



Audit Brief

Review of Special Audit on Utilization of Covid-19 Funds by National Government

Introduction

The Special Audit Report covered the planning, budgeting, financing and utilization of Covid-19 Funds and donations by the National Government Entities for the period 13 March, to 31 July 2020. The terms of reference for the special audit included review of the Institutional Framework for management of the COVID-19 Funds, review of the utilization of COVID-19 Funds by the National Treasury and Planning including disbursements to Ministries, Departments and Agencies, review of the utilization of COVID-19 Funds by the Ministry of Health and Referral Hospitals and review of the utilization of COVID-19 Funds by the COVID-19 Emergency Response Fund¹. The special audit was conducted to confirm the lawfulness and effectiveness of the expenditure related to Covid-19, as required under Article 229(6) of the Constitution of Kenya.

A. Key Findings

- **Ministry of Health**

1. Inadequate controls in the Management of fuel amounting to Ksh 14,000,000
2. Unexplained overpayment of import duty- Ksh 740,239
3. Issuance of LSO after provision of services² - 1,536,000
4. Unsupported expenditure for Airtime
 - a. A review of the store's ledger and Stock Control Card No. 524481 of mobile airtime revealed that 2,400 airtime scratch cards worth Kshs. 2,400,000 were issued without any counter requisition and issue a voucher.
 - b. While the Airtime worth Ksh 869,000 was duly signed for by recipients, the audit could not confirm how the balance of Ksh 2,131,000 out of Ksh 3,000,000 was issued since there was no evidence that recipients had signed acknowledging receipt of airtime.

¹Page 27 of Special Audit Report on Utilization of Covid-19 funds by National Government, 2021. The special audit was guided by the Terms of References detailed in APPENDIX I of the Report

²Payment Voucher Number 002394

5. Un-surrendered Imprests
 - b. The special audit established that there were un-surrendered Imprests of Ksh 7,981,975 as of 30 September 2020
6. Delivery of Ventilators to counties that did not have the capacity and by the time of the audit, they were still in their original packaging.

Table 1: Delivery of Ventilators

County	Irregularity	Amount	SLaw/Regulation/Policy Violated
Kitui	Kauwi Level 4 hospital	5	Received but not in use, there is no ICU. Items in store as at time of audit
Kiambu	Ruiru Sub- County hospital	5	Received but not installed since the facility was not ready for installation.
Kajiado	Ngong Level 4 hospital	5	The 5 ventilators were still in their original packaging.

Source: Special Audit Report on Utilization of Covid-19 funds by National Government, 2021(Page 23)

- **Coast General Hospital**

1. **Failure to inspect purchased goods**

The procurement file did not have evidence to show medical equipment supplied and delivered at a cost of Ksh 11,600,000 was duly inspected and the special audit team could not confirm whether the quality and quantity of supplies was delivered.

- **Kitui Referral Hospital**

- a. **Irregular transfer of funds from Kitui Hospital Account to Kitui County Covid-19 account.**

The transfer of Kshs.298,966,655 from the Kitui County Hospital Operations Account to the Kitui County COVID-19 Account was irregular and contrary to the Supplementary Appropriation Act, 2020 which indicated that the funds were ring-fenced for COVID-19 pandemic activities at the Kitui County Referral Hospital³.

- **Mandera Referral Hospital**

- a. **Procurements were done without evidence of professional opinions-228,910,610**

It was established that procurements amounting to Kshs.228,910,610 did not have professional opinions contrary to the provisions of Section 84 (1) of the Public Procurement and Asset Disposal Act, 2015. Section 84 (1) of the Public Procurement and Asset Disposal Act, 2015 requires that the

³Stock verification done as at September 18, 2020

Head of the Procurement function of a procuring entity review the Tender Evaluation Report and provide a signed professional opinion to the Accounting Officer on the Procurement or Asset Disposal proceedings.

b. Inappropriate use of procurement method- Ksh 272,531,900

The special audit established that procurements amounting to Ksh. 272,531,900 were undertaken through Requests for Quotations (RFQs) and did not meet the threshold set under the regulations⁴. These procurements process should have been done through open tender since the amounts involved were above the RFQ threshold.

c. Absence of Documents to support opening and evaluation of bids

Procurement procedures for evaluations were done before the opening of quotations and were missing documents such as tender opening and evaluation minutes, and letters of appointment for tender opening and evaluation committees. The expenditures relating to these procurement procedures amounted to Ksh 39,857,500.

- **Kenyatta National Hospital**

- 1. Absence of work plans on utilization of COVID-19 Funds**

- The Kenyatta National Hospital (KNH) plan of requirements for the operationalization of a 20-bed capacity at the Kenyatta National Hospital Infectious Unit at Mbagathi Hospital dated 26 February 2020 costing Ksh. 150.49 million did not provide timelines on the implementation of the various renovation activities.
- Kshs.350,000,000 for COVID-19 Emergency Response
- Kshs.250,000,000 for COVID-19 Emergency Response
- KShs.140,000,000 for ‘Conversion Day Care Center to Ward for COVID-19 Health Care Workers

- 2. Over expenditure on recruitment of additional health workers- Kshs.19,018,361.90**

Kenyatta National Hospital (KNH) had spent Kshs.263,674,211.90 which resulted in an over-expenditure of Kshs.19,018,361.90 above the approved budget.

- 3. Delay in delivery of equipment thereby negating the justification for Direct Procurement- Ksh 4,330,000**

It was however noted that there were firms that delivered the equipment later than 4 March 2020 contrary to the conditions of the tender which was done after the entity chooses the direct procurement method.

⁴This was contrary to Section 59(1) of the repealed Public Procurement and Disposal Regulations, 2006

- **Kenyatta University Teaching Research and Referral Hospital (KUTRRH)**

I. Payment for expenditures incurred before COVID-19 was declared in Kenya-12,388,797

- A review of the related payment vouchers revealed that the institution had reallocated Kshs.12,388,797 to previous commitments made before the COVID-19 pandemic was declared in Kenya. The authority to reallocate from the COVID-19 funds for these payments was not availed to the special audit.

II. Delivery notes dated before tender opening and award

- A review of payment voucher for the purchase of materials for the creation of washrooms and board member lounges at the centre for specialized clinics shows that delivery notes attached to the Payment Voucher were dated between 10 -13 April 2020, which was before the bid opening and professional opinion that took place on 14 April 2020. The reason for the service delivery before the tender opening was not given by the entity.

III. Services offered before awarding of the tender

A review of quotation for fumigation services shows that services were offered before the professional opinion was given contrary to the public procurement and Asset Disposal Act, 2015. Section 84(3) requires that, the Accounting Officer takes into account the views of the Head of Procurement in the signed professional opinion in deciding to award a tender in the request for quotation method.

The firm provided fumigation service between 24 – 26 February 2020 which was before the tender opening and professional opinion that took place on 28 February 2020 and 3 March 2020 respectively, and the reasons for awarding the tender before bids were opened and professional opinion provided was not given by the entity.

IV. Failure to include an estimate of non-cash donations in the budget

It was established that the Kenyatta University Teaching Referral and Research Hospital did not estimate the value of donations received from KEMSA, Ministry of Health and other donors and consequently their values are not reflected in the Donations Schedule provided contravening section 74(4) of the public finance management act (national government) regulations, 2015 which requires the value of donations be determined and included in estimates of expenditure.

- **Moi Teaching and Referral Hospital**

a. Absence of approved work plans, budgets, procurement plans and training plans specific to Covid-19 failing to utilize government grants

The special audit established that the hospital had only the Annual Work Plan, procurement plan, training plan and budget for its normal hospital operations but there was no evidence of the existence of an approved budget, procurement plan and training plan specific to COVID-19 funds utilization for any of their sources of the COVID-19 Funds.

b. Irregular payment of Health Workers Allowances to Non-eligible staff

It was also established that an amount of Kshs.2,695,000 was paid as Allowances to non-eligible staff who were not Frontline Health Workers contrary to the SRC circular Ref. No. SRC/TS/COG/3/61/48 of 28 April 2020 which had indicated that only the Frontline Health Workers should be paid.

c. Un-Accounted for Funds

The Management of the Moi Teaching and Referral Hospital did not avail documents to support expenditures of Kshs.85,000,000 incurred in the financial year 2019/2020 and Ksh. 30,000,000 incurred in the financial year 2020/2021, and consequently, the special audit could not confirm the lawfulness and effectiveness of an amount of Kshs.115,000,000 incurred by the Moi Teaching and Referral Hospital from Own Source funds.

Section 53 (1) of the Public Finance Management (National Government) Regulations, 2015 provides that except as provided for in the Act and these Regulations, an Accounting Officer of an entity may not authorize payment to be made out of funds earmarked for specific activities for purposes other than those activities. Section 53 (2) further provides that a public officer who makes a payment contrary to paragraph (1) commits an offence under the Act.

B. Covid-19 resources

In response to the Covid-19 emergency, the Government of Kenya announced and implemented various measures to mitigate the adverse effects of the pandemic on the economy. The main response was the fiscal policy that included allocation of resources towards health service provision, including additional funding for healthcare facilities, quarantine facilities and purchase of medical supplies. Covid-19 specific funds were utilized at the Ministry of Health headquarters, the Kenya Medical Supplies Agency (KEMSA), Referral hospitals, counties, quarantine facilities and other MDAs. Ksh 7.7 billion was disbursed to counties, while Ksh 2.2 billion was disbursed to KEMSA. Ksh 700m was disbursed to quarantine facilities; Ksh 109.95 million was disbursed to other MDAs, Ksh 4.59 billion was disbursed to Referral hospitals, and Ksh 484.90 million was spent at the Ministry of Health⁵.

⁵For additional information on Covid-19 spending see (i) Kagume, Jackline, Leo Kemboi, and Noah Wamalwa. "Facts and Figures on Use of Covid-19 Funds in Kenya." Institute of Economic Affairs Kenya (Policy Brief), September 2021. <http://publicaudits.ke/analysis/>. (ii) Loans and Grants mobilized by Government of Kenya for COVID-19 <https://ieakenya.shinyapps.io/TrackingCOVIDfunds/>

Table 2: Summary of Expenditures incurred by the Ministry of Health

Particulars	Total (Kshs)
Receipts	17,610,350,362
Expenditures	
Expenditure at MOH	484,898,662
Disbursement to Counties	7,705,899,000
Disbursement to KEMSA	2,181,934,518
Disbursement to Referral Hospitals	4,590,967,242
Quarantine facilities	700,000,000
other MDA's	109,945,000
Total Expenditures	15,773,644,422

Source: Page 64 of Special Audit Report on Utilization of Covid-19 funds by National Government, 2021

During the period 01 March 2020 to 31 July 2020, the Ministry of Health received a total of Kshs.17,610,350,362 for the COVID-19 related activities. Out of this amount, the Ministry of Health utilized a total of Ksh. 15,773,644,422.

C. Summary of Irregularities and managerial responsibilities in the Utilization of COVID-19 Funds by the National Government Entities.

Irregularity	Law Violated/Risk	Amount(Ksh)
Inadequate controls in management Fuel	Loss of public funds	14,000,000
Un-explained variance in payment Import Duty	Value for Money Risks	740,239
Issuance of LSO after provision catering services for surveillance	Violation of the PPADA, 2015	1,536,000
Un-supported expenditures	Loss of public funds	2,131,000
Conflicting documentation on notification of tender award and letters of acceptance	Value for Money Risks	5,273,670
Un-surrendered imprest	Violation of the PFMA, 2012	7,981,975
Delivery of Ventilators to Counties that could not use Ventilators	Value for Money Risks	
Failure to inspect purchased good	Value for Money Risks	11,600,000
Irregular transfer of Kshs.298,966,655 from the Kitui Hospital Account Number 01141303838201 to the County COVID -19 Account number 1000455543	Irregular use of public funds	298,966,655
Procurements were done without evidence of professional opinions	Violation of the PPADA, 2015	228,910,610
Inappropriate use of procurement method	Violation of the PPADA, 2015	272,531,900

Irregularity	Law Violated/Risk	Amount(Ksh)
Absence of documents to support opening and evaluation of bids.	Violation of the PPADA, 2015	39,857,500
Absence of work plans on utilization COVID-19 Funds	Value for money Risks	740,000,000
Over expenditure on recruitment additional health workers	Violation of the PFMA, 2012	19,018,361
Delay in delivery of equipment thereby negating the justification Direct Procurement	Value for money Risks	4,330,000
Payment for expenditures incurred before COVID-19 was declared in Kenya	Value for money Risks	12,388,797
Delivery notes dated before tender opening and award	Violation of the PPADA, 2015	849,620
Services offered before Awarding tender	Violation of the PP&ADA, 2015	1,350,000
Failure to include an estimate of non-cash donations in the budget	Violation of the PFMA, 2012	
Absence of approved work plans, budgets, procurement plans and training plans specific to COVID-19 failing to utilize Government grants	Value for money Risks	
Irregular payment of Health Workers Allowances to Non-eligible staff	Value for money Risks	2,695,000
Un-Accounted for Kshs.115,000,000	Loss of public funds	115,000,000
Irregular Administration of the COVID-19 Emergency Response Fund	Section 9(1) of the PFM (COVID-19 Emergency Response Fund) Regulations, 2020	
Absence of evidence of Revenue and Expenditure Estimates and Work Plan	Section 9(2)(b) of the PFM (COVID-19 Emergency Response Fund) Regulations, 2020	

Source: Report on Special Audit on Utilization of Covid-19 Funds by National Government (Pages 44-46)

D. Key Messages

- The most pervasive forms of violations are procurement laws by the Ministry of Health and the Referral Hospitals.
 - There were failures by the entities to take on charge donations and inventories procured
 - Inconsistencies in procurement records raising red flags on the authenticity of the transactions
 - Unsupported payments.
 - Some entities also lacked approved work plans to guide in efficient and effective utilization of funds.
- The MDAs should automate their procurement and asset disposal processes with appropriate audit controls embedded in the system to proactively identify and mitigate procurement-related risks as advised by the Auditor General.

- As advised by the Auditor General, the MDAs should review the systems in place to identify areas of weaknesses so that appropriate control measures can be put in place to mitigate procurement fraud risks especially during times of emergencies⁶.
- They are clear instances of violation of Public Finance Management laws and regulations which clearly shows that the queries on the use of Covid-19 resources as an enforcement problem.
- The perverse contravention of procurement law by procurement heads, accounting officers in the public sector procurement process shows the immense personal discretion enjoyed by the senior government officers in making procurement decisions.
- The inconsistencies in procurement records raising red flags on the authenticity of the transactions point to the possibility of procurement fraud.

NOTES

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