Kshs.13,894,076 could not be confirmed.

Management Response

609. During accreditation of universities, the Commission uses the services of peer reviewer from a rank of senior lecturer and the rates paid were approved by the Commission.

Committee Observations

610. The Committee observed that the matter had now been resolved following the response from management.

Committee Recommendation

611. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.69 Professional Fees

612. The statement of financial performance and Note 16 to the financial statements reflects contracted services expenditure of Kshs.26,622,593 which includes conveyance fees for land amounting to Kshs.270,000. Although the Management indicated that the fees were in respect of transfer of Commission's land from the predecessor Commission, no documentary evidence was provided for audit verification.

613. Further, justification of an expenditure of Kshs.2,720,000 in respect of a court case where the Commission does not appear as a respondent was not provided for audit and no contingent liability has been disclosed in the financial statements for matters before courts.

614. In the circumstances, the accuracy and regularity of professional fees of Kshs 5,594,900 for the year ended 30 June, 2021 could not be confirmed.

Management Response

615. The Commission engaged services of a professional to transfer its land title from the Commission for Higher Education (CHE) to Commission for university Education (CUE). Payment Voucher and supporting documents for land conveyance fees Kshs.270,000 were provided. The expenditure of Kshs.2,720,000 relates to payment of a court case, Nairobi Court of Appeal Civil application No. 190 of 2020 Kenya Medical Laboratory Technicians and Technologist Board & 7 Others VS the Attorney General and Commission for University Education in which professional bodies had appealed against the High Court decision in Nairobi Petition No. 106 of 2017, Nairobi No.49 of 2017, and Nairobi Petition No.37 of 2017.

Committee Observations

616. The Committee observed that the matter had now been settled.

Committee Recommendation

617. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.70 Budgetary Control and Performance

618. The statement of comparison of budget and actual amounts reflects revenue budget of Kshs.291,491,931 against actual revenue of Kshs.301,052,351 resulting in an over collection of Kshs.18,560,420 or 6%. Similarly, the statement reflects an actual expenditure of Kshs.298,173,332 against a budget of Kshs.316,115,004 resulting to an under-expenditure of Kshs.17,941,672 or 43%. Management has not provided any explanation for the under-expenditure which affected the planned activities and may have impacted negatively on service delivery to the public.

Management Response

619. The Commission in discharging its mandate undertakes physical verification, during the financial year under review most activities were deferred due to Covid-19 as movement was restricted and most universities had closed down.

Committee Observations

620. The Committee observed that the matter had now been resolved following the satisfactory response by management.

Committee Recommendation

621. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.71 Management of Imprests

622. The Commission issued imprests totalling Kshs.552, 152 to staff before the previous ones were surrendered. This was contrary to Regulation 93(8) of the Public Finance Management (National Government) Regulations, 2015 which states that in order to effectively and efficiently manage and control the issue of temporary imprests, an Accounting Officer or AIE holder shall ensure that no second imprest is issued to any officer before the first imprest is surrendered or recovered in full from his or her salary. In the circumstances, the Commission was in breach of the law.

Management Response

623. The Commission has put in place a control in the Management information system which ensure staff cannot apply for another imprest when they have unaccounted imprest. In addition, a further enhancement has been put at the point of application of the imprest.

Committee Observations

624. The Committee observed that the matter had now been resolved.

Committee Recommendation

625. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.72 Ethnic Diversity

626. Available records at human resource department indicated that the dominant ethnic community employed by the Commission constituted 35% (consisting of 29 employees in permanent and pensionable terms). The Commission had contravened Section 7(2) of the National Cohesion and Integration Commission Act, 2008 which states that no public establishment shall have more than one third of its staff from the same ethnic community.

Management Response

627. The Commission in its new appointments will work towards achievement of ethnic balance.

Committee Observations

628. The Committee observes that all public institutions are expected to abide by values and principles of public service as provided for under Article 232(1)(h) of the constitution and the National Cohesion and Integration Act, and ensure fair and diverse representation of the people of Kenya in staffing.

Committee Recommendation

629. The Committee recommends that the Accounting Officer makes deliberate effort to correct the imbalance, by ensuring affirmative action in subsequent recruitments. Further, this requirement must be embedded in the institutions HR manual and policies within three months of adoption of this report.

3.13.19 Procurement of Integrated Management Information System

630. The Commission engaged a company for the provision of Integrated Management Information System at a contractual sum of Kshs.45,760,840 inclusive of VAT with a commencement date of 19 October, 2018. The contract document provides the duration of various planned activities and one-year support period. A total of Kshs.15,868,800 had been paid to the contractor as at the time of audit. However, there was no expected date of completion in the contract and the committee for the implementation formed did not prepare reports as prescribed by the Regulation 137 of the Public Procurement and Assets Disposal Regulations, 2020. The contract implementation documents were not complete, up to date and key milestones were not achieved as required by the contract agreement. In addition, the contractor had not provided the latest online Microsoft downloaded training materials and learning plans as provided for in the contract agreement.

631. Further, the revised project plan which was necessitated by the extension of work through circular reference CUE/10/7 NOL.13/8 was not provided for audit review thus raising doubt as to whether they were actually prepared after the extension of the contract period.

632. In the circumstances, the regularity of the expenditure of Kshs.15,868,800 for the year ended 30 June, 2021 could not be confirmed.

Management Response

633. The following documents are available to support the expenditure:

- Copy of the contract
- Contract extension letter
- Inspection reports
- Online Microsoft training materials.
- Revised project plan

634. This contract expired on 14th July 2022.

Committee Observations

635. The Committee observed that the matter had now been settled following the response by the Accounting officer.

Committee Recommendation

490. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.13.20 Related Party Transaction - Motor Vehicle

491. Review of the Commission's assets indicated that motor vehicle registration number KCE 6140 Chevrolet trailblazer registered under the Commission for University Education had not been released to the Commission by the State Department for University Education. This is despite communications vide letters dated 15 February, 2021 and 28 July, 2021 to the State Department to release the vehicle.

Management Response

492. The vehicle has since been released to the Commission.

Committee Observations

493. The Committee observed that the matter had now been settled as the auditors were now satisfied with the documentation.

Committee Recommendation

494. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.14 KENYA NATIONAL EXAMINATIONS COUNCIL (KNEC)

495. Dr. David Njengere, the CEO, led his team in adducing evidence on the audited accounts of KNEC, on 22nd March 2023.

3.14.1 Audited Financial Statements for the Financial Year 2018/19

3.5.73 Non-disclosure of material uncertainty relating to going concern

496. The statement of financial performance reflects a deficit of Kshs.854,467,244 (2017/2018: deficit of Kshs.1,065,415,558) thereby reducing its revenue reserve to a negative Kshs.971,338,575 as at 30 June, 2019. In addition, the statement reflects current liabilities amounting to Kshs.3,509,140,068 which exceeds current assets amount of Kshs.2,486,917,550 resulting in a negative working capital of Kshs.1,022,222,518. However, the financial statements have been prepared on a going concern basis and Management has not explained any mitigation measures to improve the performance.

497. In the circumstances, the Council is technically insolvent and ability to meet its short-term obligations as and when they fall due could not be confirmed.

Management Response

498. The Ministry of Education, State Department for Early Learning and Basic Education through the National Treasury has responded to the Council's requests for additional funding for the FY 2021/2022. As a start for the FY 2021/2022 the Council was granted an additional funding of Kes.1,000,000,000 in the Supplementary 1 Budget FY 2021/2022 towards its examination expenses. This is a positive step and it is expected to go a long way in resolving the deficit status of the Council. See attached copy of the FY 2021/2022 Supplementary Budget Estimates. The Council has also requested for the same Supplementary Budget amount in FY 2022/2023.

Committee Observations

499. The Committee observed that KNEC has been grossly underfunded, especially since government took over payment of examination fees for all students since 2016. The rise in candidature has not been reflected in annual receivable grants and this is compounded by block allocation, rather than per capita. Further, the Committee notes with concern that government pays exam fees for all students, including those in private schools despite them obviously being able to afford.

Committee Recommendation

500. The Committee recommends that –

- (i) the National Treasury allocates funds to KNEC on a per capita basis, to enable it meet operational costs related to examination.
- (ii) that the ministry of education stops payment of examination fees for students in private schools.

3.5.74 Long outstanding work in progress

502. As reported in the previous years, the Council has been constructing the New Mitihani House in South C and the works have been going on for the last thirty-one (31) years. Records available indicate that the Council awarded Phase VI under contract No. NMH-06/2012 to M/s Ongata Works Limited in 2013 in respect of internal partitioning and finishes, fittings, building services and external works in the entire building at a contract sum of Kshs.1,499,989,252 for a contract period of 78 weeks. Although the contractor had the contract extended to 31 July, 2017, as 10 March, 2020, the works stood at 59% level of completion and the Management had terminated the contract. As at 30 June, 2019, the Council had paid Kshs.921,224,251 while certified works stood at Kshs.1,290,244,222 representing 61% of the original contract sum.

503. In addition, with the cancellation of the contract, Management risks legal suits from the contractor which may further delay the completion of the project. Management has not provided a roadmap on how it intends to complete the project. In the circumstances, the delays in completion may lead to cost escalation and stakeholders may not get value for their resources if this project is not completed and put to use.
504. Further, examination of payment records for the project revealed a payment of Kshs.368,978,231 in respect to Certificate No.29 is still outstanding and continues to attract interest on delayed payment which amounted to Kshs.44,697,055 as at 30 June 2019.
505. No satisfactory reason was availed by Management for the delay in payment of certificates resulting into these penalties and interest charged on the delay.

Management Response

506. The matter has been a long outstanding one. A cost-effective way for the completion of the project is already under way as per the attached signed contract between KNEC and the Kenya Technical Trainers College (KTTC) for the completion of Tower C. It was launched by the Cabinet Secretary Ministry of Education, Prof. George Magoha. The Council will save Kes.54,882,951 paid annually as rent and service charge to NHC and to the Ministry of Public Works for the Industrial Area premises.
507. Subsequently, the KNEC staff have since moved from the NHC Town Offices to NMH South C. While for the next financial year 2023/2024 The Ministry of Education through the National Treasury has allocated Kes.350 million as the final allocation and completion monies for the completion of NMH.

Committee Observations

508. The Committee observed that the construction has taken inordinately long to complete. The project had spanned over thirty years with seven different contracts, and is a classic example of how government commences projects without foresight on its financing to completion. The current accounting officer had settled all claims and dispensed with court cases; he had also engaged KTTC to help complete works with finality. Treasury had also allocated Kshs. 350 million in the current financial year towards the project.

Committee Recommendation

509. The Committee recommends that the Council assesses cost of works pending to completion within three months of adoption of this report and prioritizes works to utilize the already allocated Kshs. 350 million, and engages the National Treasury to allocate resources for the remaining works in the medium term.

3.5.75 Long outstanding receivables from exchange transactions

510. As reported in the previous years, the statement of financial position reflects prepayment receivables from exchange transactions balance of Kshs.249,517,587 as at 30 June, 2019. Included in the debtors-examinations net balance of Kshs.18,998,760 reflected in Note 46 to the financial statements is ECDE debtors totalling Kshs.26,616,800. This balance includes an amount of Kshs.19,889,300 due from the Foundation Institute of Africa relating to unpaid examination fees in 2014. These amounts have attracted penalties amounting to Kshs.16,016,000 being late registration and late payment for the examination that the Council has recognized as contingent assets.
511. Management has explained that they have released the examination certificates to the Institute and it is therefore not clear how this amount will be recovered. Consequently, the recoverability of the receivables from exchange transactions balance of Kshs.19,889,300 and the contingent asset of Kshs.16,016,000 as at 30 June, 2019 is in doubt.

Management Response

512. The Council complied with a Court Order and released the certificates. However, the Council is still pursuing this debt owed by the College and has handed over the matter to the Offices of the Attorney General and Directorate of Criminal Investigations to follow up on the Councils behalf as it had a criminal element.
513. Going forward and to mitigate against such occurrences, the council does not allow students to sit examinations without full settlement of exam fees.

Committee Observations

514. The Committee observed that despite the courts ordering release of the certificates, the council ought to have effected stringent measures to collect fees from the college before candidates sat for exams.

Committee Recommendation

515. The Committee recommends that the council pursues the matter with finality and report status of implementation to the Committee by 31st December 2023.
516. The Committee recommends that the subject college be barred from fielding candidates until they settle their dues.

Financial Year 2019/20

3.5.76 Non-disclosure of material uncertainty relating to going concern

517. The Committee observed that the matter was recurring and had been handled in the previous financial year report. The Committee reiterates its recommendation on the matter.

3.5.77 Long outstanding work in progress

518. The Committee observed that the matter was recurring and had been handled in the previous financial year report. The Committee reiterates its recommendation on the matter.

3.5.78 Long outstanding receivables from exchange transactions

519. The Committee observed that the matter was recurring and had been handled in the previous financial year report. The Committee reiterates its recommendation on the matter.

3.5.79 Budgetary control and performance

520. The statement of comparison of budget and actual amounts reflects final recurrent revenue budget and actual on comparable basis of Kshs.7,555,756,040 and Kshs.6,890,388,927 respectively resulting in under collection of Kshs.665,367,113 or 9%. Similarly, the Council spent a total of Kshs.7,261,295,415 against an approved budget of Kshs.8,241,480,859 resulting to an under-expenditure of Kshs.980,185,445 or 12% of the budget. The under collection was largely attributed to the underperformance of receipts from examination fees of Kshs.788,431,485 representing 26% of the budget due to postponement of April, 2020 examinations due to COVID-19 pandemic. The under collection of revenue and the under-expenditure affected the planned activities of the Council and may have impacted negatively on service delivery to the public.

Management Response

521. The under-collection of revenue was as a result of the postponement of the business and technical examinations due to the outbreak of covid-19 pandemic which also resulted in savings/ under-expenditure due to the non-administration of the same examinations during the year under review.

Committee Observations

522. The Committee observed that the Council had satisfactorily responded to the matter and recommends that the matter be closed.

Financial Year 2020/21

3.5.80 Non-disclosure of material uncertainty relating to going concern

523. The Committee observed that the matter was recurring and had been handled in the previous financial year report. The Committee reiterates its recommendation on the matter.

3.5.81 Long outstanding work in progress

524. The Committee observed that the matter was recurring and had been handled in the previous financial year report. The Committee reiterates its recommendation on the matter.

3.5.82 Long outstanding receivables from exchange transactions

525. The Committee observed that the matter was recurring and had been handled in the previous financial year report. The Committee reiterates its recommendation on the matter.

3.5.83 Budgetary control and performance

526. The statement of comparison of budget and actual amounts reflects final revenue budget of Kshs.7,585,135,387 against actual revenue collections of Kshs.7,239,363,779 resulting in under collection of Kshs.345,771,608 which represents a 5% under performance. Similarly, the Council spent a total of Kshs.7,875,288,231 against an approved budget of Kshs.8,662,733,574 resulting to an under-expenditure of Kshs.787,445,343 or 9% of the budget.
527. The under collection of revenue and the under-expenditure affected the planned activities of the Council and may have impacted negatively on service delivery to the public.

Management Response

528. The under collection of Kes. 345,771,608 was under the Capital Vote for New Mitihani House where the Council was to receive Kes.389,325,800 from The National Treasury but this did not materialize by 30th June 2021, this matter was outside the Councils control. While the expenditure savings of Kes.338,007,802 were realized under, Salaries and Wages Kes.52,150,620 – On account of Staff Vacancies which were not filled as at 30th June 2021, Depreciation and Amortization Kes.30,592,835 – on account of fully depreciated assets as at 30th June 2021, and Examinations Expenses Kes.244,674,034 – on account of increased candidature across all the examinations.

529. The Council wishes to confirm that neither the under collection of revenue under the Capital vote nor the under expenditure affected service delivery to the public during the year under review.

Committee Observations

530. The Committee observed that the Council had satisfactorily responded to the matter.

Committee Recommendation

531. The Committee recommends that the Accounting Officer provides reasons to the auditors promptly, for material differences between budget and actual expenditures in the financial statements contrary to Regulation 137 (1c) of the Public Finance Management (National Government) Regulations, 2015.

3.5.84 Irregular expenditure on field inspections by council members

532. The Council incurred an expenditure of Kshs.10,324,600 on examination monitoring allowances which were paid to Council members to participate in field inspections for monitoring exams. This is contrary to Circular Ref. No. OP/CAB.9/1A dated March, 2020, which delegates field/inspection visits as a function of the executive team.
533. In the circumstances, Management was in breach of regulations.

Management Response

534. Following the unfortunate incidents of 2015 when the National Examinations leaked, the Government sent home the then entire Council including the top management. A new Council was appointed in 2016 and the top management partially recruited/appointed. The Government also appointed an Acting CEO who continued in office until June 2021. Without a top management in place and in order for the New Council to understand and own the examinations process, a Council resolution was made for the Council to go to the field for inspection purposes where necessary.
535. The Council sought and obtained approval from the National Treasury the Council Members to undertake field activities as per the attachment.

Committee Observations

536. The Committee observed that the Council had satisfactorily responded to the matter.

Committee Recommendation

537. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.85 Lack of ICT steering committee and ICT strategic committee

- 538. Review of the Information Technology (IT) controls revealed that the Council did not have an ICT strategic committee and an ICT steering committee to guide its ICT operations.
- 539. In the circumstances, the Council may not realise its ICT strategic goals as outlined in its strategic plan.

Management Response

- 540. KNEC ICT Steering Committee has been appointed and will spear head the development of the ICT Strategic Plan and update the existing ICT Policy. They will borrow from the approved KNEC 2021-2026 Strategic plan which has a comprehensive ICT Strategy Plan.
- 541. The approved KNEC Disaster Recovery Policy and Committee are already in place.

Committee Observations

- 542. The Committee observed that the Council had satisfactorily responded to the matter.

Committee Recommendation

- 543. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.15 JOMO KENYATTA FOUNDATION (JKF)

- 544. Mr. David Mwaniki, Managing Director, led his team in adducing evidence on the audited accounts of JKF, on 22nd March 2023.

3.14.1 Audited Financial Statement for the Financial Year 2018/19

3.5.86 Going concern uncertainty

- 545. The statement of financial position reflects that the current liabilities of Kshs. 281,772,000 exceeded the current assets of Kshs. 247,282,000 resulting in a negative working capital of Kshs. 34,490,000.
- 546. In addition, the Foundation also recorded a net loss of Kshs. 176,799,000 (20218; Kshs 118,368,00) thereby decreasing the retained earnings from Kshs. 438,000 as at 30 June 2018 to a deficit of Kshs 192,361,000 as at 30 June 2019.

Management Response

547. The Foundation's financial performance decreased in the year under review due to the decline in turnover attributed to change in Government policy in the book industry

Committee Observations

548. The Committee observed that the matter had now been settled as the auditors were satisfied with the explanation.

Committee Recommendation

549. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.87 Budgetary control and performance

550. The statement of comparison of budget and actual amounts reflects final revenue budget and actual on comparable basis of Kshs.1,075,520,000 and Kshs.436,880,000 respectively resulting to an under-funding of Kshs.638,640,000. Similarly, the Company's expenditure amounted to Kshs.613,679,000 against an approved budget of Kshs.1,029,087,000 resulting to an under-expenditure of Kshs.415,408,000 or 40% of the budget.

Management Response

551. The Foundation does not receive any funding from exchequer. All revenue is derived from sale of books and other publications and it varies depending on the level of performance in the market in the under review.

Committee Observations

552. The Committee was satisfied with the explanation and recommends that the matter be closed.

3.5.88 Investments in call deposits

553. As disclosed in Note 17 to the financial the statements, the statement of financial position reflects an amount of Kshs.850,000,000 in respect of call deposits held at a local bank.

Management Response

554. The figure of Kshs. 850,000 was collateral for a bid bond guarantee issued to our customers in normal business and especially Kenya Institute of Curriculum Development (KICD) for prints works.

Committee Observations

555. The Committee observed that the matter was now settled as the Accounting Officer had provided documentation for the bid bonds, and had been verified by auditors.

Committee Recommendation

556. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, by providing supporting documentation and explanations on time.

3.14.2 Audited Financial Statements for the Financial Year 2019/20

557. The Foundation had no audit query in the subject financial year.

3.14.3 Audited Financial Statements the Financial Year 2020/21

3.5.89 Unexplained debit balances

558. Unexplained four debit balances totalling Kshs.6,031,479 and described as salaries net pay suspense, NSSF employee control suspense, NHIF suspense account and KCB personal loans suspense.

Management Response

559. The debit balance totalling Kshs.6,031,479 relates to salaries net pay of Ksh.6,021,432.65 and staff deductions of Ksh.10,044.15 relating to balances for NHIF Ksh.300, NSSF Ksh1,564.15 and KCB loans Kshs.8,180 which has since been reconciled.

Committee Observations

560. The Committee observed that the matter was now settled as the Accounting Officer had provided documentation, and had been verified by auditors.

Committee Recommendation

561. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

13.15.5 Unsupported provision for directors' fees

562. Payables balance includes a provision of Kshs.4,500,000 being an annual allocation of Kshs.900,000 for five (5) years in respect of outstanding directors' fees. However, Management did not provide for audit, the source records and the reason for non-payment over the years.

Management Response

563. The director fees are paid when the Foundation makes a profit but this has to be authorized by the National Treasury hence the making provisions in the accounts for the director's fees payable. The Foundation was awaiting for the approval for request done to The National Treasury which has not been received for the financial year ending June 2015/2016/2017/2020/2021.

Committee Observations

564. The Committee observed that the matter was now settled as the Accounting Officer had provided documentation, and had been verified by auditors.

Committee Recommendation

565. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.90 Unsupported Goods Received Notes (GRN) Stock Clearing Account

566. Payables balance includes a GRN stock clearing account totalling to Kshs.15,150,324. However, the balance was not supported with source documents including orders raised, related goods received notes, and inspection and acceptance reports.

Management Response

567. The Foundation had sampled out the source documents of the major values in GRN mostly relating to the major printers and provided these during the meeting.

Committee Observations

568. The Committee observed that the matter was now settled as the Accounting Officer had provided documentation, and had been verified by auditors.

Committee Recommendation

569. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.91 Unsupported accrued expenses

570. Included in the other payables balance is an amount of Kshs.5,018,446 in respect to accrued expenses that also includes Kshs.460,561 as amount payable VAT inclusive to a tax consultant. However, the supporting records for the transaction were not provided for audit.

Management Response

571. The Ksh.460,561 includes a figure of Ksh.334,100 a provision for the audit and tax filling for our JKF Rwanda operation payable to Grefam Consultants we attached the LPOs and email communications. KSh126,461 was a monthly provision for amounts payable to Baker Tilly Merali for the monthly VAT audit based on actual payments.

Committee Observations

572. The Committee observed that the matter was now settled as the Accounting Officer had provided documentation, and had been verified by auditors.

Committee Recommendation

573. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.92 Unexplained variances in cash and cash equivalents

574. Audited four (4) bank accounts had a balance of Kshs.106,402,506, but whose bank reconciliation statements reflected an amount of Kshs.112,510,552 resulting to unexplained and unreconciled variances

Management Response

575. Updated Bank Reconciliations had now been sent to the auditors agreeing the account and bank reconciliations.

Committee Observations

576. The Committee observed that the matter was now settled as the Accounting Officer had provided documentation, and had been verified by auditors.

Committee Recommendation

577. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.93 Unsupported scholarship applied

578. The statement of changes in equity reflects a balance of Kshs.10,020,000 in respect to scholarships applied during the year. However, review of the related bank account statements revealed withdrawals totaling to Kshs.11,549,366 resulting to unexplained and unreconciled variance of Kshs.1,529,366.

In addition, the statement of cash flows reflects an amount of Kshs.10,038,000 as scholarship applied resulting to an unexplained variance of Kshs.18,000.

Management Response

579. We attached an analysis of the Scholarship cash book and a note that when coming up with the withdrawal figure of Ksh. 11,549,365.90 the transfer to main account of Ksh.1, 200,000 and bank charges Ksh. 69,825 and a bounced cheque of Ksh. 23,000 were considered as fees paid to result to the difference.

Committee Observations

580. The Committee observed that the matter was now settled as the Accounting Officer had provided documentation, and had been verified by auditors.

Committee Recommendation

581. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.94 Unsupported scholarship appropriation fund

582. The statement of changes in equity reflects a balance of Kshs.24,000,000 in respect to scholarships appropriation funds during the year. However, Management did not provide for audit, the basis of how the amount was arrived at, the Scholarship Fund Policy, the Board minutes supporting the appropriation of the fund and the monthly transfers of Kshs.2,000,0000 to the fund account.

Management Response

583. The had now provided the scholarship policy and the minutes of the Board approving award of the scholarships which necessitates the provision of fees to be paid.

Committee Observations

584. The Committee observed that the matter was now settled as the Accounting Officer had provided documentation, and had been verified by auditors.

Committee Recommendation

585. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.15.9 Unreconciled scholarship fund balance

586. The statement of financial position reflects scholarship fund balance of Kshs.16,855,000 and as disclosed in Note 21. However, the balance differed with the scholarship bank account balance of Kshs.3,674,222 disclosed in Note 17, resulting to unexplained and unreconciled variance of Kshs.13,180,778.
587. Further, the opening cash balance of Kshs.764,896 could not be reconciled to the closing cash balance of Kshs.3,674,222, resulting to unexplained and unreconciled variance of Kshs.11,070,674.

Management Response

588. Scholarship Applied is the actual fees paid out from JKF main operations after taking into account the other receipts from hire of grounds and JKF staff contribution towards scholarships. The balance between the appropriations and applied is what is carried forward as the balance which for the year under review is Ksh.16,855,000 as per the Financial Statements.

Committee Observations

589. The Committee observed that the matter was now settled as the Accounting Officer had reconciled the figures, and had been verified by auditors.

Committee Recommendation

590. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.14.10 Unsupported inventories

591. Review of inventory records revealed unexplained and unreconciled variance totalling to Kshs.1,299,425 between system generated stock balance and the physical count stock balance as at 30 June, 2021. Further, the inventory balance of Kshs.156,271,000 was not supported with appropriate records.

Management Response

592. The Foundation provided the stock variance report for the month of July which showed reduced variance of Ksh. 65,950 which was a drop from the Ksh. 1,299,425 as at end of June. This demonstrates that the variance arose due to timing difference due to the ongoing Government projects orders been fulfilled.

Committee Observations

593. The Committee observed that the matter was now settled as the Accounting Officer had reconciled inventory, and had been verified by auditors.

Committee Recommendation

594. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.14.11 Unsupported freight and distribution expenses

595. Review of freight and distribution expenses revealed that payments amounting to Kshs.39,252,886 were not based on a valid contract agreement. It was therefore not possible to confirm how the payments were arrived at.

Management Response

596. The signed contracts for the Freight Distribution (Kenhorn Juba Ltd) and Consolidation (Ellams Products Ltd) of the books were provided to the auditors for their review.

Committee Observations

597. The Committee observed that the matter was now settled as the Accounting Officer had reconciled inventory, and had been verified by auditors.

Committee Recommendation

598. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.14.12 Unsupported royalties to authors

599. Included in the expense is royalties paid to authors totalling to Kshs.30,995,000 which were not supported by names of authors and the respective amounts they received.

Management Response

600. The royalties expenses in the financial statements is a provision in the accounts and had not actually been paid out hence not feasible to provide any support documents for payment to authors. But we have provided the schedule of the authors and respective amounts.

Committee Observations

601. The Committee observed that the matter was now settled as the Accounting Officer had provided names of authors and the respective amounts paid for verification.

Committee Recommendation

602. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.15.10 Unsupported staff receivables

603. Management did not provide for audit, supporting documents for 47 members of staff debtors amounting to Kshs.113,693 that have been outstanding since 1 July, 2020. Further, the staff receivables includes a balance of Kshs.1,077,433 in respect of salary advances to staff for which, no recoveries were made during the year under review.

Management Response

604. HR department had been directed to reinstate the deductions in the payroll.

Committee Observations

605. The Committee observed that the matter will be confirmed in subsequent audit and will make recommendations in its next report on the institution.

3.15.11 Inaccurate rent receivable

606. The statement of financial position reflects trade and other receivable balance of Kshs.830,598,000 which includes net other receivables of Kshs.1,186,000 (Gross of Kshs.1,274,317) as disclosed in Note 16. The balance includes rent receivable of Kshs.1,229,317, which differed with the balance of Kshs.629,160 as per the statement from the rent collecting agent as at 30 June, 2021, resulting to unexplained and unreconciled balance of Kshs.600,157.

Management Response

607. The difference between Mamuka Valuers Statement and our schedule on rent receivable was due to inclusion of Safaricom Ltd dues which are not collected by Mamuka but paid directly to the Foundation.

Committee Observations

608. The Committee observed that the matter was now settled as the outstanding balance had been confirmed to be Kshs. 1,229,317.

Committee Recommendation

609. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.15.12 Inaccuracies in property, plant and equipment

610. The assets were last valued in the year 2014 contrary to the requirement of Paragraph 49 of (IPSAS) No.17, which provides revaluation of items every three (3) or five (5) years. Further, the balance includes a balance of Kshs.1,200,000 being the cost of a motor vehicle which was transferred to a local insurance company in May, 2019.

Management Response

611. The revaluation has since been carried out in July 2022 and we have adjusted the carrying amounts of our assets and attached the revaluation report from the Gimco Ltd.

Committee Observations

612. The Committee observed that the matter was now settled as auditors confirmed that the revaluation of Assets was done in July 2022 and the vehicle was burnt and the insurance settled the claim.

Committee Recommendation

613. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.15.15 Unsupported rental income

614. Review of rent records revealed that the contract between the Foundation and its property management agent had expired on 30 June, 2020 without renewal and therefore, the basis of charging rent could not be established.

Management Response

615. The contract with the Property Agent has since renewed.

Committee Observations

616. The Committee observed that the matter was now settled as auditors confirmed a valid contract between Mamuka and the Foundation commencing on 1 July 2020 to 30 June 2022 was provided for verification.

Committee Recommendation

617. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.15.16 Irregular payment of allowances

618. Expenditure on allowances amounting to Kshs.7,653,578 were not approved by the Salaries and Remuneration Commission (SRC).

Management Response

619. The approved Terms and Condition of the Foundation which includes the allowances had now been availed.

Committee Observations

620. The Committee observed that the matter was now settled as auditors confirmed the specific SRC approval on staff allowances.

Committee Recommendation

621. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.15.17 Irregular meal allowances

622. Expenditure of Kshs.1,176,000 in respect of meal allowance paid as part of salary to officers while on their duty station.

Management Response

623. This was an anomaly of terminology only. What appeared in the payroll as Meal Allowance was actually the lunch allowance as per the JKF Terms and Conditions of Service.

Committee Observations

624. The Committee observed that the matter was now settled as the terminology as captured in the payroll had been adjusted to reflect the correct position as per the JKF terms of service.

Committee Recommendation

636. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.15.18 Irregular payment of acting allowances

625. Expenditure of Kshs.322,181 was incurred on (3) employees as acting allowance for periods exceeding six (6) months.

Management Response

626. Withdrawal letters to staff had been availed.

Committee Observations

627. The Committee observed that the matter was now settled as letters withdrawing the acting allowances were provided for verification.

Committee Recommendation

628. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.15.19 Irregular composition of board committees

629. Three board sub-committees had a composition of between six (6) and seven (7) members exceeding the allowable number of four (4), being the one third of the full Board.
630. Further, three (3) Board members sat in more than two (2) Committees, while three (3) board members sat in both audit committee and in finance committee.
631. In addition, five (5) members in finance and general- purpose committee, six (6) members of staff committee, and four (4) members of audit committee sat in these committees continuously for a period in excess of twelve (12) months.

Management Response

632. If the 4-member rule in the Committees were to be strictly implemented, it would leave room only for 1 independent board member in each committee. This would interfere with independence of the board as stipulated under Mwongozo.

Committee Observations

633. The Committee observed that failure to regularly constitute the board and its sub-committees was in breach of sound corporate governance practices, and the law.

Committee Recommendation

634. Committee recommends that the sub-committees be re-constituted accordingly within one month of adoption of this report by the House.

3.15.20 Field inspection visit by board members

635. The Directors remuneration expenses of Kshs.5,996,000 as disclosed in Note 8 includes Kshs.277,708 paid to the Board of Directors for field inspection visits held during the year.

Management Response

636. The Board deliberated on the same and saw the need to have a feel of the exercise by overseeing the Scholarship interviews. They did not carry out the interviews but ensured that JKF Policy was followed in the process.

Committee Observations

637. The Committee observed that the matter was now settled as it had been confirmed that the board was not part of the personnel carrying out the interviews.

Committee Recommendation

638. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.15.21 Unauthorized remuneration of directors

639. The Board's annual work plan was not approved by the Cabinet Secretary after consultation with State Corporations Advisory Committee. Further, Board expenditure totaling Kshs.2,488,719 was not included in the Board's annual work plan. In addition, an expenditure of Kshs.1,114,687 was incurred on a Board workshop at Naivasha without a Cabinet Secretary's approval.

Management Response

640. This emergency meeting was necessitated by the two-year losses made by JKF and the need to turn the Company around.

Committee Observations

641. The Committee observed that the matter was now settled as management had provided approval.

Committee Recommendation

642. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.15.22 Irregular procurement of printing services

643. Kshs.593,567,911 paid to three (3) firms contracted to offer printing services for standard 5 and 6 titles. However, the services were sourced through direct procurement method.

Management Response

644. Provided were documents on procurement process followed to identify the printers for the bulk order of class 5 and 6. This contract was awarded in two phases i.e., Phase I and II.

Committee Observations

645. The Committee observed that the matter was now settled as management had explained re-engaging the existing vendor due to covid-19.

Committee Recommendation

637. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.15.23 Budget over-expenditure

646. The over and under expenditures were not supported by board approvals and the Foundation may have incurred unauthorized expenditure.

Management Response

647. The Foundation is a commercial parastatal and does not receive any funding from exchequer. All its revenue is derived from sale of books and other publications. Our expenditure varies depending on the level of performance in the market and the budget

is meant for planning purpose and is closely monitored but is bound to vary depending on the level of performance arising in variance between the estimates and actual.

Committee Observations

648. The Committee observed that the matter was now settled as management had provided board approval.

Committee Recommendation

649. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.15.24 Balanced budget

650. The statement of comparison of budget and actual amounts reflects final revenue budget of Kshs.539,557,000. against final expenditure budget of Kshs.432,231,000. resulting to an unexplained variance of Kshs.107,326,000.

Management Response

651. JKF is a commercial parastatal and uses IFRS reporting framework the difference mentioned of Ksh. 107,326,000 was the projected profit from operations for that year.

Committee Observations

652. The Committee observed that the matter was now settled as the difference was the projected profit.

Committee Recommendation

653. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.16 CENTRE FOR MATHEMATICS, SCIENCE AND TECHNOLOGY EDUCATION IN AFRICA (CEMASTE A)

654. Ms. Jacinta Akatsa, Chief Executive Officer and Accounting Officer, led her team in adducing evidence on the audited accounts of CEMASTE A, on 24th April 2023.

3.15.1 Audited Financial Statements for the Financial Year 2018/19

3.5.95 Financial performance

655. The statement of financial performance as at 30 June 2019 reflects a deficit of Kshs.58,586,914 (2017/2018 Deficit of Kshs.98,393,985) thereby reducing the revenue

reserve to a negative balance of Kshs.24,996,447 as at 30 June, 2019. Although the Management has attributed this to non-release of adequate Exchequer allocations by The National Treasury, if strategies are not put in place to reverse the trend, the entity is likely to face challenges in the near future.

Management Response

656. The performance was attributable to non-release of adequate exchequer allocations by The National Treasury.

Committee Observations

657. The Committee observed that the matter had been resolved as the centre was now posting positive results.

Committee Recommendation

658. The Committee recommends that the centre continues devising strategies to achieve revenue targets for self-sustenance.

3.15.2 Audited Financial Statements for the Financial Year 2019/20

3.5.96 Budgetary control and performance

659. The Centre has a total revenue budget of Kshs.824,124,161 against an actual amount earned of Kshs.813,710,585 resulting in under collection of revenue by Kshs.10,413,576. Similarly, the Centre had an expenditure budget of Kshs.824,124,161 against actual expenditure of Kshs.716,067,974 resulting in a net under expenditure of Kshs.108,056,187 or 13% of the budget. The Centre has attributed the under expenditure to emergence of Covid-19 pandemic reducing implementation of its budgeted programs.

Management Response

660. The Management attributes the under expenditure to emergence of Covid-19 pandemic reducing implementation of its budgeted programs.

Committee Observations

661. The Committee observed that the matter had been resolved as the circumstances were beyond their control.

Committee Recommendation

662. The Committee recommends that the matter be closed.

3.15.3 Audited Financial Statements for the Financial Year 2020/21

3.5.97 Inaccuracies in property, plant and equipment

663. The statement of financial position and note 18 to the financial statements reflect an amount of Kshs. 998,497,184 in respect of plant and equipment which includes some of the assets at revalued amounts based on the revaluation reserves at note 19 to the financial statements. However, the financial statements do not comply with IPSAS 17 as they have not disclosed the effective date of re-evaluation, the name of the valuer, method of valuation, frequency of revaluation and the accounting policy in respect of revalued assets.

Management Response

664. The Ministry of Lands carried out a valuation in 2013. The management is seeking a complete re-evaluation through the Ministry of Lands to be done on land and buildings to ascertain correct values of some of our assets inherited from JICA.

Committee Observations

665. The Committee observed that the matter had since been addressed satisfactorily.

Committee Recommendation

638. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.98 Unsupported training expenditure

666. The statement of financial performance reflects Kshs. 79,213,917 which was disclosed in note 12 to the financial statements includes Kshs 15,225,150 in respect of performance contract, staff training and welfare respectively out of which Ksh. 7,993,900 and Ksh. 2,321,450 respectively were wrongly charged. In circumstances the accuracy and completeness of the expenditure of Ksh. 12,852,150 could not be confirmed.

Management Response

667. The management has put measures to support all the expenditures in the payment vouchers. All vouchers have been fully supported.

Committee Observations

668. The Committee observed that the matter had since been addressed satisfactorily.

Committee Recommendation

669. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.99 Unauthorized reallocation of funds

670. The statement of financial performance reflects Kshs. 79,213,917 which was disclosed in note 12 to the financial statements includes Kshs 15,225,150 in respect to performance contract, staff training and welfare respectively out of which Ksh. 7,993,900 and Ksh. 2,321,450 respectively were wrongly charged. In circumstances the accuracy and completeness of the expenditure of Ksh. 12,852,150 could not be confirmed.

Management Response

671. From inception of the Centre, expenses relating to performance contract, staff capacity building and welfare were treated as part of training vote because they supported training as core mandate. From 2021 the Centre created a separate vote for each item.

Committee Observations

672. The Committee observed that the matter had since been addressed satisfactorily.

Committee Recommendation

677. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act , 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.16.6 Budgetary control and performance

673. Under performance of the budget in Revenues and Expenditures.

Management Response

674. Training activities were affected by COVID-19 Pandemic since training moved from Physical to Virtual hence low absorption. Internal Collections were low due to the same pandemic .The Centre did not receive capitation funds due to reduction by government measures caused by COVID-19.The Centre has put strategy for revenue collection to sustain itself. The board has installed planning and strategy committee to into internal collections enhancement.

Committee Observations

675. The Committee observed that the matter had since been addressed satisfactorily.

Committee Recommendation

676. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.16.7 Non-compliance with Public Procurement and Assets Disposal Act 2015

677. Statement of financial performance reflects Kshs.165, 646,374 in respect to trainings expenses which further includes Ksh 6,936,630 paid to 3 contractors for goods and services supplied during the year. However, review of the procurement records revealed the contracts were directly procured without appropriate justification contrary to section 103 (2) of PPADA 2015.

Management Response

678. Jimco Africa:

- (a) PPADA 2015 section 103 2(a)A procuring entity may use direct procurement if any of the following are satisfied 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 the goods, works or services and no reasonable alternatives or substitutes exist.
- (b) Jimco Africa has exclusive rights to distribute NARIKA kits in East Africa given by the manufacturer.
- (c) These specialized kits provide participants with the opportunity to experience a variety of scientific concepts and principles in a precise manner in STEM Education. The resources are uniquely designed in a manner that promotes improvisation; an aspect emphasized in CEMASTEIA INSET.
- (d) These kits are not locally available thus the need to procure from the authorized dealer in East Africa.

Empirical Evidence Research and Management Consultants:

PPADA 2015 section 103 (2)(d); The consultant had been awarded a contract to carry out customer satisfaction surveys earlier through a competitive process as per attached evaluation report.

Panorama Consulting Company Ltd:

This consultant was one of the registered suppliers under consultancy. CEMASTEIA negotiated with the firm to undertake this consultancy service.

Committee Observations

679. The Committee observed that the matter had since been addressed satisfactorily.

Committee Recommendation

680. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.17 KENYA UNIVERSITIES AND COLLEGES CENTRAL PLACEMENT SERVICE (KUCCPS)

681. Dr. Agnes Mercy Wahome, Chief Executive Officer and Accounting Officer, led her team in adducing evidence on the audited accounts of KUCCPS, on 24th April 2023.

3.16.1 Audited Financial Statement for the Financial Year 2018/19

3.5.100 Budgeting control and performance

682. As reflected in the statement of comparison of budget and actual amounts, the Service spent Kshs. 337,436,311 against the approved budget of Kshs. 436,230,000 resulting to an under-expenditure of Kshs. 98,793,689 or 23% of the budget. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

Management Response

683. During the year, the Procurement processes were delayed following the requirement that all procurement conform to the Ministry of Information and Technology framework agreements with the suppliers which took time to develop and issue for use. It is also the time all the heads of Accounts and procurement department were asked to step aside to facilitate lifestyle audit which also delayed commencement of the various process as the institution reorganized. Recruitment of staff was delayed due to the additional requirement that management seek clearance with the Head of Public Service before recruitment. Most of the career activities were consolidated by organizing large groups of students from neighbouring schools. No public delivery was affected except those that would have resulted from the projected procurement and recruitment.

Committee Observations

684. The Committee observed that the matter had since been addressed satisfactorily.

Committee Recommendation

685. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.101 Supply and installation of server and other accessories

686. The statement of financial position reflects a balance of Kshs. 56,821,546 under property, plant and equipment which includes an amount of Kshs. 13,980,411 in respect of procurement of servers. Information available indicates that in the financial year 2017/2018, the central Placement Service advertised an open national tender Number KUCCPS/ ONT/04/2017-2018 for supply and installation of server and related accessories with the following specifications: 3.2 GHz Intel Xeon E7-8800 v4 series, 1866 MHz DDR4 memory access and 24 cores per processor.
687. Sixteen (16) firms responded to the bid out of which three (3) firms were disqualified for quoting lower server processor speeds than the specified 3.2 GHz. The tender was awarded to a local company having met the technical evaluation requirements and a contact thereafter entered into for supply, delivery, installation, configuration and commissioning of servers and related accessories at a sum of Kshs. 13,980,412. Clause 2(c) of the contract required technical specifications to form part of the agreement. Technical specifications provided for server processing speed of 3.2 GHz or better. However, the company supplied a server with lower processing speed of 2.4 GHz instead of 3.2 GHz contrary to the technical specifications and the contract agreement.
688. Article 227(1) of the Constitution requires procuring entities to ensure fairness, equitability, transparency, competitiveness and cost effectiveness in the procurement process while Section 76(2) of the Public Procurement and Asset Disposal Act (PPADA), 2015 prohibits changes on terms of tender after the deadline for submitting tenders. By accepting and paying for a lower processing server of 2.4 GHz instead of the one specified of 3.2 GHz and having disqualified three bidders for quoting lower processing speed than 3.2 GHz, the Service violated Article 227(1) of the Constitution. In addition, the company changed the terms of the tender contrary to Section 76(2) of the PPADA, 2015 by supplying a server with lower processing speed of 2.4 GHz instead of 3.2 GHz provided in the contract.
689. Under the circumstances, it was not possible to confirm whether the amount of Kshs. 13,980,412 incurred in financial year 2017/2018 on supply and installation of servers and related accessories were utilized in a lawful and effective manner.

Management Response

690. This was a procurement of Placement Service computer servers through an open national tender method in 2017/2018 financial year. The process was completed and supplier paid in 24th September, 2018. The Placement Service have since been using the servers. In 2019 a Complaint was received from an anonymous person claiming irregularities. The Placement Board took up the matter and conducted its own investigations. It finally referred the matter to the Directorate of Criminal Investigations for further investigations. The Placement Service Board also wrote to the Ministry of Education and the Attorney

General for guidance on whether it can discipline staff while DCI is conducting investigations on the same matter. This was affirmed and the Board took disciplinary action on the staff concerned.

Committee Observations

691. The Committee observed that the matter had since been addressed satisfactorily.

Committee Recommendation

692. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.16.2 Audited Financial Statements for Financial Year 2019/20

3.5.102 Supply and installation of server and other accessories

693. The Committee observed that the matter recurred from the previous financial year, and reiterates its recommendation on the same.

3.16.3 Audited Financial Statements for the Financial Year 2020/21

3.5.103 Irregular procurement of consultancy services

694. The Statement of financial Performance reflects a balance of Kshs 73,801,417 in respect of use of goods and services as detailed in Note 15 of the financial statements, which includes expenditure on professional consulting amounting to Kshs 2,781,800. The supporting ledger reflects a balance of Kshs 2,571,840 paid to a consultant for provision of Change Management Program, Emotional Intelligence and Conflict Resolution which took place between 14 and 19 December, 2020. Review of Documents provided for audit revealed that the consultant was procured directly and there was no evidence of the measures taken to ensure that the price was fair and reasonable and compared well with known prices of goods, works or services in the circumstances, as provided under Section 103e of the Public Procurement and Asset Disposal Act, 2015.
695. Further the notification of award was issued on 11 December, 2020 and accepted by the Consultant on 14th December, 2020 which coincided with the Date the Program was starting raising doubts on whether the procedure for notification of intention to enter into a contract as required by the Provisions of Section 87 of the Public Procurement and asset Disposal Act, 2015 was followed. No contract was signed between the Service and the Consultant instead an LPO was issued to the consultant on 23 December, 2020, long after the activity had taken place. In addition, The LPO, which formed the contract was issued before the lapse of the fourteen (14) days period required by section 135 (3) of the Public Procurement and Asset Disposal Act, 2015.

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

Management Response

697. The Placement Service procured JKUAT Enterprises Ltd a government entity by executing Section 103(2e) of PPADA 2015 which allows for use of Direct Procurement as follows 'for the acquiring 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.
698. The sourcing process was 100% compliant with the operationalization procedures as laid down in Regulation 90.
699. Public procurement Regulations Reg.90(7) states that (7) For greater certainty, the fourteen days window period between the notification of award and signing of the contract provided for under section 135(3) of the Act shall not apply for direct procurement method. This was not a requirement in this process.
700. JKUAT Enterprises Ltd was identified according to Section 71(4d). (4) The lists shall be applied on the alternative procurement methods as specified and appropriate and the list shall— d) be generated through market knowledge and survey; and
701. Notification for engagement was issued to the University in good time with enough time for their preparation to offer the service. It was however not practical to raise an LPO before acceptance letter was issued officially and that's why the LPO was post-dated.

Committee Observations

702. The Committee observed that the reasons advanced by management, of 'urgency' to procure the service, which entailed change management, emotional intelligence and conflict resolution were unsatisfactory. Further, the issuance of a post-dated LPO was obviously meant to sanitize a flawed process, government-to-government procurement method notwithstanding.

Committee Recommendation

703. The Committee recommends that the Cabinet Secretary should within three months of the adoption of the report by the House take administrative and disciplinary action on those involved in awarding the tender.

3.5.104 Irregular board expenses

704. The statement of financial performance reflects Board expenses of Kshs. 19,881,627 which as detailed in Note 10 to the financial statements, Includes Kshs 4,740,000 and Kshs 14,097,627 being sitting allowances and other Board expenses respectively. Review of documents revealed expenditure of Kshs. 2,685,808 in respect of team building and

Board retreat undertaken during the year under review. However, the Cabinet Secretary approval for the Board activities was not provided for audit review, contrary to the Head of Public Service Circular referenced OP/Cab.9/1A of 03 April, 2020 which required Board retreats to be approved by the Cabinet Secretary.

705. In the circumstances, the regularity of the Board retreat and the related expenditure could not be confirmed.

Management Response

706. During the period, the term of the accounting officer expired, and the Board had to recruit a new accounting officer. The process was heavily involving and therefore sought the Cabinet Secretary's concurrence for the extra meetings. The recruitment of the new Chief Executive Officer came immediately after disciplinary issue and the Board was of the opinion that there was an urgent need to rebuild the management team and assert the position of the Chief Executive Officer to manage the conflicts arising from the disciplinary process. The Placement service Board brought this to the attention of the Cabinet Secretary (CS) for Education and the Principal Secretary (PS), State Department for Higher Education and Research. The training was cleared and the PS attended.

Committee Observations

707. The Committee observed that the matter had since been addressed satisfactorily.

Committee Recommendation

708. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.105 Staff mortgage and car loan reserve fund

709. The statement of financial position reflects staff mortgage and car loan reserve fund of Kshs 331,425 as disclosed in Note 25(d) to the financial statements. However, appropriate regulations to guide the implementation of the Mortgage and car loan benefits to the employees as required by the provisions of Salaries and Remuneration Commission circular Reference SRC 023/12/2014 of 17 December, 2014 had not been developed and the basis of the transfer of the funds to a car loan reserve fund could not be confirmed.
710. In the circumstances, the regularity of the reserve fund could not be confirmed.

Management Response

711. The Placement Service Staff Mortgage and Car Loan Scheme was an initiative of the Board after the Salaries and Remuneration Commission issued a Circular No. SRC

023/12/2014 of December 17, 2014 and SRC 025/01/2015 for the Staff Mortgage and Car Loan for Government and State Corporations employees' benefit. The Board in its sitting approved a seed capital of seventy million (Kshs 70,000,000) shilling and the Management developed its own regulations with the help of the State Department for Housing and Urban Development, Ministry of Lands, Public Works Housing and Urban Development. The Management forwarded the resolution of the Board to the Ministry of Education and The National Treasury with proposed regulation requesting approval to open and operate a bank account for staff Mortgage and Car Loan Deposit. The National Treasury approved the request to open bank account in HF bank thus operationalized the Car loan and Mortgage Scheme.

Committee Observations

712. The Committee observed that the matter had since been addressed satisfactorily.

Committee Recommendation

713. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.18 KENYA NATIONAL COMMISSION FOR UNESCO (KNATCOM)

714. Dr. Evangeline Njoka, MBS, Secretary General/ CEO and Accounting Officer, led her team in adducing evidence on the audited accounts of KNATCOM, on 24th April 2023.

3.17.1 Audited Financial Statements for the Financial Year 2018/19

715. The Commission had no audit query in the subject financial year.

3.17.2 Audited Financial Statements for the Financial Year 2019/20

3.5.106 Recruitment of accountant and legal officer

716. During the year 2017/2018, the Commission advertised for the recruitment of Chief Accountant on 28 November 2017. After shortlisting and interview process the commission ranked three top candidates. Candidate ranked No. 1 was offered the position through letter of offer dated 26 April 2018. Candidate No. 1 and Candidate No. 2 declined to take up the position. Subsequently, candidate No. 3 was offered this position.
717. This was done contrary to the Commission's Human Resources Policy and Procedures Manual that requires background checks to be done before issuance of letter of offer. The Commission carried out Post Facto background check on the 3 ranked officers who had been offered the appointment. Several issues emerged later that brought this recruitment

- into question. This has resulted to several legal suits that have led the Commission incurring legal fees amounting to Kshs. 2,599,384.
718. Further, the Commission appointed a legal officer through appointment dated 30 August 2019 on a permanent and pensionable terms with a six months' probation period. Review of her documents revealed inconsistencies leading to her not being confirmed on this appointment. This has resulted the officer suing the Commission and they may incur legal expenses on this suit.
719. In the circumstances, Management in breach of the Law.

Management Response

720. Case 1; The Accounting Officer admitted that there were recruitment gaps as identified above, however the management submitted that;
- i. The Board and Management acted on the recruitment gaps as identified above through a management report and forensic audit report. The two reports were reviewed and adopted by audit committee of the Board and the full board.
 - ii. Management embarked on steps to improve the efficiency and the effectiveness of the human resource processes by developing and promulgating New Human Resource instruments. Also, went further to reorganize the department and heed the recommendations of the Audit, Risk and Compliance Committee.
 - iii. Management also acted by sending the officer in question on compulsory leave pending investigations. Consequently, the probing revealed that there were sufficient grounds to subject her to a disciplinary process which was carried expeditiously. The verdict of disciplinary process was a Summary Dismissal for gross misconduct as defined under the Constitution 2010, the Kenya National Commission for UNESCO Act 2013, Employment Act 2007, State Corporations Act and Public Officers Ethics Act 2003.
 - iv. However, the referenced officer went ahead and petitioned the court for reinstatement and to stay the Commission from taking any adverse action on her. The Officer has so far filed several suits to forestall the Commission from taking any action whatsoever against her. As at the time of this response, the officer has ongoing case against the Commission in the Employment and Labour Relations Court and a pending criminal case before Mililani Criminal Court as well on charges of forgery.
721. Case 2; The Accounting Officer admitted that inconsistencies were noted in the documents presented by the Officer. It is also true that the original educational documents and other testimonials were not presented to the commission for verification before the appointment as is required by Human resource procedures and regulations hence delaying confirmation in appointment of the said officer. The Board and Senior Management acted and investigations are underway on the identity of the officer by relevant government agencies. Management stressed to the Human Resource department

- to comply and observe the procedures in place. There is also a realignment of staff in the department to improve on efficiency.
722. Management embarked on reviewing its recruitment process to strengthen the controls. Similarly, two audits were carried internally that informed management on areas of improvement. The Board and Audit Committee of the Board adopted audit reports. Actions has been taken to address disparities within HR system.
723. The officer has an ongoing court case against the Commission hence the delay in her confirmation or taking any further action.

Committee Observations

724. The Committee observed that the then head of human resources had conspired to defeat provisions of Public Service Regulations 2006. Both recruitments were manifestly fraudulent and designed to defeat due process. The Head of Human Resources appears to have colluded with the third candidate for the position for chief accountant by claiming that the first two candidates did not take up the offer of employment, without evidence to that fact. In the second case, it also appears that the candidate had presented fake papers, or someone else's, purporting to be the bona fide owner of the certificates.

Committee Recommendation

725. The Committee recommends that -
- i) the Directorate of Criminal Investigations should investigate the then Head of Human Resources Need to be specific – name?? with conspiracy to defeat due process in the recruitment of staff.
 - ii) the DCI investigates authenticity of the certificates presented by the recruited legal officer and takes appropriate action, parallel to the current live court proceedings whose substance is different and would not be prejudicial.
 - iii) the then Head of Human Resources make good any financial award charged to the Commission on the two cases, pursuant to Article 226(5) of the Constitution.
 - iv) all vacant positions to be competitively filled within three months of adoption of this report.

3.17.3 Audited Financial Statements for the Financial Year 2020/21

3.5.107 Refurbishment of buildings

726. The statement of financial position reflects Kshs.26,296,406 in respect to prepaid expenses which as detailed in Note 18 to the financial statements includes Kshs.18,999,428 in respect of refurbishment of buildings. Review of procurement records provided showed that the refurbishment works were to be carried out on the 14 and 15 floors of the building housing the Commission. The works were tendered at a contract sum of Kshs.25,332,570 and an advance payment of Kshs.18,999,428 had been

made. However, as at the time of audit on 12 April, 2022, the contractor had not completed the works on schedule.

727. In the circumstances, value for money in the implementation of the project not be confirmed.

Management Response

728. Kenya Prisons is a government institution. The appointed implementation committee approached other Government institutions which do refurbishment works but they did not have the capacity. Kenya Prisons confirmed their capacity. This department had undertaken refurbishment works of our 16th floor offices previously.
729. The Commission engaged prisons through a contract agreement herein attached in which specifications for payment were made on pg 3. of the contract. The site was handed over after which the works were to begin. The Commission then made an initial payment of 18,999,428 (75% of the contract price) on February 2021 and the service provider was to commence the works upon receipt of this payment. However due to technicalities with prison administration there was delay. KNATCOM wrote to prisons as per attached following up on delayed project commencement.
730. The advance payment of Kshs 18,999,428 has been recognized as a prepayment in the financial statements attached.
731. The Prisons is yet to complete the works and KNATCOM has written on the matter again and awaits a response on the same.

Committee Observations

732. The Committee observed that Kenya Prisons accepted the offer to do the refurbishment but had delayed without justifiable cause.

Committee Recommendation

733. The Committee recommends that the Commissioner General of Prisons makes good the contract, commencing works within one month of adoption of this report, failure to which the Commission should terminate the contract.
734. Subsequent to termination of contract, Treasury is directed to redirect Kshs. 18,999,428 from Prisons Department's budget to the Commission at the earliest opportunity in the next financial year.

3.5.108 Irregular board expenses

735. The statement of financial performance reflects board expenses of Kshs.8,364,437 which as detailed in Note 11 to the financial statements included Kshs.4,640,000 and Kshs.3,726,316 in respect to sitting allowances and other board expenses respectively.

Included in board expenses is Kshs.820,000 paid to the Board of Directors for special session meetings held during the year other than the regular and committee meetings. However, approval for the expenditure was not provided.

736. In the circumstances, the Management is in breach of Circular Ref. No. OP/CA.9/1A dated 11 March, 2020 on management of State Corporations which requires approval for extra board meetings.

Management Response

737. Management sought authority for extra special sessions of the board beyond the normal 6 meetings allowed by the law.

Committee Observations

738. The Committee observed that the matter was now settled as management had availed requisite approvals.

Committee Recommendation

742. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.18.3 Incomplete assets register

743. Note 19 to the financial statements shows Kshs. 44,915,073 relating to property, plant and equipment. However, the register of assets maintained by the commission did not include, for each asset, the accumulated depreciation, the depreciation charge for the current financial year, the carrying value of the asset, the method and rate of depreciation, the last revaluation date of the fixed assets subject to revaluation and the revalued value of such fixed assets as prescribed by the entity's Finance and Accounts Policy 2020.
744. Under the circumstances, management has not put in place adequate measures to safeguard the Commission assets cannot be confirmed.

Management Response

745. The Commission has an asset register which it has been maintaining and is up to date.
746. The Commission's policy was approved in December 2020 and it incorporated requirements for assets management as prescribed by the National Treasury in 2020 which is a detailed report of the assets register. The Commission adopted the asset register template as required by the National treasury which includes the items of revaluation if any and tagging of each asset. The Commission having a constrained

budget was unable to revalue and tag assets, an activity which has been planned for in the FY 2022/2023 where a budget has been allocated. Attached herewith is the approved procurement plan.

747. The balances in the statements were a reflection of the Commissions assets and include in the notes for financial statements for each asset category, the accumulated depreciation, the depreciation charge for the current financial year, the carrying value of the asset, the method and rate of depreciation. The brought down balances are from prior audited financial statements and all information on the assets was availed for audit.

Committee Observations

748. The Committee observed that the matter was now settled as management had now availed complete asset register.

Committee Recommendation

749. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.19 JKUAT ENTERPRISES LIMITED (JKUATES)

750. Dr. Winifred Karugu, MD and Accounting Officer, led her team in adducing evidence on the audited accounts of JKUATES, on 24th April 2023.

3.18.1 Audited Financial Statements for the Financial Year 2018/19

3.5.109 Going concern uncertainty

751. As disclosed in note 19 to the financial statements, the statements of financial position reflects current liabilities of Kshs 207,014,609 and current assets of Kshs 161,360,089 resulting to a negative working capital of Kshs 45,654,520 (2018 Kshs 38,831,237). Further, the company had a negative accumulated revenue reserve of Kshs 12,343,661 (2018 Kshs 452,626). The company is therefore technically insolvent and the financial statements have been prepared on going concern basis on the assumption of continued assistance from JKUAT and its creditors.

Management Response

752. JKUATES was incorporated in 2002 and commenced operations in late 2005. It engages in various activities ranging from producing and selling various products to offering various consultancy services. JKUAT University facilitated the Company's

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operations during the first two years at the cost of Kshs14m and later injected cash amounting to Kshs 11m into the Company. Since then, the Company has been generating revenue without further capitation from the University.

753. The Company has exponentially grown from turning over Kshs 16m in its first year of operation to Kshs 355m in the just concluded financial year. In addition, the Company's fixed assets increased from a cost of Kshs 2m to a cost of Kshs 122m.
754. During the last three years, the Company's operations were negatively affected by external factors beyond our control, such as after effect of Covid 19 pandemic, adverse climatic conditions and depressed business during the electioneering period, and rising costs due to geopolitical realities such as supply chain disruptions and the depreciating shilling.
755. Despite the above conditions, the Company remained in operation and improved its performance by reducing the negative working capital from Kshs 45,654,520 during the financial year 2018/2019 to negative working capital of Kshs 14,284,717 in the financial year 2021/2022. The Company hopes to improve the position further to positive working capital within the next three year.

Committee Observations

756. The Committee observed that there was significant improvement from previous year position of negative working capital, the company was at the time of audit technically insolvent on the assumption of continued financial assistance from bankers and creditors.

Committee Recommendation

757. The Committee recommends that the Accounting Officer devises strategies to raise revenue and cut costs in the enterprise. Towards this end, the management to avail to the committee a comprehensive business plan within three months of adoption of this report.

3.19.4 Non-compliance with the Constitution and the National Cohesion and Integration Act, 2008

758. Examination of data on staff ethnic diversity revealed that as at 30 June 2019 the Company had one hundred and fifty-five (155) staff members out of which sixty-three (63) were from one ethnic community representing 41% of the total staff population. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that, "all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community". The

company is also in contravention with Article 232(1) of the Constitution on the values and principles of the public service for representation of Kenya diverse communities.

Management Response

759. JKUATES started operations in the year 2005. The majority of the staff were employed on merit before the new Act was established and came into effect. Management has been careful to comply with the Act in all successive recruitment. The community with the highest percentage of the total has reduced from 41% to 40.79 at the end of June 2022.

Committee Observations

760. The Committee observed that all public institutions are expected to abide by values and principles of public service as provided for under Article 232(1)(h) of the constitution and the National Cohesion and Integration Act, and ensure fair and diverse representation of the people of Kenya in staffing.

Committee Recommendation

761. The Committee recommends that the Accounting Officer makes deliberate effort to correct the imbalance, by ensuring affirmative action in subsequent recruitments. Further, this requirement must be embedded in the institutions HR manual and policies within three months of adoption of this report.

3.17.2 Audited Financial Statements for the Financial Year 2019/20

3.19.5 Long outstanding receivables

762. The statement of financial position reflects a balance of Kshs 79,158,899 under trade and other receivables which as disclosed in Note 11 to the financial statements, includes an amount of kshs 40,720,423 in respect of trade receivables. The latter balance includes an amount of Kshs 3,490,423 that has been outstanding for more than three years with an amount of Kshs 104,775 remaining outstanding for more than ten years.

Management Response

763. The amount of Kshs 3,490,423.26 outstanding for more than three years comprises of amount owed by JKUAT and supermarkets. There had been continuous engagement between us and the University on the accounts reconciliation. This has taken time due to verification of the bills, however, we are optimistic that the matter will be concluded this financial year and have the issues resolved completely.

764. Supermarkets- There has been immense cost-effective effort put in place to collect the debts. Due to this effort, the debt from the supermarkets have been reduced from Kshs 1,236,783 to Kshs 381,352 and we are hopeful to collect the remaining amount soon.

Committee Observations

765. The Committee observed that there was significant reduction of the amount of receivables.

Committee Recommendation

766. The Committee recommends that the Accounting Officer intensifies efforts to clear the outstanding receivables within six months of adoption of this report.

3.19.6 Trade and other payables

767. The statement of financial position reflects a balance of kshs 169,121,009 under trade and other payables, which, as disclosed in Note 17 to the financial statements includes an amount of Kshs 60,179,589 in respect of trade payables. The trade payables balance includes an amount of Kshs 13,355,640 that have been outstanding for more than two years. Management has not provided evidence of steps being taken to settle the debts.
768. Further, a third party confirmation of trade payables revealed that the entity owes JKUAT a sum of Kshs 15,664,214 for various services from the University. However only a debt of Kshs 5,428,870 is recognized in the books of JKUATES resulting to a variance of Kshs 10,235,344, that has not been explained or reconciled.

Management Response

769. The auditor noted a discrepancy in what is reflected in our books and University books. We acknowledge owing JKUAT Kshs 5,428,870 as at the end of June 2020 of which Kshs 3,043,143 has since been paid and planning to clear the remaining amount of Kshs 2,385,727 soon. We have further engaged JKUAT on verification of Kshs. 10,324,344 provided in their books.

Committee Observations

770. The Committee observed that with JKUAT being the parent organization of the JKUATES, the two entities had no reason for having not reconciled their difference of Kshs. 10,324,344.

Committee Recommendation

771. The Committee recommends the that Accounting Officers of the two entities reconcile the outstanding difference within one month of adoption of this report.

3.19.7 Going concern uncertainty

772. The Committee observed that the matter recurred from the previous financial year, and reiterates its recommendation on the same.

3.19.8 Budgetary control and performance

773. The statement of comparison of budget and actual amounts reflects that the Company had a budgeted income of Kshs 302,840,450 against an actual amount Kshs 343,000,000 resulting to under collection of Kshs 40,159,550 of 12%. Similarly, the Company planned to spend Kshs 330,098,091 but utilized Kshs 300,946,621 resulting in an under expenditure of Kshs 29,151,470 or 9% . Management has attributed the under collection and under expenditure to little activity in some product lines, decrease in demand for the products accompanied by heavy competition from new entrants into the market and negative impact of the covid-19 pandemic.

Management Response

774. The Company's budget is a projection of revenue, cost of generating revenue, overheads and capital requirements. It is based on the assumption that the company will be able to secure businesses and funding. The company experienced low business during the year due to corona virus pandemic that caused some of the activities such as training to be shelved, while the lockdown prevented many of our seedlings customers from coming to buy during the peak season. All these adversely affecting the revenue generated and under expenditure as provided in the budget.

Committee Observations

775. The Committee observed that the response was satisfactory.

Committee Recommendation

776. The Committee recommends that the matter be closed.

3.19.8 Ethnic composition

777. The Committee observed that the matter recurred from the previous financial year, and reiterates its recommendation on the same.

3.18.2 Audited Financial Statements for the Financial Year 2020/21

3.19.9 Lack of a comprehensive fixed asset register

778. The statement of financial position reflects property plant and equipment balance of Kshs 67,801,204 as disclosed in Note 10 to the financial statements. However, it was observed that the fixed asset register maintained by the company was not comprehensive as it lacked identification numbers and physical location of the assets.

Further, the assets were not tagged for unique identification and could not be physically verified or traced to the register.

Management Response

779. Most of JKUATES assets have already depreciated to zero balances but still in use and the company has already engaged a professional valuer to ascertain their current values. This report once ready will help to prepare updated assets register.

Committee Observations

780. The Committee observed that efforts were in motion to address the irregularity.

Committee Recommendation

781. The Committee recommends that the Auditor General confirms if the fixed asset register is in place and report in the subsequent audit.

3.19.10 Long outstanding receivables

782. The Committee observed that the matter recurred from the previous financial year, and reiterates its recommendation on the same.

3.19.11 Trade and other payables

783. The Committee observed that the matter recurred from the previous financial year, and reiterates its recommendation on the same.

3.19.12 Material uncertainty related to going concern

784. The Committee observed that the matter recurred from the previous financial year, and reiterates its recommendation on the same.

3.19.13 Failure to hold an Annual General Meeting (AGM)

785. The company did not hold an annual General Meeting in the year under review as required by Section 310 (1) of the Companies Act, 2015 which provides that every public company shall hold a general meeting as its annual general meeting within six months from and including the day following accounting reference date in each year.

Management Response

786. The Company did not hold an annual General Meeting during the year under review, because we had a delay in receiving the final report for the year 2019/2020, which was received on 15 October 2021. However, the representative of the shareholders both University and the ministry are usually present in every board meeting.

Committee Observations

787. The Committee observed that the response was satisfactory.

Committee Recommendation

788. The Committee recommends that the matter be closed.

3.20 JKUAT NOODLES LIMITED

789. Dr. Winifred Karugu, MD and Accounting Officer, led her team in adducing evidence on the audited accounts of JKUAT Noodles, on 24th April 2023.

3.19.1 Audited Financial Statements for the Financial Year 2018/19

3.5.110 Company shareholding and ownership

790. The statement of financial position reflects owners capital of Kshs 381,028,875. However, a search at the Companies Registry dated 18 February, 2021 revealed that the Company was jointly owned by an international food company and Jomo Kenyatta University of Agriculture and Technology (JKUAT) at seventy (70%) and thirty (30%) shareholding respectively. Although Management provided a duly signed share transfer certificate and resignation letters of directors of the Company, It is not clear why the transfer had not been effected at the company's registry.

Management Response

791. The process of transfer of shares from Nissin Foods Limited to JKUAT took longer than usual. We had challenges in getting access to e citizen platform and the issue took long to be resolved. The transfer had since been successfully effected as evidenced in the attached current CR12.

Committee Observations

792. The Committee observed that the matter had since been settled as the CR 12 had been availed.

Committee Recommendation

793. The Committee recommends that the matter be closed.

3.5.111 Financial performance

794. The statement of financial performance reflects a deficit of Kshs 3,202,469. If strategies are not put in place to reverse the trend, the company is likely to face financial challenges in the near future.

Management Response

795. JKUAT Noodles Limited commenced operations in 2019. During the first two years of operations the company was engaged in rigorous research and development during which thirty three (33) noodles variation were developed. The company later engaged in palatability tests within JKUAT and its environment in readiness to go to the market. However, there was a great demand for funds to run the operations, which we did not have.
796. The company engaged various financial service providers including its bankers but unfortunately, none yielded.

Committee Observations

797. The Committee observed that the company was at the mercy of goodwill from creditors. Moreover, it was noted that staff at the company were those who operated the sister company, JKUATES, at no extra employee costs. The company engaged in one product as its name suggest and may not be viable.

Committee Recommendation

798. The Committee recommends that the ownership of the company, JKUAT, merges operations of the Noodles company with that of JKUATES for sustainability, within one year of adoption of this report by the House. Noodle production was a product line and did not deserve being a fully-fledged company on its own.

3.19.2 Audited Financial Statements the Financial Year 2019/20

3.5.112 Company shareholding and ownership

799. The Committee observed that the matter recurred from the previous financial year, and reiterates its recommendation on the same.

3.5.113 Financial performance

800. The Committee observed that the matter recurred from the previous financial year, and reiterates its recommendation on the same.

3.19.3 Audited Financial Statements for the Financial Year 2020/21

3.5.114 Property, plant and equipment

801. The statement of financial position reflects property plant and equipment balance of Kshs. 33,896,370 as disclosed in Note 7 to the financial statements which includes Kshs. 100,000,000 in respect of buildings. However, the balance excludes value of land on which the building occupies. Further ownership documents for the land was not provided for audit review.

802. In the circumstances, the accuracy and completeness of the property, plant and equipment balance of Kshs.331, 896,370 as at 30 June, 2021 could not be confirmed.

Management Response

803. The parcel of the land on which the said developments are done was allocated to JKUAT Noodles Limited by JKUAT University who owns the company.

Committee Observations

804. The Committee observed that the matter had since been settled.

Committee Recommendation

805. The Committee recommends that the matter be closed.

3.5.115 Unsupported Value Added Tax recoverable balance

806. The statement of financial position and Note 8 to the financial statements reflect trade and other receivables balance of Kshs. 1,836,169. The balance includes Value Added Tax (VAT) recoverable balance of Kshs.656, 779 which was not supported with a duly acknowledge VAT return.
807. In the circumstance, the accuracy of VAT recoverable balance of Kshs. 656,779 could not be confirmed.

Management Response

808. The VAT recoverable amounts are in agreement with the VAT returns filed by the company on the KRA itax platform as at end of financial year. The amount had since been utilized against the out vat payable during the consecutive months.

Committee Observations

809. The Committee observed that despite utilization of the VAT during consecutive months, they were yet to provide VAT returns.

Committee Recommendation

810. The Committee recommends that the Accounting Officer avails the VAT returns to the auditors within one month of adoption of this report by the House.

3.5.116 Misclassification of stock balance

811. The statement of financial position and Note 8 to the financial statements reflects trade and other receivable balance of kshs. 1,836,169 which is classified under receivables instead of being disclosed separately in the statement of financial position. Further, a detailed breakdown for the stock balance of Kshs.1,152,000 was not provided for audit

review. In the circumstance, the presentation and disclosure of stock balance of Kshs. 1,152,000 was not in accordance with the international Financial Reporting Standards.

Management Response

812. The stock had since been reported as a separate item in the financial statement. The figure of Kshs.1,152,000 is a single item of Noodles packets available at the end of financial year. However, there was a schedule showing the number of packages that were available multiplied by production cost to determine the stock value.

Committee Observations

813. The Committee observed that the matter had since been settled.

Committee Recommendation

814. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.117 Financial performance

815. The Committee observed that the matter recurred from the previous financial year, and reiterates its recommendation on the same.

3.5.118 Budgetary control and performance

816. The statement of Comparison of budget and actual amounts reflect that the Company had a budget income of Kshs. 33,992,244 against actual amounts of Kshs. 344,568 resulting to an under collection of Kshs. 33,647,676 or 99% of the budget. Similarly, the company planned to spend Kshs. 61,653,029 but utilized kshs. 10,531,905 resulting in an under expenditure of Kshs, 51,121,124 or 83% of the budget. Management attributed the under collection and under expenditure to failure to secure funding from financial institutions and effects of the Covid-19 pandemic.
817. The under collection and under expenditure may have negatively impacted on production and performance of the Company.

Management Response

818. The Company's budget was a projection of revenue, cost of generating revenue, overheads and capital requirements. The company did not meet the projected revenue and expenditure due to lack of funds. The budgeted revenue and expenditure was based

on the assumptions that the company will be able to secure funding from financial institutions and other partners which did not succeed.

819. In addition, the adverse effect of Covid 19 affected the operations of the Company.

Committee Observations

820. The Committee observed that the matter was related to that of financial performance discussed in the previous financial years.

Committee Recommendation

821. The Committee reiterates its recommendation that the ownership of the company, JKUAT, merges operations of the Noodles company with that of JKUATES for sustainability, within one year of adoption of this report by the House.

3.5.119 Failure to hold an Annual General Meeting (AGM)

822. The Company did not hold annual during the year under review contrary to Section 275A of the Companies Act 2015, which require that every company convene a general meeting once a year.

Management Response

823. The Company did not hold an annual General Meeting during the year under review, because they had a delay in receiving the final report for the year 2019/2020, which was received on 15 October 2021. However, the representative of the shareholders both University and the ministry are usually present in every board meeting.

Committee Observations

824. The Committee observed that the matter was resolved.

Committee Recommendation

825. The Committee recommends that the matter be closed.

3.21 NATIONAL COUNCIL FOR NOMADIC EDUCATION IN KENYA (NACONEK)

826. Mr. Harun Yussuf, HSC, CEO and Accounting Officer, led his team in adducing evidence on the audited accounts of KNATCOM, on 26th April 2023.

3.20.1 Audited Financial Statements for the Financial Years 2018/19 and 2020/2022

827. The Council had no audit queries in the two subject financial years.

3.20.2 Audited Financial Statements for the Financial Year 2020/21

3.5.120 Unsupported governing council expenses

828. The statement of financial performance reflects Governing Council expenses of Kshs.11,832,850 as disclosed in Note 9 to the financial statements. However, the ledger provided in support of the expenditure reflects an amount of Kshs.12,640,250 resulting to an unexplained and unreconciled variance of Kshs.807,400.

In the circumstance, the accuracy and completeness of Governing Council expenses of Kshs.11,832,850 could not be confirmed.

Management Response

829. The ledger supporting the financial statements showed governing council expenses of Kshs 11,832,850.00 which is the same as the amount reflected in the statement of financial performance on page 1 and as detailed in Note 9. The variance noted has been reconciled and agrees with the statement of financial performance.

Committee Observations

830. The Committee observed that the matter was now settled as reconciliations had been done.

Committee Recommendation

831. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.121 Non-compliance with Executive Order No. 2 of 2018

832. The Council has not complied with the Executive Order Number 2 of 2018 which require that all public procuring entities maintain and continually update and publicize, through official Government publications and platforms, the information required and detailed in the Order on procurements made during the year. The Council claimed they have been making these reports through the parent Ministry but provided no evidence.

Management Response

833. The council has been making its reports through the parent Ministry of Education. However, going forward the Council is in the process of getting the necessary login requirements so that we will be able to make the reports directly to PPRA.

Committee Observations

834. The Committee observed that the matter was now settled as a letter from the PS of the parent State Department had been provided confirming the management's assertion.

Committee Recommendation

835. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.122 Non-compliance with provisions of the Public Procurement and Assets Disposal Act, 2015

836. The Public Procurement Regulatory Authority through its Circular No.01/2016 of 16 December, 2016 requested certain reports to be submitted to it within timelines and format as specified in the Circular. These reports include quarterly contract awards specifying where such awards are for preference and reservation schemes and six (6) months reports on preferences and reservation of contracts awarded to Youth, Women and Persons with Disabilities. However, the Council did not comply with these mandatory reporting requirements as no reports were prepared during the year under review. This is contrary to Section 34 to the Public Procurement and Assets Disposal Act, 2015 provides that a public entity shall provide The National Treasury or the Authority with such information relating to procurement and asset disposal as may be required in writing. In the circumstances, Management was in breach of the law.

Management Response

837. The council has been making its reports through the parent Ministry of Education. However, going forward the Council is in the process of getting the officers trained by the Public procurement and Regulatory Authority (PPRA) on the use of upgraded Public Procurement Information Portal (PPIP) so that we will be able to make the reports directly to PPRA.

Committee Observations

838. The Committee observed that the matter was now settled as approved procurement plan had now been verified for compliance with reservation for Women, Youth and Persons with disabilities. Communication to PPRA was also provided.

Committee Recommendation

839. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.123Lack of a governing council

840. The Council has operated without a Governing Council since 5 May, 2021 to date, as the term of the previous Council lapsed. Only three (3) Members were due for reappointment but could not attain the requisite quorum to hold meetings or transact any business of the Council. Although, the Council requested the Cabinet Secretary, Ministry of Education to constitute a new and full Governing Council through letter Ref. NACONEK/2/9/Vol.II(254) of 15 July, 2021, no appointments have been made to date. Operations that require Council's approval among them budget approvals will be affected if a new Council is not appointed and inaugurated.

Management Response

841. The council had written to the parent ministry on the same as confirmed by the auditors, but the Cabinet Secretary was yet to gazette the members and appoint the chairperson.

Committee Observations

842. The Committee observed that the Cabinet Secretary had taken inordinately long to appoint members and chairperson of the council, hampering quorum to conduct proceedings at the council.

Committee Recommendation

843. The Committee recommends that the Cabinet Secretary, Ministry of Education appoints members and the chairperson to the council within one month of adoption of this report.

3.5.124Incomplete fixed assets register

844. The statement of financial position reflects property, plant and equipment balance of Kshs.33,904,177 as disclosed in Note 17 to the financial statements. However, the fixed asset register maintained by the Council was not up to date and lacked details such as the items date of acquisition, source, cost price, additions, depreciations and disposal. Consequently, the existence of an effective Assets Management System capable of safeguarding and ensuring proper custody of the assets could not be confirmed.

Management Response

845. The council had since availed a fixed assets register with all required information including date of acquisition of items, source, cost price, additions, depreciation, and disposal.

Committee Observations

846. The Committee observed that the matter was now settled as the complete fixed assets register had been verified by auditors.

Committee Recommendation

847. The Committee recommends that the matter be closed.

3.22 UNIVERSITY OF NAIROBI ENTERPRISES AND SERVICES LIMITED (UNES)

848. Mr. Seith Abeka, Managing Director and Accounting Officer, led his team in adducing evidence on the audited accounts of UNES, on 24th April 2023.

3.21.1 Audited Financial Statements for the Financial Year 2018/19

3.5.125 Undisclosed material uncertainty on going concern

849. The statement of financial performance reflects a net loss of Ksh68,708,036 compared to a net loss of Ksh63,036,142 in the previous year. Similarly, the statement of financial position reflects current liabilities of Ksh524,335,657 while current assets is Ksh460,519,890 resulting in a negative working capital of Ksh63,815,767 compared to a negative working capital of Ksh2,444,992 in the previous financial year. The company is therefore technically insolvent and may not meet its obligations when they fall due. Its continued existence as a going concern is dependent upon financial support from its creditors and the University of Nairobi.

Management Response

850. The In FY 2018/2019 the company made a loss of Ksh. 68,709,036 as reflected in the financial statements. UNES Board and Management immediately embarked on strategies and initiatives aimed at reversing the negative performance by the following financial year. The key recommendations included:
- i. Streamlining Income Generating Units (IGUs) to maximize their returns since they have a high potential for business growth.
 - ii. Developing enabling policies that will guide utilization of University of Nairobi (UoN) resources to ensure maximum returns to both UNES and UoN
 - iii. UNES Board to engage the University Council on duplicated roles between UNES and UoN and ensuring that UNES becomes the hub for income generation.

851. The strategies and initiatives resulted in a profit of Ksh. 127,510 in the subsequent financial year 2019/2020.
852. The negative working capital of Ksh. 63,815,767 was mainly brought about by the classification of funds held by UNES on behalf of the University of Nairobi amounting to Ksh230,991,909 as a current liability instead of a long-term liability in the financial statements. This figure relates to an accumulation of the surpluses/losses made by the Income Generating Units and module II funds that UNES has been managing on behalf of the University. This was however rectified in the financial year 2020/2021 upon recommendation by the Auditor General. Since then, UNES no longer has a negative working capital.

Committee Observations

853. The Committee observed that the entity had turned around its fortunes through the strategies put in place.

Committee Recommendation

854. The Committee recommends that management intensifies efforts towards sustainability through a business plan, to be submitted to the Committee within six months of adoption of this report.

3.5.126 Overdue trade and other receivables

855. As disclosed under Note 16 of the financial statements, the statement of financial position reflects trade and other receivables of Ksh388,109,580. The figure includes consultancy of Ksh81,139,764, National Hospital Insurance Fund of Ksh26,315,550 and East African Portland Cement of Ksh2,309,200 which had been outstanding for over one year. Management has not indicated measures put in place to ensure collection of receivables when due. In the circumstances, it has not been possible to confirm the recoverability of trade and other receivables balance of Ksh. 388,109,580 as at 30 June 2019.

Management Response

856. Out of the Ksh. 81,139,764 that was outstanding as at 30th June 2019, a total of Ksh. 31,885,655 had since been collected. Management has continued to follow up on the ones which have not been settled through issuance of debtors statements, reminders and demand letters. The balance of Ksh. 41,686,665 outstanding is mainly from Government agencies: Nairobi City County, Ministry of Transport etc.

857. The enterprise has also been following up on the NHIF and East African Portland Cement debts which stood at Ksh. 26,315,550 and Ksh. 2,309,200 respectively as at 30th June 2019. NHIF has continued to make payments to offset the old debts as UNES also continues to serve its clients. Management was still following up on the East African Portland debt amounting to Ksh. 2,309,200 with delayed response due to the financial constraints they are undergoing.

Committee Observations

858. The Committee observed that despite improved collections, amounts outstanding would hamper operations.

Committee Recommendation

859. The Committee recommends that management henceforth enters into contracts with clear payment timelines, and enforces the same.

3.21.2 Audited Financial Statements for the Financial Year 2019/20

3.5.127 Undisclosed material uncertainty on going concern

860. The Committee observed that the matter was recurring from the previous financial year and reiterates its recommendation on the same.

3.5.128 Budgetary control and performance

861. The statement of comparison of budget and actual amounts for the year ended 30 June 2020 reflects final budgeted and actual revenue on comparable basis amounting to Ksh.831,487,453 against an actual amount earned of Ksh. 524,166,097 resulting to a shortfall of Ksh. 307,321,356. Similarly, the company had an expenditure budget of Ksh. 222,122,663 against actual expenditure of Ksh. 153,990,152 resulting in a net under-expenditure of Ksh. 68,132,511. The management has attributed the revenue under-collection to the challenging business environment brought about by the Covid-19 pandemic. The under-funding and under-expenditure may have affected the planned activities and may have impacted negatively on service delivery.

Management Response

862. The main reason for not meeting the revenue target during the financial year 2019/2020 was due to the negative effects of Covid-19 pandemic which resulted in low business volumes impacting on revenue generation.
863. UNES relies on internally generated revenue and does not receive exchequer funding. The expenditure budget variance was as a result of matching expenditure to revenue generated hence some expenses were put on hold and only critical activities relating to business were

financed leading to a negative expenditure variance. This however did not in any way affect service delivery of the products and services.

Committee Observations

864. The Committee observed that the explanation was satisfactory and recommends that the matter be closed.

3.5.129 Trade and other receivables

865. The Committee observed that the matter was recurring from the previous financial year and reiterates its recommendation on the same.

3.21.3 Audited Financial Statements for the Financial Year 2020/21

3.5.130 Unsupported adjustments

866. The University of Nairobi Enterprises and Services Limited submitted financial statements for audit on 30 September 2021 and submitted revised financial statements on 20 July 2022. However, review of the amended financial statements submitted for audit revealed that various balances were amended but were not supported by journal vouchers to explain the adjustments. Management has not explained the adjustments or provided journal vouchers supporting the changes from the initial reported financial statements balances to the adjusted balances as indicated below:

	Component	Financial Statements presented on 30 September, 2021 (Kshs.)	Revised Financial Statements presented on 20 July, 2022 (Kshs.)	Unsupported Changes (Kshs.)
i.	Allocation from income generating units	10,670,849	10,390,915	279,934
ii.	University bookstores	58,388,428	61,063,793	(2,675,365)
iii.	Arziki restaurant and chiromo conference	11,021,739	11,805,480	(783,741)
iv.	Consultancy	764,594,067	765,191,426	(597,359)
v.	Other income	3,907,318	4,299,950	(392,632)
vi.	Direct costs	716,919,204	696,995,077	19,924,127
vii.	Administration costs	126,991,711	139,965,477	(13,242,084)
viii.	Property, plant & equipment	15,355,338	13,439,447	1,915,891

ix.	Intangible Assets	205,900	249,400	(43,500)
x.	Inventories	59,573,946	59,232,440	341,506
xi.	Trade and other receivables	290,247,141	291,027,660	(780,519)
xii.	Bank and cash balances	98,230,834	76,388,527	21,842,307
xiii.	Accumulated loss	(83,645,553)	(72,117,580)	11,527,973
xiv.	Trade and other payables	479,388,668	210,456,318	268,932,350
xv.	Long term liability	21,419,324	254,342,947	(232,923,623)
xvi.	Staff gratuity obligations	31,232,868	32,437,938	1,205,070
	Total	2,604,501,782	2,555,169,215	72,120,195

In the absence of sufficient verifiable supporting documents and records, the accuracy of financial statements could not be confirmed.

Management Response

867. UNES had just migrated to a new ERP from January 2021 which had its implementation challenges. Migration of data mid-term required thorough reconciliations which could not be completed before the statutory deadline date of 30th September 2021. 1026. However, we were able to finalize all the pending issues afterwards and prepared the revised financial statements that are fully supported with detailed transaction ledgers in the financial system: old and new ERP. The accuracy of the figures in the financial statements is therefore not in doubt.

1027. The detailed explanations of the respective components have been analyzed and the transaction ledgers from both the old and new system to support the figures in the revised financial statements availed.

Committee Observations

1028. The Committee observed that the matter had since been addressed satisfactorily.

Committee Recommendation

1029. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.131 Variance between financial statements and trial balance

1030. The financial statements include items whose balances differs with the supporting trial balance. Management has not provided any reconciliation to support the resultant differences between the two sets of records contrary to section 68 of the Public Finance Management Act, 2012 which requires the Accounting Officer to maintain financial and accounting records that comply with the Act. Details of the differences are as indicated below:

	Component	Financial statements	Trial balance	Variance
i.	Inventory	59,232,440	138,444,033	79,211,594
ii.	Trade and other receivables	291,027,660	369,470,553	78,442,893
iii.	Cash and bank	76,388,527	76,744,606	356,079
iv.	Property, plant and equipment	13,439,447	4,270,519	9,168,928
v.	Provision for direct service providers	9,013,281	7,878,771	1,134,509
vi.	Remittance for consultancies	100,453,696	116,776,573	16,322,877
vi.	Provision for output VAT	3,149,344	54,477,633.05	51,328,289
vi.	Provision for PAYE	5,953,766	8,613,224	2,659,458
ix.	Students deposits	9,544,770	9,137,643	407,127
x.	Finance income	0	757,823.40	757,823.40
xi.	Arziki restaurants	11,805,480	12,918,933	(1,113,453)
xi.	Bookstore	61,063,793	61,218,947	(155,154)
xi.	Revenue from consultancy	765,191,426	762,434,819	2,756,606
xi.	Dental Plaza	3,924,039	24,612,460	(20,688,421)
xv.	Diagnostic	432,000	2,880,001	(2,448,001)
xv.	Eye Centre	506,080	1,795,272	(1,289,192)
xv.	UoN Library	968,419	6,449,882	(5,481,463)
xv.	Chiromo Parlour	4,560,377	30,402,510	(25,842,133)
xi.	Other income	4,299,950	1,185,806	3,114,143
	Total	1,420,954,495	1,690,470,008	188,642,509

Management Response

1031. The major cause of the variances between the trial balance (system balances) and the financial statements was the migration to a new system which was done in the middle of the financial year 2020/2021. Management had to generate reports from the two different systems when preparing the financial statements. UNES operated the old system up to December 2020 after which it migrated to a new system w.e.f January 01, 2021. The closing balances from the old system were migrated to the new system. The mapping of the GL accounts from the old system to the new system was not perfect. There were several implementation challenges that could not be resolved by our staff and required support from the consultant. During the preparation of the financial statements, management extracted the detailed transactions from both the old and the new system hence the figures in the financial statements are not in doubt since they are fully supported.

1032. There were no differences between the financial statements and the supporting schedules. All the figures in the financial statements are fully supported by detailed transaction

schedules both in the old and new ERP hence there is no risk of inaccuracy of the financial statements.

Committee Observations

1033. The Committee observed that the matter had since been addressed satisfactorily.

Committee Recommendation

1034. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.132 Budgetary control and performance

1035. The Committee observed that the matter was recurring from the previous financial year and reiterates its recommendation on the same.

3.5.133 Lack of two-way match between purchase orders and payment vouchers

1036. The Review of financial records revealed that the Company had not fully automated the two-way match between the purchase orders and the payment vouchers. The payment vouchers were all manually supported outside the system which was prone to errors

Management Response

1037. This was an ERP system configuration issue which has now been rectified. Analysis of payments were done using payment vouchers which have unique identification numbers that were matched to purchase orders.

Committee Observations

1038. The Committee observed that the matter had since been addressed.

Committee Recommendation

1039. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.23 KENYA NATIONAL INNOVATION AGENCY (KENIA)

1040. Dr. Tonny Omwansa, CEO and Accounting Officer, led her team in adducing evidence on the audited accounts of KENIA, on 3rd May 2023.

3.22.1 Audited Financial Statements for the Financial Year 2018/19

1041. The agency was not audited in the subject financial year as they operated within the parent State Department.

3.22.2 Audited Financial Statements for the Financial Year 2019/20

3.5.134 Budgetary control and performance

1042. The Agency had an approved expenditure budget of Ksh 35,226,363 for the year under review but spent Ksh 18,950,573 resulting in under-expenditure of Ksh 18,897,578 equivalent to 53.65% of the budget. In view of the under-expenditure, a significant number of activities planned for implementation in the year were not implemented.

Management Response

1043. During this financial year, the Agency was allocated a recurrent grant of Ksh 35,226,363 for the year. However, the disbursement of the funds for the 1st and 2nd quarter were delayed until the end of the second quarter in late December 2019. See attached bank statement. The delay in disbursement of the funds led to delay in implementation of various programs and activities.

Committee Observations

1044. The Committee observed that the matter had since been addressed to the satisfaction of auditors.

Committee Recommendation

1045. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.135 Irregular payment of allowances

1046. Examination of expenditure records indicated payments totalling Kshs. 3,054,422 incurred on remuneration of the Board in the year under review. Included in the balance was honorarium and airtime paid to the Chairman for the month of May and June 2019. The expenses were denoted as unpaid obligations inherited from the State Department of University Education.

1047. Payment of the allowances and airtime earned by the Chairman in a different entity was irregular since the services thus provided were not enjoyed by the Agency and the expenditure had not been provided for in its budget.

Management Response

1048. During the financial year 2019/2020, the agency paid a honorarium and airtime to the Agency's board chairman for the months of May and June 2019. We wish to state that

the allowances paid were for the board chair who had been gazetted as Chair of the Agency's board. The chair had provided services for the Agency during this period.

Committee Observations

1049. The Committee observed that the matter had since been addressed to the satisfaction of auditors.

Committee Recommendation

1050. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.136 Lack of staff establishment

1051. Review of the Agency's human resource function indicated that there was no staff establishment in place. As a result, there was no clarity on roles and responsibilities of various staff, and on how they were expected to grow their careers in the Agency. In addition, only the Chief Executive Officer was employed on permanent terms with the other six staff having been seconded to the Agency from the parent Ministry. There was no record provided for audit to indicate the Board's plans to set up the staff establishment and have the Agency employ its own staff.

1052. Without its own human resource, the Agency may not be able to execute its mandate in an effective way.

Management Response

1053. The staff establishment is now currently in place. As at today the Agency recruited (13) thirteen officers.

Committee Observations

1054. The Committee observed that the matter had since been addressed to the satisfaction of auditors.

Committee Recommendation

1055. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.22.4 Audited Financial Statements for the Financial Year 2020/21

3.5.137 Budgetary control and performance

1056. The Statement of comparative budget and actual amounts reflect final receipts budget and actual on comparable basis of Ksh 51,913,000 and Kshs 43,875, 963 respectively resulting to an under-funding of Ksh 8,037,037 or 15% of the budget. Similarly, the Agency spent Ksh 38,914,938 against an approved budget of Ksh 51,913,000 resulting to an under-expenditure of Ksh 12,998,062 or 25% of the budget.
1057. The underfunding and underperformance affected the planned activities of the Agency and may have impacted negatively on service delivery to the public.
1058. In view of the under-expenditure, a significant number of activities planned for implementation in the year were implemented.

Management Response

1059. The use of goods section in the statement of Comparison of Budget and Actual Amounts has been updated to reflect the correct position, bringing the expenditure to Ksh 43,026,000. The budget is now balanced. The Agency's operations and programs were affected by COVID 19 which affected travel and there were restrictions on gatherings hence some planned activities did not take place.

Committee Observations

1060. The Committee observed that the matter had since been addressed satisfactorily.

Committee Recommendation

1061. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.138 Penalties on late remittance of Pay-As-You-Earn statutory deductions

1062. The Statement of financial performance reflects expenditure on use of goods and services of Kshs. 11,828,002 as disclosed in Note 8 to the financial statements. The expenditure includes fines and penalties amounting to Kshs. 523,656. The penalties arose due to delay in remittance of PAYE taxes deducted from employees and board's allowances.
1063. In the circumstances, the Agency risks incurring avoidable costs in form of penalties and interest in line with section 37(2) of the Income Tax Act, cap 470 of the laws of Kenya which allows the Commissioner for income tax to impose a penalty of 25% of the amount of tax involved if an employer paying emoluments to an employee fails to deduct tax or account for tax deducted.

Management Response

1064. The Agency paid penalties of Ksh 523,656 which arose due to non-remittance of PAYE taxes deducted from employees and taxes deducted from board's allowances on time. At the time the Agency had no full time Accountant and was relying on the accountant deployed from the Ministry who also had other duties at the Ministry and was unable to dedicate his time fully to the Agency hence delays in meeting the deadlines. The Agency has since hired a full-time accounting staff (senior Accountant and Accounts Assistant) and put in place control measures to ensure compliance with filing and payment of returns. Filing is now done in a timely manner.

Committee Observations

1065. The Committee observed that the matter had since been addressed satisfactorily.

Committee Recommendation

1066. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.139 Failure to hold audit committee meetings

1067. During the year under review the Agency's Board of Directors did not hold any audit committee meetings. This is in contrary to Section 1.7 of Mwongozo Code of Governance for State Corporations on committees of the board which states that the board shall establish an audit committee to discharge the entity's function on governance, risk(s), finance, compliance, technical matters, strategy, and human resource. Further Regulation 179 of the Public Finance Management (National Government) Regulations 2015 requires the audit committee to meet at least once every three months (quarterly).

1068. In the circumstance the Agency did not benefit from the oversight role of the Board Committee.

Management Response

1069. An audit committee normally meets to mainly deliberate on matters raised by an internal auditor. During the year, the agency did not have an internal auditor in its establishment.

1070. The substantive CEO was recruited in September 2020 and initiated a request to the state department for audit support. The state department began offering services and the audit committee held its first meeting in July 2021. Since then the Audit function has stabilized and quarterly audits conducted and Audit committee meetings held.

Committee Observations

1071. The Committee observed that the matter had since been addressed.

Committee Recommendation

1072. The Committee recommends that the Accounting Officer henceforth complies with Section 68(2)(k) of the PFM Act 2012 and section 13 of the Public Audit Act, 2015, by providing supporting documentation and explanations to the Auditor General on time.

3.5.140 Lack of staff establishment

1073. The Committee observed that the matter was recurring from the previous financial year and reiterates its recommendations on the same.

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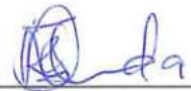
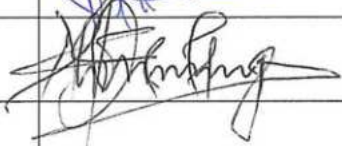
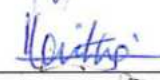
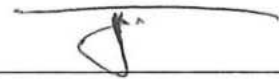
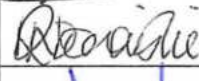
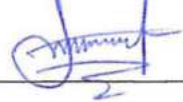
DATE:

20TH JUNE, 2023

HON. WANAMI WAMBOKA, MP
CHAIRMAN, PUBLIC INVESTMENTS COMMITTEE ON GOVERNANCE AND
EDUCATION

ADOPTION OF THE PUBLIC INVESTMENTS COMMITTEE ON GOVERNANCE & EDUCATION REPORT ON THE ACCOUNTS OF VARIOUS GOVERNMENT AGENCIES (REGULATORY & GOVERNANCE)

We, the Honourable Members of the Public Investments Committee on Governance & Education (PIC-G&E), do hereby affix our signatures to this 1st Report on Accounts of various governance agencies (Regulatory & Governance) to affirm our approval and confirm its accuracy, validity and authenticity;

	HON. MEMBER	SIGNATURE
1.	Hon. Wanami Wamboka , MP – Chairperson	
2.	Hon. Josphine Lesuuda Naisula, OGW MP – Vice-chairperson	
3.	Hon. (Dr.) Shadrack Mwiti Ithinji MP	
4.	Hon. Moses Kirima Nguchine, MP	
5.	Hon. James Wamacukuru Githua Kamau, MP	
6.	Hon. Alfa Ondieki Miruka, MP	
7.	Hon. Bonaya Mumina Gollo, MP	
8.	Hon. Chiforomodo Mangale Munga, MP	
9.	Hon. Daniel Karitho Kiili, MP	
10.	Hon. (Amb.) Francis Sigei Kipyegon, EBS, MP	
11.	Hon. Joseph Tonui Kipkosgei, MP	
12.	Hon. Mark Muriithi Mwenje, MP	
13.	Hon. Maurice Bisau Kakai, MP	
14.	Hon. Rebecca Tonkei Noonaishi, MP	
15.	Hon. Thuddeus Nzambia Kithua, MP	

MINUTES OF THE 6TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON GOVERNANCE AND EDUCATION HELD ON WEDNESDAY 8TH MARCH, 2023 IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS, AT 0930 HOURS

PRESENT

- | | | |
|---|---|------------------|
| 1. Hon. Jack Wanami Wamboka, MP | - | Chairperson |
| 2. Hon. Lesuuda Josephine Naisula, OGW, MP- | | Vice-chairperson |
| 3. Hon. Mark Muriithi Mwenje, MP | | |
| 4. Hon. Sigei Francis Kipyegon, EBS, MP | | |
| 5. Hon. Ondieki Alfa Miruka, MP | | |
| 6. Hon. Wamacukuru James Githua Kamau, MP | | |
| 7. Hon. Chiforomodo Mangale Munga, MP | | |
| 8. Hon. Bisau Maurice Kakai, MP | | |
| 9. Hon. Tonkei Rebecca Noonaishi, MP | | |
| 10. Hon. Nzambia Thuddeus Kithua, MP | | |
| 11. Hon. Shadrack Mwiti Ithinji, MP | | |
| 12. Hon. Karitho Kiili Daniel, MP | | |

ABSENT WITH APOLOGY

1. Hon. Kirima Moses Nguchine, MP
2. Hon. Bonaya Mumina Gollo, MP
3. Hon. Tonui Joseph Kipkosgei, MP

IN-ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|----------------------------|---|-------------------------|
| 1. Mr. Victor Weke | - | Senior Clerk Assistant |
| 2. Mr. Mohamed Jimale | - | Clerk Assistant II |
| 3. Mr. Victor Fundi | - | Clerk Assistant III |
| 4. Ms. Eunice Liavuli | - | Research Officer III |
| 5. Ms. Faith Chepkemai | - | Legal Counsel |
| 6. Mr. Edwin Mwebi Machuki | - | Fiscal Analyst III |
| 7. Mr. Collins Mahamba | - | Audio Recording Officer |

OFFICE OF THE AUDITOR GENERAL

- | | | |
|-----------------------|---|----------------------------|
| 1. Ms. Mercy Muasya | - | Director of Audit |
| 2. Mr. Samuel Waweru | - | Ag. Director of Audit |
| 3. Ms. Sharon Wangari | - | Deputy Director of Audit |
| 4. Mr. Evans Obote | - | Senior Investments Officer |
| 5. Mr. Felix Itonge | - | Liaison Officer |

COMMISSION FOR UNIVERSITY EDUCATION

- | | | |
|-----------------------|---|--|
| 1. Prof. Mike Kuria | - | Commission Secretary/ CEO |
| 2. Mr. Francis Gakuya | - | Accountant , Commission for University Education |
| 3. Ms. Linah Kiptoo | - | Commission for University Education |

THE JOMO KENYATTA FOUNDATION

- | | | |
|----------------------|---|------------------------------------|
| 1. Mr. David Mwaniki | - | Managing Director/ Board Secretary |
|----------------------|---|------------------------------------|

2. Mr. Sammy Motanya - Head of Finance

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/016: PRELIMINARIES

The Chairperson called the meeting to order at 9.30 am with a word of prayer and thereafter invited all present to introduce themselves. The Chairman noted that the Committee had scheduled several agencies to appear before it to respond to audit queries contained in reports of the Auditor General on the financial statements for the last three (3) financial years (FY) running up to 2020/21.

The agenda was confirmed as listed hereunder on the proposal of Hon. Rebecca Tonkei, MP and secondment of Hon. Sigei Kipyegon, EBS, MP;

AGENDA:

1. Prayers;
2. Preliminaries/Introduction
 - i. Adoption of the Agenda;
 - ii. Confirmation of minutes of previous sittings;
 - iii. Matters Arising
3. Meeting with State Corporations on Audit Reports;
 - i) Commission for University Education
 - ii) Jomo Kenyatta Foundation
 - iii) Kenya Utalii College
 - iv) Kenya Literature Bureau
4. Any Other Business; and
5. Adjournment.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/017: CONFIRMATION OF MINUTES

1. Minutes of the 1st sitting held on Friday 17th February 2023 at 9.30 am were confirmed as a true record of proceedings having been proposed by the Hon. Nzambia Kithua, M.P. and seconded by the Hon. Rebecca Tonkei, M.P.
2. Minutes of the 2nd sitting held on Friday 17th February 2023 at 2.30 p.m. were confirmed as a true record of proceedings having been proposed by the Hon. Sigei Kipyegon, EBS, M.P. and seconded by the Hon. Nzambia Kithua, M.P.
3. Minutes of the 3rd sitting held on Friday 18th Saturday 2023 at 9.30 a.m. were confirmed as a true record of proceedings having been proposed by the Hon. Bisau Maurice Kakai, M.P. and seconded by the Hon. Sigei Kipyegon, EBS, M.P.
4. Minutes of the 4th sitting held on Friday 18th Saturday 2023 at 2.30 p.m. were confirmed as a true record of proceedings having been proposed by the Hon. Bisau Kakai, M.P. and seconded by the Hon. Rebecca Tonkei, M.P.
5. Minutes of the 5th sitting held on Friday 18th Saturday 2023 at 2.30 p.m. were confirmed as a true record of proceedings having been proposed by the Hon. Chiforomodo Munga, M.P. and seconded by the Hon. Sigei Kipyegon, EBS, M.P.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/018: MATTERS ARISING

There were no matters arising.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/019: MEETING WITH VARIOUS GOVERNMENT INSTITUTIONS ON CONSIDERATION OF AUDIT QUERIES CONTAINED IN

REPORTS OF THE AUDITOR GENERAL
FOR FYS 2018/19 – 2020/2021

The secretariat informed the meeting that Kenya Literature Bureau and Kenya Utalii College had requested rescheduling of their appearance due to absence of both Chief Executive Officers. The Committee acceded to their requests and directed that they appear on 22nd March, 2023.

1. Commission for University Education

The Following matters were deliberated on as per the Auditor General's qualified opinion and various conclusions arrived at:

The Auditor General informed the meeting that they had not received submissions from Commission for University Education regarding the years under review 2018/19 to 2020/2021 and the matters remained unresolved.

Committee Resolution

The Committee directed that –

- (i) The Commission submits their responses to the Office of the Auditor General and resolve the outstanding issues before re-appearance.

2. The Jomo Kenyatta Foundation

FY 2018/2019 - Report of the Controller and Auditor General on the Accounts of The Jomo Kenyatta Foundation for the year ended 30th June 2019.

Going concern uncertainty

The statement of financial position reflects that the current liabilities of Kshs. 281,772,000 exceeded the current assets of Kshs. 247,282,000 resulting in a negative working capital of Kshs. 34,490,000. The Foundation may therefore be unable to meet its financial obligations as and when they fall due. In addition, the Foundation also recorded a net loss of Kshs. 176,799,000 (20218; Kshs 118,368,00) thereby decreasing the retained earnings from Kshs. 438,000 as at 30 June 2018 to a deficit of Kshs 192,361,000 as at 30 June 2019. The Foundation is therefore technically insolvent and the financial statements have been prepared on a going concern basis on the assumption that its will continue to receive financial support from Government and creditors. The material uncertainty relating to going concern has not been disclosed in the financial statements.

Management Response

The Foundations' financial performance decreased in the year under review due to the decline in turnover attributed to change in Government policy in the book industry i.e purchase of one book per subject and end-to-end delivery by publishers, a cost earlier borne by booksellers. This resulted in loss of revenue from public schools which was 80% of our market. The Foundation came up with new strategies to take care of the changes in the market dynamics, aligned the Strategic Plan to "Big Four" Initiatives and SDG's during the review of strategic plan. This has enabled us secure more contracts with the Government of Kenya through the Ministry of Education worth over Ksh. 1.3 billion from the new competency based curriculum (CBC) and Class 5 and 6 titles. The said strategies are bearing fruit and JKF's performance improved in the subsequent years as presented below on profitability trend. Therefore, our going concern is not in question and the Foundation is not experiencing any financial difficulties at the moment.

Committee Observations and Findings

- (i) The Committee observed that the concern was addressed due to their return and profitability.
- (ii) The Committee therefore marked the matter as resolved.

Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final revenue budget and actual on comparable basis of Kshs. 1,075,520,000 and Kshs. 436,800,000 respectively resulting to an underfunding of Kshs. 638,640,000 or 59% of the budget. Similarly, the Company's expenditure amounted to Kshs. 613,679,000 against an approved budget of Kshs. 1,029,087,000 resulting to an underexpenditure of Kshs. 415, 408,000 or 40% of the budget. The underfunding and underperformance affected the planned activities and the performance of the company.

Management Response

Jomo Kenyatta is a commercial parastatal and does not receive any funding from exchequer. All revenue is derived from sale of books and other publications. The expenditure varies depending on the level of performance in the market. In the year under review JKF realized lesser revenue than budgeted. The budget is meant for planning purpose and is closely monitored but is bound to vary depending on the level of performance arising in variance between the estimates and actual.

Committee Observations and Findings

1. The Committee observed that the concern was not addressed as a result it was overtaken by event and that the financial year was closed.
2. The Committee therefore marked the matter as resolved.

Investment in Call Deposits

As disclosed in Note 17 to the financial statements, the statement of financial position reflects an amount of Kshs.850,000 in respect of call deposits held at a local bank. This is contrary to The National Treasury Circular Ref. DMD 4/02 'H' (630 of 26 March, 2018 which directed all State Corporations and SAGAs to invest surplus funds in Treasury Bills or Treasury Bonds directly through the Central Bank of Kenya.

Management Response

The figure of Ksh 850,000 was a collateral for bid bond guarantee issued to our customers in normal business i.e Ministry of Health Ksh 750,000 and KASNEB Ksh. 100,000 for print works given to the Foundation and was not a call deposit for surplus. Hence the Foundation did not contravene the National Treasury Circular

Committee Observations and Findings

1. The Committee observed that the concern was not addressed;
2. The management did not submit supporting documents on time and the auditors needed to scrutinize them. The Committee therefore marked the matter as unresolved.

FY 2019/2020 - Report of The Controller and Auditor General on the Accounts of The Jomo Kenyatta Foundation for the year ended 30th June 2020

Committee Observations and Findings

The Committee observed that the Auditor General issued an unqualified opinion.

FY 2020/2021 - Report of the Auditor General on the Accounts of the Jomo Kenyatta Foundation for the year ended 30th June 2021.

Committee Observations and Findings

1. The Committee observed that the Auditor General issued a qualified opinion;
2. The management submitted supporting documents late and it did not allow for the Auditor General to examine and make a determination.
3. The Committee therefore marked the matters as unresolved and directed that the Jomo Kenyatta Foundation reappears before the Committee on Wednesday 22nd March, 2023.

3. Auctioneers Licensing Board

The Auditor General's Office has confirmed that the management of the Board had not submitted any supporting documents in advance, regarding the financial years under review and it therefore did not allow the office to make an opinion other than what was already in their report.

Committee Resolution

The Committee marked the matter as unresolved and directed that the Auctioneers Licensing Board reappears before the Committee on Wednesday 22nd March, 2023.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/020: ADJOURNMENT/ DATE OF NEXT SITTING

There being no other business, the meeting was adjourned at 12.05 pm, to reconvene at 2,30 p.m at the same venue.

SIGNED.....  DATE 15/3/23
(CHAIRPERSON)

MINUTES OF THE 7TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON GOVERNANCE AND EDUCATION HELD ON WEDNESDAY 8TH MARCH, 2023 IN COMMITTEE ROOM 7 MAIN PARLIAMENT BUILDING, AT 1400 HOURS

PRESENT

- | | | |
|---|---|------------------|
| 1. Hon. Jack Wanami Wamboka, MP | - | Chairperson |
| 2. Hon. Lesuuda Josephine Naisula, OGW, MP- | | Vice-chairperson |
| 3. Hon. Mark Muriithi Mwenje, MP | | |
| 4. Hon. Sigei Francis Kipyegon, EBS, MP | | |
| 5. Hon. Ondieki Alfa Miruka, MP | | |
| 6. Hon. Wamacukuru James Githua Kamau, MP | | |
| 7. Hon. Chiforomodo Mangale Munga, MP | | |
| 8. Hon. Bisau Maurice Kakai, MP | | |
| 9. Hon. Tonkei Rebecca Noonaishi, MP | | |
| 10. Hon. Nzambia Thuddeus Kithua, MP | | |
| 11. Hon. Shadrack Mwiti Ithinji, MP | | |
| 12. Hon. Karitho Kiili Daniel, MP | | |

ABSENT WITH APOLOGY

1. Hon. Kirima Moses Nguchine, MP
2. Hon. Bonaya Mumina Gollo, MP
3. Hon. Tonui Joseph Kipkosgei, MP

IN-ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|----------------------------|---|-------------------------|
| 1. Mr. Victor Weke | - | Senior Clerk Assistant |
| 2. Mr. Mohamed Jimale | - | Clerk Assistant II |
| 3. Mr. Victor Fundi | - | Clerk Assistant III |
| 4. Ms. Eunice Liavuli | - | Research Officer III |
| 5. Ms. Faith Chepkemoi | - | Legal Counsel |
| 6. Mr. Edwin Mwebi Machuki | - | Fiscal Analyst III |
| 7. Mr. Collins Mahamba | - | Audio Recording Officer |

OFFICE OF THE AUDITOR GENERAL

- | | | |
|-----------------------|---|--|
| 1. Ms. Mercy Muasya | - | Director of Audit |
| 2. Mr. Samuel Waweru | - | Ag. Director of Audit |
| 3. Ms. Sharon Wangari | - | Deputy Director of Audit |
| 4. Mr. Evans Obote | - | Senior Investments Officer |
| 5. Mr. Felix Itonge | - | Liaison Officer, Office of the Auditor General |

KENYA INSTITUTE OF SPECIAL EDUCATION

- | | | |
|-----------------------|---|---|
| 1. Dr. Norman Kiogora | - | Director |
| 2. Anthony Mwangi | - | Finance Manager, Kenya Institute of Special Education |

HIGHER EDUCATION LOANS BOARD

- | | | |
|------------------------|---|--|
| 1. Mr. Charles Ringera | - | CEO, Higher Education Loans Board |
| 2. Mr. Silas Owiti | - | Assistant Director , University Fund Board |

KENYA INSTITUTE OF CURRICULUM DEVELOPMENT

- | | | |
|------------------------------------|---|-----------------------------------|
| 1. Prof. Charles Ochieng' Ong'ondo | - | Chief Executive Officer/ Director |
| 2. Dr. S. M. Katino | - | Deputy Director |
| 3. Mr. Isaiah Malanga | - | Accountant |
| 4. Mr. Alfayo Onger | - | Legal Officer |
| 5. Mr. Nicholas Mwanthi | - | Accountant |

NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY & INNOVATION (NACOSTI)

- | | | |
|------------------------|---|---|
| 1. Prof. Walter Oyawa | - | Chief Executive Officer/ Director General |
| 2. Mr. Gideon K Kirimi | - | Finance Manager |
| 3. Ms. Lourine Okello | - | Procurement Manager |

AUCTIONEERS LICENSING BOARD

- | | | |
|---------------------------|---|---------------------|
| 1. Hon. Kenneth Cheruyoit | - | Executive Secretary |
| 2. Mr. Elijah Wekesa | - | Procurement Officer |
| 3. Mr. Isiah Malanga | - | Accountant |

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/021: PRELIMINARIES

The Chairperson called the meeting to order at 2.30 pm with a word of prayer and thereafter invited all present to introduce themselves. The agenda was adopted as listed hereunder on the proposal of Hon. Maurice Kakai, MP and secondment of Hon. Nzambia Kithua, MP. Agenda on confirmation of minutes of previous sitting and matters arising were deferred to the next sitting;

AGENDA:

1. Prayers;
2. Preliminaries/Introduction
 - i. Adoption of the Agenda;
 - ii. Confirmation of minutes of previous sittings;
 - iii. Matters Arising
3. Meeting with State Corporations on Audit Reports;
 - i) KNEC
 - ii) KISE
 - iii) HELB
 - iv) KICD
 - v) NACOSTI
 - vi) Auctioneers Licensing Board
4. Any Other Business; and
5. Adjournment.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/022: MEETING WITH VARIOUS GOVERNMENT INSTITUTIONS ON CONSIDERATION OF AUDIT QUERIES CONTAINED IN REPORTS OF THE AUDITOR GENERAL FOR FY 2018/19 – 2020/2021

1. Kenya Institute of Special Education

FY 2018/2019 and FY 2019/2020 - Report of the Auditor General on the Accounts of the Kenya Institute of Special Education (KISE) year ended 30th June 2019 and the year ended 30th June 2020 confirmed that there were no audit queries.

FY 2020/21- The Auditor General raised queries regarding long outstanding fee arrears and reconciliation with partner organizations. Management confirmed having written to Treasury requesting write-offs of the outstanding fees since there were no certificates of students held for the same, while they had also written to their counterpart organizations confirming balances for reconciliations.

2. Higher Education Loans Board

The Auditor General confirmed having not received the agency's response in advance, to enable the Office to make an opinion.

Committee Resolution

The Committee marked the queries as unresolved and directed that the agency reappears before the Committee on Wednesday 22nd March, 2023.

3. Kenya Institute of Curriculum Development

The Auditor General's Office has confirmed that the outstanding matters for the financial years under review 2018/2019 to 2020/2021 were historical and were being addressed incrementally, being; Non-compliance with the National Cohesion and Integration Act on ethnic composition of staff.

In the FY 2020/21, there was an outstanding matter on slow completion of the Education Resource Centre.

Committee Resolution

The Committee marked the matter as unresolved and directed to undertake a field visit to KICD HQ on Tuesday 14th March, 2023 from 9.00 a.m. to tour and view the status of the construction of the Education Resource Centre.

4. National Commission for Science, Technology & Innovation (NACOSTI)

The Auditor General's Office observed that matters raised in the financial years under review 2018/2019 to 2020/2021 were recurrent, including loss of inventory, grants not received from Treasury in the financial year 2014/15 and the board not being fully constituted.

Committee Observations and Findings

- (i) The Committee observed that the DCI had recommended closure of the case of loss of inventory, while the institute should write off the pending grants from Treasury since it was long outstanding and inconceivable that it would be disbursed.

- (ii) The Committee noted that the board was now fully constituted;
- (iii) The Committee also observed that the office block had since been completed and outstanding payments were a matter before legal proceedings.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/023: ADJOURNMENT/ DATE OF NEXT SITTING

There being no other business, the meeting was adjourned at 1705 hours. The next meeting will be held on 14th March 2023.

SIGNED.......... DATE 15/3/23.....
(CHAIRPERSON)

MINUTES OF THE 8TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON GOVERNANCE & EDUCATION HELD ON TUESDAY 14TH MARCH, 2023 AT KENYA INSTITUTE OF CURRICULUM DEVELOPEMNT HEADQUARTERS, NAIROBI, AT 0930 HOURS

PRESENT

- | | | |
|---|---|-------------|
| 1. Hon. Jack Wanami Wamboka, MP | - | Chairperson |
| 2. Hon. Mark Muriithi Mwenje, MP | | |
| 3. Hon. Sigei Francis Kipyegon, EBS, MP | | |
| 4. Hon. Karitho Kiili Daniel, MP | | |
| 5. Hon. Chiforomodo Mangale Munga, MP | | |
| 6. Hon. Bisau Maurice Kakai, MP | | |
| 7. Hon. Nzambia Thuddeus Kithua, MP | | |

ABSENT WITH APOLOGY

- | | | |
|--|---|------------------|
| 1. Hon. Lesuuda Josephine Naisula, OGW, MP | - | Vice-chairperson |
| 2. Hon. Bonaya Mumina Gollo, MP | | |
| 3. Hon. Ondieki Alfa Miruka, MP | | |
| 4. Hon. Wamacukuru James Githua Kamau, MP | | |
| 5. Hon. Kirima Moses Nguchine, MP | | |
| 6. Hon. Tonui Joseph Kipkosgei, MP | | |
| 7. Hon. Tonkei Rebecca Noonaishi, MP | | |
| 8. Hon. Shadrack Mwiti Ithinji, MP | | |

IN-ATTENDANCE

COMMITTEE SECRETARIAT

- | | | |
|-----------------------|---|------------------------|
| 1. Mr. Victor Weke | - | Senior Clerk Assistant |
| 2. Mr. Mohamed Jimale | - | Clerk Assistant II |
| 3. Mr. Victor Fundi | - | Clerk Assistant III |

OFFICE OF THE AUDITOR GENERAL

- | | | |
|-------------------------|---|-------------------|
| 1. Mr. Samwel N. Waweru | - | Director Audit |
| 2. Mr. Harrison Mwangi | - | Principal Auditor |
| 3. Mr. Felix Itonge | - | Liaison Officer |

KENYA INSTITUTE OF CURRICULLUM DEVELOPMENT

- | | | |
|------------------------------|---|--|
| 1. Prof. Charles O. Ong'ondo | - | Chief Executive Officer |
| 2. Dr. S.M. Kathuo | - | Deputy Director, Finance & Accounting |
| 3. Mr. Elly O. Osir | - | Deputy Director, Supply Chain Management |
| 4. Mr. John Wachira | - | Deputy Director, Technical Services |
| 5. Emily Sila | - | Deputy Director, Resource Centre |
| 6. Alfayo Ongeru | - | Legal Officer |
| 7. Jacinta Njenga | - | Assistant Director, Finance & Accounting |

PROJECT CONSULTANTS

- | | | |
|------------------------|---|-------------------------------------|
| 1. Mr. Kimathi Itaru | - | Maestro Architects |
| 2. Mr. Fredrick Opondo | - | Main Contractor, Dinesh Contractors |
| 3. Mr. Brian Simiyu | - | M & M Constructions |
| 4. Mr. Peter Miriti | - | M & M Constructions |

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/024: PRELIMINARIES

The Chairperson called the meeting to order at 9.30 am with a word of prayer and thereafter invited all present to introduce themselves. The agenda was confirmed as hereunder on the proposal of Hon. Maurice Biasau Kakai, MP and secondment of Hon. Chiforomodo Mangale, MP;

AGENDA

1. Prayers;
2. Adoption of the agenda;
3. Confirmation of minutes of previous sittings;
4. Matters Arising;
5. Substantive agenda: Site visit of KICD project
6. Any Other Business

MIN. NO. NA/DAAOSC/PIC-G&E/2023/025: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The agenda item was deferred to the next sitting. There were thus no matters arising.

MIN. NO. NA/DAAOSC/PIC-G&E/2023/026: DELAYED COMPLETION OF EDUCATION RESOURCE CENTRE COMPLEX

The committee recounted proceedings of the meeting held on 8th March, 2023 where it was resolved that the Committee tours the long outstanding matter of completion of construction of the Education Resource Centre, to assess current status.

Prof. Charles O. Ong'ondo the Chief Executive Officer and the officers of the institution informed the

Committee as follows:

1. That the construction project was initiated in 2011 and since then it was yet to be completed;
2. That the total cost of the project was Kshs.4,740, 848,051 covering six phases;
3. That already the consultants have been paid a total sum of Kshs. 577,279,587 being payment for all the 6 phases of the construction which is 70% of the total cost on submission of project designs, as per the law;
4. The total amount paid to Dinesh Contractors for phase one to date was Kshs.678,373,195.20, and the project was about 70% done;
5. That slow disbursement of funds from the Treasury has frustrated their efforts to complete the building;
6. The management produced the performance bond that they relied on;
7. There was only one variation of Kshs.67,811,448 which was made by the Council thus increasing the total contract sum of the project by 8% totaling to Kshs.854,394,954.80.
- 8.

Committee Observations

The Committee members noted the following, that;

1. The performance bond was expired as it was deemed to be valid for the period of construction as per contract;
2. The consultant having been paid 70% of his total fees covering all six phases had invariably impeded completion of phase one, its legality notwithstanding;
3. Variations of certain components of the projects from Kshs.4,591,170 to Kshs. 67,811,448 may have been overally within the 15% legal threshold of the total project cost, but was factually far beyond, per component;
4. Management had no 'engineer's file' that documents all site decisions.

The Committee resolved that in the interim, the contractor immediately obtains a valid performance bond and resumes site operations within two weeks.

MIN. NO. NA/DAAOSC/ PIC-G&E/2022/016: ADJOURNMENT/ DATE OF NEXT SITTING

There being no other business, the meeting was adjourned at 12.00 pm. The next meeting will be held on Wednesday 15th March 2023 at 9.30am.

SIGNED..... DATE
(CHAIRPERSON)

MINUTES OF THE 10TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON GOVERNANCE AND EDUCATION HELD ON WEDNESDAY 15TH MARCH, 2023 AT COMMITTEE ROOM 7 MAIN PARLIAMENT BUILDING, AT 1400 HOURS

PRESENT

- | | | |
|--|---|-------------|
| 1. Hon. Jack Wanami Wamboka, MP | - | Chairperson |
| 2. Hon. Kirima Moses Nguchine, MP | | |
| 3. Hon. Sigei Francis Kipyegon, EBS, MP | | |
| 4. Hon. (Dr.) Shadrack Mwiti Ithinji, MP | | |
| 5. Hon. Bisau Maurice Kakai, MP | | |
| 6. Hon. Mark Muriithi Mwenje, MP | | |
| 7. Hon. Ondieki Alfa Miruka, MP | | |
| 8. Hon. Chiforomodo Mangale Munga, MP | | |
| 9. Hon. Nzambia Thuddeus Kithua, MP | | |
| 10. Hon. Karitho Kiili Daniel, MP | | |
| 11. Hon. Tonui Joseph Kipkosgei, MP | | |

ABSENT WITH APOLOGY

- | | | |
|--|---|------------------|
| 1. Hon. Lesuuda Josephine Naisula, OGW, MP | - | Vice-chairperson |
| 2. Hon. Bonaya Mumina Gollo, MP | | |
| 3. Hon. Wamacukuru James Githua Kamau, MP | | |
| 4. Hon. Tonkei Rebecca Noonaishi, MP | | |

IN-ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|----------------------------|---|-------------------------|
| 1. Mr. Victor Weke | - | Senior Clerk Assistant |
| 2. Mr. Mohamed Jimale | - | Clerk Assistant II |
| 3. Mr. Victor Fundi | - | Clerk Assistant III |
| 4. Ms. Eunice Liavuli | - | Research Officer III |
| 5. Mr. Edwin Mwebi Machuki | - | Fiscal Analyst III |
| 6. Mr. Collins Mahamba | - | Audio Recording Officer |

OFFICE OF THE AUDITOR GENERAL

- | | | |
|-----------------------|---|--|
| 1. Mr. Samuel Waweru | - | Ag. Director of Audit |
| 2. Ms. Sharon Wangari | - | Deputy Director of Audit, Education Sector |
| 3. Ms. Mercy Muasya | - | Director of Audit |
| 4. Mr. Isaac Ngayai | - | Deputy Director of Audit |
| 5. Mr. Evans Kauna | - | Senior Investments Officer |
| 6. Mr. Felix Itonge | - | Principal Auditor/Liaison Officer |
| 7. Ms. Jane Chege | - | Principal Auditor |
| 8. Lydia Awiti | - | Senior Auditor |
| 9. Ms. Anna Obudho | - | Auditor |

KENYA NATIONAL QUALIFICATIONS AUTHORITY

- | | | |
|-----------------------|---|------------------------------|
| 1. Dr. Alice Kande | - | Ag. Director General |
| 2. Mr. Stanley Maindi | - | Director Technical Services |
| 3. Mr. Mark Mwangi | - | Ag. Deputy Director Accounts |
| 4. Mr. Ouma Wanzale | - | Principal Auditor |

KENYA MANAGEMENT INSTITUTE

- | | | |
|------------------------|---|-------------------------|
| 1. Dr. Maurice Oondo | - | Chief Executive Officer |
| 2. Mr. Wycliffe Wasike | - | Deputy Director |
| 3. Mr. Richard Thomi | - | Deputy Director |
| 4. Ms. Grace Wanuna | - | Head of Finance |

SCHOOL EQUIPMENT PRODUCTION UNIT

- | | | |
|---------------------|---|-------------------------|
| 1. Dr. Joel Mabonga | - | Chief Executive Officer |
| 2. CPA Salome Odek | - | Head of Finance |
| 3. Bernard Wabwire | - | Accountant |

TECHNICAL & VOCATIONAL EDUCATION & TRAINING AUTHORITY

- | | | |
|--------------------|---|--------------------------|
| 1. Kipkirui Langat | - | Chief Executive Officer |
| 2. Emmanuel Korir | - | Deputy Director Finance |
| 3. Silvia Akoto | - | Assistant Director Legal |

TVET CURRICULUM DEVPT. ASSESSMENT & CERTIFICATION COUNCIL

- | | | |
|---------------------|---|-----------------------------|
| 1. Zipporah Njoroge | - | Ag. Chief Executive Officer |
| 2. Denis Onsarigo | - | Senior Financial Officer |

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/26: PRELIMINARIES

The Chairperson called the meeting to order at 2.30 pm with a word of prayer and thereafter invited all present to introduce themselves. The agenda was confirmed as listed hereunder on the proposal of Hon. Chiforomodo Munga, MP and seconded by Hon. Sigei Kipyegon, EBS, MP;

AGENDA:

1. Prayers;
2. Preliminaries/Introduction
 - i. Adoption of the Agenda;
 - ii. Confirmation of minutes of previous sittings;
 - iii. Matters Arising
3. Meeting with State Corporations on Audit Reports;
 - i) Kenya National Qualifications Authority
 - ii) Kenya Management Institute
 - iii) School Education Production Unit

- iv) Technical & Vocational Education & Training Authority
- v) TVET Curriculum Devpt. Assessment & Certification Council

- 4. Any Other Business; and
- 5. Adjournment.

**MIN. NO. NA/DAAOSC/ PIC-G&E/2023/027: MEETING WITH STATE CORPORATIONS
ON AUDIT REPORTS FY 2018/19 – 2020/2021**

1. Kenya National Qualifications Authority

FY 2018/2019 and FY 2019/2020 - Report of the Auditor General on the Accounts of the Kenya National Qualifications Authority for the year ended 30th June 2018 and the year ended 30th June 2019 confirmed that there were no pending matters for the institute. However, the Auditor General's Office raised queries regarding the year ended 30th June 2020 and the management responded.

Committee Observations and Findings

The committee observed that there was a shortage of human capital at the authority.

2. Kenya Educational Management Institute

The Auditor General's Office confirmed that for the year ended 2018/2019, there were issues which were unresolved as follows;

Unverified electronic data processing equipment – the CEO noted that there are still efforts being made to recover the outstanding balance of Kshs, 1,019,437.

Committee Resolution

The Committee marked the matter as unresolved and directed that the management to come up with ways of how the money will be recovered and report back to the committee.

Encroached Land – on this matter the management informed the committee that a total of 6 acres of their land had been illegally occupied by squatters. A court ruling was issued to that effect ordering the eviction of the squatters although it has been a big challenge to recover the land.

Committee Observations and Findings

The committee noted as follows;

- 1. That the matter has been recurrent for a long period of time.
- 2. The agency should protect the piece of land that is already in their possession by building a perimeter wall around it first then later claim what is owed to them.
- 3. The agency to approach the departmental Committee on Lands and National Land Commission as a way of trying to reclaim their land.

4. The agency to consider asking for monetary compensation for the 6 acres as opposed to eviction of squatters.

Long Outstanding Receivables – The agency acknowledged that they have a long outstanding debt of Kshs.2,900,000.

Committee Recommendations

The ministry of Education to pay the debt owed to the agency immediately.

3. School Equipment Production Unit

The Auditor General's Office confirmed that the agency had a number of audit queries for the year ended 2018/2019 as follows:

Receivables and Payments – the management informed the committee that on this issue they have requested the office of the auditor general to carry out a special audit following an outbreak of fire in 2007.

Committee Recommendations

The committee noted the debt should be written off since it is a recurrent matter and would therefore keep on appearing as a query in the subsequent audit reports.

Encroached Land – The agency informed the committee that the land in question is registered in their name and that the management is in the process of securing the encroached land. The management intends to put up new offices after securing the land.

Committee Recommendations

1. The ministry of Lands to ensure that the ownership of land reverts to the agency.
2. The agency to come up with new mechanisms so as to enhance its viability in the market.

4. Technical & Vocational Education & Training Authority

The officers from the office of the Auditor General informed the committee that the audit reports for the year ended 30th June 2018 and 2019 had a clean opinion and thus all pending matters had since been resolved. The committee was however informed of an audit query for the year ended 30th June 2020 as follows;

Field inspections by the Board – The management informed the committee that the money spent in field inspections was necessary to enhance oversight in respective institutions and capacity building for the Board.

Committee Observation

The committee observed the following that there was no approval from the ministry of education of the expenditure on field inspections by the Board. The Committee would make its determination in its report.

5. TVET Curriculum Development Assessment & Certification Council

FY 2018/2019 - The office of the auditor general confirmed to the committee that the agency had a clean opinion for the 2018/2019 audit reports.

There were audit queries for the following financial years as follows;

FY 2019/2020 – Budgetary Control and Performance

The management attributed this issue to lack of funding and low number of students taking up TVET courses.

FY 2020/2021 – Unsupported payments of development of curriculum

The auditors from the Office of the attorney general confirmed to the committee that the expenditure on development of curriculum was not captured in the work-plan making the payments unlawful.

Committee Recommendations

The management to supply the Office of the Auditor General with supporting documents so as to resolve the matter.

FY 2020/2021 – Budgetary Control and Performance

The officers from the office of the auditor general informed the committee that there was overspending by the management without the necessary approval.

Committee Recommendations

The committee resolved that the agency re-appears before it on 22nd March 2023 to conclusively respond to the query.

FY 2020/2021 – Irregular Payments of Board Sitting Allowances

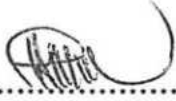
The office of the auditor general stated before the committee that there were unlawful payments of allowances to both the CEO and non-board members.

Committee Recommendations

The committee resolved that the agency re-appears before it on 22nd March 2023 to conclusively respond to the query.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/28: ADJOURNMENT/ DATE OF NEXT SITTING

There being no other business, the meeting was adjourned at 17.05 p.m. The next meeting will be 22nd March 2023.

SIGNED.......... DATE 22ND MARCH 2023
(CHAIRPERSON)

MINUTES OF THE 12TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON GOVERNANCE AND EDUCATION HELD ON WEDNESDAY 22ND MARCH, 2023 AT COMMITTEE ROOM 7 MAIN PARLIAMENT BUILDING, AT 1430 HOURS

PRESENT

- | | | |
|---|---|-------------|
| 1. Hon. Jack Wanami Wamboka, MP | - | Chairperson |
| 2. Hon. Kirima Moses Nguchine, MP | | |
| 3. Hon. Sigei Francis Kipyegon, EBS, MP | | |
| 4. Hon. Mark Muriithi Mwenje, MP | | |
| 5. Hon. Ondieki Alfa Miruka, MP | | |
| 6. Hon. Chiforomodo Mangale Munga, MP | | |
| 7. Hon. Nzambia Thuddeus Kithua, MP | | |
| 8. Hon. Karitho Kiili Daniel, MP | | |
| 9. Hon. Tonui Joseph Kipkosgei, MP | | |
| 10. Hon. Tonkei Rebecca Noonaishi, MP | | |

ABSENT WITH APOLOGY

- | | | |
|--|---|------------------|
| 1. Hon. Lesuuda Josephine Naisula, OGW, MP | - | Vice-chairperson |
| 2. Hon. Bonaya Mumina Gollo, MP | | |
| 3. Hon. Wamacukuru James Githua Kamau, MP | | |
| 4. Hon. Bisau Maurice Kakai, MP | | |
| 5. Hon. (Dr.) Shadrack Mwiti Ithinji, MP | | |

IN-ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|------------------------|---|-------------------------|
| 1. Mr. Victor Weke | - | Senior Clerk Assistant |
| 2. Mr. Victor Fundi | - | Clerk Assistant III |
| 3. Ms. Faith Chepkemoi | - | Legal Counsel |
| 4. Ms. Eunice Liavuli | - | Research Officer III |
| 5. Mr. Collins Mahamba | - | Audio Recording Officer |
| 6. Mr. Albert Atunga | - | Serjeant-at-Arms |

OFFICE OF THE AUDITOR GENERAL

- | | | |
|-----------------------|---|--|
| 1. Mr. Samuel Waweru | - | Ag. Director of Audit |
| 2. Ms. Sharon Wangari | - | Deputy Director of Audit, Education Sector |
| 3. Ms. Mercy Muasya | - | Director of Audit |
| 4. Mr. Isaac Ngayai | - | Deputy Director of Audit |
| 5. Mr. Evans Kauna | - | Senior Investments Officer |
| 6. Mr. Felix Itonge | - | Principal Auditor/Liaison Officer |
| 7. Ms. Jane Chege | - | Principal Auditor |
| 8. Mr. David Gakubia | - | Principal Auditor |
| 9. Ms. Lydia Awiti | - | Senior Auditor |

NATIONAL TREASURY

- | | |
|------------------------|----------------------------------|
| 1. Mr. Ngecho Mark | - Assistant Director Investments |
| 2. Mr. Kitaka Emmanuel | - Economist |

AUCTIONEERS LICENSING BOARD

- | | |
|---------------------------|---------------------------|
| 1. Hon. Kenneth Cheruiyot | - Chief Executive Officer |
| 2. Mr. Isaiah Malanga | - Finance Officer |

HIGHER EDUCATION LOANS BOARD

- | | |
|-------------------------|---------------------------|
| 1. FCPA Charles Ringera | - Chief Executive Officer |
| 2. Ms. Kerin Sally | - Finance Manager |
| 3. Mr. Titus Mabeya | - Accountant |

COMMISSION FOR UNIVERSITY EDUCATION

- | | |
|-----------------------|---------------------------|
| 1. Mr. Mike Kuria | - Chief Executive Officer |
| 2. Mr. Joseph Musyoka | - Accountant |
| 3. Ms. Linah Kiptoo | - Accountant |

JOMO KENYATTA FOUNDATION

- | | |
|-----------------------|---------------------|
| 1. Mr. David Mwaniki | - Managing Director |
| 2. Mr. Sammy Matonya | - Head of Finance |
| 3. Mr. Francis Gakuya | - Accountant |

TVET CURRICULUM DEVELOPMENT ASSESSMENT & CERTIFICATION COUNCIL

- | | |
|--------------------------|----------------------------------|
| 1. Ms. Zipporah N Messo | - Ag. Chief Executive Officer |
| 2. Mr. Lawrence Guantai | - Former Chief Executive Officer |
| 3. Mr. Dennis Onsarigo | - Senior Finance Officer |
| 3. Ms. Annastacia Mwinzi | - Accountant |

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/34: PRELIMINARIES

The Chairperson called the meeting to order at 2.30 pm with a word of prayer and thereafter invited all present to introduce themselves. The agenda was confirmed as listed hereunder on the proposal of Hon. Chiforomodo Munga, MP and seconded by Hon. Sigei Kipyegon, EBS, MP;

AGENDA:

1. Prayers;
2. Preliminaries/Introduction
 - i. Adoption of the Agenda;
 - ii. Confirmation of minutes of previous sittings;
 - iii. Matters Arising
3. Meeting with State Corporations on Audit Reports;

- i) Auctioneers Licensing Board
 - ii) HELB
 - iii) Commission for University Education
 - iv) Jomo Kenyatta Foundation
 - v) TVET CDACC
4. Any Other Business; and
 5. Adjournment.

**MIN. NO. NA/DAAOSC/ PIC-G&E/2023/035: MEETING WITH STATE CORPORATIONS
ON AUDIT REPORTS FY 2018/19 – 2020/2021**

1. AUCTIONEERS LICENSING BOARD

The following issues marked as unresolved were brought to the attention of the committee by the office of the auditor general as follows;

a) Lack of Segregation of Duties

Management Response

FY 2019/2020 – The Chief Executive Officer attributed the lack of segregation of duties due to lack of funding from the government to employ more staff. Some officers deployed to the board were also recalled back to their parent ministries.

b) Irregular Appointment of Board Members

Management Response

The Chief Executive Officer informed the committee that there are efforts being made to remedy this issue however the Principal Secretary was yet to make changes.

2. HIGHER EDUCATION LOANS BOARD

FY 2018/2019 - The following issues marked as unresolved and recurrent in the following subsequent financial years were brought to the attention of the committee by the office of the auditor general as follows;

a) Land in Dispute

Management Response

The Chief Executive Officer confirmed to the committee that the land in question (LR No209/13515) is a property of the Board and that the title deed is in the name of HELB. The Board has also been paying for paying land rates for the last 20 years. The matter is still active in court thus nothing can be done on the land including re-surveying.

b) Outstanding Matured Loans to Students

Management Response

The Chief Executive Officer informed the committee that loans issued to students take a period of 5 years to mature. The loan repayment can only commence voluntarily or once the students get employment thus some loans have gone beyond 10 years without repayment. Unemployment has slowed the rate of repayment of these loans. However as at February 2023 the board had collected a total of 8.5 billion from loan repayments.

FY 2020/2021- Audit queries in the subject financial year were recurring from the previous year.

3. COMMISSION FOR UNIVERSITY EDUCATION

The following issues marked as unresolved were brought to the attention of the committee by the office of the auditor general as follows;

a) Long Outstanding Receivables (FY 2018/2019 & 2019/2020)

Management Response

The Chief Executive Officer confirmed to the committee that he has had engagements with the Universities regarding these outstanding debts. The universities have expressed challenges in settling the amounts due to cashflow and a total of 26 institutions have requested for credit notes amounting to 588 million. The commission is thus considering to escalate the matter to the Ministry of Education.

b) Property, Plant & Equipment (FY2021/2022)

Management Response

The Chief Executive Officer informed the committee that the commission failed to value its assets due to financial constraints. However in the FY2022/2023 a budget has already been set aside for that purpose.

c) Trade and other Payables (FY 2021/2022)

Management Response

The Chief Executive promised to share the conversant documents with the office of the auditor general for clearance.

d) Ethnic Diversity

Management Response

The management admitted the existence of ethnic imbalance in the staff composition. Notably 32% of the staff come from one tribe. The CEO cited this matter as historical in nature and promised to resolve it gradually as most of the employees are on permanent and pensionable basis.

4. JOMO KENYA FOUNDATION

The following issues marked as unresolved were brought to the attention of the committee by the office of the auditor general as follows;

a) Printing

Management Response

The Chief Executive Officer informed the committee that the management used the same printer because the work was a reprint of the same books. This was so as to achieve uniformity of the end product.

b) Unauthorized Expenditure (FY2021/2022)

Management Response

The Chief Executive Officer informed the committee that expenditure was incurred during the period when COVID19 struck. The office of the auditor general confirmed that there was approval of the expenditure.

5. TVET CURRICULUM DEVELOPMENT ASSESSMENT & CERTIFICATION COUNCIL

The following issues marked as unresolved were brought to the attention of the committee by the office of the auditor general as follows;

a) Budgetary Control and Performance

Management Response

The former CEO admitted before the committee that there was no approval of the expenditure from the National Treasury for the financial year 2020/2021.

b) Irregular Payments of Board Allowances (fy2021/2022)

Management Response

The former CEO informed the committee that the money paid irregularly amounting to Kshs.320,000 as allowances to the board members was never recovered.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/36: ADJOURNMENT/ DATE OF NEXT SITTING

There being no other business, the meeting was adjourned at 4.50 p.m. The next meeting will be held on 28th March 2023 at 9.30 am.

SIGNED.......... DATE 12/4/23.
(CHAIRPERSON)

MINUTES OF THE 13TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON GOVERNANCE AND EDUCATION HELD ON TUESDAY 28TH MARCH, 2023 AT MITIHANI HOUSE KNEC, AT 1030 HOURS

PRESENT

- | | | |
|---|---|--------------------|
| 1. Hon. Jack Wanami Wamboka, MP | - | Chairperson |
| 2. Hon. Kirima Moses Nguchine, MP | | |
| 3. Hon. Sigei Francis Kipyegon, EBS, MP | | |
| 4. Hon. Mark Muriithi Mwenje, MP | | |
| 5. Hon. Ondieki Alfa Miruka, MP | | |
| 6. Hon. Chiforomodo Mangale Munga, MP | | |
| 7. Hon. Nzambia Thuddeus Kithua, MP | | |
| 8. Hon. Tonui Joseph Kipkosgei, MP | | |

ABSENT WITH APOLOGY

- | | | |
|--|---|-------------------------|
| 1. Hon. Lesuuda Josephine Naisula, OGW, MP | - | Vice-chairperson |
| 2. Hon. Bonaya Mumina Gollo, MP | | |
| 3. Hon. Wamacukuru James Githua Kamau, MP | | |
| 4. Hon. Bisau Maurice Kakai, MP | | |
| 5. Hon. (Dr.) Shadrack Mwiti Ithinji, MP | | |
| 6. Hon. Karitho Kiili Daniel, MP | | |
| 7. Hon. Tonkei Rebecca Noonaishi, MP | | |

IN-ATTENDANCE

COMMITTEE SECRETARIAT

- | | | |
|------------------------|---|-------------------------|
| 1. Mr. Victor Weke | - | Senior Clerk Assistant |
| 2. Mr. Victor Fundi | - | Clerk Assistant III |
| 3. Ms. Eunice Liavuli | - | Research Officer III |
| 4. Mr. Collins Mahamba | - | Audio Recording Officer |

OFFICE OF THE AUDITOR GENERAL

- | | | |
|-----------------------|---|--|
| 1. Mr. Samuel Waweru | - | Ag. Director of Audit |
| 2. Ms. Sharon Wangari | - | Deputy Director of Audit, Education Sector |
| 3. Mr. Tumuna Michael | - | Deputy Director of Audit |
| 4. Mr. Philip Ndegwa | - | Director of Audit |
| 5. Mr. Felix Itonge | - | Principal Auditor/Liaison Officer |

THE NATIONAL TREASURY

- | | | |
|-----------------|---|-----------|
| Mr. Mark Ngechu | - | Economist |
|-----------------|---|-----------|

KENYA NATIONAL EXAMINATION COUNCIL

- | | | |
|---------------------------|---|-------------|
| 1. Mr. Julius O Onyabundi | - | Chairperson |
|---------------------------|---|-------------|

- | | | |
|-----------------------|---|------------------------------------|
| 2. Mr. David Njengere | - | CEO |
| 3. Mr. Ibrahim Otieno | - | Director, ICT |
| 4. Ms. Milka Ngugi | - | Director |
| 5. Mr. John Mwangi | - | Ag. Deputy Director Administration |
| 6. Mr. Dennis Kibati | - | Finance Manager |

STATE DEPARTMENT OF PUBLIC WORKS

Mr. J.M Murigu - Senior Architect

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/37: PRELIMINARIES

The Chairperson called the meeting to order at 10.00 am with a word of prayer and thereafter invited all present to introduce themselves. The agenda was confirmed as listed hereunder on the proposal of Hon. Chiforomodo Munga, MP and seconded by Hon. Sigei Kipyegon, EBS, MP;

AGENDA:

1. Prayers;
2. Preliminaries/Introduction
 - i. Adoption of the Agenda;
 - ii. Confirmation of minutes of previous sittings;
 - iii. Matters Arising
3. Meeting with Kenya National Examinations Council officials over delayed completion of New Mitihani House.
4. Any Other Business; and
5. Adjournment.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/038: CONFIRMATION OF MINUTES

Confirmation of minutes deferred to the next sitting.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/039: PRESENTATION BY THE MANAGEMENT

The management gave a brief presentation of the New Mitihani House project as follows;

a) The 1st Contract

That the project commenced in 1986 with the tender for construction being awarded to M/s Mavji Construction & Co. Ltd. A total of Kes. 4,708,690 with no interest charge.

b) The 2nd Contract

This was awarded to M/S Mistry Jadv Parbat & Co. Ltd who commenced works in 1987 with an expectation completion date of January 1991 but unfortunately the work stalled in 1989. By then a total of Kes.143,518,541.84 had been spent. Notably Kes.1,347,837.05 of the total paid was interest on delayed payments. At this point only the basement and the ground floor slab was completed.

c) The 3rd Contract – Phase I

The construction of Phase I was prioritized by the Council leading to the award of the contract to M/S Capital Construction Co. Ltd who commenced work in 2005 under the management of the Ministry of Public Works. The construction of Phase I was completed in 2006 at a cost of Kes. 111,544,276.37 with no interest charge.

d) The 4th Contract Phase II

The Contract was awarded to M/S Crissam Acres Ltd in April 2006. This was mainly for the purposes of additional works to the earlier constructed Phase I such as landscaping, office partitioning, furniture, CCTV, electric fence and alarm security installation. The contract was completed in December 2006. A total Cost of Kes.16,866,204.43 with no interest charge was paid.

e) The 5th Contract – Phase III

The contract was awarded to M/S Jaswant Singh in August 2006 with an aim of completing the basement and the ground floor. The contract was therefore mutually wound up at a total cost of Kes. 377,390,670.70 with no interest for delayed payments.

Notably there is no evidence of Phase IV from the documentation of the Public Works.

f) The 6th Contract – Phase V

The contract was awarded by the State of Public Works to M/S Ongata Works Ltd in October 2007 at a sum of Kes.865,582,801.00 for the completion of the of the structure from the 1st to the 6th Floor and the roofing for the three towers.

Phase V was therefore completed in December 2014 at a total sum of Kes.1,301,665,794.76. The total interest on delayed payments was Kes.43,611,147.40.

g) The 7th Contract – Phase VI

The contract was awarded to M/S Ongata Works Ltd in March 2013 at a sum of Kes.1,499,989,252.00 under the management of the State Department of Public Works. After the project had stalled the contractor moved to court under Case No. *Nairobi HCC No. 85 of 2017* for a sum of Kes.413,675,286.29 being the total outstanding amounts in respect to Certificate 29 and accrued interest under certificate 30.

Further an injunction stopping any tendering for the completion of the project under case, *Nairobi HC Misc. Application No.E488 of 2021* was filed by contractor. The matter was the settled out of court and the management went ahead to pay the contractor a final sum of Kes.455,000,000 inclusive of costs and accrued interests which was paid in full on 10th November 2021 through a consent which was filed in court marking all those matters as settled.

In conclusion the total amount paid for the Phase VI only was Kes.1,376,224,251.06 out of which Kes.104,902,905.36 was accrued interest on delayed payments.

The Committee directed the management to avail the following information by 31st March 2023;

- i) Contractual documentation between yourselves and the contractor;
- ii) All certificates issued for payment for the entire project;
- iii) Analysis of all payments (including interest) made to the contractor so far;
- iv) The performance bond used for the contract and its status;
- v) All court judgements on the contract.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/40: ADJOURNMENT/ DATE OF NEXT SITTING

There being no other business, the meeting was adjourned at 11.30 a.m. The next meeting will be 29th March 2023 at 9.30 am.

SIGNED.......... DATE 12/4/23.....
(CHAIRPERSON)

MINUTES OF THE 14TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON GOVERNANCE AND EDUCATION HELD ON WEDNESDAY 29TH MARCH, 2023 AT WHITE RHINO HOTEL IN NYERI COUNTY, AT 0930 HOURS

PRESENT

- | | | |
|--|---|-------------|
| 1. Hon. Jack Wanami Wamboka, MP | - | Chairperson |
| 2. Hon. Kirima Moses Nguchine, MP | | |
| 3. Hon. Sigei Francis Kipyegon, EBS, MP | | |
| 4. Hon. Mark Muriithi Mwenje, MP | | |
| 5. Hon. Chiforomodo Mangale Munga, MP | | |
| 6. Hon. Nzambia Thuddeus Kithua, MP | | |
| 7. Hon. (Dr.) Shadrack Mwiti Ithinji, MP | | |
| 8. Hon. Karitho Kiili Daniel, MP | | |

ABSENT WITH APOLOGY

- | | | |
|--|---|------------------|
| 1. Hon. Lesuuda Josephine Naisula, OGW, MP | - | Vice-chairperson |
| 2. Hon. Bonaya Mumina Gollo, MP | | |
| 3. Hon. Wamacukuru James Githua Kamau, MP | | |
| 4. Hon. Bisau Maurice Kakai, MP | | |
| 5. Hon. Tonkei Rebecca Noonaishi, MP | | |
| 6. Hon. Ondieki Alfa Miruka, MP | | |
| 7. Hon. Tonui Joseph Kipkosgei, MP | | |

COMMITTEE SECRETARIAT

- | | | |
|------------------------|---|-------------------------|
| 1. Mr. Victor Weke | - | Senior Clerk Assistant |
| 2. Mr. Victor Fundi | - | Clerk Assistant III |
| 3. Ms. Eunice Liavuli | - | Research Officer III |
| 4. Mr. Collins Mahamba | - | Audio Recording Officer |

IN-ATTENDANCE

OFFICE OF THE AUDITOR GENERAL

- | | | |
|---------------------|---|-----------------------------------|
| 1. Alex Ndungu | - | Deputy Director of Audit |
| 2. Peter Gitonga | - | Deputy Director of Audit |
| 3. Mr. Felix Itonge | - | Principal Auditor/Liaison Officer |

THE NATIONAL TREASURY

- | | | |
|-----------------|---|-----------|
| Mr. Mark Ngechu | - | Economist |
|-----------------|---|-----------|

THE NYERI NATIONAL POLYTECHNIC

- | | | |
|-----------------------|---|-----------------|
| 1. Mr. David M Mwangi | - | Chief Principal |
| 2. Mr. James Mungai | - | Finance Officer |

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/41: PRELIMINARIES

The Chairperson called the meeting to order at 10.00 am with a word of prayer and thereafter invited all present to introduce themselves. The agenda was confirmed as listed hereunder on the proposal of Hon. Chiforomodo Munga, MP and seconded by Hon. Kirima Moses Nguchine, MP.

AGENDA:

1. Prayers;
2. Preliminaries/Introduction
 - i. Adoption of the Agenda;
 - ii. Confirmation of minutes of previous sittings;
 - iii. Matters Arising
3. Receipt of audit responses from various agencies namely;
 - i. The Nyeri National Polytechnic
 - ii. Nyandarua Institute of Science & Technology
 - iii. Nyandarua National Polytechnic
 - iv. Gatanga Technical & Vocational College
 - v. Mathioya Technical & Vocational College
 - vi. Tetu Technical & Vocational College
 - vii. Mathenge Technical Training Institute
4. Any Other Business; and
5. Adjournment.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/042: CONFIRMATION OF MINUTES

Confirmation of minutes deferred to the next sitting.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/043: MEETING WITH VARIOUS STATE AGENCIES ON AUDIT REPORTS FY 2018/19 – 2020/2021

1. THE NYERI NATIONAL POLYTECHNIC

The following issues marked as unresolved were brought to the attention of the committee by the office of the auditor general as follows;

a) Rendering of Services and Student Fees

Management Response

FY 2018/2019 – The Principal informed the Committee that the school is in the process of procuring an ERP system to assist in accounting of school fees and all services paid.

b) Unresolved Matters in the Subsequent Financial Years

Management Response

The Principal stated that the school management is in the process of adopting a suitable accounting system so as to remedy the above issue.

c) Risk Management

Management Response

The Principal stated that the management has come up with a risk management system to address the above query.

d) Staff Ethic Diversity

Management Response

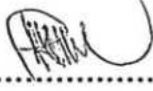
FY 2020/2021 - The Principal well aware that 30% of employees should come from other communities informed the Committee that the management is making some positive progress in addressing that issue by considering all communities during employment. He reported to the Committee that the ethnic diversity from other tribes now stands at 19 %.

It was noted that most of the agencies were appearing before committee for the first time and thus very few had cleared and filed their responses with the Office of the Auditor General.

The Committee noted that the rest of the institutions had not complied with its audit requirements including submission of responses to the auditors in advance. The Committee therefore resolved that they re-work their responses and discuss with the respective auditors before they are rescheduled to appear before the Committee.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/44: ADJOURNMENT/ DATE OF NEXT SITTING

There being no other business, the meeting was adjourned at 12.00 p.m. The next meeting will be held on notice.

SIGNED.......... DATE 12/4/23.....
(CHAIRPERSON)

MINUTES OF THE 15TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON GOVERNANCE AND EDUCATION HELD ON WEDNESDAY 12TH APRIL 2023 AT COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS, AT 1030 HOURS

PRESENT

1. Hon. Wanami Wamboka, MP - Chairperson
2. Hon. Kirima Moses Nguchine, MP
3. Hon. Sigei Francis Kipyegon, EBS, MP
4. Hon. Mark Muriithi Mwenje, MP
5. Hon. Chiforomodo Mangale Munga, MP
6. Hon. Nzambia Thuddeus Kithua, MP
7. Hon. (Dr.) Shadrack Mwiti Ithinji, MP
8. Hon. Karitho Kiili Daniel, MP
9. Hon. Wamacukuru James Githua Kamau, MP
10. Hon. Bisau Maurice Kakai, MP
11. Hon. Tonkei Rebecca Noonaishi, MP
12. Hon. Ondieki Alfa Miruka, MP
13. Hon. Tonui Joseph Kipkosgei, MP

ABSENT WITH APOLOGY

1. Hon. Lesuuda Josephine Naisula, OGW, MP - Vice-chairperson
2. Hon. Bonaya Mumina Gollo, MP

IN-ATTENDANCE

COMMITTEE SECRETARIAT

1. Mr. Victor Weke - Senior Clerk Assistant
2. Mr. Victor Fundi - Clerk Assistant III
3. Ms. Faith Chepkemai - Legal Counsel II
4. Ms. Winnie Kiziah - Media Relations Officer
5. Mr. Edwin Machuki - Fiscal Analyst III
6. Ms. Georgina Okoth - Research Officer III

OFFICE OF THE AUDITOR GENERAL

1. Mr. Anthony K Munubi - Deputy Director of Audit
2. Ms. Mary Musyoka - Senior Auditor
3. Ms. Ann Musyoka - Principal Auditor
4. Mr. Felix Itonge - Principal Auditor/Liaison Officer

THE NATIONAL TREASURY

1. Mr. Emmanuel Kitaka - Economist

TECHNICAL UNIVERSITY OF KENYA

- | | | |
|------------------------|---|-----------------------|
| 1. Prof. Francis Aduol | - | Vice Chancellor |
| 2. Dr. Moses Wamalwa | - | Academic Registrar |
| 3. Mr. Ben Sanda | - | Chief Finance Officer |
| 4. Ms. Ruth Kirwa | - | Chief Legal Officer |

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/45: PRELIMINARIES

The Chairperson called the meeting to order at 10.55 am with a word of prayer and thereafter invited all present to introduce themselves. The agenda was confirmed as listed hereunder on the proposal of Hon. Tonkei Rebecca Noonaishi, MP and seconded by Hon. Sigei Francis Kipyegon, MP, with the exclusion of University of Nairobi whose Vice-chancellor had requested for a reschedule of his appearance.

AGENDA:

1. Prayers;
2. Preliminaries/Introduction
 - i. Adoption of the Agenda;
 - ii. Confirmation of minutes of previous sittings;
 - iii. Matters Arising
3. Receipt of audit responses from various agencies namely;
 - i. University of Nairobi
 - ii. Technical University of Kenya
4. Any Other Business; and
5. Adjournment.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/046: CONFIRMATION OF MINUTES

1. Minutes of the 11th sitting held on Wednesday 22nd March 2023 at 9.30 am at Parliament Buildings were confirmed as a true record of the proceedings having been proposed by the Hon. Rebecca Tonkei, M.P. and seconded by the Hon. Chiforomodo Mangale Munga, M.P.
2. Minutes of the 12th sitting held on 22nd March at 2.30 p.m. at Parliament Buildings were confirmed as a true record of the proceedings having been proposed by the Hon. Rebecca Tonkei, M.P. and seconded by the Hon. Sigei Kipyegon, EBS, M.P.
3. Minutes of the 13th sitting held on Tuesday 28th March 2023 at 9.30 a.m. at Mitihani House were confirmed as a true record of the proceedings having been proposed by the Hon. Chiforomodo Mangale Munga, MP. and seconded by the Hon. Sigei Kipyegon, EBS, M.P.
4. Minutes of the 14th sitting held on Wednesday 29th March 2023 at 9.30 a.m. in Nyeri County were confirmed as a true record of the proceedings having been proposed by the Hon. Sigei Kipyegon, EBS, M.P. and seconded by the Hon. Chiforomodo Mangale Munga, M.P.

**MIN. NO. NA/DAAOSC/ PIC-G&E/2023/047: RECEIPT OF AUDIT RESPONSES FROM
THE TECHNICAL UNIVERSITY OF KENYA**

Auditors from the Office of the Auditor General informed the committee that the University had not submitted the required audit responses for financial years 2018/ 2019 to 2021/2022. They were therefore unable to verify the responses.

The Committee resolved that the Accounting Officer re-appear on 26th May 2023, after discussing his responses with the Auditor general.

Capitation and Funding of Universities

Management Response

The Vice Chancellor stated that the university had a student population of about 11,000 with a capacity of up to 15,000 students. In response to the issue of capitation and funding of universities, he stated that money should be allocated by the government depending on the number of students admitted in the university, using the Differentiated Unit Cost model that is already provided for in the Act.

This capitation should have a fixed unit cost across the board, with an additional component proportional to cost of specific programme. This was in addition to fees paid by the students, and a proportion contributed by the university through income generating units.

He added that currently the government funds 48% of the total cost of education per student thus the reason why many universities are facing financial constraints. The figure was disbursed to universities in bulk and not per capita, based on no known criteria but historical biases. Moreover, there was no means of tracking students who progressed year on year, to vary the capitation money accordingly. This also invariably made audit of funds not qualitative.

Prof. Aduol submitted that students should be allowed to apply to join universities of their choice, as this was the best practice in developed economies, case in point the US, where the leading universities like Harvard, MIT among others, were private. Capitation money was issued to the student, who was a Kenyan anyway, not to the university, hence the issue of 'funding' of private universities should not arise. Furthermore, competition from private universities had the effect of spurring improved standards in public universities.

The Vice-chancellor added that universities could not downsize staff in pursuit of cost cutting because this would upset the staff: student ratio, which was a criterion for consideration by the Commission for University Education in approving courses and programmes.

The challenge of staff costs was compounded by the fact that the lecturer unions negotiated directly with Treasury, rather than the universities themselves, the latter of which would have to match student income vs costs.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/48: ADJOURNMENT/ DATE OF NEXT SITTING

There being no other business, the meeting was adjourned at 12.30 p.m. The next meeting will be held at 2.30 pm.

SIGNED.......... DATE 19/4/23.....
(CHAIRPERSON)

MINUTES OF THE 16TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON GOVERNANCE AND EDUCATION HELD ON WEDNESDAY 12TH APRIL, 2023 AT COMMITTEE ROOM 7 IN PARLIAMENT BUILDINGS, AT 1400 HOURS

PRESENT

- | | | |
|---|---|-------------|
| 1. Hon. Wanami Wamboka, MP | - | Chairperson |
| 2. Hon. Kirima Moses Nguchine, MP | | |
| 3. Hon. Sigei Francis Kipyegon, EBS, MP | | |
| 4. Hon. Mark Muriithi Mwenje, MP | | |
| 5. Hon. Chiforomodo Mangale Munga, MP | | |
| 6. Hon. Nzambia Thuddeus Kithua, MP | | |
| 7. Hon. (Dr.) Shadrack Mwiti Ithinji, MP | | |
| 8. Hon. Karitho Kiili Daniel, MP | | |
| 9. Hon. Wamacukuru James Githua Kamau, MP | | |
| 10. Hon. Bisau Maurice Kakai, MP | | |
| 11. Hon. Tonkei Rebecca Noonaishi, MP | | |
| 12. Hon. Ondieki Alfa Miruka, MP | | |
| 13. Hon. Tonui Joseph Kipkosgei, MP | | |

ABSENT WITH APOLOGY

- | | | |
|--|---|------------------|
| 1. Hon. Lesuuda Josephine Naisula, OGW, MP | - | Vice-chairperson |
| 2. Hon. Bonaya Mumina Gollo, MP | | |

IN-ATTENDANCE

SECRETARIAT

- | | | |
|------------------------|---|-------------------------|
| 1. Mr. Victor Weke | - | Senior Clerk Assistant |
| 2. Mr. Victor Fundi | - | Clerk Assistant III |
| 3. Ms. Winnie Kiziah | - | Media Relations Officer |
| 4. Ms. Faith Chepkemai | - | Legal Counsel II |
| 5. Mr. Edwin Machuki | - | Fiscal Analyst III |
| 6. Ms. Georgina Okoth | - | Research Officer III |
| 7. Mr. Jared Onyancha | - | Protocol Officer |
| 8. Mr. Albert Atunga | - | Sergeant at Arms |

OFFICE OF THE AUDITOR GENERAL

- | | | |
|-------------------------|---|-----------------------------------|
| 1. Mr. Anthony K Munubi | - | Deputy Director of Audit |
| 2. Ms. Mary Musyoka | - | Senior Auditor |
| 3. Ms. Ann Musyoka | - | Principal Auditor |
| 4. Mr. Felix Itonge | - | Principal Auditor/Liaison Officer |

THE NATIONAL TREASURY

- | | | |
|------------------------|---|-----------|
| 1. Mr. Emmanuel Kitaka | - | Economist |
|------------------------|---|-----------|

JOMO KENYATTA UNIVERSITY OF AGRICULTURE & TECHNOLOGY

- | | | |
|------------------------|---|--|
| 1. Prof. Wambui Ngumi | - | Vice Chancellor |
| 2. Prof. Bernard Ikua | - | Deputy Vice – Chancellor Admin & Finance |
| 3. Prof. Robert Kinyua | - | Deputy Vice – Chancellor, Academics |
| 4. Ms. Mary Ngugi | - | Chief Finance Officer |

KENYATTA UNIVERSITY

- | | | |
|------------------------|---|-----------------------|
| 1. Prof. Paul Wainaina | - | Vice Chancellor |
| 2. Mr. Paul Gachanja | - | Registrar, Finance |
| 3. Mr. Mwai Samuel | - | Chief Finance Officer |

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/49: PRELIMINARIES

The Chairperson called the meeting to order at 2.20 pm with a word of prayer and thereafter invited all present to introduce themselves. The agenda was confirmed as listed hereunder on the proposal of Hon. Chiforomodo Munga, MP and seconded by Hon. Kirima Moses Nguchine, MP.

AGENDA:

1. Prayers;
2. Preliminaries/Introduction
 - i. Adoption of the Agenda;
 - ii. Confirmation of minutes of previous sittings;
 - iii. Matters Arising
3. Receipt of audit responses from various agencies namely;
 - i. Jomo Kenyatta University of Agriculture and Technology (JKUAT)
 - ii. Kenyatta University
4. Any Other Business; and
5. Adjournment.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/50: CONFIRMATION OF MINUTES

Confirmation of minutes was deferred to the next meeting.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/051: RESPONSE TO AUDIT QUERIES BY JKUAT

Auditors from the Office of the Auditor General informed the committee that the University had not submitted the required audit responses for financial years 2018/ 2019 to 2021/2022. They were therefore unable to verify the responses.

The Committee resolved that the Accounting Officer re-appear on 26th May 2023, after discussing his responses with the Auditor general.

Capitation and Funding of Universities

Management Response

The Vice – Chancellor was of the view that government should not place government sponsored students in private universities because public universities have enough capacity to accommodate all

of them. For instance the school had a total capacity of 16,000 students but only 6,000 were admitted by the government. She also noted that despite the increase in the number of students, the government had failed to increase capitation per student. Normally the government should fund up to 80% of the total cost of education per student but in reality only 43% is remitted.

Additionally she also attributed the drastic reduction of internally generated income of the university to the decline in the number of students under the self-sponsored program as this was one of their main sources of income.

The Vice – Chancellor added that Private Universities should not be funded by the government since they were basically profit oriented and were not in line with national developmental goals.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/051: RESPONSE TO AUDIT QUERIES BY KENYATTA UNIVERSITY

Auditors from the Office of the Auditor General informed the committee that the University had not submitted the required audit responses for financial years 2018/ 2019 to 2021/2022. They were therefore unable to verify the responses.

Further, the University had not prepared a write-up on the matter of capitation to students and funding of universities.

The Committee resolved that the Accounting Officer re-appear on 26th May 2023, to respond to both issues.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/52: ADJOURNMENT/ DATE OF NEXT SITTING

There being no other business, the meeting was adjourned at 4.00 pm. The next meeting will be held on 19th April 2023 at 9.30am.

SIGNED..... DATE 19/4/23.

(CHAIRPERSON)

MINUTES OF THE 17TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON
GOVERNANCE AND EDUCATION HELD ON WEDNESDAY 19TH APRIL, 2023 AT
COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS, AT 1000 HOURS

PRESENT

1. Hon. Wanami Wamboka, MP - Chairperson
2. Hon. Lesuuda Josephine Naisula, OGW, MP - Vice-chairperson
3. Hon. (Amb.) Sigei Francis Kipyegon, EBS, MP
4. Hon. Mark Muriithi Mwenje, MP
5. Hon. Nzambia Thuddeus Kithua, MP
6. Hon. Wamacukuru James Githua Kamau, MP
7. Hon. Bisau Maurice Kakai, MP
8. Hon. Tonkei Rebecca Noonaishi, MP
9. Hon. Ondieki Alfa Miruka, MP
10. Hon. Bonaya Mumina Gollo, MP

ABSENT WITH APOLOGY

1. Hon. (Dr.) Shadrack Mwiti Ithinji, MP
2. Hon. Kirima Moses Nguchine, MP
3. Hon. Karitho Kiili Daniel, MP
4. Hon. Chiforomodo Mangale Munga, MP
5. Hon. Tonui Joseph Kipkosgei, MP

IN-ATTENDANCE

SECRETARIAT

1. Mr. Victor Weke - Senior Clerk Assistant
2. Mr. Victor Fundi - Clerk Assistant III
3. Ms. Faith Chepkemai - Legal Counsel II
4. Ms. Georgina Okoth - Research Officer III

OFFICE OF THE AUDITOR GENERAL

1. Mr. Alex Ndung'u - Deputy Director of Audit
2. Mr. Peter Gitonga - Deputy Director Of Audit
3. Ms. Ann Musyoka - Principal Auditor
4. Mr. Felix Itonge - Principal Auditor/Liaison Officer

THE NATIONAL TREASURY

1. Mr. Ngechu Mark - Deputy Director Investments

KARATINA UNIVERSITY

1. Prof. Muchai Muchiri - Vice Chancellor
2. Dr. Grace Kakiya - Ag Finance Officer
3. Dr. Humphrey Omondi - Registrar - Administration

KIRINYAGA UNIVERSITY

- | | | |
|-----------------------|---|-----------------------|
| 1. Prof. Mary Ndung'u | - | Vice Chancellor |
| 2. Mr. Peter Kagika | - | Chief Finance Officer |

DEDAN KIMATHI UNIVERSITY OF TECHNOLOGY

- | | | |
|----------------------------|---|-----------------------|
| 1. Prof. P. Ndirangu Kioni | - | Vice Chancellor |
| 2. Mr. Abram Mwangi | - | Chief Finance Officer |
| 3. Mr. Rober Wathegi | - | Accountant |

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/053: PRELIMINARIES

The Chairperson called the meeting to order at 10.10 am with a word of prayer and thereafter invited all present to introduce themselves. The agenda was confirmed as listed hereunder on the proposal of Hon. Tonkei Rebecca Noonaishi, MP, and seconded by Hon. (Amb.) Sigei Francis Kipyegon, EBS, MP;

AGENDA:

1. Prayers;
2. Preliminaries/Introduction
 - i. Adoption of the Agenda;
 - ii. Confirmation of minutes of previous sittings;
 - iii. Matters Arising
3. Receipt of audit responses from various agencies namely;
 - i. Karatina University
 - ii. Kirinyaga University
 - iii. Dedan Kimathi University of Technology
4. Any Other Business; and
5. Adjournment.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/054: CONFIRMATION OF MINUTES

1. Minutes of the 15th sitting held on Wednesday 12nd April 2023 at 10.30 am at Parliament Buildings were confirmed as a true record of the proceedings having been proposed by the Hon. Bisau Maurice Kakai, MP. and seconded by the Hon. Rebecca Tonkei, M.P.
2. Minutes of the 16th sitting held on 12nd April at 3.00 p.m. at Parliament Buildings were confirmed as a true record of the proceedings having been proposed by the Hon. Rebecca Tonkei, M.P. and seconded by the Hon. Bisau Maurice Kakai, MP.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/055: RESPONSE TO AUDIT QUERIES BY

KARATINA UNIVERSITY

The university management submitted its responses to audit queries for the financial years ended 2019, 2020 and 2021 as follows:

a) Non- compliance with Ethnic Diversity

The Vice Chancellor informed the committee that the dominant community in the staff composition was Kikuyu, which stood at 68%. However, more efforts had now been put to remedy this situation by encouraging more people to apply for vacant positions in the institution. The dominant community now stands at 61%.

The issue was recurring in the subsequent financial years.

The Committee resolved that management should reappear on 3rd May 2023 with a breakdown of the ethnic composition of all their staff, Human Resource Policy and the list of the Marginalized and persons living with disability.

b) Loss Due to Breach of Bond Agreement

The Vice Chancellor submitted to the Committee that the involved assistant lecturer had been sponsored by the university in to pursue a PhD in Veterinary Medicine at Yangzhou University in China at a cost of Kshs. 5,662,798. On completion of his studies the Lecturer broke the bond terms which required him to continue offering services to the university or pay the total amount incurred should he abscond and instead took up a position in Kilifi County. The Lecturer committed to pay the outstanding dues but only Kshs.1,500,000 had been repaid to date.

It was resolved that the said lecturer appears before the Committee to respond to the query.

c) Recoverability of Students' Debts

The Vice Chancellor on this matter informed the committee that the university had progressively recovered students' debts from Kshs. 100.35M in FY 2019/2020 to net balances of Kshs. 90.66M as at 30th June 2022. The management also affirmed that it is planning to recover the money before the students graduate from the university.

The Committee directed the Office of the Auditor general to report the progress on the recovery of students' debts in the next financial year.

d) Part-time Lecturers Outstanding Dues

The Vice Chancellor informed the committee that a sum total of Kshs.42,100,485 has not been paid to part- time lecturers for services rendered from 2016 to 2020. He also stated that the university had already processed and paid those who had presented their claims.

The Committee directed the university management to pay the amount owed to the lecturers.

e) Unrecovered Rent Deposit

The Vice Chancellor submitted to the Committee that the university had opened a branch in Nairobi pending approval from the Council of University Education which they were later denied leading to the closure of the campus. He added that the university is committed to recovering the rent deposit of Kshs.1,670,296 from NSSF.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/056: RESPONSE TO AUDIT QUERIES BY

KIRINYAGA UNIVERSITY

The university management submitted its response to audit queries for the year ended 2019,2020 and 2021 as follows:

a) Budget Control and Performance

The Vice Chancellor stated that the university an over- expenditure of Kshs. 64,514,718 was occasioned by a deficit in their budget allocation from the Ministry of Education and extra personnel cost.

b) Use of Unapproved Bank Accounts

The Vice Chancellor informed the Committee that the Bank accounts were inherited from the former management of the institution which was a college before its transition to a university. She also added that the management wrote to the National Treasury seeking approval with no response to date.

c) Human Resource Management

The Vice Chancellor confirmed that at the time of audit out of the 235 employees in the institution, 77% of them are from the same ethnic community. This had since reduced to 71%. Additionally the management argued that most of the staff were already employed before the university transitioned from the Kirinyaga Technical Institute.

The Committee resolved that the management should reappear and submit a breakdown of all the staff in the institution and their ethnic composition.

d) Project Time Variation

The Vice Chancellor submitted that the expected completion date of the Lecture Theatre and Tuition Complex was revised from the original contract period of 52 and 78 weeks respectively to 202 weeks and 145 weeks. This was occasioned by non-remittance of development funds by the National Treasury and also the Covid19 pandemic.

e) Fiscal Responsibility Principles on Compensation of Employees

The Vice Chancellor admitted that the employee costs accounts for 73% and 69% of the total expenses and revenue respectively. Further she stated that being young universities, most of the resources are spent in recruitment thus the management will continue appealing to the government for more funds so as to solve this issue.

Opinion on Capitation of students and Funding of Universities

In her submission, the Vice Chancellor stated that it is not prudent to send students to private universities because Public universities have the capacity to accommodate all government sponsored students. Further, she added that funds advanced by the government in relation to the cost of the course per student have been on a downward trajectory with the current status at 20% for the year ended 2020.

**MIN. NO. NA/DAAOSC/ PIC-G&E/2023/057: RESPONSE TO AUDIT QUERIES BY DEDAN
KIMATHI UNIVERSITY OF TECHNOLOGY**

The university management submitted their responses to audit queries for the year ended 2019, 2020 and 2021 as follows:

a) Material Uncertainty to in Relation to Sustainability of Services

The Vice Chancellor informed the Committee that the management has reorganized teaching to improve productivity and minimize costs of teaching. This will in result to great savings on human resource. He also confirmed that these various strategies have improved the university's performance from a deficit of Kshs.56,102,502 in FY 2020/2021 to Kshs.26,931,968 in FY 2021/2022.

b) Long Outstanding Payables

The Vice Chancellor stated that the management is committed towards raising additional revenue to pay debts. He also informed the Committee that the university generates its income from payment of school fees by post graduate students, conference charges, agriculture and research.

The Committee directed the university management to increase more allocation of funds towards payment of debts.

c) Personnel Costs Due to Breach of Bond Agreement

The Vice Chancellor confirmed to the Committee that the total amount owing from the Lecturer after absconding duty is Kshs.8,542,458.42. He also added that the management filed a claim against Mr. Kitati in 30th December 2019 and that the issue was taken to court and a judgement delivered in favour of the university. The university is yet to enforce the judgement as the Lecturer in this matter is currently working in Botswana. The management is thus planning to seek more legal recourse in a superior court.

The Committee directed the management to submit Human Resource Policy of the university during the next reappearance.

d) Delayed Filling of Acting Positions

The management confirmed that only one position had been filled with the other two still in an acting capacity.

The Committee emphasized on the need to adhere to the Public Service Human Resource Policy which states that no public servant should serve in an acting capacity for more than 6 months.

e) Failure to Adhere to a Third Rule on Basic Salary.

The management confirmed the matter to be true and that most of the deductions in staff salaries arise from failure to surrender imprest on time. Additionally many reminders are sent to the staff to account for the imprest taken.

f) Delayed Completion of Academic Block

The Vice Chancellor confirmed that there has been a variation of 28% which translates to Kshs. 43,465,489 due to the delayed completion of the academic block. He further attributed the cost increase of the project to the reduced allocation of funds for the capital projects by the government.

g) Affirmative Action on Gender , Ethnicity and Regional Distribution

On the issue of gender, ethnicity and regional distribution the Vice Chancellor submitted to the Committee that the university had inherited most of staff from the former institution before its transition to the current University. He also informed the Committee that the University has now

adopted a shortlisting criterion whose aim is to encourage persons from all regions and both genders to apply for vacant posts when advertised.

The Committee directed the management to submit a list of their staff with a breakdown of all the ethnic composition, gender and PWDs working in the university.

h) Long Outstanding Receivables

The Vice Chancellor informed the Committee that the management has developed a fees debt policy to ensure that debts are collected in time and to ensure that students pay up their tuition fee before sitting for their end of semester exams.

i) Long Outstanding Payables

The Vice Chancellor stated that despite increased personnel costs and high inflation, the university has managed to reduce the payables from Kshs.324,017,295 in 2018/2019 to Kshs.252,625,511 as at 30th June 2022. Further, he stated that the management has since reduced the part-time teaching cost from an annual expenditure of 85 million to 20 million. The management also confirmed that it is committed to pay 3 million per month as a way of reducing the long outstanding payables to part-time lecturers.

j) Failure to Deduct and Remit PAYE

The Vice Chancellor confirmed that the tax exemption was intended to cushion the interns from the effects of corona virus. Upon further enquiry the management was informed that the interns are required to pay tax and that has since been rectified.

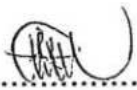
Opinion on Capitation of Students and Funding of Universities

The Vice Chancellor submitted before the Committee there has been an underfunding of public universities thus it is not prudent to fund private universities. He also added that public universities have enough capacity to admit all government sponsored students.

Further, he argued that unlike public universities, private universities are not legally bound by the Public Finance Management Act therefore this could encourage misappropriation of funds as there are no mechanisms of monitoring how the funds advanced by the government are used.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/058: ADJOURNMENT/ DATE OF NEXT SITTING

There being no other business, the meeting was adjourned at 1.55 pm. The next meeting will be held 3.00 pm in the afternoon.

SIGNED.......... DATE 4/5/23.....

(CHAIRPERSON)

MINUTES OF THE 18TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON
GOVERNANCE AND EDUCATION HELD ON WEDNESDAY 19TH APRIL, 2023 IN
COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS, AT 1500 HOURS

PRESENT

1. Hon. Wanami Wamboka, MP - Chairperson
2. Hon. Lesuuda Josephine Naisula, OGW, MP - Vice-chairperson
3. Hon. (Amb.) Sigei Francis Kipyegon, EBS, MP
4. Hon. Mark Muriithi Mwenje, MP
5. Hon. Nzambia Thuddeus Kithua, MP
6. Hon. Wamacukuru James Githua Kamau, MP
7. Hon. Bisau Maurice Kakai, MP
8. Hon. Tonkei Rebecca Noonaishi, MP
9. Hon. Ondieki Alfa Miruka, MP
10. Hon. Bonaya Mumina Gollo, MP

ABSENT WITH APOLOGY

1. Hon. (Dr.) Shadrack Mwiti Ithinji, MP
2. Hon. Kirima Moses Nguchine, MP
3. Hon. Karitho Kiili Daniel, MP
4. Hon. Chiforomodo Mangale Munga, MP
5. Hon. Tonui Joseph Kipkosgei, MP

IN-ATTENDANCE

SECRETARIAT

1. Mr. Victor Weke - Senior Clerk Assistant
2. Mr. Victor Fundi - Clerk Assistant III
3. Ms. Faith Chepkemai - Legal Counsel II
4. Ms. Georgina Okoth - Research Officer III

OFFICE OF THE AUDITOR GENERAL

1. Mr. Alex Ndung'u - Deputy Director of Audit
2. Mr. Peter Gitonga - Deputy Director Of Audit
3. Mr. Mutai Philip - Deputy Director of Audit
4. Ms. Ann Musyoka - Principal Auditor
5. Mr. Felix Itonge - Principal Auditor/Liaison Officer

THE NATIONAL TREASURY

1. Mr. Ngechu Mark - Deputy Director Investments

MURANG'A UNIVERSITY

1. Prof. Dickson Nyariki - Vice Chancellor
2. Prof. Beatice Mugendi - Ag Finance Officer

- | | | |
|------------------------|---|----------------------------|
| 3. Mr. Moffat Njoroge | - | Registrar – Administration |
| 4. Ms. Penninah Imwere | - | Legal Officer |
| 5. Mr. Victor Gichuki | - | Head of Procurement |

LAIKIPIA UNIVERSITY

- | | | |
|------------------------|---|-----------------------|
| 1. Prof. Joseph Rotich | - | Vice Chancellor |
| 2. Mr. Geoffrey Langat | - | Chief Finance Officer |
| 3. Mr. Meshack Oruako | - | Estates Manager |

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/059: PRELIMINARIES

The Chairperson called the meeting to order at 3.25 pm with a word of prayer from the Hon. Wamacukuru James Githua Kamau, MP and thereafter invited all present to introduce themselves. The agenda was confirmed as listed hereunder on the proposal of Hon. Tonkei Rebecca Noonaishi, MP, and seconded by Hon. (Amb.) Sigei Francis Kipyegon, EBS, MP.

AGENDA:

1. Prayers;
2. Preliminaries/Introduction
 - i. Adoption of the Agenda;
 - ii. Confirmation of minutes of previous sittings;
 - iii. Matters Arising
3. Receipt of audit responses from various agencies namely;
 - i. Murang'a University
 - ii. Laikipia University
4. Any Other Business; and
5. Adjournment.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/060: CONFIRMATION OF MINUTES

Confirmation of Minutes was deferred to the next sitting.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/061: RESPONSE TO AUDIT QUERIES BY MURANG'A UNIVERSITY

The university management submitted its response to audit queries for the financial years ended 2019, 2020 and 2021 as follows:

a) Long-term Investments

The Vice Chancellor informed the Committee that the management had been pursuing the former Chairperson of the Board to transfer Bamburi shares to the university account. The former Chairperson was one of the three trustees whose the shares are registered under with the other two already deceased. He also confirmed that the shares in question were worth Kshs.25,318,800.

b) Payable Exchange Transactions

The Vice Chancellor informed the Committee that the management was willing to honour the payables but no documentation had been provided to support the claims. These payables included wages, employees' gratuity and JKUAT payables all totaling to Kshs.8,458,092. The matter has been recurrent in the subsequent financial years from 2019 to 2022.

c) Property, Plant and Equipment – Freehold Land

The Vice Chancellor confirmed to the Committee that the University owned a piece of land approximated as 30.95 Ha and valued at 650 Million. The management had requested the National Land Commission to assist in establishing the boundaries as part of the land measuring 0.3 Ha had been encroached.

d) Students Debtors

The management informed the Committee that the University had come up with a debt collection policy for the collection of income including fees. He also confirmed that no student had graduated without payment of fee and that the student debtors amounting to Kshs.17,801,918 as at 30th June, 2019 belong to current students who are categorized as active, deferred or suspended.

e) Long Outstanding Receivables

The Vice Chancellor submitted to the Committee that the receivables amounting to Kshs.4,504,321 were inherited from the Murang'a College of Technology and were recorded in books. However no documentation were provided to support them thus no payments can be made. The management informed the Committee that it intended to request the University Council to write off some of these receivables.

f) Delay in Implementation of Projects

The Vice Chancellor stated that the delay in completion of the university projects had been occasioned by low funding by the national government. The projects may even take longer due to potential litigations by the contractor ending up in huge penalties due to breach of contracts. He also informed the Committee that there is encroachment on the University land thus the university is unable to make progress on the construction of a perimeter wall.

g) Non- compliance with Ethnic Diversity

The Vice Chancellor informed the Committee that the university inherited 110 staff from the Murang'a College of Technology, with 102 of them being from the Kikuyu community making the imbalance historical. In addition he stated that since its inception, the university has embraced the spirit of diversity by encouraging by advertising vacancies in the print media as well as encouraging applicants from minority groups to apply.

The Committee directed the management to provide a breakdown of all the staff recruited and their respective ethnic composition.

h) Management of Travel Expenses

In response to this matter, the Vice Chancellor informed the committee that the allowances were paid as per the Salaries and Remuneration Commission guidelines.

The Committee directed the management to supply it with the circular from the Salaries and Remuneration Commission justifying the said payments.

i) Implementation of E- procurement

The Vice Chancellor confirmed to the Committee that the university is in the process of acquiring and installing a new server with the E- procurement modules.

j) Staff on Acting Positions Beyond 6 Months

The Committee directed the Office of the Auditor General to report back on the progress of this matter in the subsequent audit report.

k) Unexplained Cash Withdrawals

The Vice Chancellor informed the committee that the university has adopted a cashless mode of payment and thus does not support cash withdrawals.

l) Unapproved Payment of Legal Fees

The Vice Chancellor stated that the university followed the procurement process and laws in engaging the services of the law firm. The management is also abiding by the law by seeking consent from the Office of the Attorney General in handling its legal matters.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/062: RESPONSE TO AUDIT QUERIES BY LAIKIPIA UNIVERSITY

The university management submitted its response to audit queries for the financial years ended 2019, 2020 and 2021 as follows:

a) Lack of Ownership Documents – Land

The Vice Chancellor stated that the university has 16 parcels of land valued at Kshs.30,588,000 in Nyahururu town which were inherited from Egerton University. The university was also awarded 5 acres of land by the defunct Municipal Council of Nyahururu. The management is working on the transfer of title of the parcels to one name under Laikipia University.

b) Receivables from Exchange Transactions

The Vice Chancellor informed the Committee that the university was facing recoverability challenges on receivables from former collaborating campuses which were closed down. He added that the university is however pursuing the matter to enable clearance of this matter.

c) Material Uncertainty (Unsustainability of Service)

The Vice Chancellor confirmed that the matter remains unresolved due to financial challenges being faced by the university and also a student admission decline since. However the university recorded an improvement in the year ended 2022 with a surplus of Kshs.8,621,628.

The Committee advised the management to devise income generating projects to sustain its operations.

d) Delay in Implementation of Projects

The Vice Chancellor informed the committee that so far 3 projects had already been completed namely lecture theatre, renovated ICT building and science laboratories with the remaining projects awaiting final accounts reconciliations with the contractors.

e) Development of an ERP – Software

The Vice Chancellor informed the committee that the modules were working at the time of handover from the contractor but later broke down. The matter is now in court awaiting determination.

The Committee directed the management to avail all contractual documents pertaining to this matter.

f) Accounts Payable

The Vice Chancellor informed the committee that the issue remains unresolved due to lack of funds. However the management is committed towards settling all debts. He also added that the University in the year ended 2021 managed to pay 41.5 Million and 89.1 million as money owed to suppliers and part time teaching costs respectively.

g) Delayed Completion of ABN Unisol Project

The management informed the Committee that the project is complete and commissioning will be done as soon as the university gets a substantive council.

Opinion on Capitation of students and Funding of Universities

In his submission, the Vice Chancellor stated that it was not prudent to send students to private universities because Public universities have the capacity to accommodate all government sponsored students. Further, he also raised questions on how money advanced to private universities will be audited because the institutions are not bound by the Public Finance Management Act.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/063: AOB

The Committee noted that Friday 21st April 2023 had been declared a public holiday. The Committee therefore rescheduled its workshop scheduled for that day to Monday 24th April 2023.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/064: ADJOURNMENT/ DATE OF NEXT SITTING

There being no other business, the meeting was adjourned at 6.00 pm. The next meeting will be held on 24th April 2023 at 9.30 am.

SIGNED.......... DATE ^{4th} MAY 2023.....
(CHAIRPERSON)

MINUTES OF THE 19TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON GOVERNANCE AND EDUCATION HELD ON MONDAY 24TH APRIL, 2023 AT HILTON GARDEN INN MACHAKOS COUNTY, AT 1030 HOURS

PRESENT

1. Hon. Wanami Wamboka, MP - Chairperson
2. Hon. Lesuuda Josephine Naisula, OGW, MP - Vice-chairperson
3. Hon. Mark Muriithi Mwenje, MP
4. Hon. Nzambia Thuddeus Kithua, MP
5. Hon. Bisau Maurice Kakai, MP
6. Hon. Tonkei Rebecca Noonaishi, MP
7. Hon. Ondieki Alfa Miruka, MP
8. Hon. Chiforomodo Mangale Munga, MP
9. Hon. Kirima Moses Nguchine, MP
10. Hon. (Dr.) Shadrack Mwiti Ithinji, MP

ABSENT WITH APOLOGY

1. Hon. Karitho Kiili Daniel, MP
2. Hon. Tonui Joseph Kipkosgei, MP
3. Hon. (Amb.) Sigei Francis Kipyegon, EBS, MP
4. Hon. Bonaya Mumina Gollo, MP
5. Hon. Wamacukuru James Githua Kamau, MP

IN-ATTENDANCE

SECRETARIAT

1. Mrs. Florence Abonyo - Director, Audit Committees
2. Mr. Victor Weke - Senior Clerk Assistant
3. Mr. Victor Fundi - Clerk Assistant III
4. Mr. Edwin Machuki - Fiscal Analyst III
5. Ms. Georgina Okoth - Research Officer III
6. Ms. Eunice Liavuli - Research Officer III

OFFICE OF THE AUDITOR GENERAL

1. Mr. Samuel Waweru - Acting Deputy Director of Audit
2. Ms. Jane Chege - Principal Auditor
3. Mr. Felix Itonge - Principal Auditor/Liaison Officer
4. Ms. Ann Mwaura - Principal Auditor
5. Ms. Lydia Awiti - Senior Auditor
6. Mr. Patrick Karume - Audit Associate

THE NATIONAL TREASURY

1. Mr. Ngechu Mark - Deputy Director Investments

KENYA SCHOOL OF LAW

- | | | |
|----------------------|---|----------------------------|
| 1. Dr. Henry Mutai | - | Director |
| 2. Ms. Ruth Gathoni | - | Senior Accountant |
| 3. Ms. Lucia Lulu | - | Senior HR Officer |
| 4. Mr. Kennedy Dende | - | Senior ICT Officer |
| 5. Mr. Fredrick Abea | - | Principal Internal Auditor |

UNIVERSITY OF NAIROBI ENTREPRISES & SERVICES LTD

- | | | |
|---------------------|---|-------------------|
| 1. Mr. Seith Abeka | - | Managing Director |
| 2. Mr. Absalom Agai | - | Senior Accountant |
| 3. Mr. Sam Ochieng | - | Finance Officer |

KAREN TECHNICAL TRAINING INSTITUTE FOR THE DEAF

- | | | |
|------------------------|---|-----------------------------|
| 1. Ms. Tecla Chemobo | - | Principal |
| 2. Mr. George Gachanja | - | Member, Board of Governance |
| 3. Mr. Wilfred Kimathi | - | Finance Officer |
| 4. Mr. Amos Naibei | - | Security Officer |

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/064: PRELIMINARIES

The Chairperson called the meeting to order at 10.30 am with a word of prayer and thereafter invited all present to introduce themselves. The agenda was confirmed as listed hereunder on the proposal of Hon. Bisau Maurice Kakai, MP and seconded by Hon. Kirima Moses Nguchine, MP.

AGENDA:

1. Prayers;
2. Preliminaries/Introduction
 - i. Adoption of the Agenda;
 - ii. Confirmation of minutes of previous sittings;
 - iii. Matters Arising
3. Receipt of audit responses from various agencies namely;
 - i. Kenya School of Law
 - ii. University of Nairobi Enterprises & Services Ltd
 - iii. Karen Technical Training Institute for the Deaf
4. Any Other Business; and
5. Adjournment.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/065: CONFIRMATION OF MINUTES

Confirmation of Minutes was deferred to the next sitting.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/066: RESPONSE TO AUDIT QUERIES BY KENYA SCHOOL OF LAW

The management submitted its response to audit queries for the financial years ended 2019, 2020

and 2021 as follows:

a) Prior Year Adjustment

The management identified balance of examination fees payable to CLE and Endowment Fund as erroneously recognized as income.

The Committee therefore directed the management to avail its journals to the auditors for clearance of the query.

b) Accounts Receivables and Prepayments

The Director informed the committee that a finance policy is underway for approval to ensure that this issue is resolved.

The Committee informed the Auditor to give a status report of the issue in the subsequent financial year.

c) Unremitted Statutory Deductions and Taxes

The management informed the committee that the balances appearing as liabilities in the school's books are historical and that it has following up with the Kenya Revenue Authority to ensure that the matter is resolved.

The Committee gave the management a period of one month to make sure that the issue with the KRA is resolved.

d) Irregular Payment of Meal Allowances

The management claimed that at that time the payments were made as per the Human Resource Manual. Further as part of the implementation of the new ERP system, the coordinating department has prepared a schedule of training for all staff and a request for approval of payment of allowances.

e) Non Compliance with Public Procurement and Assets Disposal Act, 2015

The management informed the committee that they used a prequalified supplier in accordance with section 95(3). The amount payable monthly for the services rendered was Kshs.340,570 which could be terminated at any time if the performance was not satisfactory.

f) Employee Costs

The Director stated that recruitment was in progress by the time the six- month mark was reached and the officer continued to execute the duties until when the process was concluded and the position was substantively filled and at that point the payment of allowance was stopped.

g) Delayed Construction Project of the Ultra- Modern Library and Moot Courts

The management informed the Committee that the delays in the completion of the project were occasioned by lack of funding. Due to that, the school was advised the project manager from Public Works to grant an extension of completion date to the contractor.

The Committee resolved to visit the school for an inspection of the project on the 27th April, 2023 and on that day the management should avail the contract document. Further the contractor was also summoned.

h) Budgetary Control and Performance

The Director attributed this query to the Covid19 pandemic which resulted to low performance below the budgeted levels especially in the areas of hospitality, training and consultancies.

i) Reconciliation of Revenue from Exchange Transactions

The management informed the Committee that the variance of Ksh.5,169,179 was occasioned by the transfer to Kenya School of Law from the State Law Department which was a draft before the audit.

The Committee directed the management to provide the auditors with the necessary documents to resolve this issue.

j) Irregular Procurement of Assets.

The management stated the IPADs were purchased under a contract whose renewal was updated in the Ministry of ICT website.

The Committee directed the management to verify the contract with the auditors and report back to the committee on 27th April, 2023.

k) Unauthorized Expenditure

The management attributed the over-expenditure to the ongoing construction of the library. Further, the money allocated in the previous year was used to pay for certificates which were produced by the contractor.

**MIN. NO. NA/DAAOSC/ PIC-G&E/2023/067: RESPONSE TO AUDIT QUERIES BY
UNIVERSITY OF NAIROBI ENTREPRISES
AND SERVICES LTD**

The management submitted its response to audit queries for the financial years ended 2019, 2020 and 2021 as follows:

a) Undisclosed Material Going Concern Uncertainty

The Managing Director informed the Committee that they had made a loss of Kshs.68,709,036. Due to this, the Board has embarked on strategies and initiatives which are aimed at reversing the negative performance. These efforts resulted to a net profit of Kshs.127,510 in the year ended 2020.

b) Overdue Trade and Other Receivables

The management stated that it's in the process of recovering receivables owed to them by writing reminders their debtors. Further, the managing director submitted that out of Kshs.81,139,076 that was outstanding as at 30th June 2019, a total of 31,885,655 has already been paid. The management also confirmed that it's in the process of following up on the debts owed to them by the NHIF and the Portland Cement which stands at Kshs.26,315,580 and Kshs.2,309,200 respectively.

c) Budgetary Control and Performance

The Management attributed the losses incurred to failure to meet revenue targets due to the Covid19 pandemic resulting to low business volumes.

The Committee directed the Office of the Auditor General to provide a breakdown of the ethnic composition of the staff in the next audit cycle.

**MIN. NO. NA/DAAOSC/ PIC-G&E/2023/068: RESPONSE TO AUDIT QUERIES BY
KAREN TECHNICAL TRAINING
INSTITUTE FOR THE DEAF**

The management submitted its response to audit queries for the financial years ended 2019, 2020 and 2021 as follows;

a) Budgetary Control and Performance

The Principal informed the Committee that in the view of importance of disclosure of property and equipment balances, the management is committed to undertake a comprehensive exercise of valuation of all assets including land once funds are available. She also added that part of the institute's land has been encroached. The institute is in the process of raising funds to erect a perimeter wall in order to secure its land.

b) Budgetary Control and Performance

The Principal stated that the income received by the institute cannot support their budget. She also attributed this query to the low funding from the government.

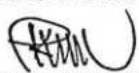
c) Lack of Internal Auditor and Audit Committee

The Principal confirmed to the Committee that the management is ready to put up an audit function and an audit committee in the institute as soon as funds are available.

The Committee directed that the Ministry of Finance and Planning should second auditors to the institute.

MIN.NO. NA/DAAOSC/ PIC-G&E/2023/069: ADJOURNMENT/ DATE OF NEXT SITTING

There being no other business, the meeting was adjourned at 2.11 pm. The next meeting will be held on 24th April 2023 at 3.00 pm.

SIGNED.......... DATE 4/5/23.....
(CHAIRPERSON)

MINUTES OF THE 20TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON GOVERNANCE AND EDUCATION HELD ON MONDAY 24TH APRIL, 2023 AT HILTON GARDEN INN MACHAKOS COUNTY, AT 1500 HOURS

PRESENT

1. Hon. Wanami Wamboka, MP - Chairperson
2. Hon. Lesuuda Josephine Naisula, OGW, MP - Vice-chairperson
3. Hon. Mark Muriithi Mwenje, MP
4. Hon. Nzambia Thuddeus Kithua, MP
5. Hon. Bisau Maurice Kakai, MP
6. Hon. Tonkei Rebecca Noonaishi, MP
7. Hon. Ondieki Alfa Miruka, MP
8. Hon. Chiforomodo Mangale Munga, MP
9. Hon. Kirima Moses Nguchine, MP
10. Hon. (Dr.) Shadrack Mwiti Ithinji, MP

ABSENT WITH APOLOGY

1. Hon. Karitho Kiili Daniel, MP
2. Hon. Tonui Joseph Kipkosgei, MP
3. Hon. (Amb.) Sigei Francis Kipyegon, EBS, MP
4. Hon. Bonaya Mumina Gollo, MP
5. Hon. Wamacukuru James Githua Kamau, MP

IN-ATTENDANCE

SECRETARIAT

- | | | |
|-------------------------|---|----------------------------|
| 1. Mrs. Florence Abonyo | - | Director, Audit Committees |
| 2. Mr. Victor Weke | - | Senior Clerk Assistant |
| 3. Mr. Victor Fundi | - | Clerk Assistant III |
| 4. Mr. Edwin Machuki | - | Fiscal Analyst III |
| 5. Ms. Georgina Okoth | - | Research Officer III |
| 6. Ms. Eunice Liavuli | - | Research Officer III |

OFFICE OF THE AUDITOR GENERAL

- | | | |
|-----------------------|---|-----------------------------------|
| 1. Mr. Samuel Waweru | - | Acting Deputy Director of Audit |
| 2. Ms. Jane Chege | - | Principal Auditor |
| 3. Mr. Felix Itonge | - | Principal Auditor/Liaison Officer |
| 4. Ms. Ann Mwaura | - | Principal Auditor |
| 5. Ms. Lydia Awiti | - | Senior Auditor |
| 6. Mr. Patrick Karume | - | Audit Associate |

THE NATIONAL TREASURY

1. Mr. Ngechu Mark - Deputy Director Investments

KENYA NATIONAL COMMISSION FOR UNESCO

- | | | |
|-------------------------|---|-------------------------------|
| 1. Dr. Evangeline Njoka | - | Chief Executive Officer |
| 2. Dr. Jane Njogu | - | Deputy Secretary General |
| 3. Mr. Nicholas Kirwa | - | Acting Human Resource Manager |
| 4. Ms. Naomi Muiruri | - | Finance Manager |

CENTER FOR MATHEMATICS, SCIENCE & TECHNOLOGY EDUCATION IN AFRICA

- | | | |
|-------------------------|---|-------------------------|
| 1. Ms. Jacinta Akatsa | - | Chief Executive Officer |
| 2. Mr. Patrick K'ogolla | - | Deputy Director |

JKUAT ENTERPRISES LTD

- | | | |
|-----------------------|---|--------------------------|
| 1. Dr. Winfred Karugu | - | Managing Director |
| 2. Mr. Erastus Mvuria | - | Deputy Managing Director |
| 3. Mr. Joseph Muchovi | - | Finance Manager |

JKUAT NOODLES LTD

- | | | |
|-----------------------|---|--------------------------|
| 1. Dr. Winfred Karugu | - | Managing Director |
| 2. Mr. Erastus Mvuria | - | Deputy Managing Director |
| 3. Mr. Joseph Muchovi | - | Finance Manager |

KENYA UNIVERSITIES AND COLLEGES CENTRAL PLACEMENT SERVICE

- | | | |
|--------------------------|---|-------------------------|
| 1. Dr. Agnes Wahome | - | Chief Executive Officer |
| 2. Mr. Michael Kimani | - | Finance Manager |
| 3. Ms. Nyamambia Nyarubo | - | Senior Legal Officer |

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/070: PRELIMINARIES

The Chairperson called the meeting to order at 3.11 pm with a word of prayer and thereafter invited all present to introduce themselves. The agenda was confirmed as listed hereunder on the proposal of Hon. Mark Muriithi Mwenje, MP and seconded by Hon. Nzambia Thuddeus Kithua, MP.

AGENDA:

1. Prayers;
2. Preliminaries/Introduction
 - i. Adoption of the Agenda;
 - ii. Confirmation of minutes of previous sittings;
 - iii. Matters Arising
3. Receipt of audit responses from various agencies namely;
 - i. Kenya National Commission for UNESCO
 - ii. Centre for Mathematics, Science and Technology Education in Africa
 - iii. JKUAT Enterprises Ltd
 - iv. JKUAT Noodles Ltd
 - v. KUCCPS

4. Any Other Business; and
5. Adjournment.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/071: CONFIRMATION OF MINUTES

Confirmation of Minutes was deferred to the next sitting.

**MIN. NO. NA/DAAOSC/ PIC-G&E/2023/072: RESPONSE TO AUDIT QUERIES BY
KENYA NATIONAL COMMISSION FOR
UNESCO**

The management submitted its response to audit queries for the financial years ended 2019, 2020 and 2021 as follows:

a) Financial Year 2018/2019

The commission received unqualified report with no issues/queries.

b) Recruitment of Chief Accountant and Legal Officer

The Chief Executive Officer confirmed to the Committee that there were gaps in the recruitment of the two officers as follows;

Case 1

The management stated that after the shortlisting and interview process the candidate number 3 was offered the chief accountant position after the first two candidates declined to take up the job. The matter is now subject to judicial process awaiting judgement.

Case 2

Further the management stated that after the appointment of the legal officer, they discovered that there were inconsistencies in the employee's academic certificates. The Board and Senior Management has taken action and investigations are underway to establish the true identity of the officer.

c) Refurbishment of Buildings

The Chief Executive Officer submitted before the Committee that the delay in completion of the project has been caused by the contractor i.e the Kenya Prisons which is a government entity. She also added that the project was 80% done and that they have had talks with the contractor to resume work. Notably the Commission had paid an advance payment of Kshs.18,999,428.

**MIN. NO. NA/DAAOSC/ PIC-G&E/2023/073: RESPONSE TO AUDIT QUERIES BY
CENTRE FOR MATHEMATICS,SCIENCE AND
TECHNOLOGY EDUCATION IN AFRICA**

The management submitted its response to audit queries for the financial years ended 2019, 2020 and 2021 as follows:

a) Financial Year 2018/2019 & 2019/2020

During these two financial years the Centre received unqualified/clean report from the Auditor General and therefore there were no outstanding queries.

b) Financial Year 2020/2021

All matters raised were marked as resolved.

**MIN. NO. NA/DAAOSC/ PIC-G&E/2023/074: RESPONSE TO AUDIT QUERIES BY
JKUAT ENTERPRISES LTD**

The management submitted its response to audit queries for the financial years ended 2019,2020 and 2021 as follows;

a) Going Concern Uncertainty

The Managing Director informed the Committee that in the last three years, the company's operations were negatively affected by external factors beyond our control such after effect of Covid 19 pandemic. Further, despite the above challenges, the company remained in operation and improved its performance by reducing the negative working capital from Khs.45,654,520 during the year 2018/2019 to negative working capital of Kshs 14,284,717 in the financial year 2021/2022. The company is hopeful to improve the position within the next three years.

b) Non- compliance with the Constitution and the National Cohesion and Integration Act, 2008

The Managing Director informed the Committee that when JKUAT Enterprises Ltd started operations in 2005, majority of the staff were employed on merit before the new Act was established. She also added that management has been careful to comply with the Act in all the successive recruitments. The dominant community has now reduced from 41% to 40.79 as at June 2022.

c) Longstanding Receivables

The Managing Director stated that the amount of Kshs.3,490,423.26 outstanding for more than three years comprises of amount owed by JKUAT and Supermarkets. She also added that the management has embarked on immense debt collection efforts. Due to this effort,the debt from the supermarkets have been reduced from Kshs 1,236,783 to Kshs 381,352.

d) Trade and other Payables

The management reported to the Committee that 13.5 Million has since been paid out and plans are underway to settle the outstanding amount of Kshs.2,385,727 owed to JKUAT.

c) Budgetary Control and Performance

The management stated that the company experienced low business due to corona virus pandemic that caused some of the activities such as training to be shelved, while the lockdown prevented many of our seedlings' customers from coming to buy during the peak season. Further, she stated that the budget is made with the assumption the company will be able to secure funding.

d) Property, Plant and Equipment

The Managing Director informed the Committee that the management is engaging a professional valuer to ascertain the current value of the company's assets.

e) Failure to hold Annual General Meeting

The management stated that the Company did not hold an annual general meeting during the year under review, because there was a delay in receiving the final report for the year 2019/2020, which was received on 15th October 2021. However she also added that the representatives of the shareholders both University and the ministry are usually present in every board meeting.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/075: RESPONSE TO AUDIT QUERIES BY
JKUAT NOODLES LTD

The management submitted its response to audit queries for the financial years ended 2019,2020 and 2021 as follows;

a) Company Shareholding and Ownership

The Managing Director informed the Committee that the process of transfer of shares from Nissin Foods Limited to JKUAT took longer than usual. The transfer has since been successfully executed.

b) Financial Performance

The Managing Director informed that Committee that the company has been unable to access funds even from financial service providers including its bankers. The management has resulted in starting small-scale production and growing product line organically.

c) Budgetary Control and Performance

The Management stated that the company's budget is a projection of revenue, cost of generating revenue and capital requirements. The company did not meet the projected revenue and expenditure due to lack of funds. The budgeted revenue and expenditure was based on the assumptions that the company will be able to secure funding from financial institutions and other partners, which did not succeed.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/076: RESPONSE TO AUDIT QUERIES BY
KUCCPS

The management submitted its response to audit queries for the financial years ended 2019, 2020 and 2021 as follows;

a) Financial Year 2018/2019 & 2019/2020

All matters in the two financial years were marked as resolved.

b) Irregular Procurement of Consultancy Services

The Chief Executive Officer informed the Committee that the placement service procured JKUAT Enterprise Ltd through section 103(2e) of the Public Procurement and Disposal Act 2015 which allows for direct procurement.

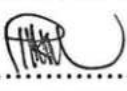
Which Policy informed admission of government sponsored students to Private Universities despite Public Universities having capacity?

In response to this the Chief Executive Officer informed the Committee that section 2 of the University Act read together with section 13 and 56, it elaborates admission to 'a university to which a charter has been granted.' This therefore does not give a distinction between placements to a private or public university.

Further, section 55(3) outlines the composition of the Placement Board which includes representation by two Vice-chancellors from private universities.

MIN.NO. NA/DAAOSC/ PIC-G&E/2023/077: ADJOURNMENT/ DATE OF NEXT SITTING

There being no other business, the meeting was adjourned at 6.30 pm. The next meeting will be held on 26th April 2023 at 9.00 am.

SIGNED.......... DATE 4/5/23.....
(CHAIRPERSON)

MINUTES OF THE 22ND SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON GOVERNANCE AND EDUCATION HELD ON WEDNESDAY 26TH APRIL, 2023 AT COMMITTEE ROOM 7 PARLIAMENT BUILDINGS, AT 1230 HOURS

PRESENT

1. Hon. Wanami Wamboka, MP - Chairperson
2. Hon. Lesuuda Josephine Naisula, OGW, MP - Vice-chairperson
3. Hon. Mark Muriithi Mwenje, MP
4. Hon. Nzambia Thuddeus Kithua, MP
5. Hon. Bisau Maurice Kakai, MP
6. Hon. Tonkei Rebecca Noonaishi, MP
7. Hon. Ondieki Alfa Miruka, MP
8. Hon. Kirima Moses Nguchine, MP

ABSENT WITH APOLOGY

1. Hon. Karitho Kiili Daniel, MP
2. Hon. Tonui Joseph Kipkosgei, MP
3. Hon. (Amb.) Sigei Francis Kipyegon, EBS, MP
4. Hon. Bonaya Mumina Gollo, MP
5. Hon. Wamacukuru James Githua Kamau, MP
6. Hon. Chiforomodo Mangale Munga, MP
7. Hon. (Dr.) Shadrack Mwiti Ithinji, MP

IN-ATTENDANCE

SECRETARIAT

1. Mr. Victor Weke - Senior Clerk Assistant
2. Mr. Victor Fundi - Clerk Assistant III
3. Ms. Faith Chepkemai - Legal Counsel II
4. Mr. Edwin Machuki - Fiscal Analyst III
5. Ms. Georgina Okoth - Research Officer III
6. Ms. Eunice Liavuli - Research Officer III

OFFICE OF THE AUDITOR GENERAL

1. Ms. Mercy Mukiri - Director of Audit
2. Mr. Samuel Waweru - Acting Deputy Director of Audit
3. Ms. Jane Chege - Principal Auditor
4. Mr. Anthony Muriuki - Principal Auditor
5. Mr. Felix Itonge - Principal Auditor/Liaison Officer
6. Ms. Ann Musyoka - Principal Auditor

THE NATIONAL TREASURY

1. Mr. Ngechu Mark - Deputy Director Investments

JOMO KENYATTA UNIVERSITY OF AGRICULTURE AND TECHNOLOGY

- | | | |
|--------------------------|---|---------------------------|
| 1. Prof. Victoria Wambui | - | Vice – Chancellor |
| 2. Mr. Robert Kinyua | - | Deputy Vice- Chancellor |
| 3. Ms. Mary Ngugi | - | Chief Finance Officer |
| 4. Ms. Kellen Njiru | - | Chief Procurement Officer |

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/083: PRELIMINARIES

The Chairperson called the meeting to order at 12.30 pm with a word of prayer and thereafter invited all present to introduce themselves. The agenda was confirmed as listed hereunder on the proposal of Hon. Kirima Moses Nguchine, MP and seconded by Hon. Bisau Maurice Kakai, MP.

AGENDA:

1. Prayers;
2. Preliminaries/Introduction
 - Adoption of the Agenda;
 - Confirmation of minutes of previous sittings;
 - Matters Arising
3. Receipt of audit responses from various agencies namely;
 - Jomo Kenyatta University of Agriculture and Technology.
4. Any Other Business; and
5. Adjournment.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/084: CONFIRMATION OF MINUTES

Confirmation of Minutes was deferred to the next sitting.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/085: RESPONSE TO AUDIT QUERIES BY JOMO KENYATTA UNIVERSITY OF AGRICULTURE AND TECHNOLOGY

The management submitted its response to audit queries for the financial years ended 2019, 2020 and 2021 as follows:

a) Undisclosed Financial Material Uncertainty

The Vice- Chancellor informed the Committee that the university has been operating under heavy financial constraints in the last five years. This was mainly occasioned by a drastic reduction in recurrent capitation grants to the University from the year 2013/2014 to the year under audit, cumulatively amounting to Kshs.2.8 billion. Additionally, the reduction coincided with implementation of the 2010-2013 Collective Bargaining Agreement (CBA) resulting in a drastic increase in personnel costs by approximately Kshs.30M per month (Kshs.360M per annum). Further reductions in budgetary allocations in subsequent years led to the University experiencing severe cash-flow challenges, thus being unable to meet its obligations as they fell due and subsequent accumulation of pending bills.

b) Unsupported Payments to Former Staff

The management informed the Committee that the university had erroneously made payments to staff who exited service in the course of the year arising from internal control weakness. Further the university aggressively pursued the former staff who had left the institution and also issued demand letters, thus leading to substantial recovery of the amount. Internal systems were also reviewed and strengthened to ensure prompt communication and more efficient management processes to avoid recurrence.

c) Non- Compliance with National Cohesion and Integration Act, 2008

The Vice Chancellor informed the Committee that the university is keen on achieving the ethnic diversity as per the National Cohesion and Integration Commission guidelines. However, as observed the huge numbers of staff were from the surrounding community and were in the lower grades (grades 1-4) whereby the university was not able to attract staff from other regions considering the low salary scales. She also assured the Committee that the university is committed to full adherence to legislation and shall continue to enhance ethnic representation in its recruitment processes.

d) Delay in Project Completion

- **Erection of a Perimeter Wall**

The Vice Chancellor informed stated that the beautification project was interrupted by a court case filed by a company known as Selian Holdings Limited in the year 2013. The claimants filed an application against the university, seeking an injunction restraining the university from constructing or erecting a perimeter/boundary wall, along the 35.5-meter-wide road, as this would hinder and or block access to the claimant's property. A sum total of 50 million has already been paid to the contractor.

- **Construction of a New Administration Block**

The management informed the Committee that the project was being funded from development capitation grants thus the slow pace of execution was due to reduction in budgetary allocations in subsequent years. Further, the contract variations were also within the 25% provision allowable for construction projects outlined in the Public Procurement and Asset Disposal Act, 2015 Section 139 4(e).

- **Construction of a Water Bottling Plant**

The management stated that the project was jointly funded by Japan International Cooperation Agency (JICA) and the university. The project was initiated for the purpose of providing bottled water to the university community. The amounts were expended in construction of the facility and installation of equipment. However, the university development allocations have been inadequate and insufficient for full completion of the plant.

The Committee resolved to make an inspection visit to the institution to view the three projects on 2nd April, 2023.

e) Long Outstanding Debts – Student Debtors

The management informed the Committee that the university undertook a thorough analysis and reconciliation of each long outstanding student balance at departmental and college levels in order to verify and validate each student's academic status and outstanding amount thereof, with an aim of recovering the same. This has facilitated follow-up of outstanding fees. Further, the university also implemented a new student management system, which ensures that students self-report and trigger subsequent billing thus eliminating any overstatement and or understatement.

f) Long Outstanding Payables

The management attributed the long outstanding payables to the constrained funding resulting in the inability of the university to settle amounts owed to various creditors as and when they fall due. To remedy this issue, JKUAT has continued to engage various creditors and has implemented various cost cutting measures, restructuring, as well as strived to raise funds in order to settle the payables.

g) Officers in Acting Position

The Vice- Chancellor admitted that some officers have been in acting positions for more than 6 months contrary to the Public Service Human Resource Policy because the university has been facing financial challenges thus has been unable to meet the costs of recruiting new officers to fill the 13 positions.

The Committee directed that the management resolves this issue before the next financial year.

h) Inaccuracies in Trade and Other Receivables

The Vice- Chancellor informed the Committee that the university has engaged the services of a debt collector to follow up on old debts by pursuing the debtors to ensure that the receivables are collected and banked promptly. The university is aggressively pursuing the outstanding debts. Additionally internal mechanisms such as implementation of IT systems for better management of student academic progression were set up to avoid further buildup of debts.

i) Understatement in Trade and Other Receivables

The Vice- Chancellor confirmed that the amounts of Kshs.125,100,000 received from JKUAT Industrial and Technology Park Ltd related to fund transfers to the university, being advance payments on share of proceeds generated after undertaking various projects. The funds received were duly recognized and disclosed in the university financial statements. The university is engaging with the subsidiary to align the records.

j) Irregular Placement of Officers in Higher Grades

The management stated that it undertook a revision of the staff establishment and harmonized designations and grades with the staff appointment and promotion policies therefore the 30 members of staff are catered for in the approved establishment and hence no overpayment of their salaries could arise.

k) Unremitted Statutory Deductions

The management stated that it was not able to remit all the statutory deductions as stipulated as the university has been operating under heavily constrained cash flow conditions in the last six years. This was occasioned by the high cost of training materials, laboratory reagents, workshop and studio materials, practical field courses as well as training equipment for the highly technical courses offered at the university. Additionally, there are significant costs of engaging and maintaining the highly skilled and specialized teaching and technical personnel for training and research in technical fields.

Further, as a lasting solution, the university continues to appeal for full implementation of the Differentiated Unit Cost funding model in order to meet running costs associated with training in the highly technical courses offered.

l) Delayed Implementation of the Enterprise Resource Planning Software

The management informed the Committee that due to the delays in delivering some of the modules as per the user requirements, the university mutually agreed with the vendor to proceed with 12 out of 24 modules mainly on student management, where the vendor had made good progress towards meeting user requirements. The 12 modules are fully implemented and currently in use. Payment was also pegged on completed modules.

m) Irregular Procurement of Graduation Coverage Services

The management informed the committee that it sought the services of media coverage for the graduations held in November 2020 and March 2021. The university sourced for quotations from three media houses namely; Citizen TV, NTV and KTN Home, for the graduation coverage in adherence to the Public Procurement and Asset Disposal Act, 2015 as stipulated in Sec. 106-2(d). The Graduation Committee then settled for Standard Media Group for the provision of live coverage of the 35th Graduation that was aired on KTN Home Television.

n) Accrued Student Balances

The Vice Chancellor in her submissions to the Committee stated that the university has developed a new fee payment policy system which prevents students to sit for examinations or graduate with fee balances. She also added that by contracting a debt collector, the school has so far recovered 18 million out of the 121 million owed to the institution by the students.

MIN.NO. NA/DAAOSC/ PIC-G&E/2023/086: ADJOURNMENT/ DATE OF NEXT SITTING

There being no other business, the meeting was adjourned at 2.28 pm. The next meeting will be held on 27th April 2023 at 10.30 am, at the Kenya School of Law.

SIGNED.......... DATE 4/5/23.....
(CHAIRPERSON)

MINUTES OF THE 24TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON GOVERNANCE & EDUCATION HELD ON WEDNESDAY 3RD MAY, 2023 AT COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDING AT 1000 HOURS

PRESENT

- | | | |
|---|---|-------------------------|
| 1. Hon. Jack Wanami Wamboka,MP | - | Chairperson |
| 2. Hon. Lesuuda Josephine Naisula, OGW, MP- | | Vice Chairperson |
| 3. Hon. (Dr.) Shadrack Mwiti Ithinji, MP | | |
| 4. Hon. Bonaya Mumina Gollo,MP | | |
| 5. Hon. Tonui Joseph Kipkosgei,MP | | |
| 6. Hon. Tonkei Rebecca Noonaishi, MP | | |
| 7. Hon. Bisau Maurice Kakai,MP | | |
| 8. Hon. Mark Muriithi Mwenje, MP | | |
| 9. Hon. Thaddeus Nzambia Kithua, MP | | |
| 10. Hon. Alfa Ondieki Miruka, MP | | |
| 11. Hon. Moses Kirima Nguchine, MP | | |

ABSENT WITH APOLOGIES

1. Hon. James Wamacukuru Githua Kamau, MP
2. Hon. Sigei Francis Kipyegon, MP
3. Hon. Chiforomodo Mangale Munga, MP
4. Hon. Daniel Karitho Kiili, MP

IN ATTENDANCE

SECRETARIAT

- | | | |
|-----------------------|---|------------------------|
| 1. Mr. Victor Weke | - | Senior Clerk Assistant |
| 2. Mr. Victor Mutugi | - | Clerk Assistant III |
| 3. Ms. Jane G. Ouko | - | Clerk Assistant III |
| 4. Ms. Georgina Okoth | - | Research Officer III |
| 5. Ms. Eunice Liavuli | - | Research Officer III |

OFFICE OF THE AUDITOR GENERAL

- | | | |
|------------------------|---|-------------------|
| 1. Mr. Eliud Mwongela | - | Senior Auditor |
| 2. Ms. Mercy Mukiiri | - | Director of Audit |
| 3. Mr. Felix K. Itonge | - | Principal Auditor |

THE NATIONAL TREASURY

- | | | |
|-----------------------|---|-------------------------------|
| 1. Mr. Ngalo Mark | - | Assistant Director Investment |
| 2. Ms. Florence Ngugi | - | Investment Officer |

UNIVERSITY OF NAIROBI/ UON PRESS

- | | | |
|---------------------------|---|----------------------------------|
| 1. Prof. Stephen G. Kiama | - | Vice Chancellor |
| 2. Mr. Andrew Mbuku | - | Ag. Director Facility Management |
| 3. Mr. Stephen Kimeli | - | Ag. Director Finance |
| 4. | | |

MIN.NO. NA/DAAOSC/PIC-G&E/2023/091: PRELIMINARIES

The chairperson called the meeting to order at 10:05 am with a word of prayer and thereafter invited all present to introduce themselves. The agenda was confirmed as listed hereunder on the proposal of Hon. Kirima Moses Nguchine, MP and seconded by Hon. Bisau Maurice Kakai, MP.

AGENDA:

1. Prayers;
2. Preliminaries/Introduction
 - i. Adoption of the Agenda;
 - ii. Confirmation of minutes of previous sittings;
 - iii. Matters Arising
3. Receipt of Audit responses from various Agencies;
 - University of Nairobi
 - University of Nairobi Press
4. Any Other Business; and
5. Adjournment.

MIN.NO. NA/DAAOSC/PIC-G&E/2023/092: CONFIRMATION OF MINUTES

Confirmation of the minutes of the previous meeting was deferred to the next sitting.

MIN.NO. NA/DAAOSC/PIC-G&E/2023/093: RESPONSE TO AUDIT QUERIES BY THE UNIVERSITY OF NAIROBI

The management submitted its response to audit queries for the financial years ended 2019, 2020 and 2021 as follows:

- **Growing concern on uncertainty**

It was noted that the University was not doing well financially hence the committee sought to know what the management is doing to mitigate the same. The Vice Chancellor indicated that there were a raft of measures in place to see to it that the concerns raised are resolved. They included:

- i) Reforms to ensure cost cutting;
- ii) Introduction of Income Generating Programs such as fees raised from Module II students, accommodation fees, establishment of University of Nairobi Foundation as way of raising more revenue for the university, as well as tapping into innovation and entrepreneurship.

He further noted that the move by the Government to place students in private universities was one of the factors affecting the financial performance of the institution; an issue the committee committed to fast track.

The committee suggested that the University should:

expand revenue generating avenues;

- i) utilize the expansive chunks of land in its possession;
- ii) address the issue of pensioners; and,
- iii) ensure motivation of its employees to enhance productivity.

- **Property Plant and Equipment (Lack of an assets register)**

The committee was informed that this was being worked on and hopefully will be in place by September, 2023.

- **Trade and Other Receivables**

There was accumulation of debts dating back to 2005/2006. The committee was informed that the university has in place debt collection services to ensure that the collectable debts are recovered. The committee advised that the non- collectable monies should be declared bad debts and subsequently written off.

- **Budgetary Control and Performances**

The Vice Chancellor informed the committee that the financial distress of the university is attributed to various factors both internal and external. The committee resolved to give direction on this matter during its report writing.

- **Stalled Students' Accommodation Hostels at Kabete Campus**

The Vice Chancellor admitted that this is an eyesore that needed to be dealt with. He further stated that Kshs. 450, 000,000 was needed to complete the project.

The committee advised that funds be sort to ensure the project is completed.

- **Stalled Construction of the School of Pharmacy**

The Vice Chancellor informed the committee that the project was started in 2011 and is 90% complete but is not usable because of incomplete sewerage system. Further, the Vice Chancellor informed the committee that Kshs. 50, 000,000 was required to address the same; an amount the committee felt was way too much since it was more than a third of the total cost of the project.

A sub Committee comprising of : Hon. Bisau Maurice Kakai, MP (chairperson), Hon. Tonkei Rebecca Noonaishi, MP and Hon. Mark Muriithi Mwenje, MP, was constituted to scrutinize the projects' contractual documents and report to the committee within a period of three (3) days. The sub- committee was also mandated to investigate and report on the university's staff composition.

- **Variances between the Financial Statement and the Trial Balances**

The Vice chancellor stated that the required documents have been prepared and are ready for submission to the office of the Auditor General. The sub- committee was asked to verify this and report to the committee.

- **Incomplete Assets Register**

The Vice Chancellor was tasked to prepare and provide a valuation of non- current assets within a period of six (6) months.

- **Unreconciled Receivables from Exchange Transactions**

The vice chancellor reported that documents have been prepared and forwarded to the office of the Auditor General. The Committee requested the Auditor General to verify and report to the committee on the same.

- **Unsupported Revenue from Exchange Transactions**

The committee tasked the auditor general to confirm compliance and report to the committee in one week.

- **Loss Making Income Generating Activities**

It was noted that there was no value for money from these activities. The Vice Chancellor committed to put in place mitigation measures to ensure that these activities generate profit.

MIN.NO. NA/DAAOSC/PIC-G&E/2023/094: RESPONSE TO AUDIT QUERIES
BY THE UNIVERSITY OF NAIROBI
PRESS

The Vice-chancellor requested the Committee to give him six months to enable him restructure the unit, and comprehensively respond to outstanding queries. The Committee acceded to this request.

MIN.NO. NA/DAAOSC/PIC-G&E/2023/095: ADJOURNMENT/ DATE OF NEXT
MEETING

There being no other business, the meeting was adjourned at 12:00 noon. The next meeting would be held on 3rd May, 2023 at 3.00 pm.

SIGNED DATE
(CHAIRPERSON)

MINUTES OF THE 23RD SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON GOVERNANCE AND EDUCATION HELD ON THURSDAY 27TH APRIL, 2023 AT KENYA SCHOOL OF LAW IN KAREN, AT 0930 HOURS

PRESENT

1. Hon. Wanami Wamboka, MP - Chairperson
2. Hon. Mark Muriithi Mwenje, MP
3. Hon. Nzambia Thuddeus Kithua, MP
4. Hon. Bisau Maurice Kakai, MP
5. Hon. Kirima Moses Nguchine, MP
6. Hon. Karitho Kiili Daniel, MP

ABSENT WITH APOLOGY

1. Hon. Lesuuda Josephine Naisula, OGW, MP - Vice-chairperson
2. Hon. Tonui Joseph Kipkosgei, MP
3. Hon. (Amb.) Sigei Francis Kipyegon, EBS, MP
4. Hon. Bonaya Mumina Gollo, MP
5. Hon. Wamacukuru James Githua Kamau, MP
6. Hon. Chiforomodo Mangale Munga, MP
7. Hon. (Dr.) Shadrack Mwiti Ithinji, MP
8. Hon. Tonkei Rebecca Noonaishi, MP
9. Hon. Ondieki Alfa Miruka, MP

IN-ATTENDANCE

SECRETARIAT

1. Mr. Victor Weke - Senior Clerk Assistant
2. Mr. Victor Fundi - Clerk Assistant III
3. Mr. Edwin Machuki - Fiscal Analyst III
4. Ms. Eunice Liavuli - Research Officer III

OFFICE OF THE AUDITOR GENERAL

1. Ms. Jane Chege - Principal Auditor
2. Mr. Felix Itonge - Principal Auditor/Liaison Officer

THE NATIONAL TREASURY

1. Mr. Ngechu Mark - Deputy Director Investments

RESJOS ENTERPRISES LTD/ CONTRACTOR

1. Mr. Lewis Kipyegon - Director Investments

STATE DEPARTMENT OF PUBLIC WORKS

1. Mr. George Omondi - Project Manager

2. Mr. Kigundu Samuel - Architect

KENYA SCHOOL OF LAW

- | | | |
|------------------------|---|----------------------------|
| 1. Dr. Henry Mutai | - | Chief Executive Officer |
| 2. Ms. Pauline Mbitho | - | Principal Legal Officer |
| 3. Ms. Mariam A Mahmud | - | Senior Procurement Officer |
| 4. Ms. Ruth Gathoni | - | Senior Accountant |
| 5. Ms. Lucia Lulu | - | Senior HR Officer |
| 6. Mr. Kennedy Dende | - | Senior ICT Officer |

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/087: PRELIMINARIES

The Chairperson called the meeting to order at 9.57 am with a word of prayer and thereafter invited all present to introduce themselves. The agenda was confirmed as listed hereunder on the proposal of Hon. Kirima Moses Nguchine, MP and seconded by Hon. Bisau Maurice Kakai, MP.

AGENDA:

1. Prayers;
2. Preliminaries/Introduction
 - Adoption of the Agenda;
 - Confirmation of minutes of previous sittings;
 - Matters Arising
3. Receipt of Audit responses from various Agencies ;
 - Kenya School of Law
4. Any Other Business; and
5. Adjournment.

MIN. NO. NA/DAAOSC/ PIC-G&E/2023/088: CONFIRMATION OF MINUTES

Confirmation of Minutes was deferred to the next sitting.

**MIN. NO. NA/DAAOSC/ PIC-G&E/2023/089: RESPONSE TO AUDIT QUERIES BY
KENYA SCHOOL OF LAW**

The management submitted its response to audit queries for the financial years ended 2019, 2020 and 2021 as follows:

a) Delayed Completion of the Ultra - Modern Library

The management informed the committee that the initial contract cost of the project was Kshs.488,704,449 which was awarded to Resjos Enterprise Ltd in the year 2013 with the completion date of the project expect to be in 2016. The project is yet to be completed up to date.

Further, the Chief Executive Officer attributed the slow completion rate of the project to lack of finds. For instance the school at some point did not receive any funds for the project for 3 years. He also

informed Committee that JKUAT Enterprises Ltd was released from the project as consultants in 2020 due to issues with the approval of the designs.

The contractor already having been paid a total sum of 374 million, the project upon completion is expected to have a total variation of 22% from the initial contract cost.

The Committee therefore directed as follows;

- i) That the completion date of the project should remain as 30th June 2023 as promised by the contactor.
- ii) That the management and the contractor should agree on a similar variation amount before the completion of the project.
- iii) That in the event the contactor delays completion of the project, he will be liable to pay liquidated damages to the school.

MIN.NO. NA/DAAOSC/ PIC-G&E/2023/090: ADJOURNMENT/ DATE OF NEXT SITTING

There being no other business, the meeting was adjourned at 2.05pm. The next meeting will be held on 3rd May 2023 at 9.30 am.

SIGNED.......... DATE 4/5/23.....
(CHAIRPERSON)

MINUTES OF THE 27TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON GOVERNANCE & EDUCATION HELD ON THURSDAY 4TH MAY, 2023 IN THE MAIN CHAMBER, MAIN PARLIAMENT BUILDING AT 1430 HOURS

PRESENT

- | | | |
|---|---|------------------|
| 1. Hon. Wanami Wamboka,MP | - | Chairperson |
| 2. Hon. Lesuuda Josephine Naisula, MP | - | Vice Chairperson |
| 3. Hon. (Dr.) Shadrack Mwiti Ithinji, MP | | |
| 4. Hon. Moses Kirima Nguchine, MP | | |
| 5. Hon. James Wamacukuru Githua Kamau, MP | | |
| 6. Hon. Alfa Ondieki Miruka, MP | | |
| 7. Hon. Bonaya Mumina Gollo,MP | | |
| 8. Hon. Mark Muriithi Mwenje, MP | | |
| 9. Hon. Bisau Maurice Kakai,MP | | |
| 10. Hon. Tonkei Rebecca Noonaishi, MP | | |
| 11. Hon. Thaddeus Nzambia Kithua, MP | | |

ABSENT WITH APOLOGY

1. Hon. Chiforomodo Mangale Munga, MP
2. Hon. Daniel Karitho Kiili, MP
3. Hon. (Amb.) Sigei Francis Kipyegon, EBS, MP
4. Hon. Tonui Joseph Kipkosgei,MP

IN ATTENDANCE

SECRETARIAT

- | | | |
|------------------------|---|------------------------|
| 1. Mr. Victor Weke | - | Senior Clerk Assistant |
| 2. Mr. Victor Mutugi | - | Clerk Assistant III |
| 3. Ms. Jane G. Ouko | - | Clerk Assistant III |
| 4. Ms. Faith Chepkemoi | - | Legal Counsel II |
| 5. Ms. Georgina Okoth | - | Research Officer III |
| 6. Ms. Eunice Liavuli | - | Research Officer III |

OFFICE OF THE AUDITOR GENERAL

- | | | |
|------------------------|---|-------------------|
| 1. Ms. Mercy Mukiiri | - | Director of Audit |
| 2. Mr. Antony Muriuki | - | Principal Auditor |
| 3. Mr. Felix K. Itonge | - | Principal Auditor |

THE NATIONAL TREASURY

- | | | |
|--------------------------|---|-------------------------------|
| 1. Mr. Ngecho Mark Lugwi | - | Assistant Director Investment |
|--------------------------|---|-------------------------------|

TECHNICAL UNIVERSITY OF KENYA

- | | | |
|------------------------|---|-----------------------|
| 1. Prof. Francis Aduol | - | Vice Chancellor |
| 2. Mr. Ben Sanda | - | Chief Finance Officer |
| 3. Dr. Hesbon Nyagowa | - | University Registrar |

4. Dr. Moses Wamalwa	-	Academic Registrar
5. Ms. Ruth Kirwa	-	Chief Legal Officer
6. Mr. Kihoro Mega	-	Director, Human Resource
7. Mr. David Juma	-	Ag. Chief Accountant
8. Mr. Samuel Gichuki	-	Ag. Chief Accountant

MIN.NO. NA/DAAOSC/PIC-G&E/2023/105: PRELIMINARIES

The Chairperson called the meeting to order at 2.30 pm thereafter asking those present to introduce themselves. The agenda was confirmed as listed hereunder on the proposal of Hon. Moses Kirima Nguchine, MP, and seconded by Hon. Maurice Kakai Bisau, MP.

AGENDA:

1. Prayers;
2. Preliminaries/Introduction
 - i. Adoption of the Agenda;
 - ii. Confirmation of minutes of previous sittings;
 - iii. Matters Arising
3. Receipt of Audit responses from various Agencies;
 - Technical University of Kenya
4. Any Other Business; and
5. Adjournment.

MIN.NO. NA/DAAOSC/PIC-G&E/2023/106: CONFIRMATION OF MINUTES

Confirmation of the Minutes of the previous meeting was deferred to the next sitting.

MIN.NO. NA/DAAOSC/PIC-G&E/2023/107: RESPONSE TO AUDIT QUERIES **BY TECHNICAL UNIVERSITY OF** **KENYA**

The management submitted its response to audit queries for the financial year 2020/21 as follows:

• Doubtful Recovery of Outstanding Balances

The management informed the committee that the outstanding balances were as a result of delayed fees payment mostly by students sponsored by various charity organizations as well as those relying on Constituency Development Fund (CDF).

They however stated that out of the Kshs10.7M outstanding balances, the management had managed to recover Kshs4M within a period of one year. The management also stated that it hopes to recover the remaining balances by appointing a debt recovery agent and also liaise with other government agencies.

The Committee advised that the University should be fully compliant by the next financial audit.

- **Irregular Procurement of Telephone and Airtime Expenses**

The university management had directly procured airtime worth Kshs1,788,813 and mobile phones at a cost of Kshs251,500. This is contrary to section 103(2)(a) of the public Procurement and Asset Disposal Act, 2015.

The Committee will make a determination on this matter during its report writing conference.

- **Direct Procurement of Goods and Services**

Goods and services amounting to Kshs16,315,963 had been procured through direct cash purchases by members of staff issued with imprest to facilitate the purchases. These goods and services had not been inspected, contrary to Section 48 of the Public Procurement and Asset Disposal Act, 2015 and were not taken to the stores charge.

The Committee recommended that the management should note the frequently procured items then enter into a long-term contractual agreement with suppliers of the said items and ensure prompt payments to the suppliers.

The management should also identify items that had been procured directly and submit a list of the same to the Committee to enable it to make a determination on the matter.

- **Lack of a Fixed Asset Register**

The university management did not provide an updated fixed asset register to support the balances on specific class of assets. In the absence of an updated asset register, it was not possible to confirm the effectiveness of controls over fixed assets, status, accuracy, completeness and existence contrary to the National Treasury Circular and templates, No. 5/2020 dated 25/02/2020.

The University Management submitted that the last asset valuation was done in 2012 and that it lacked capacity to conduct annual valuation as required by law.

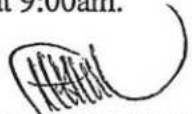
The Committee recommended that the university should:

- i) Get an expert to conduct asset valuation and serve the Committee with copies of the advertisement put up to get a valuer and other supporting documents within one week;
- ii) Leverage on technology by procuring a valuation system/software.

Further, the Committee observed that the lack of an asset register was a recurring gap in most universities and committed to make a recommendation to the Ministry of Education so as to come up with necessary measures that would assist all public universities mitigate on this gap.

MIN.NO. NA/DAAOSC/PIC-G&E/2023/108: ADJOURNMENT/ DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at 4.30 pm. The next meeting would be held on 5th May, 2023 at 9:00am.

SIGNED.......... DATE 7/6/23.....
(CHAIRPERSON)

MINUTES OF THE 28TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON GOVERNANCE & EDUCATION HELD ON FRIDAY 5TH MAY, 2023 AT JOMO KENYATTA UNIVERSITY OF AGRICULTURE AND TECHNOLOGY, MAIN CAMPUS AT 1030 HOURS

PRESENT

- | | | |
|--------------------------------------|---|-------------|
| 1. Hon. Wanami Wamboka,MP | - | Chairperson |
| 2. Hon. Alfa Ondieki Miruka, MP | | |
| 3. Hon. Bisau Maurice Kakai,MP | | |
| 4. Hon. Tonkei Rebecca Noonaishi, MP | | |
| 5. Hon. Thaddeus Nzambia Kithua, MP | | |

ABSENT WITH APOLOGY

- | | | |
|--|---|------------------|
| 1. Hon. Josephine Lesuuda Naisula, OGW, MP | - | Vice Chairperson |
| 2. Hon. Daniel Karitho Kiili, MP | | |
| 3. Hon. (Amb.) Sigei Francis Kipyegon, EBS, MP | | |
| 4. Hon. Tonui Joseph Kipkosgei,MP | | |
| 5. Hon. (Dr.) Shadrack Mwiti Ithinji, MP | | |
| 6. Hon. Moses Kirima Nguchine, MP | | |
| 7. Hon. James Wamacukuru Githua Kamau, MP | | |
| 8. Hon. Chiforomodo Mangale Munga, MP | | |
| 9. Hon. Bonaya Mumina Gollo, MP | | |
| 10. Hon. Mark Muriithi Mwenje, MP | | |

IN ATTENDANCE

SECRETARIAT

- | | | |
|-----------------------|---|----------------------|
| 1. Mr. Victor Mutugi | - | Clerk Assistant III |
| 2. Ms. Jane G. Ouko | - | Clerk Assistant III |
| 3. Ms. Eunice Liavuli | - | Research Officer III |

JOMO KENYATTA UNIVERSITY OF AGRICULTURE AND TECHNOLOGY

- | | | |
|--------------------------|---|---------------------------|
| 1. Prof. Victoria Wambui | - | Vice Chancellor |
| 2. Prof. B. W Ikua | - | Deputy Vice Chancellor |
| 3. Ms. Mary Ngugi | - | Chief Finance Officer |
| 4. Mr. Richard Wokabi | - | Chief Legal Officer |
| 5. Ms. Kellen Njiru | - | Chief Procurement Officer |

OFFICE OF THE AUDITOR GENERAL

- | | | |
|---------------------|---|---------|
| 1. Ms. Jane Muiruri | - | Auditor |
| 2. Mr. Mark Muteti | - | Auditor |

MIN.NO. NA/DAAOSC/PIC-G&E/2023/109: PRELIMINARIES

The Chairperson called the meeting to order at 10.30 am thereafter asking those present to introduce themselves. The agenda was confirmed as listed hereunder on the proposal of Hon. Rebecca Tonkei, MP, and seconded by Hon. Maurice Kakai Bisau, MP.

AGENDA:

1. Prayers;
2. Preliminaries/Introduction
 - i. Adoption of the Agenda;
 - ii. Confirmation of minutes of previous sittings;
 - iii. Matters Arising
3. Receipt of Audit responses from JKUAT
4. Any Other Business; and
5. Adjournment.

MIN.NO. NA/DAAOSC/PIC-G&E/2023/110: CONFIRMATION OF MINUTES

Confirmation of the Minutes of the previous meeting was deferred to the next sitting.

MIN.NO. NA/DAAOSC/PIC-G&E/2023/112: RESPONSE TO AUDIT QUERIES BY JKUAT

The management submitted its response to audit queries for the financial year 2018/2019 to 2020/21 as follows:

• Erection of a Perimeter Wall

The management stated that the project was interrupted by a Court case filed by a Company known as Selian Holdings Limited in the year 2013. At that time the management had already paid a total of Kshs.50,698,800 out of the total contract cost of Kshs.68,836,283. Further, the claimants filed an application against the University, seeking an injunction restraining the University from constructing or erecting a perimeter/boundary wall, along the 35.5-meter-wide road, as this would hinder and or block access to the Claimant's property. The matter was then referred to a mediation process by the court and is yet to be concluded.

The Committee directed the parties to ensure that the mediation process was concluded within a month's time to pave way for the completion of the perimeter wall.

• Construction of the New Administration Block

The management stated that the University embarked on construction of an Administration Block in January, 2013 at a sum of Kshs 285,919,713. The cumulative variations in the project as at 2019 amounted to KShs 62,447,206.00 representing 22% of the contract sum. The original contract sum of Ksh.285,909,713.00 was paid to M/S Columbia Developers Ltd and the contract was determined. The building is currently 90% complete and the University anticipates to complete the project within the shortest time possible.

- **Construction of a Water Bottling Plant**

The management stated that the university procured an automated water purification and bottling machinery at a cost of Kshs.7,550,000 in September 2014. However, upon delivery of the equipment, there was no suitable space for its installation and testing due to the magnitude of its size.

Further after analyzing several options, it realized that there was need to construct a separate space for the plant. The university then requested for support through JICA for support in constructing a structure to house the plant. JICA's gave support of Kshs.7,285,000 towards construction of the housing for the plant. Besides, purchase of the plant, the University met the cost of labour and supervision. The total costs met by JKUAT is Kshs.11,014,677.80. Thus, so far, the project has costed Kshs.18,299,677.80. It is estimated that the project will require a further Kshs.21,080,426.20 to make it fully operational.

MIN.NO. NA/DAAOSC/PIC-G&E/2023/113: ADJOURNMENT/ DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at 1.30 pm. The next meeting would be held on notice.

SIGNED.....

(CHAIRPERSON)

DATE

7/6/2023

**MINUTES OF THE 29TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON GOVERNANCE & EDUCATION HELD ON WEDNESDAY, 24TH MAY, 2023 AT
SERENA BEACH HOTEL, MOMBASA COUNTY AT 1000HRS**

PRESENT

1. Hon. Wanami Wamboka,MP - Chairperson
2. Hon. (Amb.) Sigei Francis Kipyegon, EBS, MP
3. Hon. Tonui Joseph Kipkosgei,MP
4. Hon. Bisau Maurice Kakai,MP
5. Hon. Tonkei Rebecca Noonaishi, MP
6. Hon. Thaddeus Nzambia Kithua, MP
7. Hon. (Dr.) Shadrack Mwiti Ithinji, MP
8. Hon. Moses Kirima Nguchine, MP
9. Hon. Mark Muriithi Mwenje, MP

ABSENT WITH APOLOGY

1. Hon. Josephine Lesuuda Naisula, OGW, MP - Vice Chairperson
2. Hon. Daniel Karitho Kiili, MP
3. Hon. Alfa Ondieki Miruka, MP
4. Hon. (Dr.) Shadrack Mwiti Ithinji, MP
5. Hon. Moses Kirima Nguchine, MP
6. Hon. James Wamacukuru Githua Kamau, MP
7. Hon. Chiforomodo Mangale Munga, MP
8. Hon. Bonaya Mumina Gollo, MP

IN ATTENDANCE

SECRETARIAT

1. Mr. Victor Weke - Senior Clerk Assistant
2. Mr. Victor Mutugi - Clerk Assistant III
3. Ms. Jane G. Ouko - Clerk Assistant III
4. Ms. Faith Chepkemai - Legal Officer
5. Mr. Edwin Machuki - Fiscal Analyst
6. Ms. Eunice Liavuli - Research Officer III
7. Mr. Derick Kathurima - Media Relations Officer III
8. Mr. Meldrick Sakani - Audio Officer
9. Ms. Everlyn Nyaayo - Secretary
10. Ms. Juliet Minayo - Office Assistant
11. Mr. Albert Atunga - Sergeant- at- Arms

OFFICE OF THE AUDITOR GENERAL

1. Mr. Felix K. Itonge – Liaison Officer /Auditor

THE NATIONAL TREASURY

1. Mr. Mark Ngechu - Assistant Director Investment

INSPECTORATE OF STATE CORPORATIONS

1. Ms. Grace Mwaniki- Inspector

MIN.NO. NA/DAAOSC/PIC-G&E/2023/114: PRELIMINARIES

The Chairperson called the meeting to order at 10.23 am with a word of prayer and thereafter asked those present to introduce themselves. The agenda was confirmed as listed hereunder on the proposal of Hon. Rebecca Tonkei, MP, and seconded by Hon. Maurice Kakai Bisau, MP.

AGENDA:

1. Prayers;
2. Preliminaries/Introduction:
 - i. Adoption of the Agenda;
 - ii. Confirmation of minutes of previous sittings;
 - iii. Matters Arising
3. Consideration of the Committee's 1st Report on examination of reports of the Auditor General on 24 Regulatory and Governance Agencies;
4. Any Other Business, and;
5. Adjournment.

MIN.NO. NA/DAAOSC/PIC-G&E/2023/115: CONFIRMATION OF MINUTES

Confirmation of the Minutes of the previous meeting was deferred to the next sitting.

**MIN.NO.NA/DAAOSC/PIC-G&E/2023/116: CONSIDERATION OF THE
COMMITTEE'S 1ST REPORT ON
EXAMINATION OF REPORTS OF THE
AUDITOR GENERAL ON 24
REGULATORY AND GOVERNANCE
AGENCIES**

The secretariat took members through the zero draft of the report for the following agencies;

1. Kenya Institute of Special Education (KISE)
2. Kenya Institute of Curriculum Development (KICD)
3. National Council for Science, Technology & Innovation (NACOSTI)
4. Council Of Legal Education (CLE)
5. Kenya National Qualifications Authority (KNQA)
6. Kenya Education Management Institute (KEMI)
7. School Equipment Production Unit (SEPU)
8. Technical And Vocational Education and Training Authority (TVETA)
9. TVET Curriculum Development, Assessment and Certification Council (TVET CDACC)
10. Auctioneers Licensing Board (ALB)
11. Higher Education Loans Board (HELB)
12. Kenya Literature Bureau (KLB)
13. Commission For University (CUE)

The following issues cross-cutting issues arose:

1. Compliance with the National Cohesion and Integration Act, 2008

It was noted with great concern that this was a recurring issue and most government agencies had not complied with the requirements of this Act. Members reiterated the need for all agencies to comply within a period of one year of adoption of the report and urged the Auditor General to report on levels of compliance, especially at the managerial level, in subsequent audit reports.

It was also observed that there is need for a multi-sectoral approach where agencies tasked with ensuring proportionality and diversity of the work force in public service endeavor to ensure compliance with the Law.

2. Land Encroachment

This was also a cross cutting and recurring issue. The committee advised on the need for legislation to ensure stringent measures that would curb encroachment into government land. It was also suggested that CEOs should be held liable whenever a government land is encroached into during their tenure.

3. Treasury and Exchequer Delays

Members observed that there was an existing gap in law that should be bridged to ensure that money allocated to various agencies is released on time. There was need for tougher laws that would make it almost impossible to divert funds allocated to a certain agency by treasury. This was deemed necessary as the delay lead to halting of development projects in most of these organizations.

MIN.NO. NA/DAAOSC/PIC-G&E/2023/117: ADJOURNMENT/ DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at 12.40 am. The next meeting will be held in the afternoon in the same venue.

SIGNED..... DATE

(CHAIRPERSON)

**MINUTES OF THE 30TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON GOVERNANCE & EDUCATION HELD ON WEDNESDAY, 24TH MAY, 2023 AT
MASHUA BOARDROOM, SERENA BEACH HOTEL, MOMBASA COUNTY AT
1400 HRS**

PRESENT

1. Hon. Wanami Wamboka,MP - **Chairperson**
2. Hon. (Amb.) Sigei Francis Kipyegon, EBS, MP
3. Hon. Tonui Joseph Kipkosgei, MP
4. Hon. Bisau Maurice Kakai,MP
5. Hon. Tonkei Rebecca Noonaishi, MP
6. Hon. Thaddeus Nzambia Kithua, MP
7. Hon. Mark Muriithi Mwenje, MP
8. Hon. (Dr.) Shadrack Mwiti Ithinji, MP
9. Hon. Moses Kirima Nguchine, MP

ABSENT WITH APOLOGY

1. Hon. Josephine Lesuuda Naisula, OGW, MP - **Vice Chairperson**
2. Hon. Daniel Karitho Kiili, MP
3. Hon. Alfa Ondieki Miruka, MP
4. Hon. James Wamacukuru Githua Kamau, MP
5. Hon. Chiforomodo Mangale Munga, MP
6. Hon. Bonaya Mumina Gollo, MP

IN ATTENDANCE

SECRETARIAT

- | | | |
|-------------------------|---|-----------------------------------|
| 1. Mr. Victor Weke | - | Senior Clerk Assistant/Lead Clerk |
| 2. Mr. Victor Mutugi | - | Clerk Assistant III |
| 3. Ms. Jane G. Ouko | - | Clerk Assistant III |
| 4. Ms. Faith Chepkemai | - | Legal Officer |
| 5. Mr. Edwin Machuki | - | Fiscal Analyst |
| 6. Ms. Eunice Liavuli | - | Research Officer III |
| 7. Mr. Derick Kathurima | - | Media Relations Officer III |
| 8. Mr. Meldrick Sakani | - | Audio Officer |
| 9. Ms. Evelyn Nyaayo | - | Secretary |
| 10. Ms. Juliet Minayo | - | Office Assistant |
| 11. Mr. Albert Atunga | - | Sergeant- at- Arms |

OFFICE OF THE AUDITOR GENERAL

1. Mr. Felix K. Itonge - **Liaison Officer**

THE NATIONAL TREASURY

1. Mr. Ngechu Mark - **Assistant Director Investment**

INSPECTORATE OF STATE CORPORATIONS

1. Ms. Gladys Mwaniki - **Inspector**

MIN.NO. NA/DAAOSC/PIC-G&E/2023/118: PRELIMINARIES

The Chairperson called the meeting to order at 1418hrs with a word of prayer and thereafter those present introduced themselves. The agenda was confirmed as listed hereunder on the proposal of Hon. Thaddeus Nzambia Kithua, MP and seconded by Hon. Tonui Joseph Kipkosgei, MP.

AGENDA:

1. Prayers;
2. Preliminaries/Introduction:
 - i. Adoption of the Agenda;
 - ii. Confirmation of minutes of previous sittings;
 - iii. Matters Arising
3. Consideration of the Committee's 1st Report on examination of reports of the Auditor General on 24 Regulatory and Governance Agencies;
4. Any Other Business, and;
5. Adjournment.

MIN.NO. NA/DAAOSC/PIC-G&E/2023/119: CONFIRMATION OF MINUTES

Confirmation of the Minutes of the previous meeting was deferred to the next sitting.

MIN.NO. NA/DAAOSC/PIC-G&E/2023/120: CONSIDERATION OF THE COMMITTEE'S 1ST REPORT ON EXAMINATION OF REPORTS OF THE AUDITOR GENERAL ON 24 REGULATORY AND GOVERNANCE AGENCIES

The secretariat took members through the zero draft of the report on the following agencies;

1. Kenya National Examinations Council (KNEC)
2. Jomo Kenyatta Foundation (JKF)
3. Centre For Mathematics, Science and Technology Education in Africa (CEMASTEa)
4. Kenya Universities and Colleges Central Placement Service (KUCCPS)
5. Kenya National Commission for UNESCO (KNATCOM)
6. JKUAT Enterprises Limited (JKUATES)
7. JKUAT Noodles Limited
8. National Council for Nomadic Education in Kenya (NACONEK)
9. University Of Nairobi Enterprises and Services Limited (UNES)
10. Kenya National Innovation Agency (KENIA)

MIN.NO. NA/DAAOSC/PIC-G&E/2023/121: ADJOURNMENT/ DATE OF NEXT

There being no other business, the meeting was adjourned at 1700hrs. The next meeting would be held on Thursday 25th May, 2023 at 0900hrs in the same venue.

SIGNED.......... DATE 7/6/23
(CHAIRPERSON)

**MINUTES OF THE 32ND SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
ON GOVERNANCE & EDUCATION HELD ON THURSDAY, 25TH MAY, 2023 AT
SERENA BEACH HOTEL, MOMBASA COUNTY AT 1500HRS**

PRESENT

1. Hon. Wanami Wamboka, MP - Chairperson
2. Hon. (Amb.) Sigei Francis Kipyegon, EBS, MP
3. Hon. Tonui Joseph Kipkosgei, MP
4. Hon. Bisau Maurice Kakai, MP
5. Hon. Tonkei Rebecca Noonaishi, MP
6. Hon. Thaddeus Nzambia Kithua, MP
7. Hon. (Dr.) Shadrack Mwiti Ithinji, MP
8. Hon. Moses Kirima Nguchine, MP
9. Hon. Mark Muriithi Mwenje, MP

ABSENT WITH APOLOGY

1. Hon. Josephine Lesuuda Naisula, OGW, MP - Vice Chairperson
2. Hon. Daniel Karitho Kiili, MP
3. Hon. Alfa Ondieki Miruka, MP
4. Hon. James Wamacukuru Githua Kamau, MP
5. Hon. Chiforomodo Mangale Munga, MP
6. Hon. Bonaya Mumina Gollo, MP

IN ATTENDANCE

SECRETARIAT

- | | | |
|-------------------------|---|-----------------------------------|
| 1. Mr. Victor Weke | - | Senior Clerk Assistant/Lead Clerk |
| 2. Mr. Victor Mutugi | - | Clerk Assistant III |
| 3. Ms. Jane G. Ouko | - | Clerk Assistant III |
| 4. Ms. Faith Chepkemai | - | Legal Officer |
| 5. Mr. Edwin Machuki | - | Fiscal Analyst |
| 6. Ms. Eunice Liavuli | - | Research Officer III |
| 7. Mr. Derick Kathurima | - | Media Relations Officer III |
| 8. Mr. Meldrick Sakani | - | Audio Officer |
| 9. Ms. Evelyn Nyaayo | - | Secretary |
| 10. Ms. Juliet Minayo | - | Office Assistant |
| 11. Mr. Albert Atunga | - | Sergeant- at- Arms |

OFFICE OF THE AUDITOR GENERAL

1. Mr. Felix K. Itonge – liaison Officer / Principal Auditor

THE NATIONAL TREASURY

1. Mr. Mark Ngechu- Assistant Director Investment

INSPECTORATE OF STATE CORPORATIONS

1. Ms. Grace Mwaniki- Inspector

MIN.NO. NA/DAAOSC/PIC-G&E/2023/127: PRELIMINARIES

The Chairperson called the meeting to order at 1515hrs with a word of prayer and thereafter those present introduced themselves. The agenda was confirmed as listed hereunder on the proposal of Hon. Mark Muriithi Mwenje, MP and seconded by Hon. Tonui Joseph Kipkosgei, MP

AGENDA:

1. Prayers;
2. Preliminaries/Introduction:
 - i. Adoption of the Agenda;
 - ii. Confirmation of minutes of previous sittings;
 - iii. Matters Arising
3. Consideration of the Committee's 2nd Report on examination of reports of the Auditor General on State Corporations (Training Colleges & Institutions);
4. Any Other Business, and;
5. Adjournment.

MIN.NO. NA/DAAOSC/PIC-G&E/2023/128: CONFIRMATION OF MINUTES

Confirmation of the Minutes of the previous meeting was deferred to the next sitting.

**MIN.NO.NA/DAAOSC/PIC-G&E/2023/128: CONSIDERATION OF THE
COMMITTEE'S 2ND REPORT ON
EXAMINATION OF REPORTS OF THE
AUDITOR GENERAL ON STATE
CORPORATIONS (TRAINING
COLLEGES)**

The Secretariat took members through the zero draft of the report on the following agencies:

1. Murang'a University of Technology
2. Kenya School Of Law (KSL)
3. Karen Technical Training Institute for The Deaf (KTTID)
4. The Technical University of Kenya (TUK)
5. Jomo Kenyatta University of Agriculture and Technology (JKUAT)
6. The University of Nairobi (UON)
7. The University of Nairobi Press
8. Kenya Utalii College

MIN.NO. NA/DAAOSC/PIC-G&E/2023/129: AOB

The Chairperson commended members and the secretariat for a good job during the report writing period. He also informed the committee that the report once ready will be tabled before the house when it resumes from the long recess.

MIN.NO. NA/DAAOSC/PIC-G&E/2023/130: ADJOURNMENT

There being no other business, the meeting was adjourned at 1648hrs. The next meeting will be held on notice.

SIGNED.....

(CHAIRPERSON)

DATE

7/6/23