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

REPORT ON THE FINANCIAL STATEMENTS

Adverse Opinion

I have audited the accompanying financial statements of County Assembly of Kisii set out on pages 1 to 40, which comprise the statement of receipts and payments, statement of financial assets and liabilities as at 30 June 2017, statement of cash flows and the statement of comparison of budget and actual amounts 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, 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 described in the Basis for Adverse Opinion paragraph, the financial statements do not present fairly, the financial position of County Assembly of Kisii 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).

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

Basis for Adverse Opinion

1. Compensation of Employees - Sitting Allowances

Note 4 to the financial statements reflect compensation of employees figure of Kshs.431,272,419 which includes sitting allowances of Kshs.97,102,300 for the year under review. The following anomalies were however noted in respect to sitting allowances.

i) In the period between 15 December 2016 and January 2017 members of the County Assembly received a total of Kshs.7,304,700 being maximum payments for sixteen (16) committee sittings and seven (7) plenary sittings. However, they were only entitled to Kshs.5,491,200 for sixteen (16) committee sittings and Kshs.1,102,400 for four (4) plenary sittings hence leading to ineligible payment of Kshs.699,400.

ii) In the month of November 2016, the Assembly made payments totaling Kshs.1,782,000 to its seventy two (72) members for trainings in Naivasha town. However, scrutiny of the plenary and committee attendance registers revealed that in the same period thirty eight (38) MCAs received sitting allowances totaling Kshs.503,100 purported to have been for meetings in Kisumu and at the Assembly precincts in Kisii at the time they ought to have been in Naivasha.

iii) The Assembly paid Kshs.982,800 to its sixty three (63) members for four different meetings in August, 2016. However, internal memos revealed that said meetings did not take place in August 2016.

iv) In the month of March and April 2017, the Assembly paid Kshs.429,000 for sitting allowances for committee and plenary sittings for 36 members and at the same time it made payments for daily subsistence allowance when members had travelled out of Kisii town. The members had convened for other trainings such as terrorism, benchmarking at National parliament which did not qualify as sittings of the Assembly as per the standing orders.

Consequently, the management was in breach of the applicable laws by paying ineligible sitting allowances totaling Kshs.2,626,000.

2. Car Loan and Mortgage Fund Statements

The County Assembly Members Loan and Mortgage scheme which provides guidelines on the administration of the fund became operational on 23 April 2014 and for which seed capital of Kshs.250 million was deposited with Chase Bank in the year 2014/2015. However, the management submitted the Fund's financial statements for the year ending 30 June 2017 without submitting three prior years' financial statements.

Consequently, it has not been possible to audit the Fund's accounts for the year ended 30 June 2017 without establishing the opening statements for the prior years.

3. Failure to Operate a Retention Fund Account

The County Assembly has not opened a retention fund account as required by the County Government financial reporting manual which requires county treasuries to reserve retention fees in a deposit account at the Central Bank of Kenya. However, retention funds were being retained in the development projects account. The Assembly's development account held Kshs.3,896,330 retention funds for extension and refurbishment of the office for the year ended 30 June 2017.

Consequently, the management was in breach of Section 6.11 of the County financial accounting reporting manual.

4. Purchase of Vehicle

Included in the acquisition of assets figure of Kshs.98,790,626 is Kshs.5,140,000 on purchase of a vehicle through direct procurement from a local dealer. A contract for the purchase was signed between the National Government Ministry of Transport, Infrastructure, Housing and Urban Development and the local dealer which is not binding on the Assembly. In addition, at the time of the audit in January 2018, the vehicle had not been delivered although full payment was made by the Assembly in April 2017.

Consequently, the propriety and validity of the expenditure totaling Kshs.5,140,000 could not be confirmed.

5. Use of Goods and Services

5.1. Purchase of Generator

Included in the use of goods and services figure of Kshs.299,187,386 is Kshs.2,195,901 for the purchase of a generator disclosed as specialized materials and services. However, the amount was charged under code 3111110 (purchase of standby generator) and exceeded the budgetary allocation of Kshs.1,500,000 and was wrongly classified under use of goods and services instead of acquisition of assets.

Consequently, the management was in breach of Section 154 (2) of the Public Finance Management Act, 2012 as funds for other programmes were used for the purchase of the generator without re-allocation authority.

5.2. Routine Maintenance of Vehicles

Included in the use of goods and services figure of Kshs.299,187,386 is Kshs.1,193,320 spent on routine maintenance of vehicles and other transport equipment which was only supported to the tune of Kshs.488,476.

Consequently, the propriety of Kshs.704,844 for routine maintenance of vehicle was not fairly stated.

6. Pending Bills

Annex -1 to the financial statement reflects pending bills totaling Kshs.62,828,547 as at 30 June 2017.Out of this figure, bills totaling Kshs.10,464,604 were verified to have been committed in the year 2014/2015 and ought to have been paid in 2015/2016.
Consequently, the management was in breach of Section 41(2) of the Public Finance Management (County Government) Regulations, 2015 which states that debt service payments shall be a first charge on the County Revenue Fund.

7. Accounts Receivables (Outstanding Impressts)

The statement of financial assets as disclosed under note 14 to the accounts reflects outstanding imprests balance of Kshs.2,365,500 as at 30 June 2017. The imprests mostly issued at the closure of the financial year were not supported by warrants as required by Public Finance Management Act, 2012 and Regulations 2015.

Management consequently contravened the existing regulations on issue and surrender of imprests.

8. Inaccuracies in the Financial Statements Balances

8.1 Statement of Comparison of, Budget and Actual Amounts: Development and Recurrent

The statement of comparison of budget and actual amounts under recurrent and development at Note VI excludes Kshs.1,957,628 in respect transfer to other government entities.

8.2. Statement of Comparison of Budget and Actual Amounts: Recurrent

The statement of comparison of budget and actual amounts at Note VII under recurrent reflects Kshs.791,067,391 which includes Kshs.28,675,229 in respect of acquisition of assets which should have been reflected in the development statement under Note VIII to the financial statements.

8.3. Statement of Comparison of, Budget and Actual Amounts: Development

The statement of comparison of budget and actual amounts at Note VIII under development reflects Kshs.113,000,000 which includes Kshs.70,115,397 in respect of acquisition of assets which differs with Kshs.98,790,626 reported in the statement of receipts and payments.

In the circumstances, the accuracy and completeness of the financial statements for the year ended 30 June 2017 could not be confirmed.

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

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements, except for the matter described in the Basis for Adverse Opinion section of my report, I have determined that there are no key Audit Matters to communicate in my report.

Other Matter

1. Governance Frame Work

The Assembly has not established an audit committee contrary to Section 155 of the Public Finance Management Act, 2012 and Section 167(1) of the Public Finance Management (County Government) Regulations, 2015 which require each County Government entity to establish an audit committee to oversee governance and promote transparency in the management of the Assembly's resources.

The management is therefore in breach of the law.

2. Integrated Financial Management Information System (IFMIS)

The County Assembly has not fully implemented IFMIS during the period under review contrary to Public Finance Management Act, 2012 which requires County government entities to process all its transactions through the system. The County Assembly operated an imprest system whereby they received funds from the main Central Bank accounts and made frequent cash payments through the imprest account.
In the circumstances, the propriety of the payments made outside the IFMIS system could not be confirmed.

3. Ethnic Composition

The Assembly has two hundred and fifty one employees (251). However, ninety-eight percent (98%) are from the dominant ethnic community (Kisii) which contravenes Section 65(1) of the County Governments Act, 2012 which requires that the Assembly Public Service Board in recruiting employees must ensure that at least thirty percent (30%) of the vacant positions at entry level are filled by candidates who are not from the dominant ethnic communities.

Consequently, the Assembly is in breach of the County Governments Act, 2012.

4. Budget Absorption

During the year under review, the approved budget of the Assembly was Kshs.1,078,788,862 out of which Kshs.195,000,000 was for development expenditure while Kshs.883,788,862 was for recurrent expenditure as shown below;

Vote	Approved Budget-2016/2017 Kshs.	Actual Expenditure 2016/2017 Kshs.	Absorption Rate %
Recurrent Expenditure	883,788,862	791,634,196	89
Development Expenditure	195,000,000	98,790,626	50.6
Total	**1,078,788,862**	**890,424,822**	

A review of the budget performance shows that the Assembly underspent on both recurrent and development votes as shown above.

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 sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the management either intends to cease 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 of Kenya. 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 continue 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 to cease to continue 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 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