



**MINISTRY OF HEALTH**  
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**INTERIM AUDIT REPORT ON END OF YEAR PROCUREMENT AND  
PAYMENTS FOR 2015/16 FOR THE MINISTRY OF HEALTH**

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Reference is made to the above Internal Audit Report addressed to the Cabinet Secretary, Ministry of Health by the Head of Internal Audit Unit of the Ministry. The Audit Report also formed the basis of media reports appearing in the front page of the Business Daily of Wednesday, 26th October, 2016. The responses to the issues raised in the Report are as follows:-

**1.0 Supplementary Estimates**

**1.1 Justification for Supplementary Estimates**

The Internal Auditor alleges that there was no basis for the Ministry to receive additional funds during Supplementary Estimates for 2015/16 as the Estimates did not meet the requirements set up in the Constitution and the Public Financial Management Act, 2012 and Regulations 2015.

The Ministry's response is that the Constitution under Article 223 provides inter alia that the National Government may spend money that has not been appropriated, if the amount appropriated for any purpose under the Appropriation Act is insufficient or a need has arisen for expenditure for a purpose for which no amount has been appropriated by that Act.

Further Section 43 Subsection 2 (b) of the Public Finance Management Act 2012, requires that approval for reallocation of expenditure be sought from the National Treasury by the Accounting Officer.

With regard to the above query, both the National Treasury and Parliamentary approvals for reallocating funds in the Supplementary Estimates for 2015/16 were granted against the following Recurrent and Development Votes Items.

**Table 1: Recurrent Vote:-Head 1081000801-National Aids Control Programme.**

Item	Programme	Printed Estimate	Supp.Estimate	Approved Estimates
2211015-040105	Food & Rations	-	515,795,750	515,795,750

The amount of **KShs.515,795,750** in respect of additional funds under Recurrent Vote-Head 0008-National Aids Control Program -Item 2211015 – Food and Rations was utilized as explained below:-

The amount of **KShs.515,795,750** was provided to augment funding from Global Funds on HIV/AIDS which targets over 750,000 people who use nutritional foods as medical prescriptions.

A Survey on nutrition status undertaken by the Ministry indicated high case load of malnutrition in arid and semi-arid areas and other risky Counties.

As a result, it was agreed that the Ministry procures as a matter of urgency nutritional commodities in order to cater for at risk population in ASAL regions and vulnerable population living with HIV.

The funds were requested for by the Ministry and granted by The National Treasury. The letter requesting for the additional funds, Treasury approvals and copies of the Supplementary Estimates are attached (Annex I).

**Table 2: Development Vote:-Head 1081001701-District Health Services**

Item	Programme	Printed Estimate	Supp.Estimate	Approved Estimates
3110202-040201	Non-Residential Buildings	-	350,000,000	350,000,000
31110101-040201	Purchase of Medical & Dental Equip.	-	50,000,000	50,000,000
3110202-040401	Non-Residential Buildings	800,000,000	(530,000,000)	270,000,000

The Ministry received additional funds in the Development vote amounting to **Kshs. 400,000,000** under **Head 1081001701- District Health Services -Curative and Rehabilitative Health Services Programme**, Items-3110202 and 3111101 for **KShs.350, 000,000** and **KShs.50, 000,000**, respectively as shown in Table 2 above.

The funds were allocated for the following uses:

- Bungoma County Hospital– **Kshs 100,000,000** for Infrastructure Expansion Program.
- Lamu County Hospital -**Ksh.100,000,000** for Infrastructure Expansion Program(Emergency and accident centre).
- Nanyuki County Hospital- **Ksh.200,000,000** for payment of pending bills for consultancies for inception works.

The funding for Bungoma and Lamu County Hospitals were provided as conditional grants.

The relevant correspondences between the Ministry and the National Treasury on this allocation and the Supplementary Estimates for 2015/16 are attached as **(Annex II)**.

The foregoing notwithstanding, the basis on which the auditor questions a budget approved by Parliament is not clear.

## **1.2 Expenditure against Supplementary Estimates**

### **(i) Food and Rations-National Aids Control Programme – Ksh 515,795,750**

An amount of **Ksh. 515,795,750** was spent on food and rations under Head-1081000801. The expenditure is explained below;

#### **(a) Payment to Co-operative Bank of Kenya- KShs.265, 781,500.**

It is true that an amount of **KShs.265,781,500** was paid into an account belonging to the Ministry at the Co-operative Bank of Kenya during the 2015/16. The payment was for establishing a Letter of Credit for Life Care Medics Limited for the supply of food supplements which were in the high seas and the funds were to be released upon confirmation of the receipt of goods by KEMSA (receiving entity).

The correspondences on the opening of Letter of Credit and the instructions for the draw downs are attached as **(Annex III-a)**. Letters of Credit are standard practice for payment of goods, particularly imported goods. A copy of the Letter of Credit is attached as **(Annex III-b)**, Delivery notes, Inspection and acceptance certificate are attached as **(Annex IV)**.

KEMSA distributed the food supplements to the respective health facilities as guided by the Ministry.

**(b) Payments to Suppliers:-KShs.249,996,696**

The firms that were contracted to supply food supplements were four (4) and not five (5) as reported in the Audit Report (see the table below). The supplements were required to augment the ones being funded by the Global Fund. The supplements were delivered and received by KEMSA for distribution to health facilities for ease of access by the HIV/AIDS patients and other vulnerable populations.

Payments to the suppliers were made on production of signed delivery notes by KEMSA on behalf of the Ministry as follows:-

**Table 3: List of firms**

No.	Supplier	PO	Date	Amount
1.	Dentmed Kenya Ltd	2348	04-Apr-16	2,992,490.00
2.	LifeCare Medics Ltd	2347	,,	201,011,550.00
3.	Rayovac Industries Ltd	2346	,,	4,992,656.00
4.	Sundales International Ltd	2345	,,	41,000,000.00
	<b>TOTAL</b>			<b>249,996,696.00</b>

Accordingly, there was no risk of accountability of the procurements made by the Ministry and those by Global Fund.

The relevant contract documents for the four firms are attached in **(Annex V)**.

With regard to payment of **Ksh.265,781,500** to LifeCare Medics Ltd under the Letter of Credit arrangement mentioned above, this was for imported goods while the payment of **Ksh.201,011,550** appearing in the above table was paid for locally sourced goods.

These goods included Ready To Use Therapeutic food and Ready To Use Food Supplements.

- (ii) Additional funds under Head-1081001701-Item 3110202-Curative and Rehabilitative Health Services- KShs.350,000,000.

It is not true that item 3110202 which had an allocation of **KShs.800,000,000** and from which an amount of **KShs.530,000,000** was reduced during the Supplementary Estimates received an additional sum of **KShs.350,000,000**. The correct position is that an allocation of **Ksh.800,000,000** under **Head-1081001701-Item 3110202** under *Programme-04-Health Policy Standards and Regulations* was reduced by a figure of **Ksh.530,000,000** during the Supplementary Estimates, leaving a balance of **Ksh.270,000,000**. This particular balance was applied towards purchase of portable clinics.

The Supplementary Estimates for 2015/16 clearly indicate that a sum of **KShs.400,000,000** and not the amount of **Ksh.350,000,000** mentioned in the preceding paragraph, represented additional funding captured in Item 3110202 and 3111101 as **Ksh.350,000,000** and **Ksh.50,000,000** respectively under *Programme-02-National Referral and Specialized Health Services*.

The auditor also states in the Report that in order for IFMIS to accept transactions, the chart of accounts was manipulated. However, this statement is not correct as the chart of accounts cannot be manipulated by a user.

A copy of the Development Budget is attached as (Annex VI).

The additional funds amounting to **KShs.400,000,000** were expended as indicated below:-

- **KShs.100,000,000** for Lamu County Hospital
- **KShs.100,000,000** for Bungoma County Hospital
- **KShs.200,000,000** for Nanyuki County Hospital

The funds for Bungoma and Lamu Counties of **Ksh.100,000,000** each were disbursed directly to the Counties through the County Revenue Fund as per the letters Ref.No.MOH/FIN/1/42/vol.II(276) AND (277) dated 22<sup>nd</sup> March,2016,attached as **(Annex VII)**.

The payment vouchers for **KShs.400, 000,000** are available for audit verification.

## **2.0 Budgetary Over-expenditure**

### **2.1 Over expenditure of KShs.413, 681,000.**

The budgetary allocation for Head 0017 Item 3110202 amounting to **Kshs 800,000,000** was reduced by an amount **Kshs.530,000,000** during Supplementary Estimates, resulting in a balance of **Ksh.270,000,000**. As at that point however, the Ministry had already made commitments of **Ksh.401,726,000** based on the Printed Estimates. As a consequence, the item recorded an over expenditure of **Ksh.11,985,005**.**(Annex VIII)** is relevant.

### **2.2 Current grants- Kenya Medical Training College- KShs.268, 888,769.00**

At the beginning of 2015/16, KMTC had a gross allocation of **Ksh.3,223,700,000**. This amount was however reduced by an amount of **Ksh. 1,068,700,000** during the Supplementary Estimates, which amount represented **Appropriations- in-Aid** that ought to have been included in the Printed Estimates for the year.

The net allocation therefore stood at **Ksh.2,155,000,000**.

When the balance of **Ksh. 2,155,000,000** is netted off against the grants of **Ksh.2,423,889,769** to KMTC, an over expenditure of **Ksh. 268,888,769** resulted.

Included in the grants of Ksh. 2,423,889,769 is an amount of Ksh.250,000,000 which was required to cater for Collective Bargaining Agreement (CBA) which had been approved by the Salaries and Remuneration Commission. This expenditure was necessary in order to prevent Industrial Unrest in the College.

The IFMIS print out on the disbursement of grants to KMTC during the 2015/16 is attached as (Annex IX).

**2.3 Over expenditure-Head 001701 – Item 3110202- KShs.411,274,204.00**

The Audit Report indicates that payments appended below were inconsistent with the purposes for which they were allocated. However, and as shown below, all the payments were compliant with Regulation 54 of the Public Finance Management Act, 2012. The Regulation requires inter alia that an Accounting Officer only authorizes payments to be made out of funds earmarked for specific purposes.

**Table 4: Construction of Building – Head 0001701- Item 3110202**

No .	Contractor	Date paid	Amount	Ministry's Remarks
1.	Lizsol Chem Company Ltd	08/12/15	28,684,396.55	Purchase of Medical supplies
2.	Belco Sri Limited	08/12/15	18,206,335.15	Payments for Early works in relation to supply and installation of Dialysis Machines under the Managed Equipment Services.
3.	Fidelity Medical Supplies	14/12/15	16,671,045.00	Purchase of Laboratory consumables
		“	12,528,010.00	Purchase of Laboratory consumables
		“	9,992,285.00	Purchase of Laboratory consumables
4.	Rayovac Industries	14/12/15	3,153,500.00	Supply of blood bags



	Ltd	22/12/15	1,130,500	Supply of blood bags
5.	Esteem Industries Inc.	22/12/15	7,771,362.50	Payments for Early works in relation to supply and installation of Autoclave Machines, ultrasonic washers, 29 sets of surgical instruments under the Managed Equipment Services.
6.	Mindray Med. Kenya Ltd	22/12/15	159,185,847.80	Part Payment for supply, installation, testing, maintenance and replacement of Medical equipment and associated training for county and sub count referral hospital facilities.
7.	Bungoma County	04/04/16	100,000,000.00	Disbursement to County for Hospital infrastructure development
8.	Lamu County	04/04/16	100,000,000.00	Disbursement to County for Hospital infrastructure development
9.	Otieno Ondongo & Part.	05/04/16	39,954,966.65	Pending Bills in respect of Nanyuki County Hospital
10.	Nyaudi Architects	05/04/16	70,543,966.65	Pending Bills in respect of Nanyuki County Hospital
11.	Mecoy Consultant Ltd	08/04/16	37,491,962.25	Pending Bills in respect of Nanyuki County Hospital
12.	Bulecon Associates	08/04/16	42,009,094.95	Pending Bills in respect of Nanyuki County Hospital
<b>Total</b>			<b>647,323,272.50</b>	

### **3.0 Supply of Portable Medical Clinics- KShs.800,000,000.**

The Ministry had a valid contract with Estama Investments Ltd for the supply of 100 Units of portable medical clinics at a unit cost of Ksh.10,000,000 each, thus totaling Ksh.1,000,000,000.

This contract was effected through contract agreement No.MOH/HQS/RT/019/2014-2015 of 17<sup>th</sup> July, 2015.

The Ministry has since received all the 100 Units, but has so far paid an amount of Ksh.800,000,000 for 80 Units. The balance of Ksh.200,000,000 will be paid during the 2016/2017.

#### **(i) Non-attachments of ETR receipts**

The auditor indicates that KRA requirement for ETR receipt, tax compliance certificates and PIN numbers for suppliers' invoices were not met. Consequently, the auditor queries the validity of awarding the contract to M/S Estama Investment Ltd.

However, and in accordance with the tender requirements, tax compliance certificates and PIN numbers were provided by the supplier with the tender documents. Attachment of ETR receipts for the purposes of awarding a Government contract is not a requirement.

#### **(ii) Payment voucher amounting to KShs.400,000,000**

The above payment voucher is available for audit verification.

#### **(iii) Payment of Ksh 200,000,000**

It is true that an amount of KShs.200,000,000 was paid on 30<sup>th</sup> June, 2016, the same day the purchase order was raised. The reason for this is that the Ministry has a running contract with Estama Investments Limited in which payments are made on deliverables. The purchase order was prepared on receipt of delivery note by the supplier on 30<sup>th</sup> June, 2016.

The payment for the portable clinics was made from the allocation of free maternity programme because these clinics are part of the urban slum upgrading programme which is a priority flagship project. The clinics have related policy objectives of increasing access to primary health care services. Copies of the delivery notes are attached (**Annex X**).

**(iv) Expenditure under-Head-0001701-Item-3110202**

Expenditure under-Head-0001701-Item-3110202 for purchase of portable clinics was **Ksh.281,985,005** against a provision of **Ksh.270,000,000**. Therefore there was an over expenditure of **Ksh.11,985,005** and not an over expenditure of **Ksh.413,681,000** as alleged in the Report. The portable clinics were delivered and inspected and are currently stored in a secure government facility in Mombasa awaiting distribution. The Ministry is in the process of finalizing sites where these clinics should be located.

#### **4.0 The Free Maternity Fund**

According to the Ministry's records, the expenditure against **item-2630203** was **Ksh.586,491,796.45** and not **Kshs.889,053,456.90**. This is because payments of **KShs.118,156,639.45**, **KShs.66,500,000** and **KShs.117,905,021.00** relating to Global Fund TB Round 5, Director KMTTC and Health Sector Support Project respectively, and all totaling **Ksh 302,561,660.45** had been erroneously charged to Free Maternity Funds.

This error has since been corrected through 3 reversal entries effected on 19<sup>th</sup> May,2016 and 6<sup>th</sup> June,2016. The relevant documents are in (**Annex XI**).

Funds amounting to **Ksh.586,491,796.45** relating to the Free Maternity Programme during 2015/16 were expended in procurement of various goods and services as shown in the table below;

**Table 5: Payments from Free Maternity programme**

<b>DATE</b>	<b>PAYEE</b>	<b>AMOUNT Ksh.</b>	<b>Remarks</b>
16/09/2015	KPLC	1,906,839.25	KEPI vaccines Stores
17/09/2015	Diversity distributors Ltd	14,086,000.00	Medical supplies to various county hospitals.
17/09/2015	Vivio Ltd	18,775,862.05	Supply of Ebola POE-surveillance forms
18/09/2015	Belfra general supplies	5,371,000.00	Medical supplies
21/09/2015	Integrated supplies & consultancy Ltd	5,532,300.00	Medical Supplies
21/09/2015	Integrated supplies & consultancy Ltd	353,600.00	Medical Supplies
21/09/2015	Silvol enterprises Ltd	24,275,862.05	Infra-Red Thermal Scanner
21/09/2015	Tunmore investment co Ltd	9,274,849.15	Respirators and related accessories
21/09/2015	Esaki Ltd	150,123,120.00	Mosquito Vector control chemicals
25/09/2015	Dorlian enterprises Ltd	924,568.95	Laboratory Materials
01/10/2015	Soloh worldwide inter-enterprises Ltd	19,999,137.95	Ebola transmission posters
02/10/2015	Gazeti Ltd	2,678,720.00	Supply of newspapers
08/10/2015	Lunao enterprises	10,300,006.50	Construction of Othaya Hospital
12/10/2015	DHL Global forwarding	1,198,661.95	Transportation

	Kenya Ltd		of Vaccines
09/11/2015	Vivo energy Kenya Ltd	2,000,000.00	Diesel fuel
02/12/2015	Free net enterprises	986,000.00	Non-Pharmaceuticals
02/12/2015	Free net enterprises	1,012,980.00	Non-Pharmaceuticals
02/12/2015	Interline investment	2,433,000.00	Non-Pharmaceuticals
02/12/2015	Freenet enterprises	1,263,600.00	Non-Pharmaceuticals
02/12/2015	Digitech enterprises	2,560,344.85	Non-Pharmaceuticals
18/12/2015	Tectura International	26,448,975.60	Consultancy for the rehabilitation of Embu Referral Hospital
21/12/2015	Elsa enterprises Ltd	13,181,034.50	Rubber gloves
24/02/2016	Director KEMSA	25,000,000.00	Family Planning commodities
15/04/2016	Mordern smart ventures	2,924,435.35	Fuel
16/06/2016	Output based approach programme	42,000,000.00	Payment of deliveries in mission hospitals as part of voucher system
29/06/2016	Ndandeya international traders Ltd	958,700.00	Toners Cartridges
29/06/2016	Kantex services and supplies	922,198.30	Tonners
30/06/2016	Estama investment Ltd	200,000,000.00	Portable medical clinics
<b>Total</b>		<b>586,491,796.45</b>	

The table below shows balances amounting to Ksh.**302,561,660.45** representing reversal for erroneous entries referred to in the previous paragraph;

**Table 6: Payments erroneously charged to Free Maternity Programme**

<b>DATE</b>	<b>PAYEE</b>	<b>AMOUNT Ksh.</b>
24/8/2015	MOH Global fund TB Round 5	118,156,639.45
8/09/2015	Director KMTC	66,500,000.00
01/10/2015	Health Sector Support Project	117,905,021.00
<b>Total</b>		<b>302,561,660.45</b>

The payments of **Ksh.586,491,796.45** under Table 5 were made after settling all Free Maternity Programme reimbursement claims amounting to Ksh. **3,862,195,000** from the counties for the 2015/16 financial year.

The auditor indicates that there were pending bills totaling **Ksh.1,482,945,000** relating to financial year 2014/15 and earlier periods for the Free Maternity Programme. These bills had not been settled as there were outstanding issues yet to be resolved.

The Ministry is in consultation with the National Treasury regarding this matter (**Annex XII**).

With regard to Access to Government Procurement Opportunities (AGPO), the registered firms include Freenet Enterprises, Interline Investment ,Ndandeya International Traders Ltd, Sundales International Ltd, and Kantex Services and Supplies.

## 5.0. Conclusion

The total amount of resources that are subject of the interim Audit Report is **Ksh.3,121,061,247**. As explained above, it is evident that this amount was spent in accordance with the law and for the intended purposes.

From the foregoing explanations, it is clear that the figure of Ksh.5 Billion as alleged in the media report is not accurate and unfortunately misleading.

Notwithstanding our concerns about the process and the quality of the report, the auditor has not identified any fraud or misappropriation of funds.

The Ministry takes great exception with the Audit Report as the Head of Internal Audit Unit did not share the Report with the management as is the standard practice. This as a matter of fact would have enabled the Management to comprehensively address the issues emanating thereof.