



BUDGET FOCUS

March 2024

Analysis of the Auditor General's Report on National Government for the Financial Year 2021/2022 and 2022/2023: Analysis for Agriculture, Infrastructure, Health and Water Ministries

1.0 Introduction

The Auditor-General's Report on the National Government for the Financial Year 2021/2022 and 2022/2023 provides a comprehensive analysis of the financial landscape, audit opinions, and key challenges faced by the government of Kenya during the specified period. This overview encompasses various dimensions, including annual expenditure, audit opinions, scrutiny of national government entities and funds, pending bills, and specific case studies such as the Ministry of Health and the Equalisation Fund.

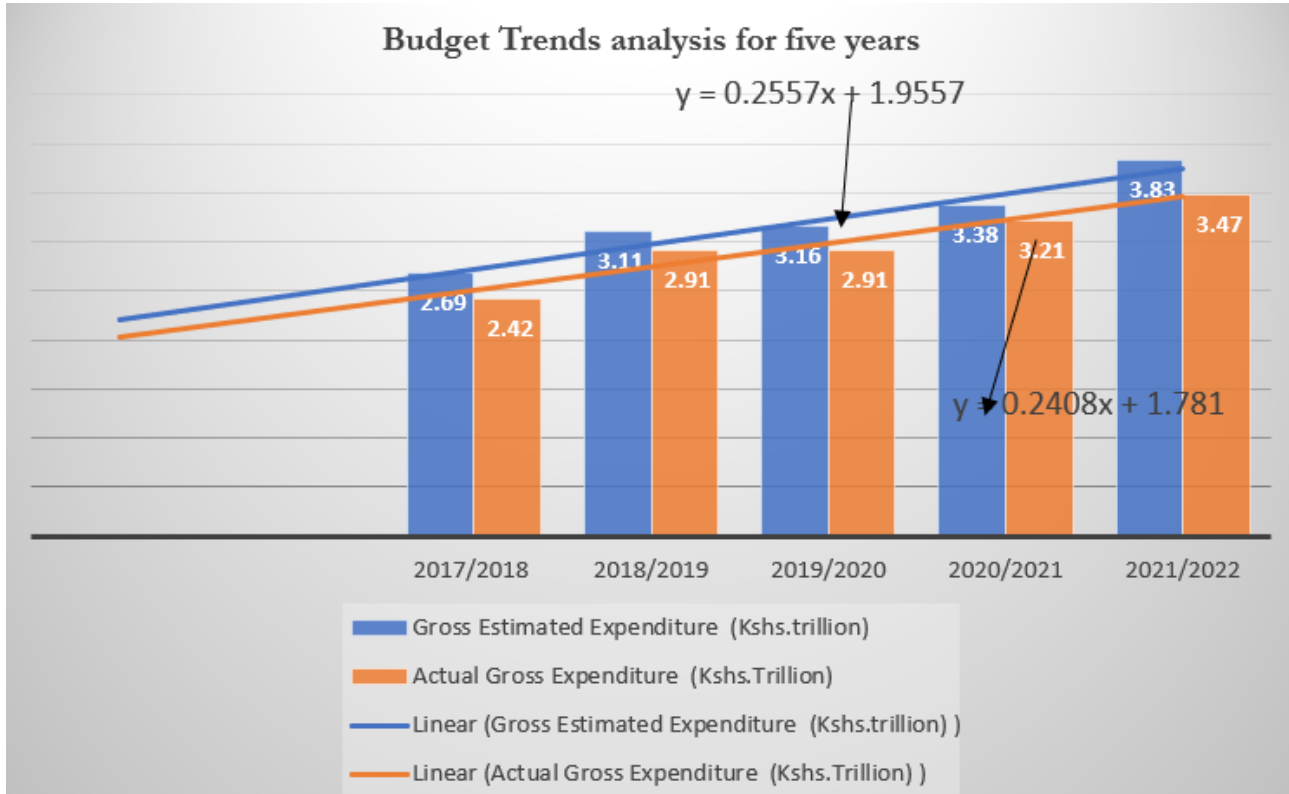
The findings presented in the report shed light on fiscal discipline, transparency, and the effectiveness of public resource management in Kenya's governance framework. This analysis serves as a critical tool for policymakers, legislators, and citizens, offering insights into the fiscal health of the government and identifying areas that require attention and improvement. In this summary, we delve into the key highlights and implications of the Auditor-General's observations, aiming to provide a clear understanding of the challenges and opportunities facing the national government in its pursuit of accountable and efficient financial management.

Expenditure and Revenue Analysis

In nominal terms, the gross estimated expenditure for the year under which the audit was under review in the 2021/2022 financial year was Ksh 3.83 trillion. Chart 1.0 shows that gross estimated expenditure recorded a steady increase from ksh 2.67trillion in the year 2017/2018 to Ksh 3.83 trillion in the year 2021/2022 which represents 43.4% growth. Gross estimated expenditure shows a general upward trend with an annual increment averaging Ksh 0.256 trillion. Trends in actual gross expenditures show an increase over the five-year period as shown chart 1.0 from kshs 2.24 trillion in the year 2017/2018 to kshs 3.47 trillion in the year

2021/2022 representing 52.5% growth. Actual gross expenditure shows a general upward trend with an annual increment averaging Ksh 0.240 trillion. The increase in expenditures indicates the scope of the audit has increased considerably over the five-year trend shown in chart 1.0. Additionally, it's important to note that it is these expenditure that the auditor general reviews and expresses an opinion regarding whether the facts in the financial statements presents true and fair view.

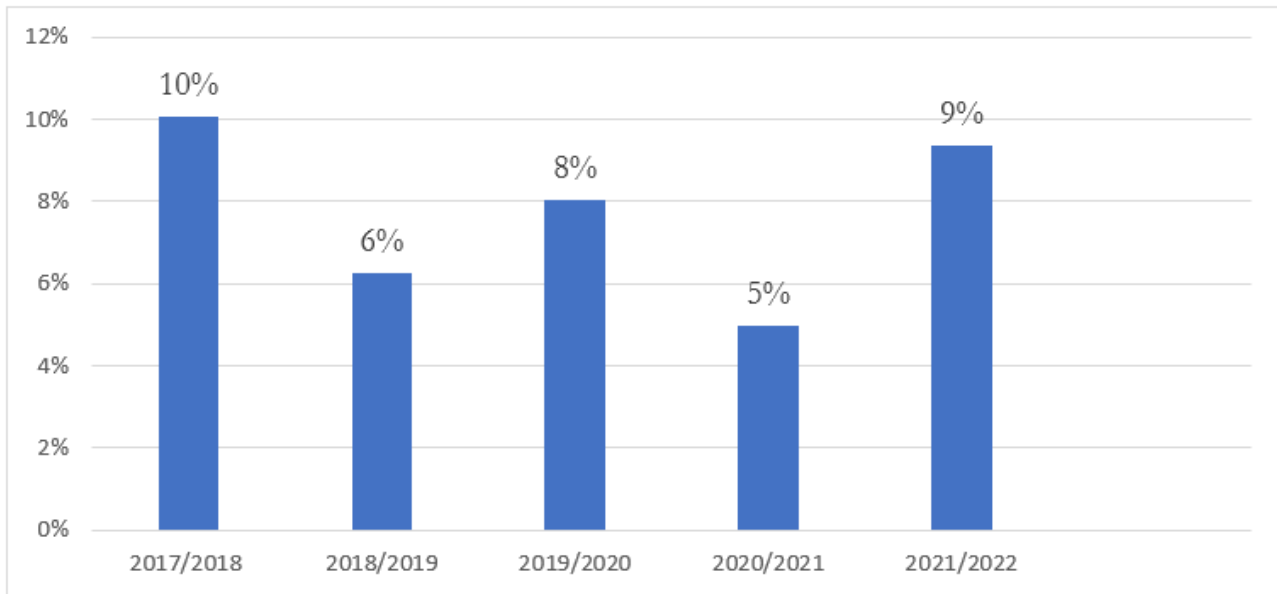
Chart1.0: Gross and Actual Expenditure (Ksh Trillion)



Source: Summary of the Auditor-General's Report on National Government for Financial Year 2021/2022

Chart 1.0 shows a trend in the share of expenditure underspent by the government for a series of five years which has been averaging by margins of between 10% on the higher limit and 5% on the lower limit. The under expenditure is attributed to under collection of revenue below the set targets leading to delays in exchequer releases. The underspent amount also explains the ineffectiveness and opportunity cost of public services that would have been rendered.

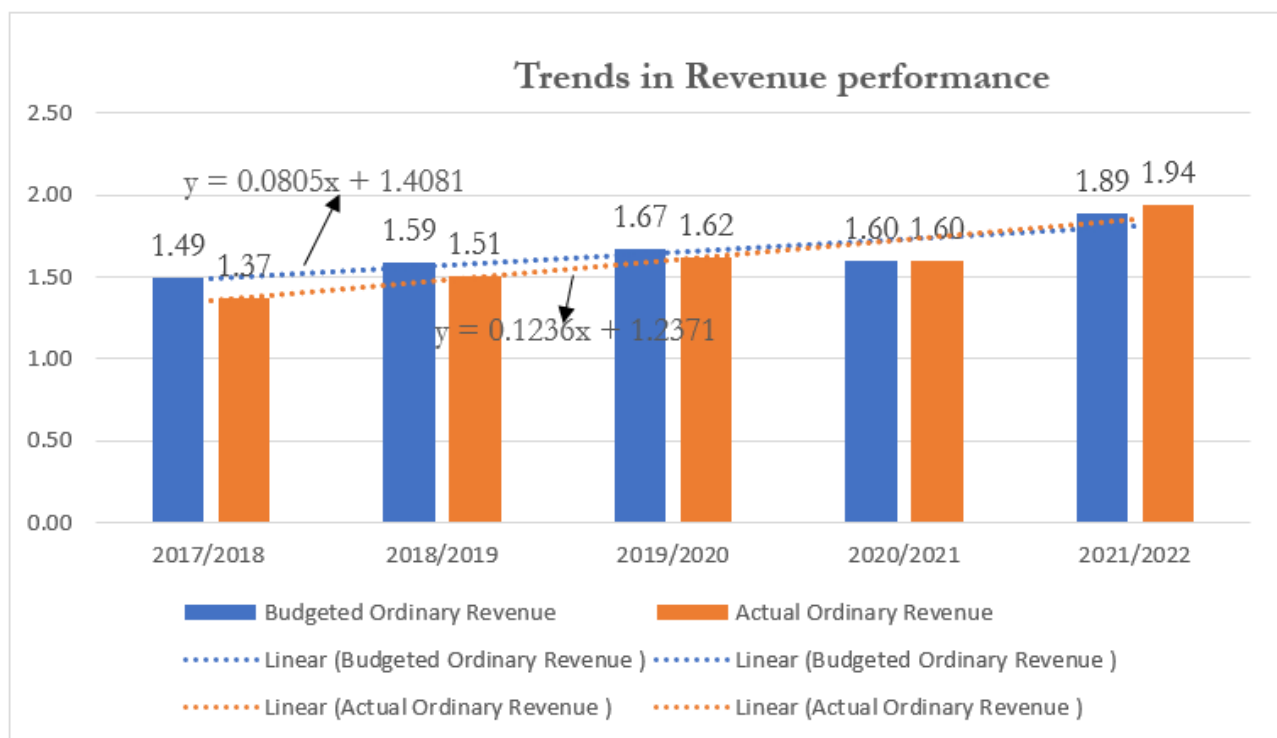
Chart 2.0: Share of Under- Expenditure (Ksh Trillion)



Source: Summary of the Auditor-General’s Report on National Government for Financial Year 2021/2022

The budgeted ordinary revenue increased as shown in chart 3.0 from kshs 1.49 trillion in the year 2017/1018 to kshs 1.89 trillion in the year 2021/2022. This is approximately 27% increase in the budgeted revenue over the period of five years. Budgeted revenue shows a general upward trend with an annual increment averaging Ksh 0.0805 trillion. The actual revenue realized from the year 2017/2018 increased from kshs.1.37 trillion to kshs 1.94 trillion in the year 2021/2022. This is approximately 42% increase in revenue over the period of five years. Actual revenue shows a general upward trend with an annual increment averaging Ksh 0.124 trillion.

Chart 3.0: Revenue Performance for FY 2017/2018 to 2021/2022



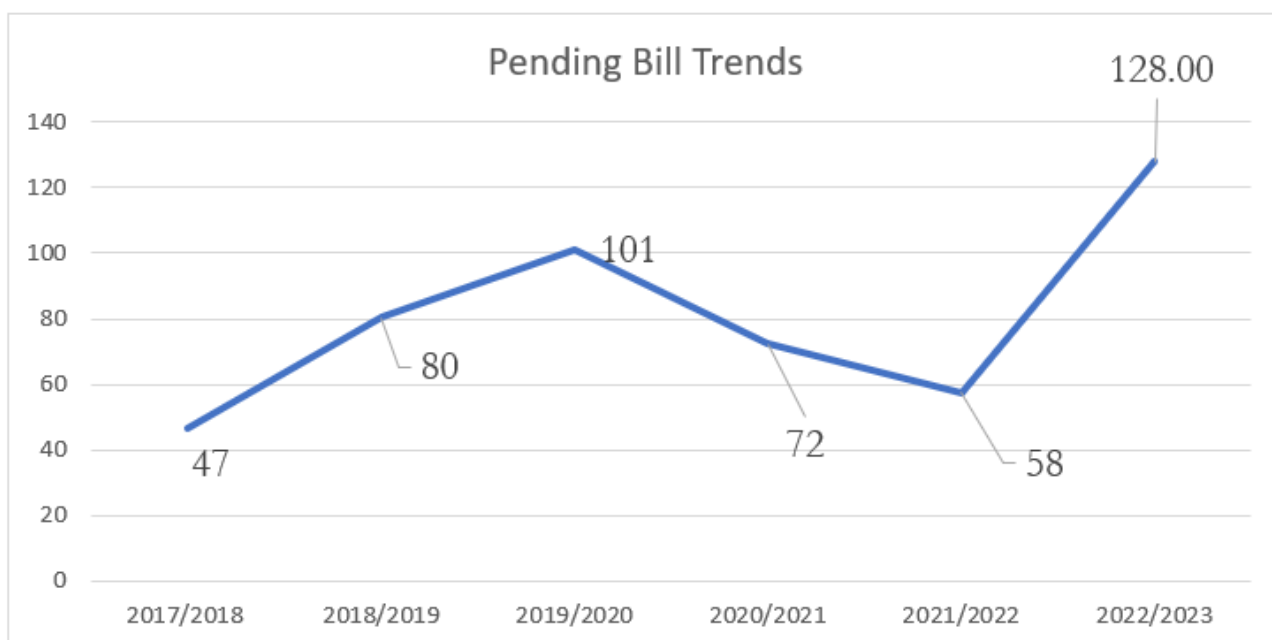
Source: Summary of the Auditor-General’s Report on National Government for Financial Year 2021/2022

From chart 3.0, its evidence that from the year 2017/2018, there has been some overestimation of revenue forecast which streamlined in the year 2020/2021 and underestimation was recorded in the year 2021/2023. To enhance the accuracy of revenue forecasting, there is need to ensure that there is greater coordination between the Treasury and other stakeholders who contribute critical information and especially the Kenya Revenue Authority (KRA) and Kenya National Bureau of Statistics (KNBS). This will help in making sure forecast of revenue and expenditure trends are done realistically and effectively.

Ministries, Departments and Agencies (MDAs) Analysis of Pending Bills

Pending Bills of Ministries, Departments, and Agencies have grown exponentially, growing from Ksh 47 billion in the 2017/2018 financial year to Ksh 128 billion in the 2023 financial year. The pending bills peaked in the 2019/2020 financial year at Ksh 101 billion and the bill slowed down to ksh 72 billion in 2020/2021 financial year. Afterwards, the pending bill rose from ksh 84 billion in the year 2021/2022 to ksh 123 billion in the financial year 2022/23.

Chart 4.0: Pending Bills for MDA's (Ksh Bn)



Source: Summary of the Office of Controller of Budget on National Government for Financial Year 2022/2023

Overall, pending bill continue to put pressure on the scarce resources with some of these bills attracting penalties, thereby putting more strain on the available resources. Supplier of goods and services to these MDAs face unwarranted financial charges from their financiers as they supply goods and services on credit. Failure to settle these bills has an effect of withholding circulation of cash in the economy and affects the smooth operations of suppliers and Micro, Small and Medium Enterprises (MSMEs) in the country.

Table 1.0 show the accumulated total pending bills for the MDAs for financial year 2022/2023. The Ministry of Health lead with the highest pending bills totaling to Kshs 41.2 billion representing 32% of all the MDAs pending bills. The pending bills include kshs 40.2 billion for the previous years. The Auditor General report reveals that payment of kshs 1.7 billion towards pending for 2021/2022 which had not been included in the balance for the prior year. Other ministries which recorded high pending bills include Office of the president with kshs 12.35 billion (representing 9.7% of the total pending bills), state department for crop development with kshs 12.02 billion ((representing 9.4% of the total pending bills), ministry of defence with kshs 9.8 billion (representing 7.7% of the total pending bills), the National Treasury with Kshs 7.7 billion (representing 6.0% of

the total pending bills) and the state department of Correctional Service with Kshs 6.62 billion (representing 5.2% of the total pending bills). The ministries and agencies with the lowest pending bills includes National Gender and Equality commission with kshs 0.3 million, Judicial Service Commission kshs3.0 million, State Department for Shipping and Maritime kshs1.3 million and State Department for Social Protection and Senior Citizen with Kshs 11.3 millions. MDAs without any pending for the financial year ending June 2023 included State Department for Foreign Affairs, State Department for Implementation of Curriculum Reforms, State Department for Irrigation, State Department for the Blue Economy and Fisheries and Ethics and Anti-Corruption Commission.

Table 1.0 Ministries, Departments and Agencies (MDAs) Pending Bills and Audit Opinion FY2022/2023.

No.	Ministry/Department/Agency	Pending Bills (Ksh.)	(%) Share	Opinion
1	The National Treasury	7,703,536,902.00	6	Unmodified Opinion
2	State Department for Economic Planning	-		Unmodified Opinion
3	The Executive Office of The President	12,347,481,810.00	9.67	Unmodified Opinion
4	Office of the Deputy President	58,244,497.00	0.05	Unmodified Opinion
5	Office of the Prime Cabinet Secretary	-		Unmodified Opinion
6	State Department for Interior and Citizen Services	-		Unmodified Opinion
7	State Department for Correctional Services	6,665,944,778.00	5.22	Unmodified Opinion
8	State Department for Immigration and Citizen Services	1,313,208,464.00	1.03	Unmodified Opinion
9	National Police Service	5,479,251,913.00	4.29	Unmodified Opinion
10	State Department for Internal Security and National Administration	1,871,133,025.00	1.47	Unmodified Opinion
11	State Department for Devolution	2,845,999,363.00	2.23	Modified opinion
12	State Department for Development of the Arid and Semi-Ari	931,581,524.00	0.73	Unmodified Opinion
13	Ministry of Defence	9,803,533,442.00	7.68	Unmodified Opinion
14	Ministry of Foreign Affairs.	-		Modified opinion
15	State Department for Foreign Affairs	1,688,976,030.00	1.32	Modified opinion
16	State Department for Diaspora Affairs	82276638	0.06	Unmodified Opinion
17	State Department for Technical, Vocational Education and Training	-		Modified opinion
19	State Department for Higher Education and Research	1,425,443.00	0.00	Modified opinion
20	State Department for Early Learning and Basic Education	6,726,260.00	0.01	Modified opinion
21	State Department or Post Training and Skills Development			Unmodified Opinion
22	State Department for Implementation of Curriculum Reform			Modified opinion
23	Ministry of Health	41,169,835,759.00	32.24	Modified opinion
24	State Department for Public Health and Professional Standard	88,595,209.00	0.07	Modified opinion
25	State Department for Roads	-		Unmodified Opinion
26	State Department for Transport	97,487,972.00	0.08	Modified opinion
27	State Department for Shipping and Maritime Affairs	1,311,736.00	0.00	Unmodified Opinion
28	State Department for Housing and Urban Development	2,079,726,669.00	1.63	Unmodified Opinion
29	State Department for Public Works	746,098,212.00	0.58	Modified opinion
30	State Department for Irrigation	-		Unmodified Opinion
31	State Department for Environment and Climate Change	-		Modified opinion
32	State Department for Water and Sanitation	263,289,149.00	0.21	Modified opinion
33	State Department for Lands and Physical Planning	627,915,455.00	0.49	Modified opinion
34	State Department for Information Communication Technology	464,897,928.00	0.36	Unmodified Opinion
35	State Department for Broadcasting and Telecommunications	1,451,012,668.00	1.14	Unmodified Opinion
36	State Department for Sports and the Arts	152,517,830.00	0.12	Modified opinion
37	State Department for Culture and Heritage	48,170,705.00	0.04	Modified opinion
38	State Department for Energy	949,489.00	0.00	Modified opinion
39	State Department for Livestock	196,150,451.00	0.15	Modified opinion
40	State Department for the Blue Economy and Fisheries			Modified opinion
41	State Department for Crop Development	12,058,660,230.00	9.44	Modified opinion
42	State Department for Co-operatives.			Unmodified Opinion
43	State Department for Trade	30,105,866.00	0.02	Unmodified Opinion

No.	Ministry/Department/Agency	Pending Bills (Ksh.)	(%) Share	Opinion
44	State Department for Industry	106,695,480.00	0.08	Modified opinion
45	State Department for Micro, Small and Medium Enterprises			Modified opinion
46	State Department for Investment Promotion.			Unmodified Opinion
47	State Department for Labour and Skills Development	152,719,109.00	0.12	Unmodified Opinion
48	State Department for Social Protection and Senior Citizen Affairs	11,344,625.00	0.01	Modified opinion
49	State Department for Mining	98,883,644.00	0.08	Modified opinion
50	State Department for Petroleum	17,517,819.00	0.01	Modified opinion
51	State Department for Tourism	54,645,486.00	0.04	Unmodified Opinion
52	State Department for Wildlife	2,708,390,651.00	2.12	Unmodified Opinion
53	State Department for Gender and Affirmative Action	19,084,805.00	0.01	Unmodified Opinion
54	State Department for Public Service	1,819,995,350.00	1.43	Unmodified Opinion
55	State Department for Youth Affairs	45,861,162.00	0.04	Unmodified Opinion
56	State Department for East African Community Affairs	74,014,128.00	0.06	Unmodified Opinion
57	The State Department for Regional and Northern Corridor	2,448,493,375.00	1.92	Unmodified Opinion
58	State Law Office and Department of Justice	171,258,741.00	0.13	Modified opinion
59	The Judiciary	613,357,588.00	0.48	Modified opinion
60	Ethics and Anti-Corruption Commission	-		Unmodified Opinion
61	National Intelligence Service			Unmodified Opinion
62	Office of the Director of Public Prosecutions	115,275,255.00	0.09	Modified opinion
63	Office of the Registrar of Political Parties	-		Unmodified Opinion
64	Witness Protection Agency	-		Unmodified Opinion
65	State Department for Forestry	-		Unmodified Opinion
66	Kenya National Commission on Human Rights	28,391,539.00	0.02	Unmodified Opinion
67	National Land Commission	731,555,911.00	0.57	Modified opinion
68	Independent Electoral and Boundaries Commission	4,857,441,000.00	3.80	Modified opinion
69	Parliamentary Service Commission	240,645,617.00	0.19	Unmodified Opinion
70	The National Assembly.	30,631,929.00	0.02	Unmodified Opinion
71	Parliamentary Joint Services	862,604,574.00	0.68	Unmodified Opinion
72	Judicial Service Commission	3,007,852.00	0.00	Unmodified Opinion
73	Commission on Revenue Allocation	9,715,083.00	0.01	Unmodified Opinion
74	Public Service Commission			Unmodified Opinion
75	Salaries and Remuneration Commission	8,896,874.00	0.01	Unmodified Opinion
76	Teachers Service Commission	2,463,219,054.00	1.93	Unmodified Opinion
77	National Police Service Commission	-		Unmodified Opinion
78	Office of the Controller of Budget			Unmodified Opinion
79	The Commission on Administrative Justice	6,694,879.00	0.01	Modified opinion
80	National Gender and Equality Commission	295,800.00	0.00	Unmodified Opinion
81	Independent Policing Oversight Authority			Unmodified Opinion
82	National Cohesion and integration commission			Unmodified
	Grand Total	127,698,664,834.00		

Source: Summary of Auditor General Report on National Government for Financial Year 2022/2023

The Key messages;

- Each MDAs should conduct an ageing analysis on the pending bills showing the time gap and interest rates being charged for the specific pending bill being not paid by the accounting officer.
- A comprehensive audit that shows pending bills accrued on an annual basis by MDA's, State Agencies and Government Agencies (SAGAs) and State Corporations which would allow the transparency on pending bills accrued by the National Government.
- As pending bills get aggregated, differences between pending bills that have been accumulated over years, and what accumulated in that financial year.

Pending Bills - Donor Funded Projects

Table 2.0 shows donor funded projects pending bills amounting to Kshs.52,163,823,778 in the year 2022/2023 which recorded an increase in pending bills of 7.97% compared the year 2021/2022 which had a total pending bill of kshs.48,313,134,195. Any pending bill not settled during the year are carried forward to the next as an obligation that require to be settlement.

The total pending bills of Kshs.127.7 reported under Ministries, Departments and Agencies (MDAs) and Donor Funded Projects in 2022/2023 amounting to Kshs52.2 billion does not include an amount of Kshs.164 billion from the counties.

The state department for roads recorded the highest amount of pending bills amongst MDAs with donor project with 88.3%, State Department for Energy with 6.1%, The National Treasury with 2.6%, State Department for Water and Sanitation with 1.45% and Ministry of Health with 1.29%.

Table 2.0 Ministries, Departments and Agencies (MDAs) Donor funded project Pending Bills FY2022/2023

No.	Ministry/Department/Agency	Pending Bills (Ksh.)	(%) Share
1	The National Treasury	1,356,377,705.00	2.60
2	State Department for Technical, Vocational Education and Training	73,827,160.00	0.14
3	State Department for Higher Education and Research	1,425,443.00	0.00
4	Ministry of Health	673,570,289.00	1.29
5	Ministry of Roads	46,079,251,948.00	88.34
6	State Department for Transport	3,900,000.00	0.01
7	State Department for Housing and Urban Development	11,682,114.00	0.02
8	State Department for Environment and Climate Change	14,279,798.00	0.03
9	State Department for Water and Sanitation	755,157,309.00	1.45
10	State Department for Energy	3,181,633,397.00	6.10
11	State Department for Labour and Skills Development	9,526,965.00	0.02
12	State Department for Wildlife	3,011,650.00	0.01
13	State Department for Gender and Affirmative Action	180,000.00	0.00
	Grand Total	52,163,823,778.00	100.00

Source: Summary of Auditor General Report on National Government for Financial Year 2022/2023

The auditor general shared the following issues for the reason of existence of pending bill on donor funded projects in the state departments;

- Failure by the management to explain why the bill was not settled during the year when it occurred.
- Failure to settle bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.
- Pending bills occasioned by the closure of IFMIS procurement module
- Non-payment of the bills due to challenges in exchequer release.
- System challenges in IFMIS during the closure of the financial year.
- Pending bill associated with interest on delayed payments

The Auditor General also highlight the issue of unsupported pending bills and unbudgeted for pending bills. The statement of comparison of budget and actual amounts shows over expenditure which results into additional pending bills which were not budgeted for. This is contrary to Regulation 31(2) of the Public Finance Management (National Government) Regulations, 2015 which requires the Accounting Officer to budget for and obtain approval for all services which can be foreseen. The additional pending bills were not supported with Interim Payment Certificate (IPC) and approval by the National Lands Commission.

Analysis of the Audit Opinions of National Government Entities

For the Financial year 2022/2023, the Auditor general examined a total of 338 financial statements out of which 219 financial statements were from donor funded projects, financial statements from MDAs were 81 and revenue statement were 37 cases while those labelled others accounted for only one case.

For the FY 2021/2022, the Auditor General examined 326 financial statements, out of which 217 financial statements were for Donor Funded Projects, 13 financial statements were for the revenue statements, 71 financial statements were MDA Voted Entities, and 25 financial statements were labelled as others.

Table 3.0: National Government Audit Opinions

	2021/2022					2022/2023				
	Unqualified	Qualified	Adverse	Disclaimer	Total	Unqualified	Qualified	Adverse	Disclaimer	Total
MDAs Voted Entities	31	40	0	0	71	49	32	0	0	81
Revenue Statements	8	5	0	0	13	26	11	0	0	37
Donor Funded Projects	120	94	2	1	217	153	66	0	0	219
Others	18	5	1	1	25	0	0	1		1
Total	177	144	3	2	326	228	109	1	0	338

Source: Source: Auditor-General's Report on National Government for Financial Year 2021/2022 – 2022/2023

For the financial year 2022/2023, out of the 338 audited financial statements, 228 financial statement received a clean bill of health from the auditor general and 109 financial statements financial transactions were recorded and are to a large extent in agreement with the underlying records, except for cases where the auditor general noted material misstatements or omissions in the financial statements while one project reported an adverse opinion indicating that the financial statements exhibited significant misstatements with the underlying accounting records and there existed significant disagreement(s) between the financial statements and the underlying books of accounts and/or standards.

For the year 2021/2022, 326 financial statements were audited by the auditor general. 177 opinions received unqualified opinion which means that MDAs audited presented a true and fair view in all material aspects with 120 financial statements related to donor projects. 18% of those statements that received a clean opinion were MDA voted Entities, 5% of clean opinions went to revenue statements, and 10% of financial statements went to category labelled as others.

In general table 2.0 show an increase in the number of financial statement been audited from 326 to 338 reflecting an increase in the scope of auditing MDAs by 3.7% for the year 2021/22 and 2022/2023 respectively. The number of financial statement that received unqualified opinion increased in the same period from 177 financial transaction to 228 transaction representing an increase of 28% while adverse opinion reduced from three to one in the same period. However, it's important to note that the number of qualified opinion remained relatively high in the year 2022/23 at 109 Which mean that Auditor General could not confirm the lawfulness, accuracy and effectiveness of public expenditures of the respective institutions queried as at the end of the financial year for financial year 2022/2023.

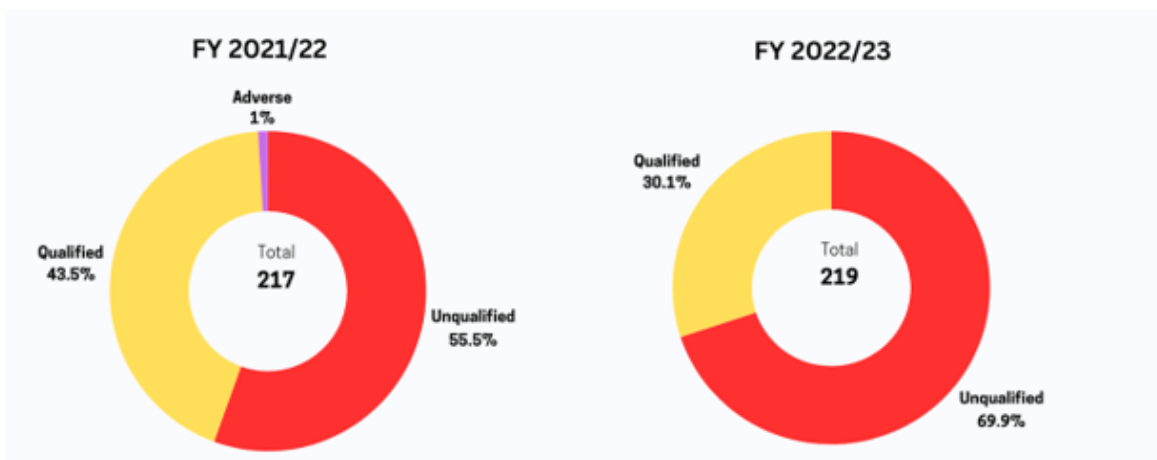
Table 4.0: Audit Opinions of National Government Entities inclusive of Donor Projects

Audit Opinion	2022/2023	Audit Opinion as a share of all opinions
Unmodified	228	67.5%
Qualified	109	32.2%
Adverse	1	0.0%
Disclaimer	0	N/A
Total	338	

Source: Summary of the Auditor-General’s Report on National Government for Financial Year 2022/2022

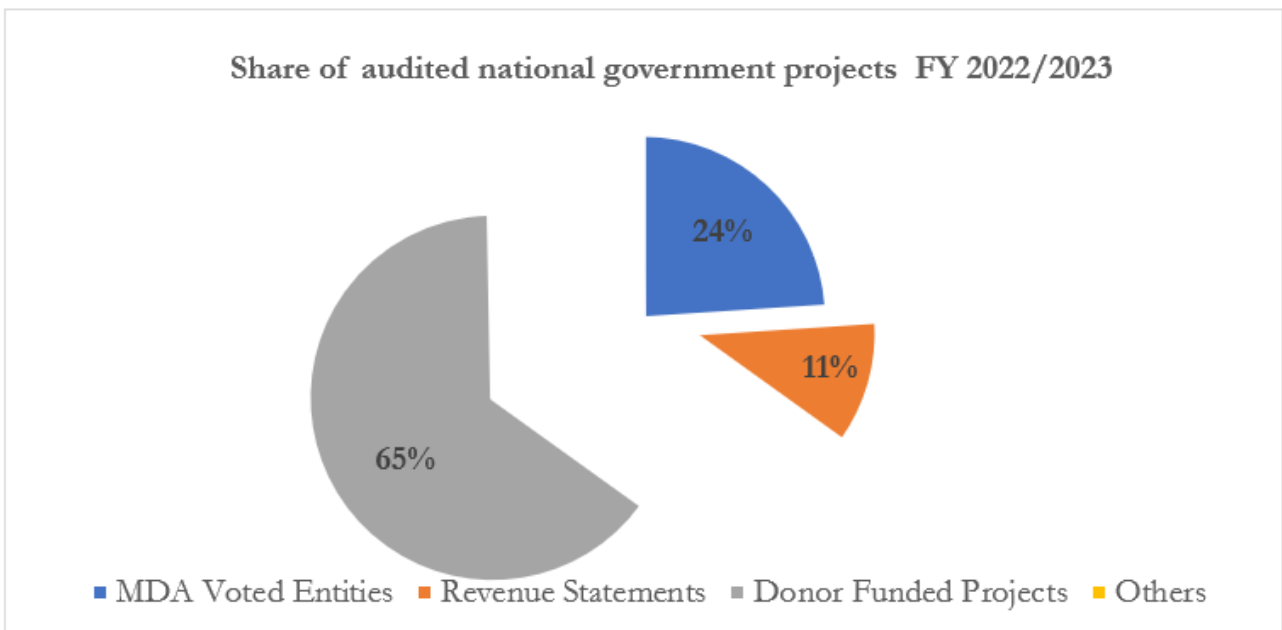
Table 4.0 show the distribution of donor funded projects audit opinion for the year 2022/2023. The auditor general has 219 financial transactions for donor funded projects in the year 2022/2023. A total of 153 project had unqualified audit opinion representing a 69.9% of the donor projects while qualified opinion has 109 representing a 32.2%.

Chart 5.0: Distribution of Donor funded project Audit opinion



Source: Summary of the Auditor-General’s Report on National Government for Financial Year donor project for 2022/2022

Chart 6.0: Share of national government audited accounts FY 2022/2023



Source: Auditor-General’s Report on National Government for Financial Year 2022/2023

Chart 6.0 shows the share of MDAs, revenue statements and donor funded projects. 219 financial statements were from donor funded projects representing a 65%, financial statements from MDAs were 81 representing a 24%, and revenue statement were 37 cases representing a 11%, for the year 2022/2023.

Non-Performing Loans Issued to Local Entities

Non-performing loan are loans in which the borrower is in default and the borrower hasn't made any scheduled payments of principal or interest for a certain period of time. Table 6.0 shows a schedule of outstanding loan obligations of kshs 19.34 billion for the year 2022/2023 while the year 2021/2022 the non-performing loans totalled to kshs 13.2 billion. The auditor general in the audit report indicates that the loans had no movement during the year and they remained unpaid over a significant period. Further, Management did not provide the aging analysis of the dormant loans. Although Management has indicated that it has continued demanding for outstanding loan amounts through demand letters, it has not disclosed measures put in place to ensure that all loans are being repaid and in case of default and sanctions imposed on the defaulters.

Table 5.0: Distribution of Non-Performing Loans Issued to Local Entities

Description	Amount (Ksh Bn)		Remarks
	2021/22	2022/23	
1 Mumfas Sugar Company Limited	3.0	3.0	Facing financial challenges
2 Agro-chemical and Food Company Limited	2.94	2.94	
3 Kenya Meat Commission	0.94	0.94	
4 National Water Conservation and Pipeline Corporation	2.46	2.46	Awaiting transfer of loan to Boards
5 National Irrigation Board	2.62	1.13	Co. has requested for conversion to grant
6 Uchumi Supermarket	1.2	1.20	Under Recevlership
7 East African Sugar Industries Limited, Muhoroni	0.18		
8 Mitwani Sugar Mills Limited	0.08		
9 Kenya Urban Transport Various Towns	0.04	0.04	No reason was provided
10 Halal Meat Products	0.03	0.03	Court ruled that the Company had no debt
11 Mombasa pipeline board	n/a	0.02	Dormant loan
12 Local Government loans Authorities	n/a	7.6	Dormant loan
Total	13.2	28.28	

Source: Office of the Auditor General | National Government Audit Reports

Outstanding Obligations Guaranteed by Government of Kenya (GoK) and Corresponding Queries

A guaranteed loan is a type of loan in which a third party agrees to pay if the borrower should default and the government of Kenya is committed to making loan repayments on behalf state owned enterprises should they default. A summary by the auditor general for the year ending 2022/2023 reflect reflects guaranteed debts/undischarged guarantee from three (3) entities totaling Kshs.170,228,957,457 which have been omitted from the statement of obligations guaranteed by Government of Kenya.These undisclosed balances led the auditor general not to ascertain the completeness, accuracy of the outstanding obligations guaranteed by the Government of Kenya as at 30 June, 2023.Additionally, reports from the auditor general indicates that in the previous years,statement of outstanding obligations guaranteed by the Government of Kenya continue to reflect an outstanding balances being capital and interest owed by the Cereals and Sugar Finance Corporation.

However, the balance has not been supported by any verifiable records or documents and this constitutes a limitation of scope. Although Management has indicated that the activities of the State Corporation will be closed once winding up process has been finalized, it is not clear how the guaranteed debt will be cleared without supporting documentation on the same.

Table 6.0. Distribution of Outstanding Obligations Guaranteed by GoK

Description	Queried Amount (Ksh Bn)		Remarks
	2021/2022	2022/2023	
Kenya Airways	77.8	88.2	Lender - Exim Bank of USA
Kenya Electricity Generating Company PLC	24.5	2.5	Lender - Government of Japan
Kenya Ports Authority	33.1	79.5	Lender - Government of Federal Republic of Germany-GTZ
Kenya Power and Lighting Company	9.9		Lender - Government of Japan
Total	145.4	170.2	

Source: Office of the Auditor General | National Government Audit Reports

MDAs did not prepare and submit for audit, their respective statements of outstanding obligations guaranteed by the Government of Kenya as at 30 June, 2020 contrary to Sections 81(1) and 81(2) (c) of the PFM Act, 2012.

Stalled/ Incomplete Projects

Stalled Project means a Project where property development activities were commenced, but have been inactive for a period of 12 months or longer, and that another common cause of the stalled Construction Project is when a sub-contractor is either found not be up to the job. Incomplete project are those projects which are unfinished or project lack some parts for it to fully complete. Table 7.0 shows that 15 MDAs had installed/incomplete project identified by the auditor general in the year 2022/2023. An example of incomplete project identified by the Auditor General is the Nairobi Metropolitan Services which initiated the upgrading and maintenance of Jevanjee Park at an estimated cost of Kshs.15,000,000. The works were to be done in-house by NMS and materials were procured for the project. The project was to run for four (4) months commencing on 25 February, 2020. However, physical inspection of the project carried out on 22 November, 2022 revealed that the project was still incomplete despite NMS having procured materials, some of which were still on site and exposed to theft. Although the issues were discussed by the Public Accounts Committee of the National Assembly in the Month of October, 2022, the Committee's recommendations are still pending.

Table 7.0: MDAs stalled/incomplete projects FY 2022/2023

MDAs	Queried Amount (Ksh Bn)	Pending query
1.0 State Department for Interior and Citizen Services	30.5	Delay in Completion of Construction of Mwea West Sub-County Headquarters at Kandongu-Kirinyaga County
	0.029	Stalled Construction of Deputy County Commissioner's (DCC) Office Block at Tigania Central Meru
	0.005	Incomplete Construction of Igembe South Deputy County Commissioner's Office at Maua
	0.025	Incomplete Igembe North Sub County Offices at Laare
	0.12	Stalled Magunga District Headquarters, Suba South Sub-County

MDAs	Queried Amount (Ksh Bn)	Pending query
	0.701	Stalled Construction of Nyanza South Headquarters
	0.013	Incomplete Construction of Deputy County Commissioner's Office - Chesumei-Nandi County
	0.046	Incomplete Proposed Construction and Completion of Kikuyu Sub-County Headquarters Offices in Kiambu County
	0.024	Stalled Construction of Staff Houses
2.0 National Police Service	0.2	Abandoned Construction Works - Laisamis Police Station
	0.03	Stalled Administration Police Service Projects
	0.164	Abandoned Construction Works - Laisamis Police Station
3.0 State Department for Devolution	0.25	Stalled Proposed Africities Convention Centre Project in Kisumu County
4.0 State Department for Early Learning and Basic Education –	6.3	Delay in Completion of Construction of Classrooms, Laboratories and Sanitation Facilities
5.0 State Department for Roads	0.033	Additional Claims and Charges for the Road Project
6.0 State Department for Housing and Urban Development	0.064	Stalled Economic Stimulus Project (ESP) - Fresh Produce Markets
	0.143	Construction of Kithomboani Modern Market in Kitui Town (Multi-Year Project)
	0.114	Stalled Proposed Headquarters for Nyandarua County at Ol Kalou
7.0 State Department for Public Work	0.701	Stalled on the Proposed Completion of Migori District Headquarters
8.0 State Department for Water and Sanitation	0.110	Stalled Construction of Six (6) Ablution Blocks in Ukunda Town
	0.151	Abandoned and Stalled Works for Construction of Ablution Blocks
	0.121	Delay in Projects Completion implemented by Malindi Water and Sewerage Company (MAWASCO) -Construction Works of Ten (10) Ablution Blocks
	0.09	1193.2 Abandoned and Stalled Works for Construction of Ablution Blocks at Voi, Mwatate, Maungu, Taveta and Wundanyi
	0.478	Construction of Kitui and Matuu Towns Last Mile Connectivity of Water and Sanitation Project
	0.072	Stalled Changamwe Re-pooling Sewer Network
9.0 State Department for Sports and the Arts	1.09	Stalled Construction of Kirigiti Stadium in Kiambu County
10.0 State Department for Energy	?	Stalled Geothermal Development Site at Silali
11.0 state Department for Livestock	0.008	Animal Health and Industry Training Institute (AHITI) Nyahururu Stalled Project
12.0 state Department for Crop Development	0.011	Construction of Laare Ultra-Modern Miraa Market Shed In Meru County
	0.048	Stalled Construction of Mbeu Muungano CBO Drying and Storage Facility in Meru County
	0.052	Construction of New Progressive Farmers' Cooperative Society Drying and Storage Facility in Uasin Gishu County
	0.007	Stalled Construction of Kurungu Livestock Market Yard in Samburu County
	0.010	Stalled Drilling and Development of Three (3) Boreholes in Isiolo-County
	0.001	Stalled Works at the Regional Pastoral Center - Narok
13.0 State Department for Labour and Skills Development	0.224	Stalled Construction of the National Employment Promotion Centre
	0.095	Stalled Construction of the Research Institute Office Complex for the Directorate of Occupational Safety and Health Sciences
14.0 State Department for Mining	0.013	Stalled Establishment of a Soapstone Value Addition Center in Kisii County
15.0 Public Service Commission	0.068	Incomplete Supply, Installation, Implementation, and Commissioning of an Integrated Management Information System (IMIS)

Source: Office of the Auditor General | National Government Audit Reports

Outstanding Imprests for FY2022/2023

An imprest is a cash account that a department relies on to pay for small, routine expenses. Funds contained in imprests are regularly replenished, in order to maintain a fixed balance. Any of the expenses paid through the imprest must be documented with receipts and fund is monitored closely for any discrepancies between expected cash (based on documentation) and actual cash. If any discrepancies exist, they are investigated. Regulations 93 of the Public Finance Management (National Government) regulations, 2015 states that an

imprest shall be issued for a specific purpose, and any payments made from it, shall be only for the purposes specified in the imprest warrant. Regulation 93(5) of the Public Finance Management (National Government) Regulations, 2015, which provides that a holder of a temporary imprest shall account for or surrender the imprest within seven working days after the end of the official journey. Where the imprest holder fails to account for or surrender the imprest on the due date, the Chief Registrar shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank of Kenya Rate. Where the Chief Registrar does not recover the temporary imprest from the defaulting officer as provided for in the regulation, the Chief Registrar commits an offence.

Table 8.0 State department with pending imprest as at 30th June 2023.

MDA	Ksh Bn
1. The National Treasury	0.0002
2. State Department for Higher Education and Research	0.0067
3. State Department For Early Learning and Basic Education	0.002
4. Ministry of Health	0.044
4. State Department for Public Health And Professional Standards	0.005
5. State Department for Public Works	0.001
6. State Department For Environment And Climate Change	0.001
7. State Department For Energy	0.038
8. State Department for Livestock	0.004
9. State Department for Labour And Skills Development	0.005
10. State Department for Mining	0.011
Total	0.1112

Source: Office of the Auditor General | National Government Audit Reports

Table 8.0 shows state department with outstanding imprest as at 30th June 2023. The total amount of outstanding imprest was Kshs 111.2 millions with ministry of health leading on amount not surrendered totaling to Ksh 44 millions. Ten state department had outstanding imprest as revealed by the auditor general report. The imprests schedule did not provide date of issue, imprest warrant number, expected date of surrender and actual date of surrender.

Case Studies

Health Sector

Introduction

According to Schedule Four of the Constitution of Kenya, 2010, health is a shared function between the two levels of government. The health sector is responsible for policies related to specialized medical services and providing leadership and support to health professional bodies.

The Ministry of Health (MoH) is the sole Ministry under the Health Sector. In the financial years 2020/21 and 2021/22, the Ministry consisted of one MDA and several SAGAs. In 2023, through Executive Order 1 of 2023 on the reorganization of government, the Ministry was split into two state departments: the State Department for Medical Services (SDMS) and the State Department for Public Health and Professional Standards (DHPHPS). Combined, the two state departments oversee eight programs, four under each programme.

Budget Allocation and Expenditure

In the years under review, the sector was allocated KSh. 121.75 billion, KSh. 130.47 billion and KSh. 116.40 billion for FY 2020/21, FY 2021/22 and FY 2022/23 respectively. Evidently, the health sector allocation in nominal terms has been maintained above Ksh.100 billion.

Chart 1: Trends in the MoH Actual Spending (Ksh. Billion)

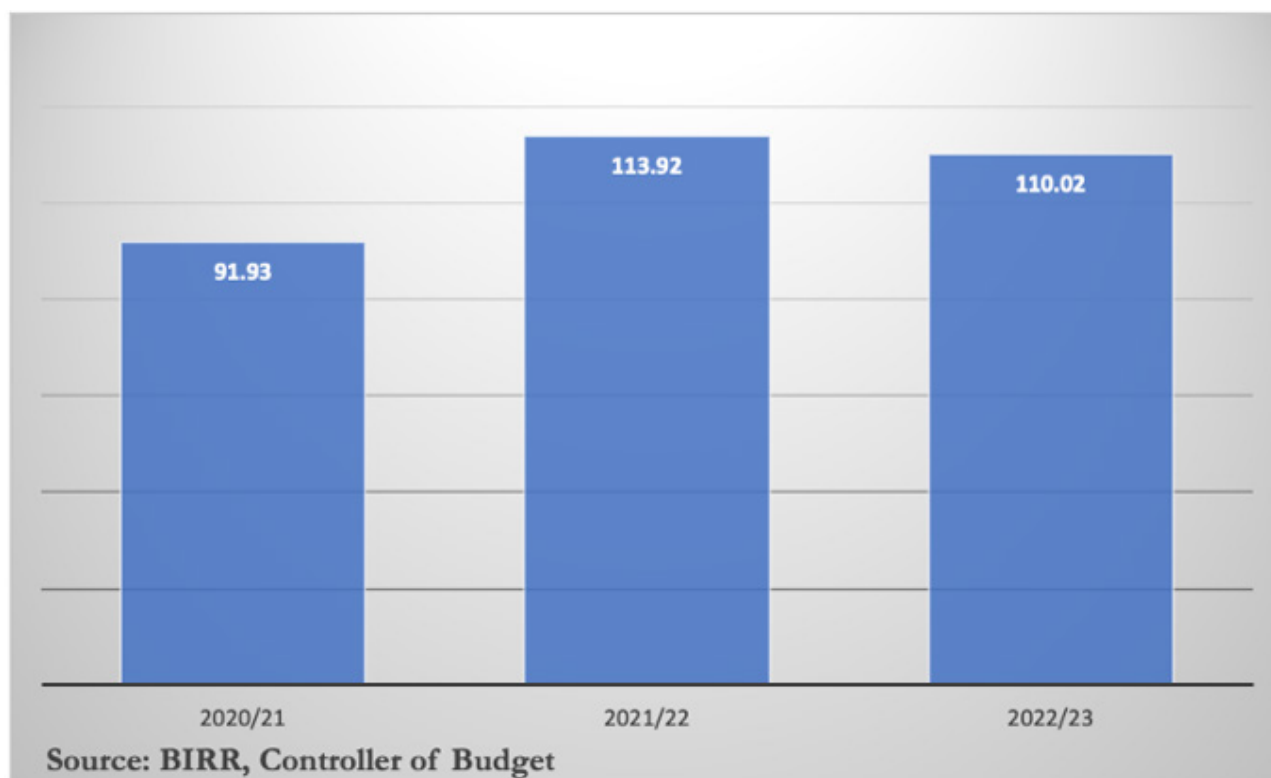
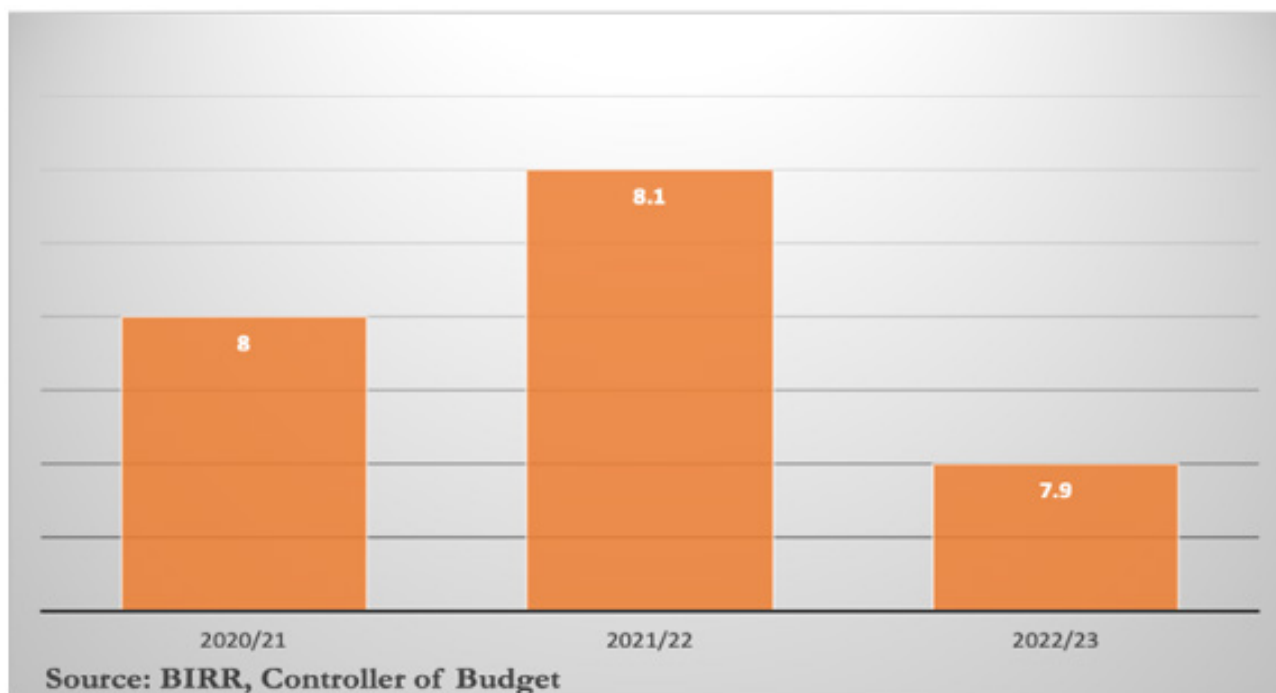


Chart 2: MoH Actual Spending as a Share of Total Spending by MDAs (%)



During the same time, the sector recorded the actual expenditures of Ksh.91.93 billion in FY 2020/21 to Ksh.113.92 billion in FY 2021/22 before dropping to Ksh.110 billion. However, expressed as a proportion of the total allocations to Ministries, Departments and Agencies, the MoH accounts for 8.0, 8.1 and 7.9 respectively.

In the year 2020/21, the Ministry implemented five programs. These were Preventive, Promotive & RMNCAH; National Referral & Specialized Services; Health Research and Development; General Administration, Planning & Support Services and Health Policy, Standards and Regulations. The National Referral & Specialized Services programme received the highest allocation of Ksh.44.71 billion while General Administration, Planning & Support Services received the least allocation in the sector of Ksh.8.67 billion. Analysis of the spending shows that the Health Policy, Standards and Regulations programme had the highest absorption rate of 103.3% while the Preventive, Promotive & RMNCAH recorded the lowest absorption rate of 47.9%.

In the year 2021/22, the ministry again implemented the same five programmes. The highest allocation was for the National Referral & Specialized Services programme, which was allocated ksh.50.28 billion. The General Administration, Planning and support services received Ksh.8.10 billion and was the lowest. Preventive, Promotive & RMNCAH* program again recorded the lowest absorption rate of 41.6% while Health Policy, Standards, and Regulations had 96.8 and the highest among the five programmes.

In the financial year 2022/23, the health sector comprised the Ministry of Health, the State Department for Public Health and Professional Standards and several Semi-Autonomous Government Agencies (SAGAs). The two MDAs implemented eight programmes. Ministry programmes: Preventive and Promotive Health Services, Curative Health Services, Health Research and Development, General Administration, Planning & Support Service and Maternal and Child Health. State Department for Public Health and Professional Standards programmes included Preventive, Promotive Health Services, Health Research and Development, General Administration, Planning & Support Services and Health Policy, Standards, and Regulations.

Absorption rates for the Ministry of Health programmes averaged 92.5% while that of the State Department for Public Health and Professional Standards.

Still, it is only the prudent management of these resources that can enable the Ministry of Health and the health sector in general to achieve the constitutional goal of providing every Kenyan with the highest attainable standard of health care. Consequently, in the following section, we will dissect the reports from the Auditor General to establish the extent to which the Ministry of Health has managed the allocated public resources.

Audit Opinion

The statutory duties and responsibilities of the Auditor General are derived from Articles 229 of the Constitution of Kenya, 2010 and the Public Audit Act of 2015. In performing its constitutional duties, the Office of the Auditor General (OAG) is guided by international standards of supreme audit institutions (ISSAI). In performing these functions, the Auditor General examines the books of accounts and all supporting documents and disclosures to form an overall audit opinion.

Table 9.0: Summary of the Audit Opinions for the Ministry and Donor-Funded Projects

No.	MDA/ Project	2020/21	2021/22	2022/23
1	Ministry of Health – vote 1081	Qualified	Qualified	Qualified
2.	State Department for Public Health and Professional Standards – Vote 1083	N/A	N/A	Qualified
Donor project				
3.	East Africa Public Health Laboratory Networking Project (EAPHLN) Credit No. 5616-KE	Unqualified	N/A	N/A
4.	Kenya Health Sector Support (EMMS/KEMSA Component) Project (IDA Credit No.4771 & 50340-KE)	Qualified	N/A	N/A
5.	Health Sector Support Project- SWAP Secretariat (IDA Credit No.4771 and 5367- KE	Qualified	Unqualified	N/A
6.	East Africa's Centre of Excellence for Skills and Tertiary Education in Biomedical Sciences- Phase 1 Project	Unqualified	Unqualified	Unqualified
7.	Global Fund TB Grant Programme (Grant No. KEN-T-TNT-854 and KEN-T-TNT-1548	Unqualified	Unqualified	N/A
8.	Global Fund Malaria Programme Grant/Credit Mo.KEN-M-TNT-1546 and ROUND 10 KEN-011-G13-1	Unqualified	Unqualified	N/A
9.	Kenya Health Sector Support Project- Health Sector Services Fund (Grant No.4771 and TF-1602	Qualified	N/A	N/A
10.	Support of the Health Financing Strategy- Output Based Approach (OBA) Programme (Credit No. 201065853	Unqualified	N/A	N/A
11.	Support of the Healthcare Financing Strategy- Reproductive Health- Output Based Approach Project (Credit BMZ No. Kenya 201065853)	Unqualified	Unqualified	Unqualified
12.	Transforming Health Systems for Universal Care (THS-UC) Project Grant IDA Credit No. 5836- KE, TFOA2561, TFOA2792 and P152394	Qualified	Unqualified	Unqualified
13.	Global Fund HIV/AIDS Program Grant No. KEN-H-TNT GA 1547	Qualified	Unqualified	N/A
14.	United Nations Population Fund (UNFPA) 9th Country Program for Kenya	Qualified	N/A	N/A
15.	COVID-19 Emergency Response Project Grant/Credit No.6598- KE	Qualified	Qualified	Qualified
16.	Kenya Health Sector Programme Support III (DANIDA Ref.104.KE-NYA.810.300- Grant) CG of Kisii	Unqualified	Unqualified	Qualified
17.	Kenya Health Sector Support Project (Credit No.4771-KE) KEMSA	Qualified	Qualified	N/A
18.	Global Fund HIV/AIDS Project Grant No.KEN-H-TNT-1547-National Aids Control Council	Unqualified	N/A	N/A
19.	East Africa Public Health Laboratory Networking Project (EAPHLN) Credit No. 4732-KE- KEMSA	Qualified	Qualified	Unqualified
20.	A Case Study on Integrated Delivery of Selected Non-Communicable Diseases in Kenya (PHGF Grant No. TFOA5636- MTRH	Qualified	Unqualified	Unqualified
21.	Global Fund TB Grant Programme (Grant No. KEN-T-TNT-2067	N/A	Unqualified	Unqualified
22.	Global Fund HIV/AIDS Program Grant No. KEN-H-TNT GA 2065	N/A	Qualified	Qualified
23.	Resilient Sustainable Systems for Health (Rssh) KEN-T-TNT 2067 - Sub Receipt	N/A	Unqualified	Unqualified
24.	Global Fund Malaria New Funding Model (NFM) KEN-M-TNT-2064	N/A	Unqualified	Qualified

No.	MDA/ Project	2020/21	2021/22	2022/23
25.	Danida Primary Healthcare (PHC) Support Program	N/A	Unqualified	Qualified
26.	Global Fund HIV/AIDS Project Grant No. KEN-H-TNT-2065-National Aids Control Council	N/A	Unqualified	Unqualified

Authors' compilation from various OAG Reports

As demonstrated in table 9.0, the Ministry of Health got a qualified opinion for all three years. A qualified opinion implies that there exists material violations but which may not be very pervasive. The new state department State Department For Public Health And Professional Standards was also awarded a qualified opinion in the FY 2022/23.

There were 18 donor-funded projects under the Ministry of Health. It is established that only 8 projects, out of 18, received the unqualified opinion, which is equivalent to 44% of the projects. The other 10 were awarded a qualified opinion. There was an improvement in FY 2021/22 whereby 14 of 18 projects were awarded an unqualified opinion, equivalent to 78%, with only three being awarded qualified. In 2022/23, 8 out of 13 projects, which is 62%, were awarded unqualified opinions. The remaining 38% of the projects got a qualified opinion. The unqualified opinion of the financial reports presents a true state of affairs.

Table 10: Trends in the Number of Queries and the Number of Unqualified Opinions

	2020/21	2021/22	2022/23*
GOK			
Number of queries	46	23	31
Unqualified opinions	0/1	0/1	0/2
Donor Funded Projects			
Number of queries	66	46	54
Unqualified opinions	8/18	14/18	8/13

Authors' compilation from various OAG Reports

* Combined both the Ministry of Health and the State Department for Public Health and Professional Standards

The table above shows a summary of the count of instances where the auditor raised questions regarding adherence to financial rules and regulations. In the last three years, the auditor general has raised a total of 100 audit questions after examining the statements of the Ministry of Health. This includes 46 queries in 2020/21, 23 in 2021/22 and a total of 31 in 2022/23. The significant drop in queries by 50% in 2021/22 as compared to 2020/21 was a good indicator of a possible improvement in the management of public resources. On the other hand, an examination of the donor-funded projects under the ministry revealed that there were 166 audit queries across the three years under analysis. The most queries were raised in 2020/21, which were 66. The number of queries dropped to 46 in 2021/22 before recording another increase in 2022/23. In average terms, there were 55 queries on the donor-funded projects every year.

In instances where the auditor general was satisfied with the financial reporting, an unqualified opinion is awarded. Consistently for the three years, the ministry of health did not receive the unqualified opinion. The new state department was also not awarded an unqualified opinion when there were queries with the financial records. For the donor projects, 8 projects were awarded unqualified opinions in FY 2020/21. Another 14 and 8 donor-funded projects received unqualified opinions in 2021/22 and 2022/23 respectively.

When the unqualified opinions are analyzed between the ministry and the donor-funded projects, it is clear that the opinion is only observed under the donor-funded projects, which might indicate better performance of the donor-funded projects compared to the ministry. It is important to also note that at least 44% of donor-funded projects in 2020/21 received the unqualified opinion. However, it was in 2021/22 that the best

improvement happened whereby 78% of the donor projects got a clean opinion. Unfortunately, the proportion of clean opinions for donor projects reduced to 62% in 2022/23.

The Ministry of Health and the State Department can benchmark some of the donor-funded projects to attain a clean opinion, which is an outcome of prudent management of public resources.

Queried Amounts

The queried amounts in the health sector combining both the ministry of health and the state department for Ppublic Hhealth and Pprofessional Sstandards totalled Ksh.53.38 billion, with pending bills making the largest single component in the queried amounts. This is equivalent to 48% of the total spending for the sector during the same time.

Table 11.0 Identified Audit Queries in the Health Sector

Queried Amounts in the Health Sector	Amounts (Ksh.)	Share of Queried Amount (%)
Ministry of Health - Vote 1081		
Undisclosed Bank Balances	850,928,545	1.6
Unauthorised Development Expenditure	143,869,656	0.3
Pending Accounts Payables	41,169,835,759	77.1
Delayed Construction of Kisii Cancer Centre	2,280,000,000	4.3
Expired Contract on Consultancy Services	19,220,000	0.0
Delayed Construction of Paediatric Emergency Centre and Burns Management Centre	131,647,317	0.2
Procurement of Immunohistochemistry Machine	28,500,000	0.1
Long Outstanding Deposits	55,247,609	0.1
Training of Kenyan Doctors in Cuba	493,954,203	0.9
Outstanding Imprest	44,226,312	0.1
Unutilised Medical Equipment	2,341,127,802	4.4
Failure to Maintain Fixed Assets Register	2,341,127,802	4.4
Undisclosed Residential Housing Units	2,056,054,582	3.9
Payment of Salaries Outside the Payroll	766,458,883	1.4
Lack of Training Needs Assessment	493,954,203	0.9
Total	53,216,152,673	99.7
State Department for Public Health and Professional Standards – Vote 1083		
Unsupported Expenditure on Other Grants and Transfers	1,038,143	0.0
Undisclosed Bank Balances	73,820,927	0.1
Pending Accounts Payable	88,595,209	0.2
Failure to Surrender Imprest	5,452,698	0.0
Total	168,906,977	0.3
Combined Total for the 2 MDAs	53,385,059,650	100.0

Source: Auditor-General-Report-on-National-Government-for-2022-2023

Key identified Issues

In FY 2022/23, the Ministry of Health was awarded a qualified. The basis for the award of the qualified opinion included issues identified in the financial statements, breach of law, ineffective use of public resources and weak internal controls. Some of the issues are highlighted below.

Pending Accounts Payable

The financial statements revealed pending bills amounting to Ksh. 41.17 billion. While a sum of Ksh.1.67 billion was used to pay for pending bills from 2020/21, this was not revealed, bills which had not been included in the balance for the prior year. The auditor further explains that failure to disclose and settle bills during the year distorts financial statements and affects subsequent year budgeting.

Delayed Construction of Kisii Cancer Centre

This project was to be financed through loans; being USD 10 million from the Arab Bank for Economic Development in Africa (BADEA) and USD 37.5 million from the Saudi Fund for Development (SFD). The government of Kenya was supposed to provide an additional Ksh.280 million, making the entire cost of the programme to be Ksh.2.28 billion. the project was to be completed in 6 years (August 2016 to August 2022). However, the project had not taken off as of June 2023 and the amount disbursed for the project had not been disclosed. According to the auditor, in the circumstances, the value of the money has not been obtained. In addition, the delay has a negative on service delivery. The lack of transparency as demonstrated by not disclosing the amounts disbursed for the project is cause for alarm.

Furthermore, the audit revealed that cash books, bank statements and certificates of bank balance for some 10 banks were not provided for audit. In such circumstances, the bank balances disclosed of Ksh.304.95 billion could not be confirmed.

Implications of the Audit Issues

Almost every audit query has an implication. Let us highlight a few. It is expected that continuous relevant training ensures the upgrading of core competencies, knowledge, skills and attitudes of public servants to enhance service delivery. Lack of training needs assessment therefore implies that the training conducted may not address the gaps in regards to competence and performance. For instance, the Ministry reported an expenditure of Ksh.465,121,890 on training for employees without having conducted a training needs assessment.

Delays in the completion of projects such as the cancer Centre in Kisii Level % Hhospital imply that people must have to wait for longer to benefit from the services to be offered under the facility which could increase suffering and other costs to patients.

In some circumstances, the Ministry has used direct procurement without any proper justification. This implies that the benefits of competitive procurement methods such as fair pricing are foregone. More so, the lack of unsupported and approved expenditures might lead to loss or misuse of public funds which results in poor service delivery. Additionally, the frequent underfunding of projects both by the government and donors negatively affects service delivery because it leads to incomplete projects that cannot achieve the intended goals.

Key Messages

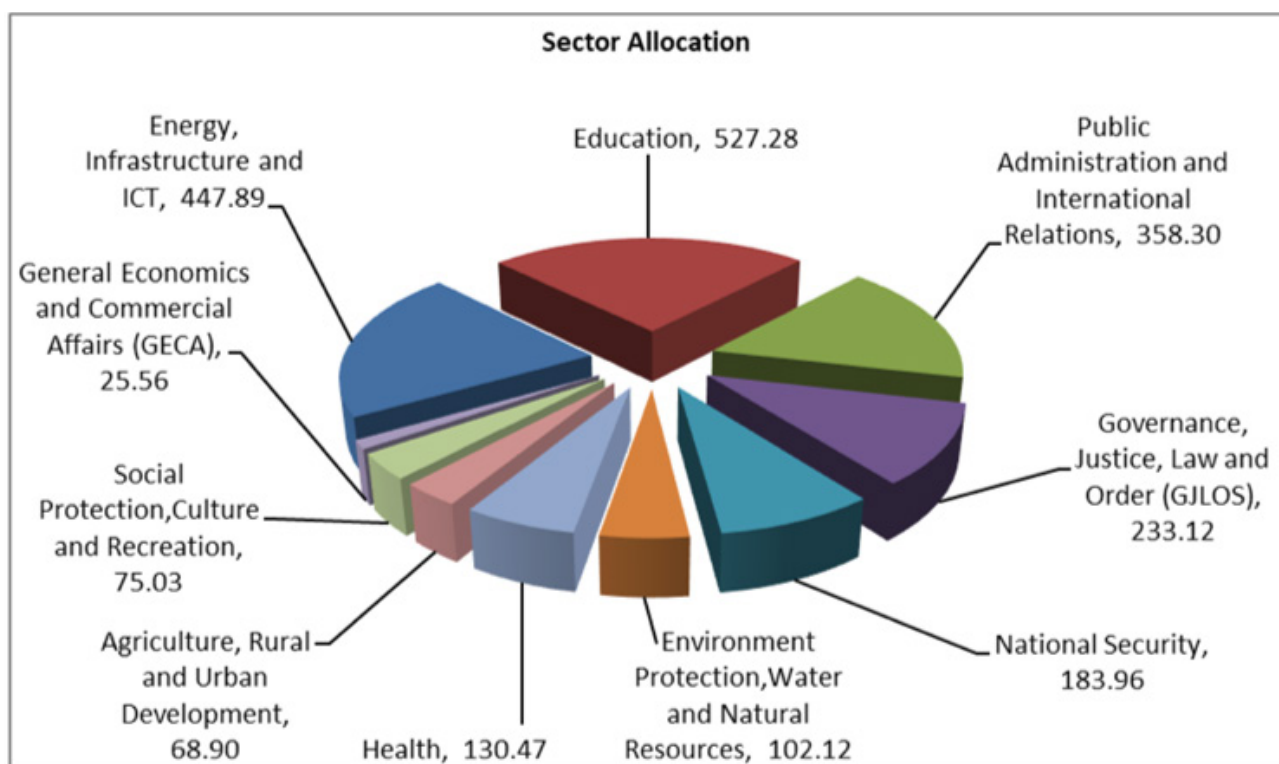
The findings reveal that violations of financial reporting remain common such as unsupported expenditures and failure to reconcile books of accounts, especially for resources under the Ministry. These undermine the PFM regulations that seek to enhance transparency and accountability.

Weaknesses in the internal control systems persist as demonstrated by many and repeated queries as well as matters of previous years remaining unresolved. Failure to resolve audit queries a violation of the law should be punished. The impressive performance of donor projects in FY 2021/22 whereby 78% were awarded clean opinions is a testament that it is possible to manage resources efficiently which will guarantee improved service delivery.

Ministry of Agriculture

Agriculture is a devolved function under the Fourth Schedule of the CoK 2010, and a crucial sector for attaining the aspirations outlined in Vision 2030, Kenya's Economic Blueprint. The entire allocation to the economic sectors of the Kenyan economy for the financial year 2021/2022 amounted to Ksh. 2,152.63 Trillion with the education and energy sectors being allocated the largest shares at 24.5 and 20.8 percent respectively, as per the figure below.

Figure 1: Annual Allocation by Sectors (Ksh. Billions) FY 2021/2022



Source: BROP 2021/22

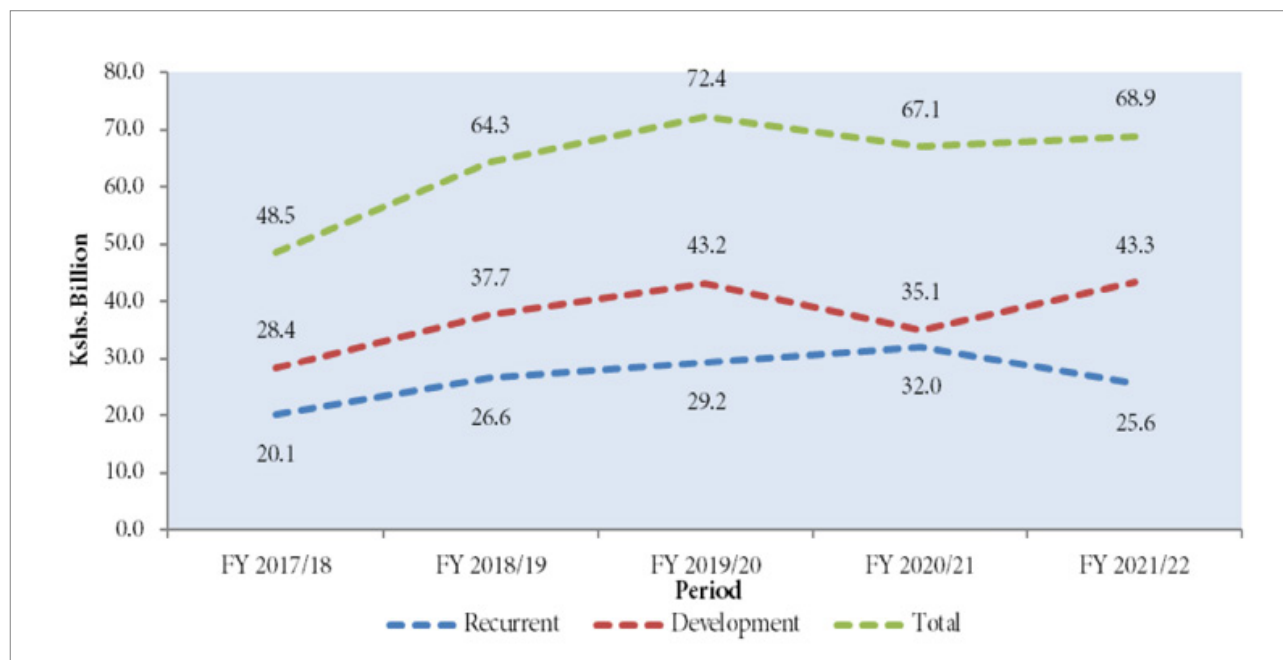
As shown in Figure 1 above, the Agriculture, Rural, and Urban Development (ARUD) sector was allocated Ksh. 68.9 Bn in the FY 2021/22, the second least allocation amongst sectors in that financial year, accounting for a paltry 3.2 percent of the total allocations. The sector consists of 6 MDAs as follows;

1. Ministry of Lands and Physical Planning
2. State Department for Livestock
3. State Department for Fisheries, Aquaculture and the Blue Economy

4. State Department for Crop Development and Agricultural Research
5. State Department for Co-operatives
6. The National Land Commission

The importance of the agricultural sector in the growth of the economy cannot be gainsaid. Over the years, the sector continues to be a major employer and contributor to the country's GDP. The figure below shows the trend in allocations to the ARUD sector over 5 years, from FY 2017/18.

Figure 2: Allocation to ARUD for FY 2017/18 – 2021/22



Source: BROP 2021/22

We note that, on a linear scale, the sector allocation for the period increased from Ksh. 48.5 Bn in 2017/18 to Ksh. 68.9 Bn in 2021/22. However, there was a significant drop in the allocations from Ksh.72.4 in FY 2019/20 to Ksh. 67.1 Bn in FY 2020/2021 (a decline by 7.9 percent).

According to the Malabo declaration, the agricultural sector should be allocated at least 15 percent of the total budget in a given financial year if it is to implement its projects, programmes, or activities and achieve any tangible results.

Pending Bills

This sector is central to achieving food security as one of the goals for Kenya. On the flipside, however, it is one of the least funded sectors in the budget and is prone to budget cuts during the supplementary budget process.

Pending bills refers to the outstanding balances for the ministry of agriculture for goods and services procured during the period, and are yet to be paid. As at 30th June 2022, the sector had pending bills amounting to Ksh. 12.6 Billion as shown in the table 1.

Table 1: Pending Bills as of 30th June 2023

MDA	2021/22	2022/23	Change
Ministry of Lands and Physical Planning	316.47	745.66	429.2
State Department for Livestock	558.23	244.42	(313.8)
State Department for Fisheries, Aquaculture and the Blue Economy	252.42	156.74	(95.7)
State Department for Crop Development and Agricultural Research	10,899.67	16,074.06	5,174.4
State Department for Co-operatives	2.62	-	(2.6)
National Lands Commission	606.67	747.59	140.9
Totals	12,636.09	17,968.47	5,332.4

Source: OAG Report 2021/22 & 2022/23

The table above shows the pending bills for the Kenyan Ministry of Lands and Physical Planning and its associated MDAs as of 30th June 2022, totalling to Ksh. 12,636,091,514, which represents 20.5% of the pending bills for all Kenyan ministries and departments combined, which totals to Ksh. 61,758,926,504.

Out of the sector's pending bills, the largest share is owed by the State Department for Crop Development and Agricultural Research, at Ksh. 10,899.6 in 2021/22, jumping to Ksh. 16,074 .1 in 2022/23. This is followed by the amount owed by the National Lands Commission, at Ksh. 606.67 in 2021/22, representing 4.8% of the Ministry's total pending bills for that financial year, and the third largest, for the State Department of Livestock with Ksh. 558.23.

We note that there is a massive increase in the total pending bills from the previous year, from a total of Ksh. 12,636.1 in 2021/22 to 12,968.5 billion in 2022/23 – a 42 percentage points increment. This points to a variety of issues that need to be brought to the fore, and solved before further bills are accumulated. The larger component of this increment is borne by the Ministry of Lands and Physical Planning which more than doubled its pending bills into the 2022/23 financial year, from Ksh. 316.5 to Ksh. 745.7.

This notwithstanding, it is important to note that some of the MDAs had huge reductions in their pending bills. For instance, the State Department for Livestock reduced by Ksh. 313.8 billion in the two financial years, while the State Department for Fisheries, Aquaculture and the Blue Economy reduced by Ksh. 95.7 billion. These were however not enough to make an impact on the overall pending bills of the ministry.

There are varied reasons for the accumulation of pending bills over the years. This could include payments to contractors, projects, suppliers, unremitted statutory and other deductions, pension arrears for the Local Authorities Pension Trust, delays in the procurement of goods and services, or disputes between the Ministry and its suppliers. The Ministry as a whole, needs to address the underlying causes of the audit concerns put strong internal controls in place, and take remedial action to lessen these. There could be legal and regulatory repercussions, which would require oversight bodies to keep an eye on things constantly in order to guarantee responsible and efficient financial management going forward.

Audit Opinions

An audit opinion can be termed as a certification, made by an independent auditor, that brings to light the state of the financial soundness of a given entity i.e. whether the financial statements meet the generally accepted accounting principles.

Table 2: Audit Opinions for MDAs & Donor Projects

Audit Opinion for MDAs & Donor Projects	2021/22		2022/23	
	Opinion	Donor Projects	Opinion	Donor Projects
Ministry of Lands and Physical Planning	Qualified	N/A	Qualified	N/A
State Department for Livestock	Qualified	Unmodified	Qualified	Unmodified
State Department for Fisheries, Aquaculture and the Blue Economy	Qualified	Unmodified	Qualified	Unmodified
State Department for Crop Development and Agricultural Research	Qualified	Unmodified	Qualified	Unmodified
State Department for Co-operatives	Qualified	N/A	Qualified	N/A
National Lands Commission	Qualified	N/A	Qualified	N/A

Source: Report of the Auditor-General on The National Government Ministries, Departments and Agencies for the Year 2021/22, and 2022/23

For the period under review, the MDAs under this ministry all received a Qualified Opinion.

All the departments in the ministry obtained a qualified opinion for the year under review which signals potential challenges in the management of public resources. In the opinion of the auditor, whereas there maybe material misstatements which are confined to specific elements of the financial statements, the rest can be relied upon for audit purposes.

Importantly as well to note is the fact that the agriculture sector is heavily reliant on development community funding, more specifically at the State Department for Crop Development and Agricultural Research. According to the OAGs report for 2021/22, it is estimated that 83% of the development budget is externally financed as is evidenced by the myriad donor projects in this department, as shown in table 3 below. This points out the lack of prioritization of the agriculture sector at the local budget allocation level, as a key sector for employment creation and economic growth of the country thereby going against the very core of the Bottom-Up Economic Transformation Agenda principle of enhancing agriculture as a key input to employment creation and industrialization.

This notwithstanding, some donor-funded projects have been financed on behalf of the Kenyan government. These fall under three state departments; the Ministry of Livestock, the State Department for Crop Development and Agricultural Research, and the State Department for Fisheries, Aquaculture and the Blue Economy. As is listed in the below, these MDAs all had an unmodified opinion according to the report by the Office of the Auditor General for that financial year.

Queried Amounts

a) Ministry of Lands and Physical Planning

Audit Issues 2022/23	Amount (Ksh.)
Incomplete Fixed Asset Register	5,743,505,494
Unsupported-Long Outstanding Legal Costs	19,543,057,083
Delayed Exchequer Releases	237,474,402
Avoidable Expenditure	57,565,282
Compensation of Employees	2,545,151,617
Total	28,126,753,878

Source: Auditor-General Report on The National Government MDAs for the Year 2022/2023

For this ministry, the total amounts queried by the OAGs report are as listed in the aforementioned table. It is clear to note that the largest amount queried was flagged for unsupported expenditure on long outstanding legal costs amounting to Ksh. 19.5 Billion. Among other issues flagged but not quantified in the report for this ministry include delayed development projects, and use of expired contracts in payments.

b) State Department for Fisheries, Aquaculture and the Blue Economy

Audit Issues 2022/23	Amount (Ksh.)
Presentation and Disclosures in the Financial Statements	2,953,886,120
Unsupported Balances	113,236,738
Unauthorized Re-Allocations	12,812,656
Inaccuracies in Social Security Benefits Payments	22,969,157
Inaccuracies in the Fixed Assets Balances	7,566,933,065
Inaccuracies in Pending Accounts Payables	166,386,002
Delay in Establishment of Kenya Fisheries Advisory Council	10,199,733
Irregular Payment of Security Services	2,216,000
Total	10,848,639,471

Source: Auditor-General Report on The National Government MDAs for the Year 2022/2023

For the State Department of Fisheries, Aquaculture and the Blue Economy, the key issues flagged by the audit report pertains to Inaccuracies in the fixed assets balances to the tune of Ksh. 7.57 billion, and amounts related to presentation and disclosures of financial statements amounting to Ksh. 2.95 billion. In the same vein. Issues such as unsupported balances point to misuse of resources on the one hand, while inaccuracies in pending bills payable could indicate services or goods not delivered for which payments should be made. These need further scrutiny.

c) State Department for Livestock

Audit Issues 2022/23	Amount (Ksh.)
Unaccounted for Long Outstanding Imprests	2,062,058
Unsupported Transfers to Other Government Entities	21,500,000
Budgetary Control and Performance - Under-funding	2,948,940,411
Budgetary Control and Performance - Under-expenditure	3,348,900,713
Irregular Engagement of Temporary Employees	0
Failure to Settle Pending Bills	32,106,769
Total	10,848,639,471

Source: Auditor-General Report on The National Government MDAs for the Year 2022/2023

At the State Department for Livestock, the main issues flagged by the auditors' report are aligned to underfunding on the one hand, and under-expenditure on the other, for funds already allocated for use. 99 percent of the total amount flagged falls under these categories. This impacts the delivery of services to the intended recipients. In addition, non-payment of pending bills which has been carried forward also hampers future delivery of services or products from diverse suppliers, which again impacts delivery of services to citizens.

d) State Department for Crop Development and Agricultural Research

Audit Issues 2022/23	Amount (Ksh.)
Inaccuracies of Expenditure on Compensation of Employees	428,998,000
Long Outstanding Fertilizer Subsidy Pending Accounts Payable	8,494,698,701
Inadequacies in Sifted Maize Subsidy Programme	3,999,095,569
Unsupported Procurement of Millers, Contingent Liabilities on Maize Flour Subsidy Program, Lack of an Approved Supplementary Budgets on Maize Flour Subsidy, Failure to Quantify Contracted Quantities	
Drying and Storage Facility	
Construction of Mwendu - Urithi Lailuba Grain Drying and Storage Facility in Meru County	
Construction of Mbeu Muungano CBO Drying and Storage Facility in Meru County	
Construction of New Progressive Farmers' Cooperative Society Drying and Storage Facility in Uasin Gishu County	

Source: Auditor-General Report on The National Government MDAs for the Year 2022/2023

As shown in the table above, there are long outstanding fertilizer subsidy pending accounts payable of Ksh. 8.4 Billion comprised of Ksh. 5 Billion for the National Cereals and Produce Board (Fertilizer Subsidy), and the rest to Export Trading Company, National Cereals and Produce Board and Export Trading Company – to which Legal Costs amounting to Ksh.29 million are pending. Other key issues are the construction of drying and storage facilities in Meru and Uasin Gishu counties, and inadequacies in the Sifted Maize Subsidy Program which include Failure to Quantify Contracted Quantities and Unsupported Procurement of Millers.

e) State Department for Co-operatives

Audit Issues 2022/23	Amount (Ksh.)
Budgetary Control and Performance - Shortfall	8,282,625,648
Budgetary Control and Performance - Under-absorption	8,286,240,327
Unresolved Prior Year Matters	

Source: Auditor-General Report on The National Government MDAs for the Year 2022/2023

At the State Department for Co-operatives, the main issue that was flagged relates to underfunding, by Ksh. 8.28 billion, and under-absorption of the amount allocated by a whopping Ksh. 8.26 Billion.

Conclusion

Agriculture plays a crucial role in economic growth, especially in Kenya and any other developing as well as developed countries. To achieve growth with equity and therefore reduce poverty, there is need to place priorities on the policies that enhance incomes of rural households, case in point those who undertake the main agricultural activities. One of the ways to achieve this is to pull through with the declaration by the president as pertains to pending bills. Many agricultural related firms still have unpaid bills owed to them by the various specific MDAs which hamper their ability to continue with their normal livelihoods. Other than being a burden to the taxpayer, it is also a detriment to future planned development projects of the ministry, which hampers service delivery at all levels.

In addition, it is important to note that the ministry is key to production of food crops which feeds the nation. From this notion therefore, it becomes important to thus prioritize the various local MDAs especially in terms of budgetary allocation in order to enhance local production of food crops which in turns will yield positive externalities for all.

The auditor finds that the MDAs under this ministry all have a qualified opinion, while the donor projects therein were found to have an unmodified opinion

Analysis for State Department for Roads FY 2022/2023

The State Department of Roads was formed in May 2013 through executive order No.2 at cabinet level with day-to-day management under the following key organs: -Central Administrative Services, Technical Services, Material Testing and Research, Mechanical and Transport Services, Training Services and Fiduciary Management. It implements its programs through its implementing agencies of Kenya National Highway Authorities, Kenya Rural Roads Authority, Kenya Urban Roads Authority, Kenya Roads Board and Engineers Board of Kenya.

Budget Allocation

The State Department of Roads had a total Budget Allocation of Ksh 230.589B in the FY 2022/23 comprising of Development Budget of Ksh 128.534B and Recurrent Budget of Ksh 73.883B.

Expenditure

The State Department of Roads had a total Budget Expenditure of Ksh 203.532B in the FY 2022/23 comprising of Development Budget of Ksh 156.534 B and Recurrent Budget of Ksh 74.055B. This accounts for an absorption rate of 87.8%. It also accounts for the largest share of development expenditure of 24.1% of the total development expenditure across various sectors.

The sector consists of 5 MDAs as follows:

- i. Kenya National Highway Authorities
- ii. Kenya Rural Roads Authority
- iii. Kenya Urban Roads Authority
- iv. Kenya Roads Board
- v. Engineers Board of Kenya

Audit Opinions

An audit opinion can be termed as a certification, made by an independent auditor, that brings to light the state of the financial soundness of a given entity i.e. whether the financial statements meet the generally accepted accounting principles.

The State Department of Roads received an unqualified Opinion in FY 2022/2023 compared the year 2021/2022 when the state department was awarded a qualified opinion showing some progress in the financial statements meet the generally accepted accounting principles.

Table 14.0: Audit Opinions for MDAs & Donor Projects

Audit Opinion for MDAs & Donor Projects	2021/22		2022/23	
	Opinion	Donor Projects	Opinion	Donor Projects
State department for Road	Qualified	10 - unmodified 24 - qualified 1 - Disclaimer	Unqualified	20-unmodified 24- qualified

Source: Report of the Auditor-General on The National Government Ministries, Departments and Agencies for the Year 2022/2023

From the table above, we note that the State Department for Roads had the highest number of donor-funded projects in the financial year under review; 2022/23. This notwithstanding, the auditor gave the State Department unqualified opinion which means that the financial statements for the State Department given was accurate, in accordance with the identified financial reporting framework.

Audit Queries

Table 15: Identified Audit issues in the State department for Roads

Audit Issues for the basis of an unqualified audit opinion in the FY 2022/2022			
Audit Query Classification	Specific Query	Queried Amount	% amount
Unresolved Prior Year Matters	Several issues were raised but remain unresolved	-	0
Long Outstanding Deposits and Retentions Balances	Long Outstanding Deposits and Retentions Balances from the previous year	Ksh 227,599,396	93.7%
Non-Compliance with the 1/3 of Basic Salary Rule	Employees received net pay amounts that were below 1/3 of their basic pay		0
Non-Compliance with the Approved Staff Establishment	Over establishment of 424 staff members from the required 236 staff		0
Maintenance of Duplicate Salary Bank Account Numbers for Staff	5 employees had duplicate bank account numbers	0	0
Delayed Payment of Decretal Amount	State Department incurred an expenditure of Ksh. 550,000 for payment to the Solicitor General's Office in 2003	Ksh. 11,754,028	4.8%
Lack of Detailed Petty Cash Expenditure Schedules	Payment vouchers associated with these cash transactions lacked detailed expenditure analysis	Ksh. 3,500,000	1.4%
Lack of the Internal Audit Reports	Lack of approved internal audit reports	0	
Total		Ksh 242,853,424	100%

Source: Author's Calculations from various OAG Reports

Identified Audit issues in the State department for Roads

The auditor General identified issues which led to state department being awarded an unqualified audit opinion. There were no material issues noted during the audit of the financial statements of the State Department.

Other Matters

- Unresolved Prior Year Matters**

In the audit report of the previous year, various issues were raised across different sections, including the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management, and Governance. Despite these issues being brought to the attention of the Public Accounts Committee, they remained unresolved as of June 30, 2023. This shows a concerning lack of progress in addressing the identified discrepancies and implementing necessary corrective actions within the State Department. Failure to resolve audit findings in a timely manner can have serious implications, including continued financial mismanagement, non-compliance with regulations, and inefficiencies in resource utilization. Additionally, unresolved issues may erode public trust and confidence in the department's ability to effectively manage public resources. It is important for the State Department to prioritize the resolution of audit issues and take prompt action to address underlying causes. This may involve implementing robust internal control mechanisms, enhancing governance structures, providing adequate training and resources, and fostering a culture of accountability and transparency. By addressing these issues promptly and effectively, the State Department can improve its financial management practices and ensure the lawful and efficient use of public resources.

Report on Lawfulness and Effectiveness in Use of Public Resources

- **Long Outstanding Deposits and Retentions Balances**

The statement of financial assets and financial liabilities, along with financial statements, reveals an accounts payable-deposits balance of Ksh. 227,599,396, representing a decrease of Ksh. 6,017,602 from the previous year's closing balance of Ksh. 233,616,998. Notably, the opening balance of Ksh. 233,616,998 includes balances totaling Ksh. 180,000,000 that remained unclaimed following the transition period from direct implementation of contracts by the State Department to implementation of road contracts by road agencies between 2010 and 2015. Management has not provided an explanation for why these deposits have not been transferred into the Consolidated Fund, as required by Regulation 106 of the Public Finance Management Regulations, 2015. This regulation stipulates that unless exempted by an Act of Parliament, any deposit that remains unclaimed for five (5) years may be transferred into the Consolidated Fund with the approval of the Cabinet Secretary. Subsequently, the Accountant-General may refund the deposit to any entitled person if the authenticity of the claim is confirmed. The failure of management to comply with this regulation indicates a breach of the law. This breach raises concerns about the management's adherence to regulatory requirements and the proper handling of public funds. It is imperative for management to address this issue promptly and take corrective action to ensure compliance with legal obligations regarding the handling of unclaimed deposits. Failure to do so may result in further legal and financial consequences for the State Department.

- **Non-Compliance with the 1/3 of Basic Salary Rule**

The OAG noted that the Integrated Payroll and Personnel Database (IPPD) records for the Department, it was found that during the month of April 2023, 131 employees received net pay amounts that were below 1/3 of their basic pay. This observation contradicts Section C.1(3) of the Human Resource Policies and Procedures Manual for the Public Service of May 2016, which explicitly prohibits public officers from over-committing their salaries beyond 2/3 of their basic salaries. The discrepancy between the net pay received by these employees and the policy outlined in the manual indicates a breach of the law by the management of the Department. This breach raises concerns about the financial well-being of employees and the department's compliance with regulatory requirements regarding salary disbursement. It is imperative for the management to rectify this issue promptly, ensuring that all employees receive payments in accordance with established policies and legal frameworks. Failure to address this breach may result in legal repercussions and undermine the department's reputation for fair and equitable employment practices.

- **Non-Compliance with the Approved Staff Establishment**

As previously reported, a review of the human resource records revealed that the Department had an approved establishment of 236 staff members across all cadres. However, the actual number of staff members in position was 658, resulting in an over establishment of 424 staff members. This situation is in direct contradiction to Section A.15 of the Human Resource Policies and Procedures Manual for Public Service, May 2016, which outlines the responsibilities of Ministerial Human Resource Management Advisory Committees (MHRMAC). Among these responsibilities is making recommendations to the Authorized Officer regarding establishment and complement control. In failing to adhere to the approved establishment numbers and allowing an over establishment of staff, the management of the Department is in breach of the law. Such breaches can lead to inefficiencies in resource allocation, administrative challenges, and issues with budgetary management. Additionally, they may raise concerns about the department's adherence to regulatory requirements and its ability to effectively manage its workforce. It is crucial for the management to take corrective action to address this breach and ensure compliance with established policies and legal frameworks governing human resource management. This may involve reviewing staffing levels, implementing controls to prevent future over establishment, and enhancing oversight mechanisms to ensure adherence to regulatory requirements.

- **Maintenance of Duplicate Salary Bank Account Numbers for Staff**

On analyzing the human resource records, including the bank salary complement, for the year under review, it was discovered that 5 employees had duplicate bank account numbers. Although Management provided an explanation that the State Department is in the process of cleaning up the payroll to correct the anomalies observed, this action is contrary to Regulation 121(3) of the Public Finance Management (National Government) Regulations, 2015. Regulation 121(3) stipulates that at least once every month, the Accounting Officer shall certify the correctness of the payroll. This certification process ensures the accuracy and integrity of payroll data, including bank account information. By allowing duplicate bank account numbers to persist without timely correction, Management is in breach of this regulation. Failure to address such discrepancies in a timely manner can lead to issues such as erroneous payments, fraud, and loss of public funds. It is imperative for Management to take immediate corrective action to rectify the payroll anomalies and ensure compliance with regulatory requirements in the future. This may involve implementing robust payroll verification processes and internal controls to prevent recurrence of similar issues.

- **Delayed Payment of Decretal Amount**

Looking at the payment vouchers, the OAG found that the State Department incurred an expenditure of Ksh. 550,000 for payment to the Solicitor General's Office during the year under review. This payment was related to an arbitration and compensation for a contract awarded on October 30, 2002, with an expected completion date of April 24, 2003. However, the contract was terminated by the then Ministry of Roads (now State Department for Roads) in July 2005. Subsequently, the claimant-initiated arbitration seeking compensation of Ksh. 73,601,346. The Arbitrator issued the final award on February 22, 2013, whereby the Claimant was awarded Ksh. 55,235,909, and the Ministry was ordered to pay the cost of arbitration. Records indicate that the State Department made payments towards the awarded amount from 2013 to 2017 but ceased further payments thereafter. However, interest continued to accrue on the outstanding balance, which amounted to Ksh. 11,754,028 as of June 30, 2023. Importantly, the outstanding amount was not disclosed as a pending bill in previous financial statements, potentially resulting in a lack of budget allocation for it. Management did not provide any explanation for this unsatisfactory situation. Consequently, the State Department may incur avoidable costs such as penalties and interest due to the delayed payment of the arbitration award. This failure to settle the award as required could result in financial losses for the Government. Urgent action is needed to address this matter and ensure the timely settlement of the arbitration award to prevent further escalation of costs.

Report On Effectiveness of Internal Controls, Risk Management and Governance

- **Lack of Detailed Petty Cash Expenditure Schedules**

Upon reviewing the recurrent cash book, the OAG reported that the State Department made cash withdrawals totaling Ksh. 3,500,000. However, upon further examination of records, it was discovered that the payment vouchers associated with these cash transactions lacked detailed expenditure analysis. Instead, they only contained an official form outlining the withdrawals without specifying the nature of the expenses. This lack of detailed expenditure analysis raises concerns about the effectiveness of controls related to cash management within the State Department. Without proper documentation and transparency regarding the purpose of these cash withdrawals, it becomes challenging to ensure accountability, prevent misuse of funds, and verify the appropriateness of expenditures. To strengthen controls and enhance transparency in cash management, it is imperative for the State Department to implement measures such as requiring comprehensive expenditure analysis for all cash transactions, maintaining accurate records, and conducting regular reconciliations. By doing so, the Department can improve its financial management practices and mitigate the risk of financial irregularities.

- **Lack of the Internal Audit Reports**

During the period under review, it was noted that the internal audit function of the State Department for Roads did not have approved internal audit reports. As a result, it was not possible to ascertain whether the internal audit function was operational during the year or if it was providing assurance regarding the effectiveness of the State Department's risk management, governance, and internal control processes. This lack of approved internal audit reports raises concerns about the effectiveness of risk management, the internal control environment, and governance within the State Department. Without proper oversight from the internal audit function, there is a risk of undetected issues, inefficiencies, or irregularities within the department's operations. To address this issue and improve accountability, it is crucial for the State Department to ensure that the internal audit function is adequately resourced, operates effectively, and produces timely and approved audit reports. Additionally, there should be mechanisms in place to monitor and follow up on the implementation of audit recommendations to mitigate identified risks and strengthen internal controls. By doing so, the State Department can enhance its governance practices and ensure the effective management of risks.

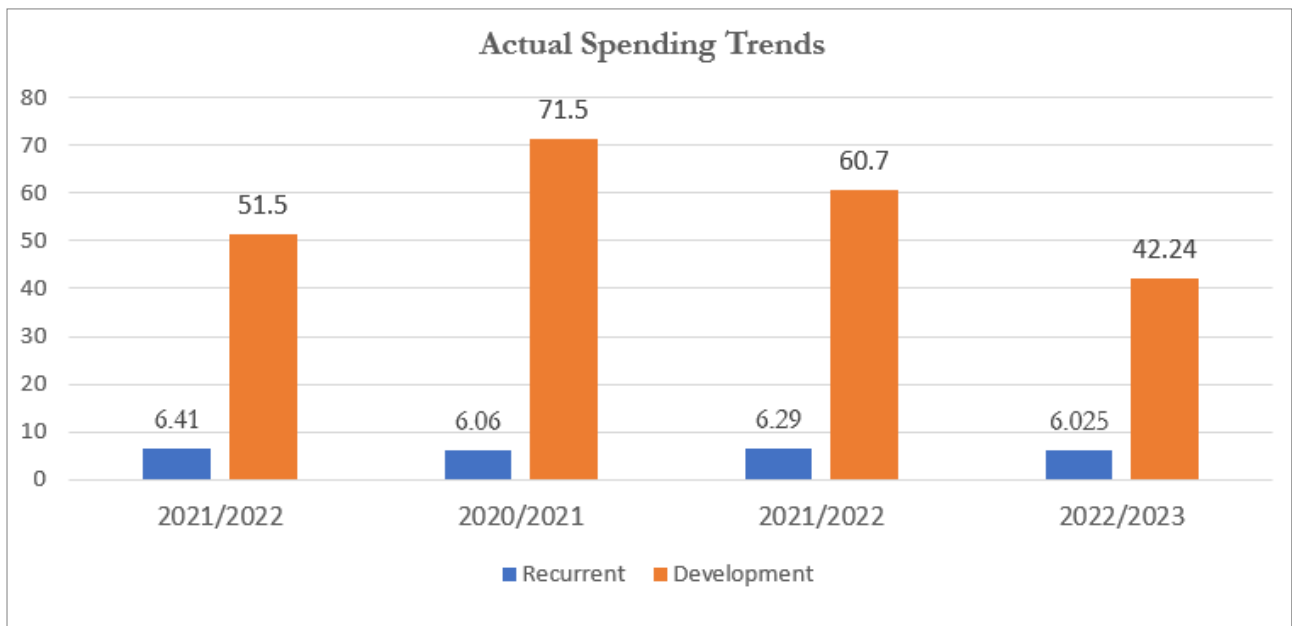
Conclusion

Roads plays a crucial role in economic growth, especially in Kenya and any other developing as well as developed countries due to the positive externalities. The auditor finds that the donor projects in different MDAs under the state department of roads all have a qualified, unqualified opinions with a general qualified opinion.

State department for Water and Sanitation.

The State Department of Water, Sanitation is domiciled in the Environmental Protection, Water, and Natural Resources (EPW&NR) Sector. The Sub-Sector is mandated to protect, conserve, manage and increase access to clean and safe water, and sanitation services for socio-economic development of the country. The actual spending nominally has remained almost at the same level for recurrent expenditure ranging between kshs 6.41 billion in the year 2021/2022 to Kshs 6.025 billion in the year 2022/2023. Development expenditure recorded kshs 51.5 billion in the year 2021/2022 which increased to kshs 71.5 billion in the year 2020/2021 and recorded a drop in actual spending of kshs 60.7billion and kshs 42.24 billion for the year 2021/2022 and 2022/2023 respectively.

Table 16: State department for Water and Sanitation Budget Performance by Programmes



Source: Environment Protection, Water and Natural Resources Sector Report for the MTEF Period 2024/25 - 2026/27

Analysis of sub-programmes analysis shows that Water Policy Management, Water Resources Conservation and Protection, Sanitation Infrastructure Development and Management recorded low absorption rates of 64.9%,37.1% and 9.6% respectively. Further analysis shows that several sub-programmes had 100 per cent absorption of their allocated budget in FY 2022/23 including Water Towers Rehabilitation and Conservation Sub-Programme under Forests and Water Towers Conservation Programme in the Ministry of Environment and Forestry. In contrast Water Storage and Flood Control sub-programme under the Irrigation and Land Reclamation Programme in the Ministry of Water and Sanitation and Irrigation recorded the lowest absorption of the budget at 5.9 percent.

Audit Opinion

The State Department of Water and Sanitation received a qualified opinion from the auditor general for the financial reports for the year 2022/2023. These was based on unresolved prior years matters, pending payables, lack of budgetary control and performance, unreconciled grants and transfers to other government entities and unexplained variance in proceeds from foreign borrowing. The total number of audited donor projects were 27 out of which 20 received clean opinion on the financial statement while 7 donor project received a qualified opinion.

For the year 2021/2022, the state department received a qualified opinion based on unreconciled transfers to other government entities, budgetary control and performance, lack of ownership documents for construction of partakilat water supply project (Narok County - Kilgoris Sub-County), delayed Project Implementation, unresolved Prior Years Matters and Pending bills. The total audited donor projects were 25 out of which 14 received unmodified and 11 donor project received a qualified opinion.

Table 17.0: Audit Opinions for MDAs & Donor Projects

Audit Opinion for MDAs & Donor Projects	2021/22		2022/23	
	Opinion	Donor Projects	Opinion	Donor Projects
State department for Water and Sanitation	Qualified	14 - Unmodified 11 - Qualified	Qualified	20 - Unmodified 2 - Qualified

Source: Authors' compilation from various OAG Reports

Identified Audit issues in the State department for Water and Sanitation

The auditor General identified issues which led to state department being awarded the qualified audit opinion.

1.0 Long Outstanding Arrears of Revenue

The statement of arrears of revenue reflects non-tax receipts from Government Investment and Public Enterprises (GIPE)¹. The amount that was supposed to be remitted by State department for Water and Sanitation as at 30 June 2023 amounted to kshs 20.6 billion. However, no satisfactory explanation was provided for the failure by the State Corporations to share the amount in arrears as analyzed below;

Table 18.0: Revenue Arrears from state department of water and sanitation

Entity	Arrear amount Kshs
National Water Conservation	2,069,496,885
Tanathi Water Services Board	1,137,037,550
Coast Water Services Board	5,017,030,806
Tana Water Service Board	1,136,067,333
Athi Water Services Board	7,604,908,863
Lake Victoria North Water Service	1,737,534,827
Board Lake Victoria South	1,587,349,649
Service Board Central Rift Valley	322,043,253
Total	20,611,469,166

Source: Authors' compilation from various OAG Reports

The auditor general also flags out National Water Conservation and Pipeline Corporation having a dormant loan amounting to kshs 19,597,984,196 which had no movement during the year and have remained unpaid over a significant period. Further, Management did not provide the aging analysis of the dormant loans. Members of parliament need to quickly turn around the issue and request the accounting officers of this state corporation under the state department of water and sanitation to share the aging analysis of all these arrears.

¹Government Investments and Public Enterprises (GIPE) is the department through which the Cabinet Secretary/ National Treasury exercises the oversight and ownership functions in state corporations and other Government investments.

2.0 Other audit in the State Department of water and Sanitation include;

Table 19.0: Audit queries for FY 2022/2023

Audit Issues for the basis of an adverse audit opinion in the FY 2022/2023			
Audit Query Classification	Specific Query	Queried Amount	Percentage amount
Failure to Reconcile Books of Account	Unreconciled Grants and Transfers to Other Government Entities	49,398,190,210	70.2
	Unexplained Variance in Proceeds from Foreign Borrowing	741,481,428	
Lack of Supporting Documents	Lack of Ownership Documents for Construction of Partakilat Water Supply Project in Narok County - Kilgoris Sub-County	14,000,000	0
Violation of Financial Regulations	Delay in Completion of Kanyenyaini Irrigation Project	176,482,346	0.8
	Un-Approved Utilization of Contingency Amount and Lack of Budget for the Variation of Works Murang'a Lot 3 Irrigation Project	31,495,936	
	Irregular Payments from Equalization Funds Projects	84,994,377	
	Lack of a valid contract for consultancy services to undertake Land Degradation Assessment (LADA) and model projection for degradation security for Upper Kerio Valley and Upper Ewaso Nyiro North River Water Watershed.	5,831,100	
	Unauthorized drilling of unspecified number of boreholes.	177,716,197	
	Unauthorized procurement of tonners and stationeries	68,309,500	
	Unauthorized hiring of helicopter from a local company for the Cabinet Secretary to attend a meeting in Wajir County	2,758,793	
	Unauthorized per diem spent on tender evaluation committee members to evaluate companies awarded to drill boreholes	5,875,800	
Pending Bills	Government Advertising Agency	1,181,893	0.5
	Property firm for rent	1,829,339	
	Beach resort - conference facilities	20,000,000	
	Financial statement pending bills	263,289,149.	
No Value for Money	Incomplete Drilling of Boreholes	145,544,692	1
	Abandoned Borehole Project at Njiiri School	3,783,612	
	Borehole Drilled at Muthuini Primary School in Kieni Constituency	3,742,662.	
	Unsatisfactory Implementation of Sagana River Restoration Project	443,681,794	
	Overvaluation and delay in Completion of Maragua Bulk Water Supply and Irrigation Project	109,955,248	
	Overpayment to a Contractor for the construction of Kanini Irrigation Project in Tharaka Nithi	5,501,335	
Others	Failure to finance the entire budget	14,627,129,209	20.5
	Grand Total	71,401,013,257	100.00%

Source: Authors' compilation from various OAG Reports

Table shows the number of queries the Auditor General identified for the financial year 2022/2023. The total queried amount was kshs71.1 billion which include some projects amount accumulated from previous years. Failure to reconcile books of accounts recorded the highest share of queried amount of 70.2 % while budgetary control and performance under funding and under performance of the state department budget recorded 20.5%. However, violation of financial regulation recorded the highest number of queries standing at 8 queries of kshs 553.5 million followed by no value for money with 6 queries totalling kshs 712 million.

The state department of water and sanitation need to take action and follow-up from parliament public accounts committee on the following audit concerns;

- **Abandoned and delayed completion of projects**

Delayed completion of the project indicates poor planning, monitoring and implementation of the project in the state department. Payment to the contractors should be based on milestone to ensure there no cases of project abandonment and delay in any contractual work in the state departments. In the year 2022/2023, the state department had cases of delay in project completion. For example, a borehole that was supposed to be drilled at Muthuini Primary School in Kieni Constituency. The tender for drilling and equipping of borehole, construction of an elevated tank, plumbing works and supply of green house at Muthuini Primary School in Kieni Constituency in Nyeri County was signed on 28 July, 2021 at a contract sum of Kshs.9,389,062 with a completion date of 15 March, 2022. Physical inspection carried out in the month of August, 2023 revealed that, the contractor had abandoned the site resulting to incomplete works valued at Kshs.3,742,662.

- **Noncompliance with one third of basic salary rule**

Accounting officers have a duty of ensuring that they follow the law when preparing salaries for workers on a monthly basis particularly on one third basic salary rule. Analysis of payroll for the month of June, 2023 revealed that nineteen (19) employees received a net salary of less than third (1/3) of the basic salary. This is contrary to Section C 1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016. Further, it was observed that the State Department had processed salaries and allowances for five hundred and twenty-five (525) officers against an approved staff establishment of four hundred and thirty (430) officers, leading to an overstaffing by ninety-five (95) officers.

- **Settlement of creditors bills in the year they occur**

The state department must endeavor to Prioritize payment of pending bills – Public Accounts Committee must insist on accounting officer's prioritizing payment of pending bills on time. For the year 2022/2023, the state department had pending bills totaling Kshs.263,289,149. and the management did not explain to the auditors why the bills were not settled during the year when they occurred. Further, the list of pending bills had payment vouchers that had different departmental voucher numbers with the one posted in IFMIS and therefore it was not possible to confirm the accuracy and completeness of the pending bills. Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

- **Oversight and investigative agencies work together to prosecute accounting officers involved in fraudulent activities in the departments**

The auditor general reported the state department made a contractual overpayment without following proper due process. The Ministry of Water, Sanitation and Irrigation entered into a contract with a local company on 21 May, 2021 for the construction of Kanini Irrigation Project in Tharaka Nithi County at a contract sum of Kshs.34,409,368. The contractor handed over the project to the Ministry after inspection by the contract administration, inspection committee on 11 October, 2022 and a completion certificate issued to the contractor on 26 May, 2023. However, the State Department paid the contractor a sum of Kshs.39,910,703 resulting to an overpayment of Kshs.5,501,335 which has not been explained nor supported. As at the time of audit in October, 2023, the overpayment had not been recovered.

- **Compliance on regulation 139(1)(a) of the Public Finance Management (National Government) Regulations, 2015 which states that the accounting officer of a national government entity shall take full responsibility and ensure that proper control systems exist for assets.**

The auditor general report that there are grounded motor vehicles in private garages for the state department for water and sanitation. Review of the motor vehicles' register revealed that out of the fourteen (14) vehicles that have been grounded at private garages, three (3) have been grounded for a period exceeding ten (10) years, three (3) for more than three (3) years and four (4) for a period of over one year, with no indication of repair or disposal. However, Management has not instituted proper control systems to eliminate theft, security threats, losses, wastage and misuse of the assets. This is contrary to Regulation 139(1)(a) of the Public Finance Management (National Government) Regulations, 2015 which states that the Accounting Officer of a national government entity shall take full responsibility and ensure that proper control systems exist for assets and that preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse.

General Recommendations

To address issues arising in the OAG report, the national government through Public Accounts Committees need to:

- Ensure the National Treasury and MDAs, prepare their budgets based on quarterly revenue collection pattern to avoid under expenditure between the estimated budgets and actual spendings. The National Treasury should ensure more realistic and effective forecasts of revenue and cash flows to reduce delayed exchequer releases and budget under absorption. Further, the under expenditure is attributed to under collection of revenue below the set targets leading to delays in exchequer releases. The underspent amount also explains the ineffectiveness and opportunity cost of public services that would have been rendered. Additionally, since Treasury use of Single Account is operational now, all MDAs should be to efficiency and accountable in liquidity management.
- Ensure there is timely release of audit reports by the Office of the Auditor General as required constitutionally to parliament and county assemblies (Six month after the end of each financial year) and debating the reports within three month by parliament and county assemblies and consider the report and take the necessary actions.
- Keenly follow up on MDAs pending bills. Pending bills of Ministries, Departments, and Agencies have grown exponentially, growing from Ksh 47 billion in the 2017/2018 financial year to Ksh 128 billion in the 2023 financial year. The Ministry of health lead with the highest pending bills totaling to Kshs 41.2 billion representing 32% of all the MDAs pending bills. Each MDAs should conduct an ageing analysis on the pending bills showing the time gap and interest rates being charged for the specific pending bill being not paid by the accounting officer.
- Follow-up with the MOH on the failure to pay the pending bills because these has not only led to increase in liabilities but affects the smooth operations of suppliers and Small Medium Enterprises (SMEs).
- Follow-up on the MDAs that received qualified audit opinion. The number of qualified opinion remained relatively high in the year 2022/23 at 109 Which means that the Auditor General could not confirm the lawfulness, accuracy and effectiveness of public expenditures of the respective MDAs and financial documents of these MDAs contain some material misrepresentation of facts.

- Government funded projects in the MDAs should follow the framework of donor funded projects. Most MDAs donor funded projects are required to use internationally agreed principles of results-based management to measure, manage, and report results.
- Review the queries in the MOH focusing on the findings on violations of financial reporting such as Unauthorized expenditure, unsupported expenditures and failure to reconcile books of accounts. These undermine the PFM regulations that seek to enhance transparency and accountability. For example, there was of Lack of Approval on Training in Foreign Based Institution Training records indicates that the Ministry entered into a contract to train fifty (50) doctors in Family medicine for two years at a cost of USD 2,147,625 equivalent to Kshs.214,762,500 without evidence that the course was not available in Kenya before granting approval to train in a foreign institution. This is contrary to Paragraph 4.2.1 of the Guidelines on Managing Training in Public Service, 2017, which provides that an approval to train in foreign-based institution will only be granted in instances where the courses applied for are not available in local institutions.
- Relook at state Departments under Agriculture and Rural Development for obtaining a qualified opinion for the year 2021/22 and 2022/2023 which signals potential challenges in the management of public resources. In the opinion of the auditor, whereas there may be material misstatements which are confined to specific elements of the financial statements, the rest can be relied upon for audit purposes. For example, the State Department for Crop Development and Agricultural Research had terminated and abandoned Projects. Review of contracts and payment records by the auditor general revealed that the Project Management had awarded multiple contracts for various civil works. However, review of the projects' status reports and physical inspection of the works in September, 2023 revealed payment amounting to Kshs.263,651,215 as at 30 June, 2023 relating to seventeen (17) contracts with combined contract sum totalling Kshs.391,072,333. Further, it was observed that these projects had been terminated and some abandoned for various reasons. Although, the Project Management has explained that some of the works have been re-advertised and new sites identified to replace the dried-up boreholes and shallow wells in Tana River region with the intention of ensuring that the beneficiary communities received value for the investments, the costs incurred did not translate to benefits to the public.

Other recommendation not included in this analysis but OAG main report has include;

- **The Public Investment and Accounts Committee (PIAC) ought to make follow with the Accounting Officers of all MDAs compliance with the one-third basis salary rule**

The OAG report revealed non-compliance with one third of basic salary rule by some MDAs. For example in the Ministry of Health, Analysis of the staff payroll revealed that one hundred and sixty-eight (168) employees were earning less than one third of their basic salaries. This was contrary to Section 19(3) of the Employment Act, 2007 which states that without prejudice to any right of recovery of any debt due, and notwithstanding the provisions of any other written law, the total amount of all deductions which under the provisions of subsection (1), may be made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages or such additional or other amount as may be prescribed by the Minister either generally or in relation to a specified employer or employee or class of employers or employees or any trade or industry.

- **The PIAC to make follow-ups to ensure all MDAs resolve prior year matters appropriately as raised by the auditor general**

The Auditor general raises inaccuracies in financial statements, violation of financial regulations and pending bills as prior issues that has consistently being flagged out by the auditor general. Surprisingly, these very issues have not been corrected for years by MDAs and they have consistently featured in the audit reports without correction. The county executive should ensure that recurrent issues as raised by the Auditor General are addressed appropriately. Especially in areas of violation of financial regulations and inaccuracies in the financial statements.



COUNTY BUDGET FOCUS

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