

REPORT OF THE AUDITOR-GENERAL ON THE COUNTY ASSEMBLY OF KAKAMEGA FOR THE YEAR ENDED 30 JUNE 2017

REPORT ON THE FINANCIAL STATEMENTS

Adverse Opinion

I have audited the accompanying financial statements of the County Assembly of Kakamega set out on pages 1 to 20, which comprise the statement of financial assets and liabilities as at 30 June 2017, and the statements of receipts and payments, statement of cash flows and statement of comparison of budget and actual amounts: recurrent and development combined for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, because of the significance of the matters discussed in the Basis for Adverse Opinion section of my report, the financial statements do not present fairly, the financial position of County Assembly of Kakamega as at 30 June 2017, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and do not comply with County Government Act, 2012 and Public Finance Management Act, 2012.

In addition, as required by Article 229(6) of the Constitution, I confirm that public money has not been applied lawfully and in an effective way.

Basis for Adverse Opinion

1. Inaccuracies in Financial Statements

1.1. Inconsistencies of Cash and Cash Equivalents with other Statements

The cash and cash equivalents balance of Kshs.5,747,345 was not in agreement with the un-utilized cash balance of Kshs.189,199 reported in the statements of comparison of budget and actual amounts: recurrent and development combined.

Further, included in the statement of cash flows is an unexplained adjustment of cash in hand of Kshs.6,843,620 reported under Note 10 to the financial statements.

1.2. Co-operative Bank Account

Included in the cash and cash equivalents balance of Kshs.5,747,345 is an amount Kshs.2,323,256 being bank balance held at Co-operative Bank account which differ with the respective cash book balance of Kshs.899,504 and thereby, resulting in an un-reconciled difference of Kshs.1,423,352.

1.3. Lack of Bank Reconciliation Statements

The management operated three major bank accounts in Central Bank of Kenya for both current and development funds and Co-operative Bank of Kenya for current and development respectively. However, it was noted that management did not prepare monthly bank reconciliation statements for all the three bank accounts contrary to the requirement of Section 90(1) of Public Finance Management Act, Arrangement of Regulations 2015.

In the circumstances, it has not been possible to confirm that the cash and cash equivalents balance of Kshs.5,747,345 as at 30 June 2017 is fairly stated.

2. Use of Goods and Services

2.1. Variance between Schedules and Financial Statements

The management provided schedules totaling Kshs.380,885,462 for use of goods and services which was not in agreement with the financial statements figure of Kshs.388,909,081 resulting in an un-supported expenditure of Kshs.8,023,619.

2.2. Domestic Travel, Subsistence & Other Transport Costs

Included in the use of goods and services figure of Kshs.388,909,081 is an amount of Kshs.44,933,594 being per diem allowances paid to staff on duty away from their work stations. However, the cash advances were directly expensed without necessary documents to support the expenditure as required by Section 93(3) of the Public Finance Management Act, 2015.

2.3. Hospitality Supplies and Services

Included in the use of goods and services figure of Kshs.388,909,081 is Kshs.5,404,248 paid to twelve local suppliers for provision of 500ml bottled water at a unit price of Kshs.50 instead of the recommended unit price of Kshs.32 by the Public Procurement Oversight Authority Market Price Index 2016 in Kakamega and its environs. Also, it was noted that all the merchants involved in the transactions were not registered for Value Added Tax (VAT).

2.4. Tax Penalty

Included in the use of goods and services figure of Kshs.388,909,081 is an amount of Kshs.252,818,911 under daily subsistence allowance which in turn includes Kshs.12,625,112 tax penalties paid to Kenya Revenue Authority for non-compliance with tax regulations when paying various allowances to staff. No explanation was provided for non-compliance with the tax regulations.

Further, no documentary evidence was availed for audit to indicate how funds were re-allocated from approved budget programmes to pay for the tax penalty.

2.5. Unsupported Consultancy Fee

Included in the use of goods and services figure of Kshs.388,909,081 is Kshs.28,343,965 under hospitality supplies and services which in turn include Kshs.2,420,000 paid to contracted consultants to offer consultancy service. However, there was no contract agreement alongside other vital procurement documents availed for audit review.

2.6. Irregularly Hire of Motor vehicles

Included in the use of goods and services figure of Kshs.388,909,081 is Kshs.285,146,353 under domestic travel and subsistence which in turn includes Kshs.2,905,880 paid to three (3) local contracted service providers to offer transport services. However, the tender documents including quotations, tender opening minutes, tender evaluation committee meetings minutes, letter of award, and letter of acceptance were not availed for audit verification and therefore contravening provisions of Public Procurement and Assets Disposal Act, 2015.

2.8. Expenditure on Fuel, Oil and Lubricants

2.8.1. Unsupported Fuel Statements, Invoices and Local Purchase Order.

Included in the use of goods and services figure of Kshs.388,909,081 is Kshs.2,143,928 under fuel and lubricants which in turn includes Kshs.864,111 paid to an international oil marketer for fuel card reloading but no invoices, Local purchase order or statements were availed from the company for verification as detailed in the table below:

Date	P.V No	Payee	Amount
5/22/2017	799b	Total Kenya Ltd	200,000
5/22/2017	1141	Total Kenya Ltd	150,000
02/23/2017	765	Total Kenya Ltd	150,000
5/22/2017	797B	Total Kenya Ltd	150,000
12/02/2017	975	Total Kenya Ltd	130,000
1/11/2016	461	Toyota Kenya Ltd	84,111
			864,111

It was therefore difficult to reconcile County Assembly's fuel register against supplier's statement.

2.8.2. Unaccounted for Fuel Expenditure

Detailed analysis of fuel drawn as per the work tickets provided for audit review revealed that only Kshs.1,134,656 out of the expenditure of Kshs.2,143,928 could be accounted for leading to an unexplained difference of Kshs.1,009,272 as summarized below:

Motor Vehicle Registration	Make	Fuel Drawn in Litres	Kshs.
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KAW 710Z	Toyota Hilux Double Cab	3660.82	322,472
KBU 903T	Toyota Prado	4,959.67	437,576
KAV 318E	Mitsubishi Pajero	3533.39	309,171
37CG074A		722.1	65,438
Total accounted for expenditure			1,134,657
Expenditure as per financial statement			2,143,928
Difference			1,009,272

As a result fuel valued at Kshs.1,009,272 or 47% of the total expenditure spent of fuel could not be verified.

2.8.3. Un-reconciled Fuel expenditure

During the year, the County Assembly had a budget provision of Kshs.2,000,000 for fuel, oil and lubricants. The expenditure returns show that a total of Kshs.2,143,928 was spent. The documentation provided however supported only Kshs.1,405,260 resulting in unexplained difference of Kshs.738,668.

Consequently, the management did not follow the procurement regulations and it was not possible to ascertain propriety of the expenditure of Kshs.73,529,556 included in use of goods and services amounting to Kshs.388,909,081 for the year ended 30 June 2017.

3. Compensation of Employees

3.1. Funds Disbursed to Wards

Included in the compensation of employees figure of Kshs.504,508,088 is an amount of Kshs.43,200,000 disbursed to sixty (60) wards for salary and rent respectively. However, out of this amount only Kshs.2,040,000 was accounted for resulting in unaccounted for figure of Kshs.41,160,000.

3.2. Un-supported Sitting Allowance

Included in the compensation of employees figure of Kshs.504,508,088 is an amount of Kshs.7,106,400 being sitting allowances paid to Members of County Assembly (MCAs) that supposedly attended various committee meetings but did not sign attendance register. Review of the attendance register maintained for various committee meetings revealed that sitting allowances was paid to more number of members than the number registered in attendance and which should have been recovered as stated in the table below.

	Committee	Members	Paid Sessions (a)	Registered attendance in Minutes (b)	Excess (c)=(a)-(b)	Excess Payment
1.	House Business	14	19	6	13	709,800

	Committee					
2.	Selection Committee	14	104	69	35	1,911,000
3.	Budget And Appropriation Committee	11	73	51	22	924,000
4.	Delegated County Legislation	15	97	84	13	764,400
5.	Environment Committee	15	77	59	18	1,134,000
6.	Industrialization Committee	13	84	83	1	50,400
7.	Ward Development Committee	13	112	80	32	1,612,800
	Total Overpayment		566	432	134	7,106,400

3.3. Unsupported Compensation of Employees Expenditure

The Assembly did not avail payroll records for audit verification in respect of compensation of employees amounting to Ksh.23,405,519.

In the circumstances, it was not possible to ascertain propriety of the expenditure of Kshs.504,508,088 incurred on compensation of employees.

4. Outstanding Imprests

Included in the statement of financial assets and liabilities under cash and cash equivalents balance of Kshs.5,747,345 is outstanding imprest not surrendered as at 30 June 2017 of Kshs.1,552,380 issued to various officers as indicated below;

Date	Name	Designation	Amount Kshs.
30 Aug 2016	Doreen Wesonga	1 st Clerk	12,000
12 Oct 2016	Susan Simiyu	Supply Chain Management Officer II	10,000
29 Nov 2016	Phylvan Inziani	Clerk II Assistant	766,480
19 June 2017	Nicholas Anywa	Principal Clerk	403,900
23 June 2017	Alex Makokha	Clerks Driver	60,000
16 Mar 2017	Beatrice Ilavonga	Principal Fiscal Analyst	300,000
		Total	1,552,380

Consequently, the County Assembly had an outstanding imprest of Kshs.1,552,380 as at 30 June 2017 against the regulations.

5. Unsupported Pending Bills

During the year under review, the Assembly had unverified pending bills totalling Kshs.62,071,772 as at 30 June 2017. The support documents for the pending bills including among others invoices, demand notices, suppliers' statements, fee notes and delivery notes were however not availed for audit verification.

Consequently, the authenticity of the bills could not be established.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of Kakamega County Assembly in accordance with ISSAI 30 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other requirements applicable to performing audits of financial statements in Kenya. I believe that the evidence I have obtained is sufficient and appropriate to provide a basis for my adverse opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgements, are of most significance in the audit of the financial statements. There were no key audit matters to communicate in my report.

Other Matter

1. Budget Performance Analysis

1.1. Budget Analysis for the Financial Year 2016/ 2017

Comparative analysis of the County Assembly of Kakamega budget of Kshs.999,913,088 against an actual expenditure of Kshs.899,913,088 for the year under review is as analyzed below:

	Expenditure Items	Final budget Kshs.	Actual Kshs.	Variance Kshs.
1	Compensation to Employees	575,772,564	504,508,088	71,264,476
2	Other recurrent expenditure	324,140,524	395,215,801	(71,075,277)
4	Development expenditure	100,000,000	-	100,000,000
	Total	999,913,088	899,723,889	100,189,199

The above analysis, indicated that there was over expenditure in other recurrent expenditure by Kshs.71,075,277, while the compensation of employees, had under expenditure by Kshs.71,264,476 and on the other hand development expenditure had an under expenditure of Kshs.100,000,000.

1.2. Over Expenditure

The Assembly had an unsupported over-expenditure of Kshs.178,929,679 on some budget vote heads as summarized in the table below:

Expenditure Item	Final Budget Kshs.	Actual Expenditure Kshs.	Variance Kshs.	%age Variance
Utilities Supplies and Services	300,000	309,263	(9,263)	(3%)
Fuel, Oil and Lubricants	2,000,000	2,143,928	(143,928)	(7%)
Office & General Supplies & Services	11,000,000	12,615,906.00	(1,615,906)	(15%)
Routine maintenance - Vehicles & Other transport equipment	2,000,000	2,362,689	362,689)	(18%)
Domestic Travel, Subsistence & Other Transport Costs	153,000,000	285,146,353	(132,146,353)	(86%)
Hospitality supplies and services	12,300,000	28,343,965	(16,043,965)	(130%)
Employers contributions	12,013,611	37,495,082	(25,481,471)	(212%)
Routine Maintenance - Other Assets	1,400,000	4,526,104	(3,126,104)	(223%)
Total	194,013,611	372,943,290	(178,929,679)	

1.3. Under Expenditure on Various votes

The Assembly had under expenditure on various votes on comparison of the budget and the actual of Kshs.63,568,934 for the year ended 30 June 2017 as indicated in the table below:

Expenditure Items	Final Budget Kshs.	Actual Expenditure Kshs.	Variance of Expenditure Kshs.	%age Variance
Training Expenses Staff	10,500,000	532,338	9,967,662	95%
Donations	1,000,000	100,000	900,000	90%
Printing, Advertisement and Information supplies	22,800,000	4,423,778.00	18,376,222	81%
Personal allowances- paid as reimbursements	1,316,000	306,000	1,010,000	77%
Specialized Material Supplies	4,000,000	965,220	3,034,780	76%
Purchase of Vehicles and Other Transport Equipment	15,000,000	4,318,600	10,681,400	71%
Other Operating Expenses	21,500,000	6,798,657	14,701,343	68%
Communication Supplies and Services	2,300,000	755,977	1,544,023	67%
Purchase of Office Furniture	5,240,524	1,887,020	3,353,504	64%

and General Equipment				
Total	83,656,524	20,087,590	63,568,934	

The management did not explain why the big variance between the budget and actual expenditure.

1.4. Development Budget – Under Expenditure

The management budgeted Kshs.100 Million for construction of Assembly’s chambers and offices during financial year under review. However, the whole amount was not spent since the County Treasury (Exchequer) did not disburse the money as it was not factored during supplementary budget since there was case in court over the site where the construction was to take place.

2. Human Resource Matters

2.1. County Assembly of Kakamega Employees

The Assembly had 64 members of staff as at on 30 June 2017, which according to the records availed for audit, 93.75% of employees are from the dominant Luhya community, leaving only 6.25% to other communities contrary to Section 65(1) of the County Government Act, 2012 which requires entities to employ 70% from the dominant community and 30% for the others as analyzed below;.

No.	Ethic Group	Number	Percentage
1	Luhya	60	94%
2	Luo	4	6%
	Total	64	100%

Source: IPPD for the period 2016/17 printed on 4 September 2017.

2.2. Lack of Approved Staff Establishment

The County Assembly did not have an approved staff establishment and operated in disregard to Article 235(1) (a) of the Constitution which requires that a County Government should be responsible for establishing and abolishing offices in its public service. There were no legal or administrative documents from Salaries and Remuneration Commission availed for audit verification showing the category and salary scales for the employees.

2.3. Failure to Observe Gender Threshold.

The Assembly recruited ten officers during the year under review out of which only two were of the female gender which constitute 20% and hence in disregard of Article 27 (8)

of the Constitution of Kenya, 2010 requiring that, not more than two-thirds of members of appointed positions shall be from the same gender.

2.4. Failure to avail Authority to Pay Responsibility Allowance

As at the time of audit, letters approving payment of responsibility allowance to the following officers were not made available making it difficult to analyse the allowances.

Name of officer	Date	PV No.	Month	Amount (Kshs)
Martin Mukabana	05.05.2017	Not indicated	April, 2017	28,040
Patrick Okoro Juma	``	``	``	15,500
Stephen Mavunde	``	``	``	15,500
Martin Mukabana	16.06.2017	1220	May, 2017	28,040
Patrick Okoro Juma	``	1220	``	20,550
Stephen Mavunde	``	1220	``	15,500
Total				123,130

2.5. Unclaimed Mileage Payments

A total of Kshs.3,420,826 was paid through payroll to MCAs deemed to be coming from areas outside the 45 km radius return journey as per the policy. However, no documents were availed to show how the amounts paid were arrived at.

3. Lack of Audit Committee

As previously reported, the Assembly have not established an audit committee contrary to Section 155(5) of the Public Finance Management Act, 2012 which states that a county government shall establish an internal auditing committee whose composition and functions are prescribed by Section 167 of the Public Finance Management Act, Regulation 2015. Therefore, the Assembly has not put in place the requisite framework to mitigate on the weak internal control systems.

Responsibilities of Management and Those Charged with Governance for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Assembly's ability to sustaining its services, disclosing, as applicable, matters related to sustainability of services and using going concern accounting assumption unless the

Government either intends to terminate or cease its operations, or have no realistic alternative but to do so.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

Those charged with governance are responsible for overseeing the Assembly's financial reporting process.

Auditor-General's Responsibilities for the Audit of the Financial Statements

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances and for the purpose of giving an assurance on the effectiveness of the Assembly's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.
- Conclude on the appropriateness of the management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Assembly's ability to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to

the date of my audit report. However, future events or conditions may cause the Assembly's cease to sustain its services.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Assembly's to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.



FCPA Edward R. O. Ouko, CBS
AUDITOR-GENERAL

Nairobi

16 July 2018