

REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF KISUMU 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 Kisumu set out on pages 1 to 11, which comprise the statement of financial assets and liabilities as at 30 June 2017, and the statement of receipts and payments, statement of cash flows and the statement of appropriation: 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 the County Assembly of Kisumu 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 the Public Finance Management Act, 2012.

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. Inaccuracies in the Financial Statements

1.1. The Summary Statement of Appropriation: Recurrent

The summary statement of appropriation reflects total recurrent payments of Kshs.654,429,905 which includes Kshs.14,605,000 in respect of actual payments for acquisition of assets which should have been reflected in a separate statement for development expenditure. In addition, the actual receipts are reflected as Kshs.654,429,905 as opposed to Kshs.654,621,594 reflected in the statement of receipts and payments and thus resulting to a variance of Kshs.191,689.

In the circumstances, the accuracy and completeness of the summary statement of appropriation for the year ended 30 June 2017 could not be confirmed.

1.2. Structure of Financial Statements

The following inaccuracies were noted from a review of the financial statements:

- i) The table of contents does not include key County Assembly information and management as per requirements of Public Sector Accounting Standards Board.
- ii) The sum of total receipts is missing for current and prior year.
- iii) The net cash flows from operating activities for year 2016/17 in the statement of cash flow is incorrect as it should have been Kshs.14,796,689 and not Kshs.15,718,935 as reported.
- iv) The currency is omitted in the statement of appropriation.
- v) A trial balance was not maintained to support the figures in the financial statements.

Consequently, the accuracy of the financial statements could not be confirmed

2. Cash and Cash Equivalents

2.1. Bank Balances

The statement of financial assets as at 30 June 2017 reflects Kshs.1,113,935 being bank balances. However, an examination of the records supporting the balances revealed the following anomalies;

- i) The banks statements were used to update the cash books.
- ii) A review of the Kenya Commercial Bank account cash books showed that Kshs.175,750,929 cash withdrawals were made and used to make payments to suppliers, staff and Members of County Assembly (MCAs). The Assembly was therefore in breach of Section 83(1) of the Public Finance Management (County Governments) Regulations, 2015 that restrict cash payments to suppliers.
- iii) The IFMIS cash books for the Central Bank account were not availed for audit review.
- iv) The bank reconciliation statement for CBK recurrent account as at 30 June 2017 was not accurately prepared in that the un-presented cheques were reported as Kshs.45,235,702 while re-casting of the recorded cheques revealed a total of Kshs.39,976,702 thus overstating un-presented cheques by Kshs.5,259,000.
- v) The bank reconciliation statement for KCB operations account as at 30 June 2017 revealed that un-presented cheques were inaccurately stated at

Kshs.19,529,284 but since a re-casting of the cheques revealed a total of Kshs.19,502,138 thus overstating these amounts by Kshs.27,146. In addition, a cheque No.1561 dated 30 June 2017 to a supplier is valued at Kshs.50,000 while it is posted as Kshs.501,000 in the reconciliation statement. Further, the KCB operations cashbook was overdrawn during the month of December 2016 thus reporting a debit balance of Kshs.6,114.

- vi) A review of the bank statements indicated a cash payment of Kshs.6,280,901 made vide a counter cheque No.8014578 on 20 January 2017 and referenced as being for foreign travel. However, the payment was not included in the cash books and the payment schedules provided for audit review.
- vii) In addition, a payment made on 31 August 2016 to an insurance company of Kshs.203,451 is posted twice in the payment schedules provided for audit while in the cash book and bank statement the posting is once.

Consequently, the bank balance of Kshs.1,113,935 as at 30 June 2017 could not be confirmed as fairly stated.

2.2. Accounts Receivables – Outstanding Imprests

The statement of financial assets as at 30 June 2017 reflected nil balances for outstanding imprests. However, from the examination of the records supporting the imprests issued during the year, the following anomalies were noted;

- i) Two (2) imprests dated 2 August 2016 of Kshs.705,226 and 5 April 2017 of Kshs.479,548 were recorded in the cashbooks as expenditure and the same reported as payments in the cash books. However, they were not recorded in the imprest register.
- ii) The manual imprest register as at 30 June 2017 showed outstanding imprests of Kshs.32,829,951 which is at variance with the IFMIS imprest report as at the same date showing total balances as Kshs.40,877,030. In addition, a number of MCAs whose term of office ended in 2017 held outstanding imprests amounting to Kshs. 9,825,273 with no proof that these were accounted for.
- iii) The Assembly issued multiple imprests to various officers during the year under review before the previous ones had been surrendered contrary to Section 93 (4) of the Public Finance Management (County Governments) Regulations, 2015.
- iv) An imprest was indicated to have been issued in the name of the County Assembly of Kisumu for Ksh.564,385 as per the imprest report during the year under review. However, there is no record held in the office to show who received this imprest and where it was controlled.

- v) Imprests issued to various officers and MCAs during the year totalling Kshs.3,080,179 were expensed directly as opposed to the actual surrender documents being used to update the expenditure records.
- vi) An office float for the County Assembly Service Board members for the period October and November 2016 amounting to Kshs.1,160,000 that was withdrawn and paid to four of its members were not surrendered or accounted for.

Consequently, the outstanding imprest nil balance as at 30 June 2017 could not be confirmed as fairly stated.

3. Car Loan and Mortgage Fund Statements

The Assembly's car loan and mortgage scheme is governed by the County Car Loan Fund Scheme and County Mortgage Scheme Fund Regulations, 2014 through Legal Notice Nos. 1 and 2 of 27 October 2014. The regulations provides guidelines on the administration of the Fund with Kshs.250,000,000 having been provided as seed capital.

The following anomalies were however observed in the administration of the Fund:

- i) The County Assembly did not prepare separate financial statements for its car loans and mortgages fund as required by Section 167 (1) to (3) of the Public Finance Management Act, 2012 which states that the administrator of County public funds established by an Act of Parliament or County legislation shall prepare financial statements for the Fund for each financial year in a form prescribed by the Public Sector Accounting Standards Board and subsequently not later than three months after the end of each financial year, submit the financial statements to the Auditor-General for audit.
- ii) The management did not make available for audit review documents such as complete bank statements for the period under review, contract documents, loan status reports (including outstanding balances) as well as signatories to the bank accounts.
- iii) The fringe benefit taxes applicable to these loans and payable by the employer were not calculated as required by the Income Tax Act.
- iv) In the event of default in payment of the loans, the County Assembly is at risk of loss as the cars and land parcels were not jointly registered as owned by the Assembly and the respective Members of County Assembly considering that the loans should have been repaid before the expiry of the term of the County Assembly and before the General Elections in August 2017.

Consequently, in the absence of separate financial statements and the risk associated with failing to provide for joint mortgage ownership, it is not possible to confirm the validity and status of the Fund.

4. Compensation of Employees

4.1. Unsupported Payments

The statement of receipts and payments reflects compensation of employees figure of Kshs.320,098,314. However, the following anomalies were noted;

- i) Payment vouchers amounting to Kshs.82,363,039 were not availed for audit review.
- ii) The schedule provided to support the payments indicated a total of Kshs.189,447,497 as opposed to the financial statements figure of Kshs.320,098,314.
- iii) Included in the compensation of employees figure was sitting allowances payments of Kshs.86,850,000 which differs with the payments of Kshs.39,178,000 reflected in the monthly payrolls thus leading to an unexplained difference of Kshs.47,672,000.
- iv) The social security benefits payments amounting to Kshs.15,952,840 are included in the compensation of employees figure instead of separately being disclosed as per the templates provided by the Public Sector Accounting Standards Board (PSASB).

4.2. Double Payment of Sitting Allowances

Included in the compensation of employees figure of Kshs.320,098,314 is an amount of Kshs.143,410,852 relating to personal allowances. This includes allowances to MCAs and staff for committee meetings.

An audit review of the committees' attendance registers and the membership attendance schedules for the month of July 2016 revealed numerous cases of multiple payments to members totalling Kshs.648,900 for having attended more than two (2) committee meetings on the same date and time.

Consequently, the propriety and validity of the Kshs.648,900 paid as personal allowances could not be confirmed.

4.3. Irregular Payment of Extraneous and Honorarium Allowances

Included in the compensation of employees figure of Kshs.320,098,314 is an amount of Kshs.143,410,852 relating to personal allowances. This includes allowances to MCAs and staff for committee meetings.

The Assembly paid Kshs.1,880,599 and Kshs.1,904,566 for extraneous and honorarium allowances respectively to MCAs and staff during the year. However, the following issues were noted;

- i) The payments were not taxed.
- ii) There was no approval for extra hours worked to justify the extra payments.
- iii) There were no schedules signed by payees of these payments to acknowledge receipt.
- iv) The rates used and the allowances paid out were not approved by the County Assembly Service Board.

Consequently, the propriety and validity of the Kshs.3,785,165 paid as extraneous and honorarium could not be confirmed.

4.4. Unauthorized Sitzings Outside the County Assembly Premises

Included in the compensation of employees figure of Kshs.320,098,314 is an amount of Kshs.143,410,852 relating to personal allowances which in turn includes allowances of Kshs.5,450,112 paid to MCAs and staff for various committee meetings the Assembly held outside the Assembly premises contrary to the requirements of the County Assembly Standing Order No.165 which states that a sitting of Committees shall be held at such a place, date and time as shall be determined by the chair person or on a petition made by at least five (5) members of that committee, but no meeting of a committee may be held outside the precincts of County Assembly without the approval of the Speaker.

Consequently, the propriety and validity of the Kshs.5,450,112 paid as allowances for meetings held outside the County could not be confirmed

4.5. Unstructured County Assembly Service Board

Included in the compensation of employees figure of Kshs.320,098,314 is an amount of Kshs.143,776,944 relating to basic salaries. A review of personal files of the various officers engaged by the County Assembly revealed the following anomalies;

- i) There is no personal file for the acting Clerk of the County Assembly of Kisumu. He is also not in the Assembly's payroll. It is not indicated how the officer moved to his current position in the absence of the personal records.
- ii) The Deputy Clerk of the County Assembly academic testimonials including undergraduate and masters degrees and IPPD data capture sheet are held in his personal file. However, a letter by Ethics and Anti-Corruption Commission Ref. EACC.6/15/3(25) dated 3 June 2015 indicates that the officer was on suspension at half pay with effect from 9 May 2015. There are no further correspondences on this subject to indicate that the officer's suspension was lifted. However, the officer was in office and receiving full payment as noted in the payroll during the period under review.

- iii) The Head of Finance had a promotion letter dated 18 March 2011 to the position of Internal Auditor I, salary scale 8 from the Office of the Deputy Prime Minister and Ministry of Local Government at that time. He holds a bachelor's degree. The County Assembly Service Board at its meeting held on 9 January 2017 deployed the officer as acting Head of Finance office. However, there is no document showing how the officer rose from position of Internal Auditor to Head of Finance, job group L.
- iv) The Finance Officer (Job group L) was deployed as Principal Finance Officer on 7 September 2015 by Kisumu County Government. However, there is no appointment letter, promotion letter, personal biodata, academic qualifications, KRA Pin and passport photo in his personal file. There is no document held indicating his terms and conditions of employment and his deployment to the County Assembly.
- v) The Head of Public Relations holds a certificate in early childhood education. The defunct County Council of Kisumu letter ref. MCK/ADM.30 vol.1 dated 16 May 2013 deployed the officer as a receptionist to the County Assembly of Kisumu. However, there is no reference made indicating how the officer rose to be the public relations officer. Further, there is no reference to the officer's terms and conditions of service.
- vi) During the year under review, the Assembly had a high turnover of heads of department. There were two (2) clerks of the assembly, two (2) heads of finance office, two (2) heads of procurement unit and two (2) heads of internal auditor unit.
- vii) A review of ten (10) personal files employees revealed that the appointment letters, letters of deployment to the entity, employees' personal bio-data, terms and conditions of employment, appraisal forms, passport photos and retirement dates of respective officers were lacking.
- viii) In addition, the County Assembly Service Board (CASB) had not determined and reviewed a structure of service or re-organization of its employees. On the contrary, the sixty seven (67) assembly staff held in the payroll were on different salary structures as determined by the defunct local authorities whose reference were not held in personal files. The CASB adopted a staff rationalization and skills audit for its employees conducted in May 2013 but it has not implemented this in consultation with the Salaries and Remuneration Commission (SRC). In addition, there did not exist an approved staff establishment of the Assembly.

- ix) Further, the payroll desk and human resource management desk are situated in the same office where staff personal files are held in open cabinets accessible by both the HR and payroll officer.
- x) The payroll officer is created in IPPD payroll with both the rights of data capture officer and system manager which allows him to access and make payroll entries and process the payroll without reference to the human resource officer. A review of ten personal files revealed no correspondence between the CASB and the payroll officer for incorporation in the IPPD payroll. The Assembly management was therefore in breach of the law.

Consequently, the propriety and validity of the compensation of employees expenditure figure of Kshs.320,098,314 could not be confirmed.

5. Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets figure of Kshs.14,605,000 which includes amounts of Kshs.8,665,980 and Kshs.5,939,020 for purchase of vehicles and other transport equipment respectively. Further, the amounts also catered for purchase of ICT equipment, software and other ICT assets respectively. However, supporting documents for the acquisition of these assets including tender documents, the payment vouchers, delivery notes, issuance and use of the assets were not availed for audit review.

Consequently, the propriety and validity of the expenditure totaling Kshs.14,605,000 could not be confirmed.

6. Use of Goods and Services

6.1. Procurement of Training Services through Request for Quotations

The statement of receipts and payments reflects use of goods and services figure of Kshs.319,726,591 which includes an amount of Kshs.20,677,010 relating to training costs. Out of these training costs were payments totaling Kshs.9,199,041 as indicated below:

| Course | Date | |
|--|---------------|------------------|
| training on electoral laws and systems | 29 June 2017 | 4,200,291 |
| training on parliamentary practice and procedures | 07 March 2017 | 2,499,375 |
| training on order of business, powers and privileges | 07 March 2017 | 2,499,375 |
| Total | | 9,199,041 |

However, it was observed that for the above training costs, the Assembly used request for quotations as opposed to the open tender method in the procurement of these services.

Consequently, the management was in breach of Section 91(3) of the Public Procurement and Assets Disposal Act, 2015.

6.2. Training on Electoral Laws and Systems Established by the Constitution of 2010 held in Arusha, Tanzania

Included in the use of goods and services figure of Kshs.319,726,591 is an amount of Kshs.20,677,010 relating to training costs which in turn includes Kshs.4,200,291 for training in Arusha, Tanzania. The Assembly invited three firms through request for quotations method for the provision of the above training in Arusha from 23 to 26 January 2017. However, examination of the tender documents and related records revealed the following anomalies in relation to the procurement process for the services;

- Two of the firms invited to quote had the same phone No. (0736348608).
- Two of the firms invited to quote were using the same postal address (P.O. Box 3658 – 00100) as their postal address.
- No acceptance and agreement letters were signed by both parties as required by Section 87 (2) of the Public Procurement and Assets Disposal Act, 2015.
- No quotation register was maintained by the entity as required by the Public Procurement and Assets Disposal Act, 2015.
- The winner had as at 13 December 2016 forwarded a capacity building proposal for Kshs.4,200,291. The County Assembly then invited requests for quotations on the 12 of January 2017 from two other firms which appear to be sister companies, one (1) month after having received the proposal from the winning bidder.
- The winning bidder had also made two (2) quotes for the same services for different amounts.

It was not possible to ascertain how the County Assembly ended up awarding the tender for the training service and consequently, the Assembly was in breach of the law and the propriety of Kshs.4,200,291 could not be confirmed.

6.3. Payment of Insurance Policy for MCAs and Staff

Included in the use of goods and services figure of Kshs.319,726,591 is an amount of Kshs.16,500,000 relating to insurance costs and Kshs.86,783,322 relating to other operating costs. On review of payments made in the year, it was noted that the County Assembly paid an underwriting company Kshs.22,965,709 for medical cover of Members

of County Assembly and staff for the period between from 21 December 2016 to 20 December 2017. Since the general elections were to be held in August 2017, the medical cover for MCAs should have been on a pro-rate basis, as management would have foreseen the cover for MCAs for the months of August to December 2018 not appropriate. In addition, the list of the beneficiaries was not provided for the audit review. Consequently, the propriety and validity of the expenditure totalling Kshs.22,965,709 could not be confirmed.

6.4. Misclassification of Expenditure

Included in the use of goods and services figure of Kshs.319,726,591 is an amount of Kshs.10,300,000 relating to specialized materials and services. However, out of this amount, payments totalling Kshs.6,268,927 that were classified under specialized materials and services should have been categorised into other classes as analysed below:

| Item | Kshs. |
|--|------------------|
| Hospitality Supplies and Services | 50,000 |
| Other operating expenses | 5,908,418 |
| Office and General Supplies and Services | 178,509 |
| Utilities, Supplies and Services | 132,000 |
| Total | 6,268,927 |

In addition, the Assembly made a payment of Kshs.500,000 for purchase of spare parts for motor vehicles but this was charged to fuel, oil and lubricants. Consequently, the accuracy of the financial statements could not be confirmed.

6.5. Understatement of Fuel, Oil and Lubricants

Included in the use of goods and services figure of Kshs.319,726,591 is an amount of Kshs.2,003,000 relating to fuel, oil and lubricants. However, from a review of records provided for audit, it was noted that the Assembly made payments to two fuel service providers amounting to Kshs.11,611,404 in respect to purchase of oil, fuel and lubricants, meaning the difference totalling Kshs.9,608,404 was not included in the ledger transactions and therefore not in the financial statements. Consequently, the accuracy of the financial statements could not be confirmed.

6.6. Unsupported Payment to the Former Speaker

Included in the use of goods and services figure of Kshs.319,726,591 is an amount of Kshs.64,474,939 relating to foreign travel which in turn includes Kshs.4,146,780 paid to the former speaker for facilitation of members of the County Assembly and staff while attending educational tour in Rwanda. However, the following anomalies were however noted;

- The said cheque was drawn in favor of the speaker and deposited in her personal account.

- There was no list of the beneficiaries.
- A number of imprest warrants for amounts totalling Kshs.3,974,363 were availed to support the said payment but the same warrants were appearing in the imprest register as un-surrendered. These warrants were not signed by the beneficiaries as a proof that they received the money and had applied for the imprests.

Consequently, the validity and propriety of the Kshs.4,146,780 for the foreign travel could not be ascertained.

6.7. Irregular Procurement of Foreign Travel Services

Included in the use of goods and services figure of Kshs.319,726,591 is an amount of Kshs.64,474,939 relating to foreign travel which includes Kshs.9,742,800 paid to a firm awarded a contract to facilitate trips to Singapore and Rwanda respectively. This payment was to cater for the consultancy fee, insurance and other costs for MCAs and staff travelling to the said countries. However, the following anomalies were noted in the procurement of the supplier:

- The value of both contracts were over the maximum allowable expenditure under request for quotations class 'A' category i.e. Kshs.2,000,000
- There were no tender opening committee minutes
- There was no tender opening register
- There was no quotations register
- There was no acceptance letter from the contractor
- There was no report of the trip to Singapore tabled in the Assembly
- There was a report from the trip of Rwanda but there was no proof that the same had been tabled in the Assembly
- Those who travelled to Singapore did not provide copies of passports as a proof.

Consequently, the validity and propriety of the Kshs.9,742,800 for the foreign travel could not be ascertained.

6.8. Variances Between Support Schedule Figures and Financial Statement Balances

Included in the use of goods and services figure of Kshs.319,726,591 were various items as shown below whose support schedules figures differed with the financial statements amounts.

| Item | Support Schedules | Financial Statements Figure | Variance |
|--|--------------------------|------------------------------------|--------------------|
| | Kshs. | Kshs. | Kshs. |
| Utilities, Supplies and Services | 1,322,480 | 200,000 | 1,122,480 |
| Hospitality, Supplies and Services | 9,082,199 | 4,000,000 | 5,082,199 |
| Printing, Advertising and Information Services | 2,703,955 | 2,263,320 | 440,635 |
| Insurance Costs | 23,735,389 | 16,500,000 | 7,235,389 |
| Office General Supplies and Services | 2,946,215 | 2,150,000 | 796,215 |
| Fuel, Oil and Lubricants | 3,054,482 | 2,003,000 | 1,051,482 |
| Specialized Materials and Services | 19,262,547 | 10,300,000 | 8,962,547 |
| Training Expenses | 12,719,855 | 20,677,010 | (7,957,155) |
| Domestic travels | 155,711,761 | 42,200,000 | 113,511,761 |
| Foreign travel | 53,813,197 | 64,474,939 | (10,661,742) |
| Routine Maintenance of Motor vehicles | 2,165,298 | 5,130,000 | (2,964,702) |
| Total | 286,517,378 | 169,898,269 | 116,619,109 |

Consequently, the accuracy and validity of the amounts included in the financial statements totaling Kshs.169,898,269 could not be confirmed.

6.9. Unsupported Payments

Included in the use of goods and services figure of Kshs.319,726,591 were various items as shown below whose support documents were not provided for audit review.

| Items | Kshs |
|--------------------------------------|-------------|
| Hospitality, Supplies and Services | 4,440,037 |
| Insurance Costs | 978,961 |
| Specialized Materials and Services | 12,892,819 |
| Office General Supplies and Services | 729,614 |
| Domestic travel | 21,900,768 |

| | |
|----------------|-------------------|
| Foreign travel | 25,029,305 |
| Total | 65,971,504 |

Consequently, the accuracy and validity of the amounts included in the financial statements totaling Kshs.65,971,504 could not be confirmed.

6.10. Rentals of Produced Assets

Included in the use of goods and services balance of Kshs.319,726,591 reflected in the statement of receipts and payments is Kshs.63,000,000 under rental of produced assets in respect of Ward Fund expenditure incurred during the year under review. A review of these payment highlighted the following unsatisfactory issues:

- i) Included in this amounts was Kshs.4,240,000 paid to fourteen nominated MCAs at a flat rate of Kshs.40,000 per month in cash. These payments were however not supported by expenditure returns.
- ii) Further, an amount of Kshs.62,950,000 was paid to elected MCAs at the rate of Kshs.150,000 each per month for maintenance of ward office. Examination of monthly returns revealed that the funds were utilized on various expenditure items and not exclusively for rent of ward office.
- iii) There was no evidence that the County Assembly passed the law authorizing funds transfers of Kshs.150,000 and Kshs.40,000 per month to elected MCAs and nominated MCAs respectively. In addition, there was no evidence that the ward employees were recruited and remunerated in adherence to the Salaries and Remuneration Commission's (SRC) Circulars on hire of staff and County Public Service Board terms and conditions of service. As a result the Assembly therefore may not have appropriated the funds to optimal service delivery.

Consequently, it has not been possible to confirm the propriety and validity of the expenditure of Kshs.63,000,000 incurred under the rental of produced assets during the year under review.

6.11. Related Party Transaction

Included in the use of goods and services figure of Kshs.319,726,591 is an amount of Kshs.86,783,322 relating to other operating expenses. From a review of the documents provided to support this item, it was noted that a repayment of funds borrowed from Kisumu County Executive of Kshs.5,000,000 was included in other operating expenses. The County Assembly of Kisumu had on 23 August 2016 requested an advance of Kshs.20,000,000 from County Government of Kisumu vide the letter Ref:kca/adm/08/06/2016 to cater for urgent commitments. However, no disclosure of related party borrowing by the County assembly and County Executive of Kisumu in their respective financial statements had been made. The loan ledger account and statement as at 30 June 2017 was not provided for audit review to confirm the receipts of the

advance, repayments and balance as at 30 June 2017. It was also not explained as to why the advance was treated as an expenditure.

Consequently, the accuracy and validity of the other operating expenses figure of Kshs.86,783,322 could not be confirmed.

6.12. Irregular Procurement of Tax Consultancy Services Provider

Included in the use of goods and services figure of Kshs.319,726,591 is an amount of Kshs.86,783,322 relating to other operating expenses which in turn includes Kshs.13,084,000 for tax consultancy services.

The Assembly procured the services of a tax consultant at a cost of Kshs.13,084,000 to assist in the reduction of tax, penalties and interest dues amounting to Kshs.57,093,693. However, the following anomalies were noted in the procurement of the service provider.

- No minutes of the County Assembly Service Board meeting approving the sourcing of the services.
- Documents from the three bidders considered indicated that two of the firms shared the same staff.
- The letter from KRA demanding Kshs.57 million was not provided
- The letter/waiver from KRA reviewing the said tax liability of Kshs.57million to 9 million as indicated in the proforma invoice of the consultant was not provided
- The letter/waiver from KRA reviewing the said tax liability of Kshs.57 million to Kshs.15,584,934 as indicated in the letter from consultant (Re: Tax report – PIN P051433842Z) dated 1 August 2017 was not provided
- The letter from KRA lifting attachment of the bank account and the evidence the Assembly was denied access to the said bank account as indicated in the consultant’s letter was not made available for audit review.
- There was no evidence the said bank account was attached by KRA since the Assembly continued to draw funds from the said bank account.
- There was no evidence that the taxes demanded by KRA were paid by the agent or the Assembly to the collection account as directed by the agency notice.
- The purported memo to the clerk authorizing procurement of tax services was dated 3 April 2017 after the services had been procured, contract awarded, accepted and signed on 21 March 2017.
- A review of the bank statements shows that the Assembly paid Kshs.5,000,000 to an account in a local bank on 3 May 2017 and not the accounts directed by agency notice and promised to clear the remainder in the months of June to October 2017. Search details for PIN: P051380919V on which the Assembly

relied in making payments to KRA was found to relate to a third part not related in the matter and not the County Assembly of Kisumu.

- Another letter was written by the Assembly on 3 May 2017 informing KRA of appointment of the above agent as tax consultant for the Assembly and authorized the consultant to handle all tax issues relating to the county assembly.

Consequently, the validity and propriety of the Kshs.13,084,000 and Kshs.5,000,000 paid towards tax consultancy services and agency costs respectively could not be confirmed.

6.13. Consultant for the Preparation of Financial Statements

Included in the use of goods and services figure of Kshs.319,726,591 is an amount of Kshs.86,783,322 relating to other operating expenses which in turn includes Kshs.480,000 paid to a consultant for the assistance in the preparation of financial statements. However, the payment was not supported by contract agreement, invoice and procurement minutes inviting, evaluating and awarding the contract to the consultant. Further, no justification was provided for inability of finance department to prepare financial statements considering that a number of staff are qualified accountants and members of the Institute of Certified Public Accountants of Kenya.

Consequently, the validity and propriety of the Kshs.480,000 paid for the consultancy services could not be confirmed.

6.14. Irregular Procurement of Sports Items

Included in the use of goods and services figure of Kshs.319,726,591 is Kshs.86,783,322 relating to other operating expenses which in turn includes a payment of Kshs.1,618,000 for procurement of various sports items. However, it was noted that the Assembly did not carry out market survey to obtain prices for the items procured. There was no evidence on how the prices were determined neither was the payment voucher supported by ETR receipt for the cash payment of Kshs.1,618,000. There was no evidence that the items purchased were either received, inspected, recorded in the stores ledger and subsequently issued.

Consequently, the management was in breach of regulations that prohibits payment of suppliers by cash and the validity and propriety of the Kshs.1,618,000 paid for the sports items could not be confirmed.

7. Pending Bills

The pending bills balance has not been included as a note to the financial statements and also a listing of the pending bills has also not been included as an annexure to the financial statements in conformity with the requirements of the templates provided by the Public Sector Accounting Standards Board (PSASB). A schedule that was provided for

audit indicates that the pending bills as at 30 June 2017 amounted to Kshs.190,675,138. However, this amount could not be confirmed since the relevant supporting documentation were not provided for audit verification. Consequently, the Assembly is in breach of the law.

8. Governance Frame Work

The County Assembly of Kisumu 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 requires each County Government entity to establish an audit committee to oversee governance and promote transparency in the management of the entity's resources. Further, the internal audit unit is under staffed with only five (5) officers and thus cannot adequately carry out the oversight roles. The management is therefore in breach of the law.

9. Integrated Financial Management Information System (IFMIS)

The County Assembly has not fully implemented IFMIS during the year under review contrary to Public Finance Management Act, 2012 which requires County Governments to process all its transactions through IFMIS. The 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.

10. Fixed Assets Summary

A summary the fixed assets has also not been included as an annexure to the financial statements in conformity with the requirements of the templates provided by the Public Sector Accounting Standards Board (PSASB).

Consequently, the Assembly is in breach of the law.

11. Budget Analysis

11.1. Budget Absorption

During the year under review, the approved budget of the Assembly was Kshs.654,621,594 out of which Kshs.27,605,000 was for development expenditure while Kshs.627,016,594 was for recurrent expenditure as shown below:

| Item | Budget | Actual | Over Expenditure | Under Expenditure | % Level of Absorption |
|--------------------------|-------------|-------------|------------------|-------------------|-----------------------|
| | Kshs. | Kshs. | Kshs. | Kshs. | |
| Basic Salaries Permanent | 143,776,944 | 143,776,944 | | | 100% |

| | | | | | |
|---|-------------|-------------|------------|------------|-------|
| Employees | | | | | |
| Personal Allowance Paid as Part of Salary | 149,010,852 | 143,410,852 | | 5,600,000 | 96% |
| Other personnel payments | 30,810,518 | 32,910,518 | 2,100,000 | | 107% |
| Communication, Supplies and Services | 45,000 | 45,000 | | | 100% |
| Domestic Travel, Subsistence and Other Transportation Costs | 3,200,000 | 42,200,000 | 39,000,000 | | 1319% |
| Foreign Travel, Subsistence and other Transportation Costs | 75,260,000 | 64,474,939 | | 10,785,061 | 86% |
| Printing, Advertising and Information Supplies and Services | 2,263,320 | 2,263,320 | | | 100% |
| Utilities Supplies and Services | 200,000 | 200,000 | | | 100% |
| Training Expenses | 19,911,000 | 20,677,010 | 766,010 | | 104% |
| Hospitality Supplies and Services | 14,000,000 | 4,000,000 | | 10,000,000 | 29% |
| Insurance Costs | 31,500,000 | 16,500,000 | | 15,000,000 | 52% |
| Specialised Materials and Supplies | 300,000 | 10,300,000 | 10,000,000 | | 3433% |
| General Office Supplies and Services | 2,150,000 | 2,150,000 | | | 100% |
| Fuel, Oil and Lubricants | 2,003,000 | 2,003,000 | | | 100% |
| Other Operating Expenses | 82,955,960 | 86,783,322 | 3,827,362 | | 105% |
| Routine Maintenance - Vehicles and | 1,000,000 | 5,130,000 | 4,130,000 | | 513% |

| | | | | | |
|--|--------------------|--------------------|-------------------|-------------------|-------------|
| Other Transport Equipment | | | | | |
| Rental of Produced Assets | 63,000,000 | 63,000,000 | - | | 100% |
| Routine Maintenance - Other Assets | 4,130,000 | | | 4,130,000 | 0% |
| Other Current Transfers, Grants and Subsidies | 1,500,000 | | | 1,500,000 | 0% |
| Purchase of Vehicles/Other Transport Equipment | 16,000,000 | 8,665,980 | | 7,334,020 | 54% |
| Purchase of Office Furniture/General Equipment | 11,605,000 | 5,939,020 | | 5,665,980 | 51% |
| Total | 654,621,594 | 654,429,905 | 59,823,372 | 60,015,061 | 100% |

A review of the budget performance shows that the Assembly underspent and overspent on various items as shown above. The management has not provided evidence and explanations that the over expenditure were approved as per the requirements of the Sections 47 and 48 of The Public Finance Management (County Governments) Regulations, 2015.

12.2 Prior Year Audit Matters

The Assembly did not indicate the status and follow up of audit issues reported in the previous year in the financial statements as required by Public Sector Accounting Standards Board Reporting Template and therefore was in contravention of the law and regulations.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, were of most significance in the audit of the financial statements of the current year. Except for the matters discussed in the Basis for Adverse Opinion section of my report, I confirm that there were no Key Audit Matters to report in the year under review.

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 its services, disclosing, as applicable, matters related to sustainability of services and using the going concern basis of accounting unless the Government either intends to liquidate the Assembly or 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 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.

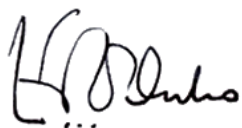
As part of an audit in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- 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 offering 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 consolidated/ 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 offering 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 or 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