



REPUBLIC OF KENYA

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7/12/23


THIRTEENTH PARLIAMENT – SECOND SESSION

THE NATIONAL ASSEMBLY

SPECIAL FUNDS ACCOUNTS COMMITTEE

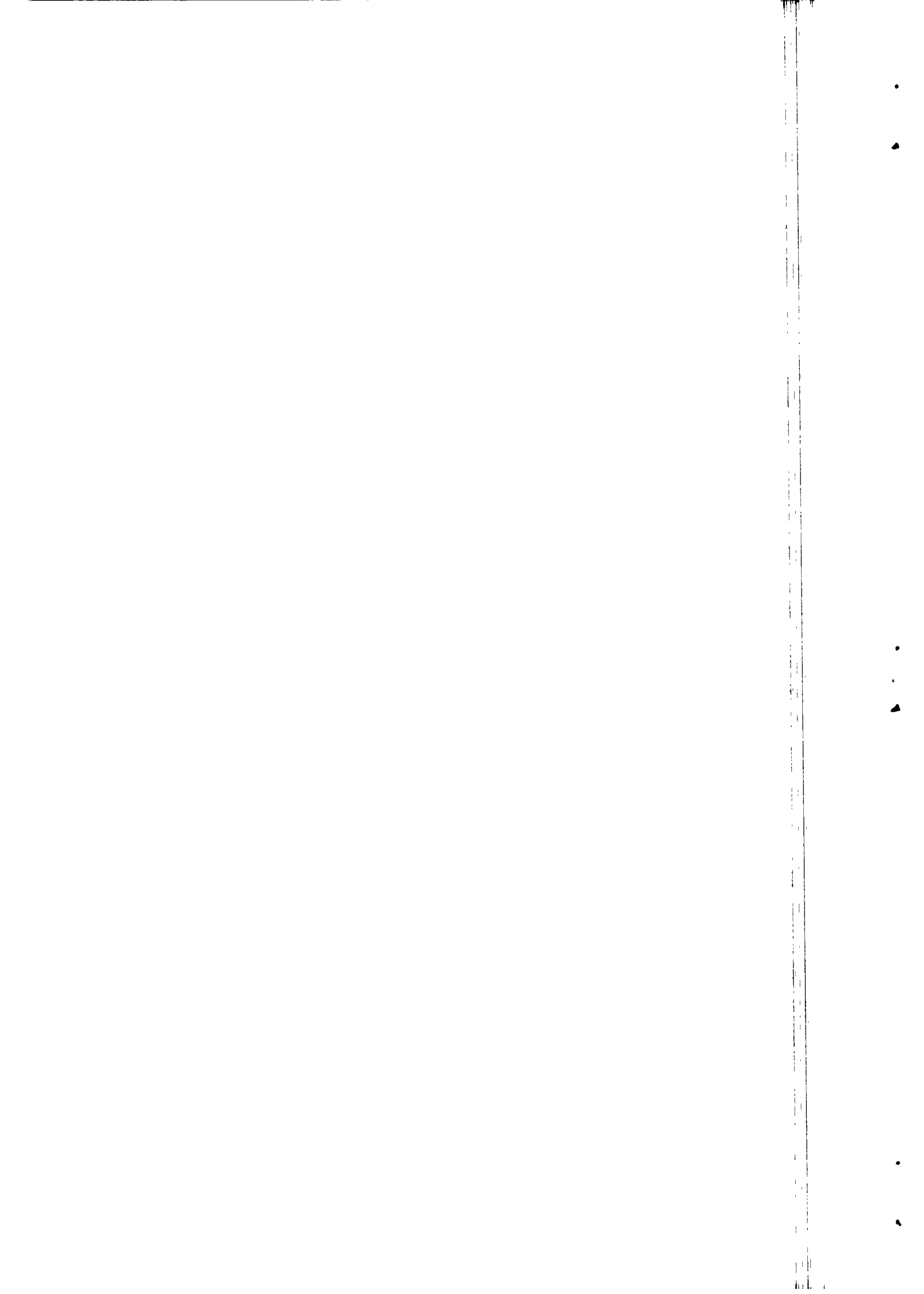
SEVENTH REPORT  
ON THE EXAMINATION OF THE REPORTS OF THE AUDITOR - GENERAL ON  
THE FINANCIAL STATEMENTS FOR THE

1. LAND SETTLEMENT FUND FOR THE FINANCIAL YEARS 2020/2021 AND 2021/2022
2. THE RAILWAY DEVELOPMENT FUND (HOLDING ACCOUNT) FOR THE FINANCIAL YEARS 2017/2018 TO 2021/2022

 THE NATIONAL ASSEMBLY	
DATE: 07 DEC 2023	
Day: Thursday	
TABLED BY:	Hon. Rahim Dawood, MP Vice chairperson
CLERK-AT THE-TABLE:	A-shibuka

Directorate of Audit, Appropriations, and Other Select Committees  
National Assembly  
Parliament Buildings  
NAIROBI

DECEMBER, 2023





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## LIST OF ABBREVIATIONS AND ACRONYMS

CoK	-	Constitution of Kenya, 2010
CRA	-	Commission on Revenue Allocation
FY	-	Financial Year
MDAs	-	Ministries, Departments and Agencies
PFM	-	Public Finance Management
OAG	-	Office of the Auditor-General
LPO	-	Local Purchase Order
IDPs	-	Internally Displaced Persons
CRB	-	Credit Reference Bureau
PSASB	-	Public Sector Accounting Standards Board
EACC	-	Ethics and Anti-Corruption Commission
KRA	-	Kenya Revenue Authority

## **CHAIRPERSON'S FOREWORD**

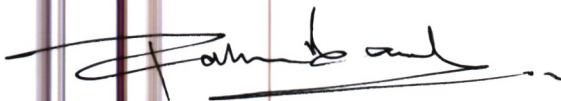
Hon. Speaker, on behalf of the Special Funds Accounts Committee and under Standing Order 199, it is my pleasant duty and honour to present to the House the report of the Committee on consideration of the reports of the Auditor - General on the audited financial statements for the Land Settlement Fund for the financial years 2020/2021 and 2021 /2022 and the Railway Development Fund (Holding Account) for the 2017/2018 to 2021/2022 financial years.

Oversight over national revenue and expenditure is amongst the roles of the National Assembly as stipulated under Article 95 (4) (c) of the Constitution of Kenya, 2010. Further, Article 226 of the CoK provides that an Act of Parliament shall provide for the designation of an Accounting Officer in every public entity at the national level who is accountable to the National Assembly for its financial management. In addition, Article 229(8) mandates this House to debate and take appropriate action on audit reports from the Auditor-General.

In fulfilment of these constitutional provisions, the National Assembly established various Committees to examine reports of the Auditor-General to ascertain whether public funds are utilized in a lawful, authorized, effective, efficient, economical, and transparent manner. The Special Funds Accounts Committee, which was established in the Fifth Session of the Eleventh Parliament following the review of the National Assembly's Standing Orders, is one of these Committees.

The Committee received oral and written submissions from the Nixon Korir, the Principal Secretary, State Department for Lands and Mr. Mohamed Daghor the Principal Secretary, State Department Transport. The submissions formed the basis of its observations, findings, and recommendations. These are also contained in the Minutes and Hansard Reports of Committee proceedings.

Hon. Speaker, I wish to express appreciation to the Honourable Members of the Committee, the Office of the Speaker, and the Clerk of the National Assembly, the Parliamentary Liaison Offices of the Auditor-General and the National Treasury and the Committee Secretariat for facilitating the Committee in the production of this report.



**HON. DAWOOD ABDUL RAHIM, HSC, MP**  
**VICE CHAIRPERSON - SPECIAL FUNDS ACCOUNTS COMMITTEE**



## 1.0 PREFACE

### 1.1 Establishment and Mandate of Special Funds Accounts Committee

1. The Special Funds Accounts Committee is one of the six Watchdog Committees of the National Assembly established under Standing Order 205. It is mandated to examine the reports of the Auditor - General on the following:
  - i) *Funds established by statute or by subsidiary legislation, except Funds under Standing Order 205B (Decentralized Funds Accounts Committee)*
  - ii) *The Equalization Fund;*
  - iii) *The Equalization Fund Advisory Board;*
  - iv) *The Political Parties Fund; and*
  - v) *Other funds as may be communicated by the Honourable Speaker*

### 1.2 Committee Membership

2. The Committee comprises the following members:

S/N	Name	Constituency	Party
1	Hon. Fatuma Zainab Mohammed, MP <b>(Chairperson)</b>	Migori (CWR)	Independent
2	Hon. Dawood Abdul Rahim, HSC, MP <b>(Vice Chairperson)</b>	North Imenti	Independent
3	Hon. Faith Wairimu Gitau, MP	Nyandarua (CWR)	UDA
4	Hon. Charles Ngusya Nguna, MP	Mwingi West	Wiper
5	Hon. Dr. Christine Ombaka Oduor, MP	Siaya (CWR)	ODM
6	Hon. Erastus Kivasu Nzioka, MP	Mbooni	Wiper
7	Hon. Eve Akinyi Obara, MP	Kabondo Kasipul	ODM
8	Hon. Joseph Majimbo Kalasinga, MP	Kabuchai	FORD-K
9	Hon. Tom Mboya Odege, MP	Nyatike	ODM
10	Hon. Catherine Nakhabi Omanyoo, MP	Busia (CWR)	ODM
11	Hon. Cecilia Asinyen Ngigit, MP	Turkana (CWR)	UDA
12	Hon. Erick Kahugu Wamumbi, MP	Mathira	UDA
13	Hon. Joseph Kimutai Cherorot, MP	Kipkelion East	UDA
14	Hon. Joshua Odongo Oron, MP	Kisumu Central	ODM
15	Hon. Paul Kibichi Biego, MP	Chesumei	UDA

### 1.3 Committee Secretariat

3. The Secretariat facilitating the Committee comprises the following staff;

S/N	NAME	DESIGNATION
1	Mr. Leonard Machira	Principal Clerk Assistant II
2.	Ms. Comfort Achieng	Clerk Assistant III
3	Mr. Silvanus Makau	Clerk Assistant III
4	Mr. Robert Ngetich	Fiscal Analyst II
5	Ms. Judith Kanyoko	Legal Counsel II
6	Ms. Bevaline Mosoti	Research Officer III
8	Ms. Pauline Sifuma	Hansard Officer III
9	Ms. Maryam Gabow	Public Communications Officer III
10	Mr. Peter Mutethia	Hansard Audio Officer III
11	Mr. Benard Omondi	Serjeant At Arms



## **2.0 GENERAL OBSERVATIONS AND RECOMMENDATIONS**

4. During the examination of the audited reports, the Committee noted the following general observations:

### **a. Long Outstanding Receivables from Exchange Transactions**

6. The Committee observed that the land loans and development loans issued to settlers by the Land Settlement Fund as far back as the year 1962 have remained outstanding to date. The Fund has outstanding land loans and development loans of Kshs. Kshs 6,811,916,396 and Kshs. 68,966,377. The outstanding interest on the loans at 30<sup>th</sup> June 2022 was Kshs. 5,163,007,149.00.
7. The Committee recommends that the Accounting Officer to provide a progress report on the recovery of the principal loan and the outstanding interest receivable to the Auditor-General for audit verification.

### **b. Undistributed Land**

8. The Committee observed that land in Kisima Njoro in Nakuru County that was meant for resettlement of the IDPs in 2012, had not been surveyed or sub-divided and, therefore, the beneficiaries had not been settled ten (10) years after the purchase of the land due to ongoing court cases which restrained the Land settlement Fund from interfering with the land parcel.
9. The Committee also observed that the delay in the distribution of land for informal settlers in Mikanjuni Farm in Kilifi County and Kadza Ndani land in Mombasa County was occasioned by the ongoing planning to cater for amenities such as access roads and public utility facilities.
10. The Committee recommends that:
  - i. The Accounting Officer to fast track the resolution of the dispute with the County Government of Kilifi to bring the matter to a conclusion and settle the IDPs; and within three months of the adoption of this report, the Accounting Officer to provide a progress report on the resolution of the dispute to the Auditor-General.
  - ii. Within six months of the adoption of this report, the Accounting Officer to provide a status report on the resettlement of the informal settlers on the Kadza Ndani Land to the Auditor General for audit verification.

### **c. Weak Control Environment in Field Offices**

11. The Committee observed that a field verification conducted by the office of the Auditor – General during the month of September 2022 in ten (10) sampled land adjudication and



settlement offices revealed that the stations operated a bank account for funds received for the office administration but did not maintain a cash book. Further, the monthly bank reconciliation statements had not been prepared and submitted to The National Treasury with a copy to the Office of the Auditor-General as stipulated under Regulation 90(1) of the Public Finance Management (National Government) Regulations, 2015.

12. The Committee noted the Accounting Officers submissions that s all the County Lands Adjudication and Settlement Officers in-charge were instructed by the office of Director of Land Adjudication and Settlement to adhere to Regulation 90(1) of the Public Finance Management Act for control, accountability of finances and smooth efficient running of office operations.
13. The Committee recommends that the Accounting Officer ensures that proper applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of the financial statements in compliance with Public Finance Management Act, 2012 and in accordance with the standards prescribed by the Public Sector Accounting Standards Board as per Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2012.

#### **d. Discrepancies in Reported Receipts**

14. The Committee observed that Kshs.21,613,544,290 in revenue collection by the Railway Development Fund (Holding Account) for the financial year 2018/2019 was not supported by an analysis of receipts from Kenya Revenue Authority (KRA). The actual figure for performance of Kshs. 5,815,007,462.00 as per the summary of budget was erroneously posted to the statement of receipts and payments. However, the erroneous figure was replaced with the correct figure of Kshs.21,613,544,290.
15. The Committee noted the Accounting Officer's submissions that the receipts as per the summary of budget versus actual performance figure of Kshs. 5,815,007,462.00 were erroneously posted to the statement and the correct amount was Kshs. 21,613,544,290.00.
16. The Committee recommends that:
  - i. Within three months of adoption of this report, the Accounting Officer to submit the analysis of KRA receipts making up the figure of Kshs.21,613,544,290 for the total revenue of the Fund; and
  - ii. The Accounting Officer should ensure that all applicable accounting and financial control systems, standards laws and procedures are followed in the preparation of the financial statements and in accordance the standards prescribed by the public Accounting standards Board and in compliance with regulation 101(4) of the Public Finance Management (National Government) Regulations 2015.

### **3.0 EXAMINATION OF REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE LAND SETTLEMENT FUND FOR THE FINANCIAL YEAR 2020/2021 AND 2021/2022**

17. Nixon Korir, the Principal Secretary, State Department for Lands appeared before the Committee on Tuesday 15<sup>th</sup> August 2023 to adduce evidence on the audited financial statements for the **Land Settlement Fund** for the Financial Years 2020/2021 and 2021/2022. The minutes of the Committee sitting, and submissions tabled by the Accounting Officer are annexed to this report. He was accompanied by:

- |                         |   |                                                   |
|-------------------------|---|---------------------------------------------------|
| 1. Mr. Kennedy Njenga   | - | Director Lands Adjudication and Physical planning |
| 2. Mr. David Kimotho    | - | Principal Accountant                              |
| 3. Ms. Milkah Chepkirui | - | Accountant                                        |
| 4. Ms. Catherine Muindi | - | Public Communications officer                     |

### **3.1 Examination of the report of the Auditor-General for the Financial Year 2020/2021**

#### **Basis for Qualified Opinion**

##### **1 Long Outstanding Trade Receivables**

18. The statement of financial position as disclosed in Note 9 to the financial statements, reflects trade receivables of Kshs.12,188,377,058. Included in the balance are land loans and development loan issued amounting to Kshs.6,896,185,412 and Kshs.69,819,548, respectively. Some of these loans were issued to settlers as far back as the year 1962 and have remained outstanding to date. In addition, the Fund management has no clear policy on evaluation of the account receivables from time to time to determine the recoverability of the outstanding loans.

19. Consequently, the accuracy and recoverability of the trade receivables balance of Kshs.12,188,377,058 as at 30 June, 2021 could not be confirmed.

#### **Submissions by the Accounting Officer**

20. The Accounting officer submitted that:

- i. it was true that as disclosed in Note 9 to the financial statements, the statement of financial position reflected trade receivables balance of Kshs. 12,188,377,058.
- ii. The amount included land loans and development loans amounting to Kshs. 6,896,185,412 and Kshs. 69,819,548 respectively with some issued to settlers as far back as the year 1962 and have remained outstanding to date.
- iii. The recoverability of amounts outstanding was assured through a loan repayment and discharge process which ensured that before a parcel was discharged for registration, all outstanding amounts were paid.
- iv. The Fund could recover all amounts due from settlers who wish to process land titles for their parcels and hence considers all dues as recoverable, save



for unforeseen executive pronouncements on waivers and issuance of free/charged titles.

21. The Accounting Officer proposed an option of a waiver of the interest on the loans to allow the loanees to pay the principal amount as the interest has increased by over 100%.
22. The also submitted that the Fund held public meetings (Barazas) during the harvest time to sensitize the loanees to repay the loans. However, the repayment rates have not increased.

### **Observations and findings of the Committee**

23. The Committee observed that:
  - (i) Land loans and Development loans of Kshs.6,896,185,412 and Kshs.69,819,548 respectively issued as far back as the year 1962 have remained outstanding to date;
  - (ii) The loans are secured and recoverable because the Fund has title deeds; and
  - (iii) The matter remained unresolved.

### **Recommendations of the Committee**

24. **The Committee recommends that within six (6) months upon the adoption of this report, the Accounting Officer to provide a progress report on the recovery of the principal loan and the outstanding interest receivable to the Auditor-General for audit verification.**

### **2. Long Outstanding Interest Receivable**

25. As disclosed in Note 9 to the financial statements, the trade receivables balance of Kshs.12,188,377,058 also includes an amount of Kshs.5,222,372,098 relating to interest receivable which has accumulated over the years on loans issued to settlers since the year 1962. It was observed that the Fund continued to compound cumulative interest as long as the loan remained outstanding without due consideration to the recoverability.
26. In the circumstances, the accuracy and recoverability of the long outstanding interest receivable balance of Kshs.5,222,372,098 as at 30 June, 2021 could not be confirmed.

### **Submission by the Accounting Officer**

27. The Accounting Officer submitted that the statement of financial position reflected trade receivables balance of Kshs. 12,188,377,058 and an amount of Kshs. 5,222,372,098 relating to interest receivable which had accumulated on loans issued to settlers which have been long outstanding.
28. He stated that the Fund continued to compound cumulative interest as long as the loans remained outstanding and the Fund ensured that before a parcel was discharged for registration, all outstanding amounts are paid.

29. He further stated that the Fund would recover all outstanding amounts due from the settlers who process land titles for their parcels and hence, considered all dues as recoverable, save for instances of unforeseen executive pronouncements on waivers and issuance of free/charged titles.

### **Observations and findings of the Committee**

30. The Committee observed that:

- i. The Fund has outstanding accumulated interest on loans of Kshs.5,222,372,098 advanced to settlers since 1962;
- ii. The Fund continues to compound cumulative interest as long as the loans remain outstanding.
- iii. The issue remained unresolved.

### **Recommendations of the Committee**

31. **The Committee recommends that within three (3) months upon the adoption of this report, the Accounting Officer to provide a progress report on the recovery of the loans and the outstanding interest to the Auditor-General for audit verification.**

### **Other Matter**

#### **3. Budgetary Control and Performance**

32. The statement of comparative budget and actual amounts for the year ended 30 June, 2021 reflects final budgeted expenditure and actual expenditure of Kshs.1,078,018,391 and Kshs.905,071,988, respectively resulting in an under-expenditure of Kshs.172,946,403 or about 16 % of the budgeted amount. The under-expenditure affected the planned activities and may have impacted negatively on the delivery of land settlement services to the public.

#### **Submissions by the Accounting Officer**

33. The Accounting Officer submitted that the statement of comparative budget and actual amounts for the year ended 30<sup>th</sup> June, 2021 reflected final budgeted expenditure and actual expenditure of Kshs. 1,078,018,391 and Kshs. 905,071,988 respectively, resulting to under-expenditure of Kshs. 172,946,403 or about 16 % of the budgeted amount.

34. He stated that the under expenditure was occasioned by the delayed completion of land acquisition due to ongoing processes that had not been finalized as at the time of presentation of the financial statements for audit review. He added that the variance would be utilized as soon as the process of acquisition was complete.

### **Observations and findings of the Committee**

The Committee observed that:

- (i) The under-expenditure of Kshs.172,946,403 was occasioned by the delayed completion of land acquisition;
- (ii) The matter is resolved.



## **Report on Lawfulness and Effectiveness in the Use of Public Resources**

### **Basis for Conclusion**

#### **4. Undistributed Land - Kisima Njoro for Resettlement of Internally Displaced Persons (IDPS) in Nakuru County**

35. As previously reported, Kisima Njoro land was purchased at a cost of Kshs.396,984,000 as per agreement for sale dated 3<sup>rd</sup> October, 2012 for resettlement of Internally Displaced Persons (IDPS). However, during physical verification of the land in September, 2021, it was noted that, the land had not been surveyed or sub-divided and therefore, the beneficiaries had not been settled nine (9) years after the purchase of the land. Consequently, the objective for which the land was acquired and value for money had not been achieved as at 30 June, 2021.

#### **Submissions by the Accounting Officer**

36. The Accounting Officer submitted that Kisima Njoro Land was purchased at Kshs 396,984,000 as per agreement for sale dated 3<sup>rd</sup> October 2012 for the re-settlement of internally displaced persons (IDPs).

37. He stated that during physical verification of the farm in the month of September 2021, it was observed that the beneficiaries had not been re-settled since the land had not been surveyed nor sub-divided.

38. He further stated that the farm was initially planned and surveyed for the re-settlement of 433 Internally Displaced Persons (IDPs). However, a group of forty-five (45) former employees of the farm felt that they had a stake in the farm since they were already squatters on the farm.

39. He stated that former employees filed a suit at the High Court of Kenya in the Nakuru Environment and Land Court (ELC) as Case No. 173 of 2012 thereby occasioning a delay. The plan was finalized on 23<sup>rd</sup> January 2020 and the process of survey and demarcation commenced.

40. He explained that E.L.C suit No. 19 of 2020 (Maryanne Chepkorir and Nathan William Hinga vs Nyoike Njenga Hinga, Charles Kibandi Kaguoya and others) restraining the defendants from interfering with the land parcel was filed and the court ordered that the survey works be suspended until the case was heard and determined.

#### **Observations and findings of the Committee**

41. The Committee observed that:

- i. The delay in surveying and resettlement of the Internally Displaced Persons (IDPs) is a result of ongoing court cases which restrained the Fund from interfering with the land parcel.
- ii. The matter is resolved.

## **5. Undistributed Land - Mikanjuni Farm in Kilifi County**

42. During the year under review, the Fund purchased Mikanjuni Farm at a cost of Kshs.377,000,000 as per the agreement for sale dated 22<sup>nd</sup> April, 2020 for resettlement of informal settlers. During field visit to the farm in October, 2021 a list of beneficiaries was provided by the Land Adjudication and Settlement Officer (LASO) of Kilifi County but the farm was still listed as undistributed.
43. No justification was given for not distributing and settling the informal settlers. Consequently, the objective for which the land was acquired and value for money had not been achieved as at 30 June, 2021.

### **Submissions by the Accounting Officer**

44. The Accounting Officer submitted that during the year under review the Fund purchased Mikanjuni Farm at cost of Kshs 377,000,000 as per agreement for sale dated 22<sup>nd</sup> April, 2020 for resettlement of squatters and that a field visit to the farm in the month of October, 2021, the list of beneficiaries was availed by the Land adjudication and Settlement officer, Kilifi where the farm was still listed as undistributed in the financial statements.
45. He explained that the reason for holding the land as inventory was because planning of the land to cater for amenities such as access roads and public utility parcels was still on-going and the final allocation in terms of acreage per informal settler was yet to be determined.
46. He noted that once the exercise was finalized, the land would be distributed to the allottees, and this would enable the Fund to determine and apply the amounts receivable from each beneficiary.

### **Observations and Findings of the Committee**

47. The Committee observed that:
- i. The delay in the distribution of land was occasioned by the ongoing planning to cater for amenities such as access roads and public utility facilities and the dispute between the Kilifi County government and the Fund regarding the proposed facilities; and
  - ii. The matter remained unresolved.

### **Recommendations of the Committee**

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

- i. **The Accounting Officer to fast track the resolution of the dispute with the County Government of Kilifi to bring the matter to a conclusion and settle the IDPs:**
- ii. **Within three months of adoption of this report by the National Assembly, the Accounting Officer to provide a progress report on the resolution of the dispute to the Auditor-General.**



## **6. Undistributed Land - Kadza Ndani Land in Mombasa County**

48. The Fund purchased three (3) parcels of land at Kadza Ndani in Mombasa County at a cost of Kshs.378,000,000 as per sale agreement dated 11 September, 2020 for resettlement of informal settlers. However, during field visit to the farm in October, 2021, a list of beneficiaries was provided by the Land Adjudication and Settlement Officer (LASO) of Mombasa County but the land was still listed as undistributed.
49. No justification was given for not distributing and settling the informal settlers. Consequently, the objective for which the land was acquired and value for money had not been achieved as at 30 June, 2021.

### **Submissions by the Accounting Officer**

50. The Accounting Officer submitted that during the year under review the Fund -purchased Kadza Ndani LR NO 241/1MN (CR.849), 243/1/MN (CR.847) and 244/1/MN (CR.848) in Mombasa County at cost of Kshs. 378,000,000 as per agreement for sale dated 11<sup>th</sup> September 2020 for resettlement of informal settlers.
51. He stated that during a field visit to the farm in the month of October 2021, the list of beneficiaries was availed by the Land adjudication and Settlement officer, Mombasa but the financial statements reflected the land as undistributed.
52. He further stated that planning of the land to cater for amenities and public utility plots was still on-going. He indicated that the final allocation in terms of acreage per informal settler was yet to be determined.
53. The County Government of Mombasa, in response dated 22nd March 2023, indicated that the planning for the land was complete and will be ready for approval in the County Assembly of Mombasa by the end of October 2023.

### **Observations and findings of the Committee**

54. The Committee observed that:
  - (i) The delay in the distribution of land was occasioned by the ongoing planning to cater for amenities such as access roads and public utility facilities;
  - (ii) The planning for the Kadza Ndani land in Mombasa County is complete and is projected to be ready for approval in the County Assembly of Mombasa by the end of October 2023; and
  - (iii) The matter remained unresolved.

### **Recommendations of the Committee**

55. **The Committee recommends that within six months of the adoption of this report, the Accounting Officer provide a status report on the resettlement of the Informal settlers on the Kadza Ndani land to the Auditor General for audit verification.**

## **Report on Effectiveness of Internal Controls, Risk Management and Governance**

### **Basis for Conclusion**

#### **7. Inactive Audit Committee**

56. Review of Internal Audit function revealed that the Ministry's Audit Committee never met to discuss internal audit reports for the Land Settlement Fund during the year under review. The Audit Committee was, therefore, not effective in providing oversight on financial and risk management including monitoring and reviewing of the effectiveness of internal audit functions and internal controls, risk management systems and financial statements. In the circumstances, the internal control system is not working as intended.

### **Submissions by the Accounting Officer**

57. The Accounting Officer submitted that the Fund was established under the Land Act, 2012 and hence falls under the ambit of the Ministerial Audit Committee. The members of the Audit committee were appointed as noted in the minutes of Ministerial Human Resource Management Advisory Committee meeting held on 24<sup>th</sup> October 2019.
58. He also indicated that the chairperson of the Audit Committee was appointed vide letter Ref: MOLPP 11/79/8(84) dated 17<sup>th</sup> December 2019.

### **Observations and findings of the Committee**

59. The Committee observed that:
- i. The Fund's audit committee did not discuss the internal audit reports;
  - ii. The matter remained unresolved.

### **Recommendations of the Committee**

- 60. The Committee recommends that within three months of the adoption of this report, the Audit Committee to discuss the pending internal reports and submit its findings to the Office of the Auditor General for audit verification.**

#### **8. Lack of a Risk Management Policy**

61. During the year ended 30 June, 2021, despite the Internal Audit Unit having a risk matrix that ranks risks and guides their annual internal audit plans, the Management did not have in place an institutionalized Risk Management Policy.
62. As a result, there was no formal approved processes and guidelines on how to identify, assess and mitigate operational, legal, and financial risks.



### **Submission by the Accounting Officer**

63. The Accounting officer informed the Committee that the Fund was established under the Land Act, 2012 and it operated under the parent state Department of Lands and Physical Planning and was therefore covered under the Department Institutional Risk Management Policy in line with Treasury Circular no.3/2009 of 23<sup>rd</sup> February 2009.

### **Observations and findings of the Committee**

64. The Committee observed that:
- i. The Fund is established under the Land Act, 2012, and therefore covered under the Department Institutional Risk Management Policy in line with Treasury Circular no.3/2009 of 23<sup>rd</sup> February, 2009.
  - ii. The matter is resolved.

## **3.2 Examination of the report of the Auditor-General for the Financial Year 2021/2022**

### **Basis for Qualified Opinion**

#### **1. Long Outstanding Receivables from Exchange Transactions**

65. The statement of financial position reflects receivables from exchange transactions balance of Kshs.12,039,439,278 and as disclosed in Note 13 to the financial statements. Included in the balance were long term loans repayments due and development loans issued balances of Kshs.6,811,916,396 and Kshs.68,966,377 respectively both totalling Kshs.6,880,882,773. Review of records provided revealed that some of these loans were issued to settlers as far back as the year 1962 and have remained outstanding to date.
66. In addition, Fund Management has no clear policy on evaluation of the account receivables from time to time to determine the recoverability of the outstanding loans.
67. In the circumstances, the accuracy and recoverability of the non-current receivables from exchange transactions balance of Kshs.6,880,882,773 could not be confirmed.

### **Submissions by the Accounting Officer**

68. The Accounting Officer submitted that the amounts remained outstanding for long due to the slow pace of loan repayment. This was caused by the manual billing and dispatch processes that were previously in place.
69. However, he informed the Committee that the Fund had since digitized all settler data and was processing and dispatching semi-annual full balance statements to the debtors as a reminder of their obligations. The loan repayments were now made via the Mpesa platform.

70. He stated that the recoverability of the outstanding amount was assured through the Fund's loan clearance and discharge process which ensured that before a parcel was discharged for registration, all outstanding amounts were paid.
71. The Accounting Officer proposed an option of a waiver of the interest on the loans to allow the loanees to pay the principal amount as the interest has increased by over 100%.
72. The also submitted that the Fund held public meetings (Barazas) during the harvest time to sensitize the loanees to repay the loans. However, the repayment rates have not increased.
73. An analysis of the documents of the list of loanees indicated the breakdown of land and development loans as at 30<sup>th</sup> June 2022 as shown below:

1 Break down of Land and Development Loans as at 30<sup>th</sup> June,2022

<b>Development Loans</b>				
No	Particulars		No.of beneficiaries	Kshs
i	Dev.Loans- (Shs.0-50,000)		8,234	63,150,357.35
ii	Dev.Loans- (Shs.50,100-100,000)		61	4,336,350.00
iii	Dev.Loans-(Shs.100,100-331,200)		10	1,479,670.00
		<b>Total Loans</b>	<b>8,305</b>	<b>68,966,377.35</b>
<b>Land Loans</b>				
No	Particulars		No.of beneficiaries	Kshs
i	Dev.Loans- (Shs.0-50,000)		132,582	2,199,345,934.43
ii	Dev.Loans- (Shs.50,000-100,000)		17,275	1,292,530,179.46
iii	Dev.Loans- (Shs100,000-200,000)		10,615	1,449,086,793.22
iv	Dev.Loans- (over shs.2000,000)		8,106	1,870,953,488.90
		<b>Total Loans</b>	<b>168,578</b>	<b>6,811,916,396.01</b>
		<b>Total Loans</b>	<b>Loans</b>	<b>6,880,882,773.36</b>
2	Outstanding interest on loans as 30th June 2022			<b>5,163,007,149.00</b>
3	<b>Total unpaid loans and interest on loans due</b>			<b>12,043,889,922.36</b>



### **Observations and findings of the Committee**

74. The Committee observed that:

- (i) The Fund has Land loans and Development loans of Kshs. Kshs 6,811,916,396 and Kshs. 68,966,377 respectively issued as far back as the year 1962 have remained outstanding to date;
- (ii) The loans are secured and recoverable because the Fund has title deeds; and
- (iii) The outstanding interest on loans at 30<sup>th</sup> June 2022 was Kshs. 5,163,007,149.00.
- (iv) The matter remained unresolved.

### **Recommendations of the Committee**

75. **The Committee recommends that the Accounting Officer to provide a progress report on the recovery of the principal loan and the outstanding interest receivable to the Auditor-General for audit verification.**

#### **2. Variance in Long Term Outstanding Interest Receivables**

76. The statement of financial position reflects receivables from exchange transactions balance of Kshs.12,039,439,278 which as disclosed in Note 13 to the financial statements includes an amount of Kshs.5,158,556,505 relating to outstanding long-term interest receivables. However, the latter balance is at variance with the supporting schedule balance of Kshs 5,163,007,149 resulting in an unreconciled variance of Kshs.4,450,644.

77. Further, the interest has accumulated over the years on loans issued to settlers since the year 1962 and the Fund has continued to compound cumulative interest on the loans without due consideration to their recoverability. In the circumstances, the accuracy and recoverability of the outstanding long-term interest receivables balance of Kshs 5,158,556,505 could not be confirmed.

### **Submissions by the Accounting Officer**

78. The Accounting officer submitted that the Fund assured recoverability of the outstanding long-term interest receivable through a loan repayment and discharge process. The process ensured that before a parcel was discharged for registration, all outstanding interest was paid. He stated that the Fund would recover the amounts due from settlers who wish to process land titles for their parcels and hence considers all dues as recoverable, save for unforeseen executive pronouncements on waivers and issuance of free/charged titles.

79. He further stated that the unreconciled variance was due to an imprest, which was erroneously included in the long outstanding interest receivables but was recovered.

### **Observations and findings of the Committee**

80. The Committee observed that:

- i. The unreconciled variance was due to an imprest which was erroneously included in the long outstanding interest receivables but was later recovered.
- ii. The matter is resolved.

## **Report on Lawfulness and Effectiveness in Use of Public Resources**

### **Basis for Conclusion**

#### **3. Undistributed Land**

##### **i. Kisima Njoro for Resettlement of Internally Displaced Persons (IDPs) in Nakuru County**

81. As previously reported, Kisima Njoro land was purchased at a cost of Kshs.396,984,000 as per agreement for sale dated 3 October, 2012 for resettlement of Internally Displaced Persons (IDPs). However, audit verification of the land carried out in the month of October, 2022, revealed that the land had not been surveyed or sub-divided and, therefore, the beneficiaries had not been settled ten (10) years after the purchase of the land.

#### **Submissions by the Accounting Officer**

82. The Accounting officer submitted that the Kisima Njoro Land was purchased at Kshs 396,984,000 as per an agreement for sale dated 3<sup>rd</sup> October 2012 for the re-settlement of internally displaced persons (IDPs). However, during a physical verification of the farm in September 2021, it was observed that the beneficiaries had not been re-settled since the land had not been surveyed nor sub-divided.

83. The farm initially planned and surveyed for the re-settlement of 433 Internally Displaced Persons (IDPs). However, a group of forty-five (45) former employees of the farm felt that they had a stake in the farm since they were already squatters on the farm.

84. He stated that the former employees filed a suit at the High Court of Kenya in the Nakuru Environment and Land Court (ELC) as Case No. 173 of 2012 thereby occasioning a delay. The plan was finalized on 23<sup>rd</sup> January 2020 and the process of survey and demarcation commenced.

85. He explained that E.L.C suit no. 19 of 2020 (Maryanne Chepkorir and Nathan William Hinga vs Nyoike Njenga Hinga, Charles Kibandi Kaguoya and others) restraining the defendants from interfering with the land parcel was filed and the court ordered that the survey works be suspended until the case was heard and determined. The Court also ordered the DCC Njoro Sub-County to lead an out -of -court settlement through alternative dispute resolution and file a consent or report with the court.

#### **Observations and findings of the Committee**

86. The Committee observed that:

- i. The delay in surveying and resettlement of the Internally Displaced Persons (IDPs) is a result of ongoing court cases which restrained the Fund from interfering with the land parcel.
- ii. The matter is resolved.



## **ii Mikanjuni Farm in Kilifi County**

87. As previously reported, the Fund purchased Mikanjuni Farm at a cost of Kshs.377,000,000 as per agreement for sale dated 22<sup>nd</sup> April, 2020 for resettlement of informal settlers. Although a list of beneficiaries was provided for audit by the Land Adjudication and Settlement Officer of Kilifi County, the farm was still listed as undistributed by the Fund as of October, 2022.
88. No justification was given for not distributing the land and settling the informal settlers.

### **Submissions by the Accounting Officer**

89. The Accounting officer submitted that that during the year under review the Fund purchased Mikanjuni Farm at cost of Kshs 377,000,000 as per agreement for sale dated 22<sup>nd</sup> April, 2020 for resettlement of squatters and that a field visit to the farm in the month of October, 2021, the list of beneficiaries was availed by the Land adjudication and Settlement officer, Kilifi where the farm was still listed as undistributed in the financial statements.
90. He explained that the reason for holding the land as an inventory was because planning of the land to cater for amenities such as access roads and public utility parcels was still ongoing and the final allocation in terms of acreage per informal settler was yet to be determined.
91. He stated that once the exercise was finalized, it would be possible to distribute the land to the allottees and hence be able to determine and apply the amounts receivable from each beneficiary.

### **Observations and findings of the Committee**

92. The Committee observed that:
- i. The delay in the distribution of land was occasioned by the ongoing planning to cater for amenities such as access roads and public utility facilities and the dispute between the Kilifi County government and the Fund regarding the proposed facilities; and
  - ii. The matter remained unresolved.

### **Recommendations of the Committee**

93. The Committee recommends that:
- i. **The Accounting Officer to fast track the resolution of the dispute with the County Government of Kilifi to bring the matter to a conclusion and settle the IDPs; and**
  - ii. **Within three months of the adoption of this report, the Accounting Officer to provide a progress report on the resolution of the dispute to the Auditor-General.**

### **iii. Kadza Ndani Land in Mombasa County**

94. As previously reported, the Fund purchased three (3) parcels of land at Kadza Ndani in Mombasa County at a cost of Kshs.378,000,000 as per sale agreement dated 11<sup>th</sup> September 2020 for resettlement of informal settlers. Although a list of beneficiaries was provided by the Land Adjudication and Settlement Officer of Mombasa County, the land was still listed as undistributed as of October, 2022.
95. No justification was given for not distributing and settling the informal settlers. In the circumstances, the objective for which the land was acquired and value for money had not been achieved.

### **Submissions by the Accounting Officer**

96. The Accounting Officer submitted that during the year under review the Fund -purchased Kadza Ndani LR NO 241/1MN (CR.849), 243/1/MN (CR.847) and 244/1/MN (CR.848) in Mombasa County at cost of Kshs. 378,000,000 as per agreement for sale dated 11<sup>th</sup> September 2020 for resettlement of informal settlers.
97. During a field visit to the farm in the month of October 2021, the list of beneficiaries was availed by the Land adjudication and Settlement officer, Mombasa but the financial statements reflected the land as undistributed.
98. He also stated that the land was held as inventory because planning of the land to cater for amenities and public utility plots was still on-going. He indicated that the final allocation in terms of acreage per informal settler was yet to be determined and that once the exercise was finalized, it would be possible to distribute the land to the allottees and hence be able to determine and apply the amounts receivable from each beneficiary.
99. The County Government of Mombasa, in a response dated 22nd March 2023, indicated that the planning for the land was complete and will be ready for approval in the County Assembly of Mombasa by the end of October 2023.

### **Observations and findings of the Committee**

100. The Committee observed that:
- (i) The delay in the distribution of land was occasioned by the ongoing planning to cater for amenities such as access roads and public utility facilities;
  - (ii) The planning for the Kadza Ndani in Mombasa County land is complete and is projected to be ready for approval in the County Assembly of Mombasa by the end of October 2023; and
  - (iii) The matter remained unresolved.

### **Recommendations of the Committee**

101. **The Committee recommends that within six months of the adoption of this report, the Accounting Officer provide a status report on the resettlement of the Informal settlers on the Kadza Ndani Land to the Auditor General for audit verification.**



## **Report on Effectiveness of Internal Controls, Risk Management and Governance**

### **Basis for Conclusion**

#### **4. Lack of Risk Management Policy**

102. During the year under review, the Fund did not have in place Risk Management Policy. As a result, there was no formal approved processes and guidelines on how to identify, assess and mitigate operational, legal and financial risks.
103. In the circumstances, the Management of the Fund is not in a position to evaluate, rank and prioritize critical risks and channel resources towards mitigating identified risks.

### **Submissions by the Accounting Officer**

104. The Accounting Officer submitted that the Fund was established under the land act, 2012. hence, operates under the State Department of Lands and Physical Planning and is therefore covered under the Departments Institutional Risk Management Policy in line with Treasury Circular no.3/2009 of 23<sup>rd</sup> February, 2009.

### **Observations and findings of the Committee**

105. The Committee observed that:
- i. The Fund is established under the Land Act, 2012, and therefore covered under the Department Institutional Risk Management Policy in line with Treasury Circular no.3/2009 of 23<sup>rd</sup> February, 2009.
  - ii. The matter was resolved

#### **5. Weak Control Environment in Field Offices**

106. A field verification during the month of September, 2022 in ten (10) sampled land adjudication and settlement offices revealed the following unsatisfactory matters:
- i. The stations were under-staffed with none having an accountant or an officer with financial management background to manage the funds disbursed to the stations.
  - ii. The stations operated a bank account for funds received for the office administration but did not maintain a cash book. Further, the monthly bank reconciliation statements had not been prepared and submitted to The National Treasury with a copy to the Office of the Auditor-General as stipulated under Regulation 90(1) of the Public Finance Management (National Government) Regulations, 2015.
  - iii. Inadequate office space, no filing cabinets and a filing system which made retrieval of records difficult.
107. In the circumstances, internal controls, risk management and governance systems were not effective.

### **Submissions by the Accounting Officer**

108. The Accounting officer submitted that all field offices were understaffed and lacked accounting staff. However, the Fund was served by the County Treasury field offices, hence, the field office operations are accounted for centrally at the Fund headquarters. He noted the upgrading of the work environment would be addressed once adequate funding was available.
109. Regarding the cash book and bank reconciliations, he stated that all the County Lands Adjudication and Settlement Officers in-charge were instructed by the office of Director of Land Adjudication and Settlement to adhere to Regulation 90(1) of the Public Finance Management Act for control, accountability of finances and smooth efficient running of office operations.

### **Observations and findings of the Committee**

110. The Committee observed that:
- i. Fund was served by the County Treasury field offices; hence, the field office operations are accounted for centrally at the Fund headquarters;
  - ii. The stations did not maintain a cash book and did not prepare monthly bank reconciliation statements as stipulated under Regulation 90(1) of the Public Finance Management (National Government) Regulations, 2015; and
  - iii. The matter remained unresolved.

### **Recommendations of the Committee**

111. **The Committee recommends that the Accounting Officer ensures that proper applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of the financial statements in compliance with Public Finance Management Act, 2012 and in accordance with the standards prescribed by the Public Sector Accounting Standards Board as per Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2012.**



#### **4.0 EXAMINATION OF REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE RAILWAY DEVELOPMENT FUND (HOLDING ACCOUNT) FOR THE FINANCIAL YEAR 2017/2018 TO 2021/2022**

112. Mr. **Mohamed Dagher** the Principal Secretary, State Department Transport appeared before the Committee on **Thursday 27<sup>th</sup> July, 2023** to adduce evidence on the audited financial statements for the **Railway Development Fund (Holding Account)** for the 2017/2018 to 2021/2022 financial years. The minutes of the Committee sitting, and submissions tabled by the Accounting Officer are annexed to this report. The Accounting officer was accompanied by:

1. Ms. Jemimah Matu - Kenya Railways
2. Mr. Odongo Kennedy - State Department of Transport
3. Mr. James W. Thuita - Finance Officer

#### **4.1 Examination of the report of the Auditor-General for the Financial Year 2017/2018**

##### **Unqualified Opinion**

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

#### **Examination of the report of the Auditor-General for the Financial Year 2018/2019**

##### **Basis for Qualified Opinion**

##### **1. Discrepancies in Reported Receipts**

114. The statement of receipts and payments reflects total receipts of Kshs.21,613,544,290;(2018 – Kshs.20,693,095,047) and as disclosed under Note 10.2 to the financial statements. This differs with the total receipts as per the summary of budget versus actual performance figure of Kshs.5,815,007,463 resulting in an unexplained and unreconciled variance of Kshs.15,798,536,827. 51 Consequently, the accuracy of the reported receipts of Kshs.5,815,007,463 in the summary of budget versus actual performance cannot be confirmed.

##### **Submission of the Accounting Officer**

115. The Accounting Officer submitted that the receipts from KRA for the financial year 2018/2019 amounted to Kshs. 21,613,544,290.00 as per note 10.2. He indicated that the receipts as per the summary of budget versus actual performance figure of Kshs. 5,815,007,462.00 were erroneously posted to the statement and the correct amount was Kshs. 21,613,544,290.00.

##### **Observations and Findings of the Committee**

The Committee observed that:

- i. The total revenue of Kshs.21,613,544,290 for the financial year 2018/2019 was not supported by an analysis of receipts from KRA;

- ii. The actual figure for performance of Kshs. 5,815,007,462.00 as per the summary of budget was erroneously posted to the statement of receipts and payments. However, the erroneous figure was replaced with the correct figure of Kshs.21,613,544,290; and
- iii. The matter resolved unresolved.

### Recommendations of the Committee

116. **The Committee recommends that:**

- i. **Within three months of adoption of this report, the Accounting Officer to submit the analysis of KRA receipts making up the figure of Kshs.21,613,544,290 for the total revenue of the Fund.**
- ii. **The Accounting Officer should ensure that all applicable accounting and financial control systems, standards laws and procedures are followed in the preparation of the financial statements and in accordance the standards prescribed by the public Accounting standards Board and in compliance with regulation 101(4) of the Public Finance Management (National Government) Regulations 2015.**

### 2. Other Matter

117. Budget Over Expenditure The summary of budget versus actual performance reflects an approved budget and actual expenditure of Kshs.24,718,591,835 and Kshs.31,999,674,958 resulting in an over expenditure of Kshs.7,281,083,123 or 29.5% of the budget. This is indicative of unauthorized spending and failure to adhere to the set budgetary controls. Management has not rendered satisfactory explanations for the spending without authorization.

### Submission of the Accounting Officer

118. The Accounting Officer submitted that total receipt from Kenya Revenue Authority was Kshs. 21,613,544,290 and the opening balance was 15,798,536,827 as shown below:

	<b>Kshs.</b>
Opening Balance	15,798,536,827.00
Total Receipt 2018/2019	21,613,544,290.00
<b>Total</b>	<b>37,412,081,117.00</b>
Total Transfer	31,999,674,958.00
<b>Balance carried forward</b>	<b>5,412,406,159.00</b>

119. He stated that the Balance brought of kshs.15,798,536,827.00 was not captured in the Revised Budget, the error resulted to the over expenditure reported.

### Observations and Findings of the Committee

120. The Committee observed that:



- i. The over expenditure had arisen due to an omission of opening cash balance in the statement of comparison of budget and actual amounts.
- ii. The matter is resolved.

#### **Recommendations of the Committee**

121. **The Committee recommends that the Accounting Officer to ensure that all applicable accounting and financial control systems, standards laws and procedures are followed in the preparation of the financial statements and in accordance the standards prescribed by the public Accounting standards Board and in compliance with regulation 101(4) of the Public Finance Management (National government) Regulations 2015.**

#### **4.2 Examination of the report of the Auditor-General for the Financial Year 2019/2020**

##### **Basis for Qualified Opinion**

##### **Discrepancy in Receipts Balance**

122. The statement of receipts and payments reflects an amount of Kshs.23,528,463,126 being receipts from the Kenya Revenue Authority. However, records maintained by the Kenya Revenue Authority indicates that a total of Kshs.23,421,650,520 was transferred to the Fund during the year under review. The resultant difference of Kshs.106,812,606 between the two sets of records has not been reconciled or explained. Under the circumstances, the accuracy of the reported receipts balance of Kshs.23,528,463,126 could not be confirmed.

##### **Submissions by the Accounting Officer**

123. The Accounting Officer submitted that the statement of receipts and payments reflected an amount of Kshs. 23,528,463,126 being receipts from the Kenya Revenue Authority (KRA). He explained that the amount indicated the total collection as of 3<sup>rd</sup> July 2020 whereas KRA reflected their transfer to the Fund as of 30<sup>th</sup> June 2020. He submitted that the difference of Kshs. 106,812,606 was the collection/transfer to the Fund for the period 1<sup>st</sup> July to 3<sup>rd</sup> July 2020.

##### **Observations and Findings of the Committee**

124. The Committee observed that:

- i. The Bank statements for the period between 1st and 3rd July 2020 were verified and the difference confirmed to have been due to a timing difference.
- ii. The matter is resolved.

**4.3 Examination of the report of the Auditor-General for the Financial Year 2020/2021**


**Unmodified Opinion**

125. There were no material issues noted during the audit of the financial statements of the Fund.

**4.4 Examination of the report of the Auditor-General for the Financial Year 2021/2022**

**Unmodified Opinion**

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

SIGNED  DATE.....  
HON. DAWOOD ABDUL RAHIM, HSC, MP  
(VICE CHAIRPERSON)

**SPECIAL FUNDS ACCOUNTS COMMITTEE**



**THIRTEENTH PARLIAMENT – SECOND SESSION**  
**THE NATIONAL ASSEMBLY**  
**SPECIAL FUNDS ACCOUNTS COMMITTEE.**  
**FIFTH REPORT ON AUDITED FINANCIAL STATEMENTS FOR**  
**THE:**

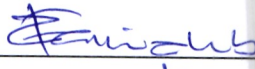



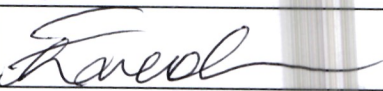
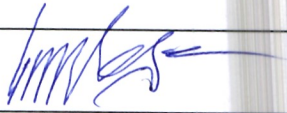
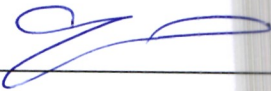

- |                                         |          |                                |
|-----------------------------------------|----------|--------------------------------|
| <b>1. Land Settlement Fund</b>          | <b>-</b> | <b>2020/2021 and 2021/2022</b> |
| <b>2. Railway Development Levy Fund</b> | <b>-</b> | <b>2018/2019 to 2021/2022</b>  |

SIGNED..........DATE.....

**HON. FATUMA ZAINAB MOHAMMED, MP**

**(CHAIRPERSON)**

**SPECIAL FUNDS ACCOUNTS COMMITTEE**

NO.	NAME	SIGNATURE
1.	Hon. Fatuma Zainab Mohammed, MP - <b>Chairperson</b>	
2.	Hon. Dawood Abdul Rahim, HSC, MP – <b>Vice-Chairperson</b>	
3.	Hon. Charles Ngusya Nguna, MP	
4.	Hon. Dr. Christine Ombaka Oduor, MP	
5.	Hon. Erastus Kivasu Nzioka, MP	
6.	Hon. Eve Akinyi Obara, MP	
7.	Hon. Faith Wairimu Gitau, MP	
8.	Hon. Joseph Majimbo Kalasinga, MP	
9.	Hon. Tom Mboya Odege, MP	
10.	Hon. Catherine Nakhabi Omanyu, MP	
11.	Hon. Cecilia Asinyen Ngitit, MP	
12.	Hon. Erick Kahugu Mwangi MP	
13.	Hon. Joseph Kimutai Cherorot, MP	
14.	Hon. Joshua Odongo Oron, MP	
15.	Hon. Paul Biego Kibichy, MP	

SIGNED..........DATE.....

**HON. FATUMA ZAINAB MOHAMMED, MP**

**(CHAIRPERSON)**

**SPECIAL FUNDS ACCOUNTS COMMITTEE**



**THIRTEENTH PARLIAMENT – SECOND SESSION**

**THE NATIONAL ASSEMBLY**


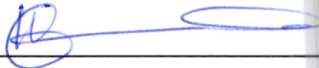


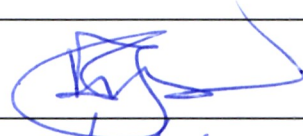

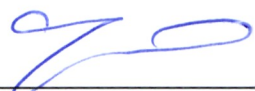

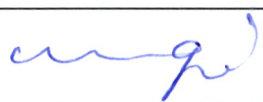
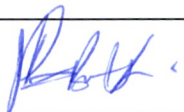
**SPECIAL FUNDS ACCOUNTS COMMITTEE.**

**ADOPTION LIST FOR THE**

**AUDITED FINANCIAL STATEMENTS FOR**

**THE:**

**LAND SETTLEMENT FUND - 2020/2021 AND 2021/2022**

NO.	NAME	SIGNATURE
1.	Hon. Fatuma Zainab Mohammed, MP - <b>Chairperson</b>	
2.	Hon. Dawood Abdul Rahim, HSC, MP - <b>Vice-Chairperson</b>	
3.	Hon. Charles Ngusya Nguna, MP	
4.	Hon. Dr. Christine Ombaka Oduor, MP	
5.	Hon. Erastus Kivasu Nzioka, MP	
6.	Hon. Eve Akinyi Obara, MP	
7.	Hon. Faith Wairimu Gitau, MP	
8.	Hon. Joseph Majimbo Kalasinga, MP	
9.	Hon. Tom Mboya Odege, MP	
10.	Hon. Catherine Nakhabi Omanyu, MP	
11.	Hon. Cecilia Asinyen Ngitit, MP	
12.	Hon. Erick Kahugu Mwangi MP	
13.	Hon. Joseph Kimutai Chererot, MP	
14.	Hon. Joshua Odongo Oron, MP	
15.	Hon. Paul Biego Kibichy, MP	



**MINUTES OF THE 44<sup>TH</sup> SITTING OF THE SPECIAL FUND ACCOUNTS COMMITTEE HELD ON TUESDAY 15<sup>TH</sup> AUGUST 2023, IN MAIN PARLIAMENT BUILDINGS AT 10.30 AM.**

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**PRESENT**

1. Hon. Fatuma Zainab Mohammed, MP - **Chairperson**
2. Hon. Dawood Abdul Rahim, HSC, MP - **Vice Chairperson**
3. Hon. Charles Ngusya Nguna, MP
4. Hon. Erastus Kivasu Nzioka, MP
5. Hon. Tom Mboya Odege, MP
6. Hon. Catherine Nakhabi Omanyoo, MP
7. Hon. Joseph Kimutai Chererot, MP
8. Hon. Dr. Christine Ombaka Oduor, MP

**APOLOGIES**

1. Hon. Faith Wairimu Gitau, MP
2. Hon. Joseph Majimbo Kalasinga,
3. Hon. Joshua Odongo Oron, MP
4. Hon. Erick Kahugu Mwangi, MP
5. Hon. Cecilia Asinyen Ngigit, MP
6. Hon. Paul Kibichi Biego, MP
7. Hon. Eve Akinyi Obara, MP

**NATIONAL ASSEMBLY SECRETARIAT**

- |                              |   |                        |
|------------------------------|---|------------------------|
| 1. Mr. Leonard Machira       | - | Senior Clerk Assistant |
| 2. Ms. Comfort Susan Achieng | - | Clerk Assistant III    |
| 3. Mr. Silvanus Makau        | - | Clerk Assistant III    |
| 4. Mr. Robert Ngetich        | - | Fiscal analyst II      |
| 5. Mr. Peter Mutethia        | - | Audio officer          |
| 6. Mr. Wilson Angatangoria   | - | Sergeant -at-arms      |

**IN ATTENDANCE**

**LAND SETTLEMENT FUND**

- |                         |   |                                                   |
|-------------------------|---|---------------------------------------------------|
| 1. Mr. Nixon Korir      | - | Principal Secretary for Lands                     |
| 2. Mr. Kennedy Njenga   | - | Director Lands Adjudication and Physical planning |
| 3. Mr. David Kimotho    | - | Principal Accountant                              |
| 4. Ms. Milkah Chepkirui | - | Accountant I                                      |
| 5. Ms. Catherine Muindi | - | Public Communications officer                     |

**OFFICE OF THE AUDITOR-GENERAL**

- |                       |   |                                        |
|-----------------------|---|----------------------------------------|
| 1. David Osiemo       | - | Auditor/ Parliamentary Liaison Officer |
| 2. Mr. Stephen Karanu | - | Director of Audit                      |
| 3. Mr. Walter Owele   | - | Principal Auditor                      |

**NATIONAL TREASURY**

- |                   |   |                                                          |
|-------------------|---|----------------------------------------------------------|
| Mr. Simon Kiriiba | - | Deputy Accountant General /Parliamentary Liaison Officer |
|-------------------|---|----------------------------------------------------------|

MIN. NA/AA&SC-SFAC/2023/137:

**PRELIMINARIES**

The Chairperson called the meeting to order at 9.48am, followed by a word of prayer and introductions.

The following agenda was adopted as circulated:

- a) Preliminaries
- b) Prayer
- c) Introductions
- d) **Examination of Reports of the Auditor General on Accounts of the Land Settlement Fund for the Financial Years 2020/2021 and 2021/2022.**
- e) Any Other Business
- f) Adjournment Date of the next meeting.

After that, the Principal Secretary, State Department of Lands and Physical Planning, Hon Nixon Korir, took the witness oath and tabled the Management responses and supporting documents on the audited accounts of the Fund for Financial Years 2020/2021 and 2021/2022.

**MIN. NA/AA&SC-SFAC/2023/138: CONSIDERATION OF THE AUDIT REPORTS OF THE LAND SETTLEMENT FUND FOR THE FINANCIAL YEARS 2020/2021 AND 2021/2022.**

**Examination of the Auditor General reports for the Financial Year 2020/2021**

**1. Long outstanding trade receivables**

The statement of financial position reflects long outstanding land and development loans amounting to Kshs. 6,896,185,412 and Kshs. 69,819,548 respectively. Some of the loans have remained outstanding since 1962.

**Management response**

The Accounting officer submitted that:

- i. it was true that as disclosed in Note 9 to the financial statements, the statement of financial position reflected trade receivables balance of Kshs. 12,188,377,058;
- ii. The amount included land loans and development loans issued amounting to Kshs. 6,896,185,412 and Kshs. 69,819,548 respectively, with some issued to settlers as far back as the year 1962 and have remained outstanding to date;
- iii. The recoverability of amounts outstanding was assured through a loan repayment and discharge process, which ensured that before a parcel was discharged for registration, all outstanding amounts were paid; and
- iv. The fund could recover all amounts due from settlers who wish to process land titles for their parcels and hence considers all dues as recoverable, save for unforeseen executive pronouncements on waivers and issuance of free/charged titles.



### **Committee observation**

The Committee observed that the matter was not addressed as the amounts were still outstanding.

The Committee requested the Accounting Officer provide the loan beneficiaries list, principal amount, interest earned, and searches from the respective land registrars within two weeks.

#### **2. Long outstanding interest receivable**

Recoverability of long outstanding interest which some have accumulated since 1962 of Kshs.5,222,372,098, could not be confirmed.

### **Management response**

The Accounting officer confirmed that the statement of financial position reflected the trade receivables balance of Kshs. 12,188,377,058 and an amount of Kshs. 5,222,372,098 relating to interest receivable, which had accumulated on loans issued to settlers which have been long outstanding.

He stated that the Fund continued to compound cumulative interest as long as the loans remained outstanding, and the Fund ensured that before a parcel was discharged for registration, all outstanding amounts were paid.

He further stated that the Fund would recover all outstanding amounts due from the settlers who process land titles for their parcels and, hence, considered all dues as recoverable, save for instances of unforeseen executive pronouncements on waivers and issuance of free/charged titles.

### **Committee observation**

The Committee observed that the matter had not been addressed.

#### **3. Budgetary control and Performance**

Statement of comparative budget and actual amounts reflects final budgeted expenditure and actual expenditure of Kshs.1,078,018,391 and Kshs.905,071,988 respectively resulting to under expenditure of Kshs.172,946,403.

### **Management response**

The Accounting officer agreed that the statement of comparative budget and actual amounts for the year ended 30 June 2021 reflected the final budgeted expenditure and actual expenditure of Kshs. 1,078,018,391 and Kshs. 905,071,988 respectively, resulting to under-expenditure of Kshs. 172,946,403, or about 16 % of the budgeted amount.

He stated that the under-expenditure was occasioned by delayed completion of land acquisition due to ongoing processes that had not been finalized as at the time of the presentation of the financial statements for audit review. He added that the variance would be utilized as soon as the process of acquisition was complete.

### **Committee observation**

The Committee observed that the matter was addressed in the subsequent year.

**4. Undistributed land –Kisima Njoro for resettlement of internally displaced persons (IDPS) in Nakuru County.**

Kisima Njoro land at Nakuru County was purchased at Kshs.396,984,000 for the resettlement of Internally Displaced Persons (IDPs) as per an agreement dated 3 October 2012.

However, as at the month of October,2022, the land had not been surveyed or subdivided, and therefore, the beneficiaries had not been settled 10 years back.

**Response from the Fund Manager**

The Accounting Officer submitted that Kisima Njoro Land was purchased at Kshs 396,984,000 as per the agreement for sale dated 3<sup>rd</sup> October 2012 for the resettlement of internally displaced persons (IDPs).

He stated that during physical verification of the farm in the month of September 2021, it was observed that the beneficiaries had not been re-settled since the land had not been surveyed nor subdivided.

He further stated that the farm was initially planned and surveyed to re-settle 433 Internally Displaced Persons (IDPs). However, a group of forty-five (45) former farm employees felt that they had a stake in the farm since they were already squatters on the farm.

He stated that they filed a suit at the High Court of Kenya in the Nakuru Environment and Land Court (ELC) as Case No. 173 of 2012, thereby occasioning a delay. The plan was finalized on 23<sup>rd</sup> January 2020, and the process of survey and demarcation commenced.

He explained as the re-survey was ongoing, E.L.C suit no. 19 of 2020 (Maryanne Chepkorir and Nathan William Hinga vs Nyoike Njenga Hinga, Charles Kibandi Kaguoya and others) restraining the defendants from interfering with the land parcel was filed and the court ordered that the survey works be suspended until the case was heard and determined. ELC gave an order to DCC Njoro Sub-County to chair with the petitioners in view of finding a solution through alternative dispute resolution and filing a consent or report with the court.

**Committee observation**

The Committee observed that the matter had not been addressed.

The Committee requested the Accounting Officer to provide the list of the loan beneficiaries, allottees and the acreage within two weeks.

**5. Undistributed land –Mikanjuni farm in Kilifi County**

The Fund had been reporting losses over several years, which had eroded capital invested in the revolving fund casting doubt on the continued ability of the Fund to discharge its man - The fund purchased Mikanjuni Farm in Kilifi County at a cost of Kshs.377,000,000 as per agreement dated 22 April,2020 for settlement of informal settlers.

Though the list of beneficiaries was provided, the land was still listed as undistributed as at 22 October, 2022. date.



### **Management response**

The Accounting officer submitted that during the year under review, the Fund purchased Mikanjini Farm at cost of Kshs 377,000,000 as per the agreement for sale dated 22<sup>nd</sup> April, 2020 for resettlement of squatters and that a field visit to the farm in the month of October, 2021, the list of beneficiaries was availed by the Land adjudication and Settlement officer, Kilifi where the farm was still listed as undistributed in the financial statements.

He explained that the reason for holding the land as inventory was because the planning of the land to cater for amenities such as access roads and public utility parcels was still ongoing, and the final allocation in terms of acreage per informal settler was yet to be determined.

He noted that once the exercise was finalized, the land would be distributed to the allottees, enabling the Fund to determine and apply the amounts receivable from each beneficiary.

### **Committee observation**

The Committee observed that the matter had not been addressed.

The Committee requested the Accounting Officer to provide the list of the loan beneficiaries, allottees and the acreage of the land within two weeks.

## **6. Undistributed land-Kadza Ndani land in Mombasa County**

The Fund purchased three (3) parcels of land at Kadza Ndani in Mombasa County at a cost of Kshs.378,000,000 as per the sale agreement dated 11 September 2020 for settlement of informal settlers. However, the land is still listed as undistributed as at October,2022

### **Management response**

The Accounting Officer submitted that during the year under review, the Fund -purchased Kadza Ndani LR NO 241/1MN (CR.849), 243/1/MN (CR.847) and 244/1/MN (CR.848) in Mombasa County at cost of Kshs. 378,000,000 as per agreement for sale dated 11<sup>th</sup> September 2020 for the resettlement of informal settlers.

He noted that during a field visit to the farm in the month of October 2021, the list of beneficiaries was availed by the Land adjudication and Settlement officer, Mombasa, but the financial statements reflected the land as undistributed.

He further stated that the planning of the land to cater for amenities and public utility plots was still ongoing. He indicated that the final allocation per informal settler was yet to be determined.

### **Committee observation**

The Committee observed that the matter had not been addressed.

The Committee requested the Accounting Officer to provide the list of the loan beneficiaries, allottees and the acreage within two weeks.

## **6. Inactive Audit Committee**

The Ministry audit committee never met to discuss internal audit reports for the Fund during the financial year 2020/2021.

### **Management response**

The Accounting Officer submitted that the Fund was established under the Land Act, 2012 and hence falls under the ambit of the Ministerial Audit Committee. He stated that members of the Audit Committee were appointed, as noted in the minutes of the Ministerial Human Resource Management Advisory Committee meeting held on 24<sup>th</sup> October 2019. He also indicated that the chairperson of the Audit Committee was appointed vide letter Ref: MOLPP 11/79/8(84) dated 17<sup>th</sup> December 2019.

### **Committee observation**

The Committee observed that the matter was addressed.

#### **7. Lack of a Risk Management Policy**

The Fund did not have in place an institutionalized risk management policy.

### **Management response**

The Accounting officer informed the Committee that the Fund was established under the Land Act, 2012 and it operated under the parent state Department of Lands and Physical Planning and was therefore covered under the Department Institutional Risk Management Policy in line with Treasury Circular no.3/2009 of 23<sup>rd</sup> February 2009.

### **Committee observation**

The Committee observed that the matter was addressed.

## **Examination of the Auditor Generals Reports for the Financial year 2021/2022**

### **1. Long outstanding receivables from Exchange transactions**

-Recoverability of long outstanding Land and Development loans balance of Kshs 6,811,916,396 and Kshs. 68,966,377 respectively.

-Some of the loans were issued to settlers since the year 1962 could not be confirmed.

### **Management response**

The Accounting Officer submitted that the amounts remained outstanding for long due to the slow pace of loan repayment. This was caused by the manual billing and dispatch processes that were previously in place.

However, the Fund had since digitized all settler data and was processing and dispatching semi-annual full balance statements to the debtors as a reminder of their obligations. The loan repayments were now made via the Mpesa platform.

Further, he indicated that the recoverability of amounts outstanding was assured through the Fund's loan clearance and discharge process, which ensured that before a parcel was discharged for registration, all outstanding amounts were paid.

### **Committee observation**

The Committee observed that the matter was not addressed.



## **2. Variance in long-term outstanding interest receivables**

The recoverability of long outstanding long-term interest receivables balance of Kshs.5,158,556,505, which has accumulated since 1962 which further does not tally with the supporting schedule balance of Kshs.5,163,007,149 could not be ascertained.

### **Management response**

-The Accounting officer submitted that the Fund assured recoverability of the outstanding long-term interest receivable through a loan repayment and discharge process. The process ensured that all outstanding interest was paid before a parcel was discharged for registration.

He stated that the Fund was able to recover all amounts due from settlers who wish to process land titles for their parcels and hence considers all dues as recoverable, save for unforeseen executive pronouncements on waivers and issuance of free/charged titles.

He further stated that the unreconciled variance was due to an imprest, which was erroneously included in the long outstanding interest Receivables but was recovered.

### **Committee observation**

The Committee observed that the matter was addressed.

## **3. Undistributed land –Kisima Njoro for resettlement of internally displaced persons (IDPS) in Nakuru County.**

Kisima Njoro land at Nakuru County was purchased at Kshs.396,984,000 for resettlement of Internally Displaced Persons (IDPs) as per an agreement dated 3 October 2012.

However, as at the month of October,2022, the land had not been surveyed or subdivided and therefore, the beneficiaries had not been settled 10 years back.

### **Management response**

The Accounting officer submitted that Kisima Njoro Land was purchased at Kshs 396,984,000 as per the agreement for sale dated 3<sup>rd</sup> October 2012 for the resettlement of internally displaced persons (IDPs). He stated that during physical verification of the farm in the month of September 2021, it was observed that the beneficiaries had not been re-settled since the land had not been surveyed nor subdivided.

The farm had initially been planned and surveyed for the re-settlement of 433 Internally Displaced Persons (IDPs). However, a group of forty-five (45) former farm employees felt that they had a stake in the farm since they were already squatters on the farm.

He stated that the former employees filed a suit at the High Court of Kenya in the Nakuru Environment and Land Court (ELC) as Case No. 173 of 2012 thereby occasioning a delay. The plan was finalized on 23<sup>rd</sup> January 2020, and the process of survey and demarcation commenced.

He explained that E.L.C suit no. 19 of 2020 (Maryanne Chepkorir and Nathan William Hinga vs Nyoike Njenga Hinga, Charles Kibandi Kaguoya and others) restraining the defendants from interfering with the land parcel was filed and the court ordered that the survey works be suspended until the case was heard and determined. ELC ordered DCC Njoro Sub-County to

lead an out-of-court settlement through alternative dispute resolution and file a consent or report with the court.

#### **Committee observation**

The Committee observed that the matter was addressed in the subsequent year.

The Committee requested the Accounting Officer to provide the list of the loan beneficiaries, allottees and the acreage within two weeks.

#### **4. Undistributed land –Mikanjuni farm in Kilifi County**

The fund had been reporting losses over several years, which had eroded capital invested in the revolving Fund, casting doubt on the continued ability of the fund to discharge its man - The Fund purchased Mikanjuni Farm in Kilifi County at the cost of Kshs.377,000,000 as per agreement dated 22 April,2020 for settlement of informal settlers.

Though the list of beneficiaries was provided, the land was still listed as undistributed as at 22 October,2022.

#### **Management response**

The Accounting officer submitted that during the year under review, the Fund purchased Mikanjuni Farm at the cost of Kshs 377,000,000 as per the agreement for sale dated 22<sup>nd</sup> April 2020 for resettlement of squatters and that a field visit to the farm in the month of October, 2021, the list of beneficiaries was availed by the Land adjudication and Settlement officer, Kilifi where the farm was still listed as undistributed in the financial statements.

He explained that the reason for holding the land as inventory was because planning the land to cater for amenities such as access roads and public utility parcels was still ongoing, and the final allocation in terms of acreage per informal settler was yet to be determined.

He noted that once the exercise was finalized, it would be possible to distribute the land to the allottees and hence be able to determine and apply the amounts receivable from each beneficiary.

#### **Committee observation**

The Committee observed that the matter was not addressed.

The Committee requested the Accounting Officer to provide the list of the loan beneficiaries, allottees and the acreage of the land within two weeks.

#### **5. Undistributed land-Kadza Ndani land in Mombasa County**

The Fund purchased three (3) parcels of land at Kadza Ndani in Mombasa County at a cost of Kshs.378,000,000 as per the sale agreement dated 11 September, 2020 for settlement of informal settlers. However, the land is still listed as undistributed as at October,2022



**Management response**

The Accounting Officer submitted that during the year under review, the Fund -purchased Kadza Ndani LR NO 241/1MN (CR.849), 243/1/MN (CR.847) and 244/1/MN (CR.848) in Mombasa County at cost of Kshs. 378,000,000 as per the agreement for sale dated 11<sup>th</sup> September 2020 for resettlement of informal settlers.

During a field visit to the farm in the month of October 2021, the list of beneficiaries was availed by the Land adjudication and Settlement officer, Mombasa, but the financial statements reflected the land as undistributed.

He also stated that the land was held as inventory because planning of the land to cater for amenities and public utility plots was still ongoing. He indicated that the final allocation in terms of acreage per informal settler was yet to be determined and that once the exercise was finalized, it would be possible to distribute the land to the allottees and hence be able to determine and apply the amounts receivable from each beneficiary.

**Committee observation**

The Committee observed that the matter was not addressed.

The Committee requested the Accounting Officer to provide the list of the loan beneficiaries, allottees and the acreage within two weeks.

**6. Lack of Risk Management Policy**

The Fund did not have in place Risk Management Policy.

**Management response**

The Accounting Officer submitted that the Fund was established under the Land Act, 2012. hence, operates under the State Department of Lands and Physical Planning and is therefore covered under the Department's Institutional Risk Management Policy in line with Treasury Circular no.3/2009 of 23<sup>rd</sup> February, 2009.

**Committee observation**

The Committee observed that the matter was addressed.

**7. Weak control environment in field offices**

Weak control environment in field offices since the stations are understaffed, received cash from the Fund for office administration but did not maintain a cash book nor prepare monthly bank reconciliations and no filling cabinets.

**Management response**

The Accounting officer submitted that all field offices were understaffed and lacked accounting staff. However, the Fund was served by the County Treasury field offices; hence, the field office operations are accounted for centrally at the Fund headquarters. He noted that upgrading the work environment would be addressed once adequate funding was available.

Regarding the cash book and bank reconciliations, he stated that all the County Lands Adjudication and Settlement Officers in charge were instructed by the office of the Director

of Land Adjudication and Settlement to adhere to Regulation 90(1) of the Public Finance Management Act for control, accountability of finances and smooth, efficient running of office operations.

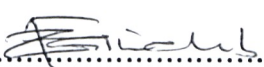
**Committee observation**

The Committee observed that the matter was not addressed.

**MIN. NA/AA&SC-SFAC/2023/139:**

**ADJOURNMENT**

There being no other business, the Meeting was adjourned at 11.15 am. The next meeting is to be held on 17<sup>th</sup> August, 2023 at 9.30 am.

SIGNED..........DATE.....28/8/2023

**HON. FATUMA ZAINAB MOHAMMED, MP**

**(CHAIRPERSON)**

**SPECIAL FUNDS ACCOUNTS COMMITTEE**



**MINUTES OF THE 51<sup>ST</sup> SITTING OF THE SPECIAL FUND ACCOUNTS COMMITTEE HELD ON THURSDAY 7<sup>TH</sup> SEPTEMBER 2023 IN ENGLISHPOINT MARINA HOTEL MOMBASA, AT 9.30 AM.**

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**PRESENT**

1. Hon. Fatuma Zainab Mohammed, MP - Chairperson
2. Hon. Dawood Abdul Rahim, HSC, MP - Vice Chairperson
3. Hon. Catherine Nakhabi Omanyoo, MP
4. Hon. Paul Kibichi Biego, MP
5. Hon. Cecilia Asinyen Ngitit, MP
6. Hon. Tom Mboya Odege, MP
7. Hon. Charles Ngusya Nguna, MP
8. Hon. Dr. Christine Ombaka Oduor, MP
9. Hon. Joseph Majimbo Kalasinga
10. Hon. Kahugu Erick Mwangi, MP

**APOLOGIES**

1. Hon. Faith Wairimu Gitau, MP
2. Hon. Joshua Odongo Oron, MP
3. Hon. Erastus Kivasu Nzioka, MP
4. Hon. Eve Akinyi Obara, MP
5. Hon. Joseph Kimutai Cherorot, MP

**IN ATTENDANCE**

**OFFICE OF THE AUDITOR GENERAL**

Mr. David Osiemo - Auditor/Parliamentary Liaison Officer

**NATIONAL TREASURY**

Mr. Simon K. Kiriiba - Parliamentary Liaison Officer

**NATIONAL ASSEMBLY SECRETARIAT**

1. Mr. Leonard Machira - Senior Clerk Assistant
2. Mr. Silvanus Makau - Clerk Assistant III
3. Mr. Robert Ngetich - Fiscal Analyst II
4. Ms. Judith Kanyoko - Legal Counsel II
5. Ms. Bevaline Mosoti - Research Officer III
6. Mr. Peter Mutethia - Audio Officer III
7. Mr. Benard Omondi - Serjeant At Arms

**MIN. NA/AA&SC-SFAC/2023/158:**

**PRELIMINARIES**

The Chairperson called the meeting to order at 9: 37 am, followed by a word of prayer and introductions.

**MIN. NA/AA&SC-SFAC/2023/159: CONSIDERATION AND ADOPTION  
OF A REPORT ON THE COMMITTEE'S EXAMINATION OF THE REPORTS OF THE  
AUDITOR GENERAL ON THE LAND SETTLEMENT FUND FOR THE FINANCIAL  
YEAR 2020/2021 AND 2021/2022**

**2020/2021 Financial Year**

**1. Long Outstanding Trade Receivables**

The Committee deferred the matter until it received information on the total Principal amount and accrued interest owed for the land and development loans to inform the recommendations for the writing off of the debts.

**2. Long Outstanding Interest Receivable**

**Committee Findings and Observations**

The Committee agreed to the draft observations.

**Recommendations of the Committee**

The Committee agreed to the draft recommendations.

**3. Budgetary Control and Performance**

**Committee Findings and Observations**

The Committee agreed to the draft observations.

**Recommendations of the Committee**

The Committee agreed to the draft recommendations.

**4. Undistributed Land - Kisima Njoro for Resettlement of Internally Displaced  
Persons (IDPS) in Nakuru County**

**Committee Findings and Observations**

The Committee agreed to the draft observations.

**Recommendations of the Committee**

The Committee agreed to the draft recommendations.

**5. Undistributed Land - Mikanjuni Farm in Kilifi County**



### **Committee Findings and Observations**

The Committee agreed to the draft observations.

### **Recommendations of the Committee**

The Committee agreed to the draft recommendations.

#### **6. Undistributed Land - Kadza Ndani Land in Mombasa County**

### **Committee Findings and Observations**

The Committee agreed to the draft observations.

### **Recommendations of the Committee**

The Committee agreed to the draft recommendations.

#### **7. Inactive Audit Committee**

### **Committee Findings and Observations**

The Committee agreed to the draft observations.

### **Recommendations of the Committee**

The Committee agreed to the draft recommendations.

#### **8. Lack of a Risk Management Policy**

### **Committee Findings and Observations**

The Committee agreed to the draft observations.

### **Recommendations of the Committee**

The Committee agreed to the draft recommendations.

## **FINANCIAL YEAR 2021/2022**

#### **1. Long Outstanding Receivables from Exchange Transactions**

### **Committee Findings and Observations**

The Committee agreed to the draft observations.

### **Recommendations of the Committee**

The Committee agreed to the draft recommendations.

## **2. Variance in Long Term Outstanding Interest Receivables**

### **Committee Findings and Observations**

The Committee agreed to the draft observations.

### **Recommendations of the Committee**

The Committee agreed to the draft recommendations.

## **3. Undistributed Land**

### **3.1 Kisima Njoro for Resettlement of Internally Displaced Persons (IDPs) in Nakuru County**

#### **Committee Findings and Observations**

The Committee agreed to the draft observations.

#### **Recommendations of the Committee**

The Committee agreed to the draft recommendations.

### **3.2 Mikanjuni Farm in Kilifi County**

The Committee agreed to the draft observations.

#### **Recommendations of the Committee**

The Committee agreed to the draft recommendations.

### **3.3 Kadza Ndani Land in Mombasa County**

#### **Committee Findings and Observations**

The Committee agreed to the draft observations.

#### **Recommendations of the Committee**

The Committee agreed to the draft recommendations.



#### **4. Lack of Risk Management Policy**

##### **Committee Findings and Observations**

The Committee agreed to the draft observations.

##### **Recommendations of the Committee**

The Committee agreed to the draft recommendations.

**MIN. NA/AA&SC-SFAC/2023/160: CONSIDERATION AND ADOPTION OF A REPORT ON THE COMMITTEE'S EXAMINATION OF THE REPORT OF THE AUDITOR GENERAL ON THE RAILWAYS DEVELOPMENT LEVY FUND FOR THE FINANCIAL YEAR 2017/2018 TO 2021/2022**

##### **Financial Year 2017/2018**

The Committee observed that there were no material issues noted by the Auditor - General during the audit of the financial statements of this Fund.

##### **Financial Year 2018/2019**

###### **1. Discrepancies in Reported Receipts**

The Committee observed that the total revenue of Kshs.21,613,544,290 for the financial year 2018/2019 was not supported by an analysis of receipts from KRA and requested that the office of the Auditor General makes a follow-up on the same to get the information to inform the Committee recommendations.

###### **2. Other Matter**

##### **Committee Findings and Observations**

The Committee agreed to the draft observations.

##### **Recommendations of the Committee**

The Committee agreed to the draft recommendations.

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

##### **Basis for Qualified Opinion**

##### **Committee Findings and Observations**

The Committee agreed to the draft observations.

##### **Recommendations of the Committee**

The Committee agreed to the draft recommendations.

**Financial Year 2020/2021**

The Committee observed that there were no material issues noted by the Auditor General during the audit of the financial statements of the Fund.

**Financial Year 2021/2022**

The Committee observed that there were no material issues noted by the Auditor General during the audit of the financial statements of the Fund.

**Adoption of the report**

The Committee deferred the adoption of the report until the information regarding the discrepancies in reported receipts was received.

**MIN. NA/AA&SC-SFAC/2023/161:**

**ADJOURNMENT/DATE OF NEXT MEETING**

There being no other business, the meeting was adjourned at 12.50 p.m. The next meeting will be held at 2:30 pm the same day.

SIGNED.....*Fatima*.....DATE.....*12/Oct/2023*.....  
.....

**HON. FATUMA ZAINAB MOHAMMED, MP**

**(CHAIRPERSON)**

**SPECIAL FUNDS ACCOUNTS COMMITTEE**



**MINUTES OF THE 60<sup>TH</sup> SITTING OF THE SPECIAL FUND ACCOUNTS COMMITTEE HELD ON WEDNESDAY, 25<sup>TH</sup> OCTOBER 2023, IN CONTINENTAL HOUSE 4<sup>TH</sup> FLOOR, PARLIAMENT BUILDINGS AT 10.30 A.M.**

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**PRESENT**

1. Hon. Fatuma Zainab Mohammed, MP - Chairperson
2. Hon. Dawood Abdul Rahim, HSC, MP - Vice Chairperson
3. Hon. Eve Akinyi Obara, MP
4. Hon. Charles Ngusya Nguna, MP
5. Hon. Catherine Nakhabi Omanyoo, MP
6. Hon. Erastus Kivasu Nzioka, MP
7. Hon. Tom Mboya Odege, MP

**APOLOGIES**

1. Hon. Joshua Odongo Oron, MP
2. Hon. Cecilia Asinyen Ngigit, MP
3. Hon. Kahugu Erick Mwangi, MP
4. Hon. Joseph Kimutai Cherorot, MP
5. Hon. Dr. Christine Ombaka Oduor, MP
6. Hon. Paul Kibichi Biego, MP
7. Hon. Faith Wairimu Gitau, MP
8. Hon. Joseph Majimbo Kalasinga, MP

**IN ATTENDANCE**

**OFFICE OF THE AUDITOR GENERAL**

1. Mr. David Osiemo - Auditor/Parliamentary Liaison Officer

**NATIONAL ASSEMBLY SECRETARIAT**

1. Mr. Leonard Machira - Principal Clerk Assistant II
2. Mr. Silvanus Makau - Clerk Assistant III
3. Mr. Robert Ngetich - Fiscal Analyst II
4. Ms. Pauline Sifuma - Hansard Reporter
5. Mr. Peter Mutethia - Audio Officer III
6. Mr. Benard Omondi - Serjeant At Arms

**MIN. NA/AA&SC-SFAC/2023/007:**

**PRELIMINARIES**

The Chairperson called the meeting to order at 10.35 a.m., followed by a word of prayer and introductions.

The following agenda was adopted as circulated:

1. Prayers
2. Preliminaries/Introductions
3. Communication from the chair
4. **Adoption of the Land Settlement Fund report for the Financial Years 2020/2021 and 2021/2022**
5. Any Other Business
6. Adjournment Date of the next meeting.

**MIN. NA/AA&SC-SFAC/2023/008:**  
**CHAIR**

**COMMUNICATION FROM THE**

The committee was apprised that the Principal Secretary of the National Treasury had formally requested the rescheduling of the planned meeting on 25<sup>th</sup> October 2023 to 15<sup>th</sup> November 2023 vide letter Ref: TNT/CONF 268/019'A' (12) dated 24<sup>th</sup> October 2023.

**MIN. NA/AA&SC-SFAC/2023/009:**

**ADOPTION OF THE LAND SETTLEMENT FUND REPORT FOR THE FINANCIAL YEARS 2020/2021 AND 2021/2022**

**Long Outstanding Trade and Interest Receivables**

**Observations and findings of the Committee**

The Committee observed that:

- (i) Land loans and Development loans of Kshs.6,896,185,412 and Kshs.69,819,548 respectively issued as far back as the year 1962 had remained outstanding to date;
- (ii) The loans were secured and recoverable because the Fund had title deeds.
- (iii) The Fund had outstanding accumulated interest on loans of Kshs.5,222,372,098 advanced to settlers since 1962;
- (iv) The Fund continued to compound cumulative interest as long as the loans remained outstanding.

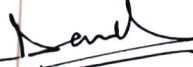
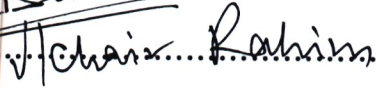
The Committee resolved to postpone the adoption of the report to allow for additional information on the details of loanees for the outstanding loans to be obtained to inform the recommendations of the Committee.



MIN. NA/AA&SC-SFAC/2023/010:  
NEXT MEETING

ADJOURNMENT / DATE OF

There being no other business, the meeting was adjourned at 12:52 p.m. The next meeting is to be held on notice.

SIGNED ~~For~~  ~~Chair~~  DATE.....



HON. FATUMA ZAINAB MOHAMMED, MP

(CHAIRPERSON)

SPECIAL FUNDS ACCOUNTS COMMITTEE

