REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF MOMBASA 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 Mombasa set out on pages 1 to 40, which comprise the statement of financial assets as at 30 June 2017, the statement 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 the County Assembly of Mombasa 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, 2012.

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

Basis for Adverse Opinion

1.0 Inaccuracies in the Financial Statements

1.1 Unreconciled Variances

The following four components in the financial statements have balances amounting to Kshs.1,075,264,448 compared with IFMIS report figure of Kshs.550,908,414 resulting in a variance of Kshs.524,356,034 as summarized below:

Details	Financial Statements Amount (Kshs)	IFMIS report Amounts (Kshs)	Variance (Kshs)
Exchequer releases	533,187,927	0	533,187,927
Payments	519,176,966	450,329,868	68,847,098
Cash and Bank	4,942,017	17,552,299	(12,610,282)
Outstanding imprest	17,957,538	83,026,247	(65,068,709)
Total	**1,075,264,448**	**550,908,414**	**524,356,034**

It was not clear and the management has not explained why the figures in the IFMIS report varied with expenditure figures in the financial statements.

1.2 Comparative Figures and Previous Year's Audited Figures

The comparative figures in the financial statements for the year ended 30 June 2017 differ with the previous year's audited figures by Kshs.688,649,350 as summarized below:

Details	Amount Reported in Comparative of 2016/2017 Financial Statements (Kshs)	Figures as per 2015/16 Audit report (Kshs)	Variance (Kshs)
Transfers from County Treasury / Exchequer	474,324,675	130,000,000	344,324,675
Compensation to Employees	280,511,897	9,054,767	271,457,130
Use of goods and services	184,924,184	113,406,393	71,517,791
Finance Costs	0	3,214	(3,214)
Outstanding Imprest	7,704,268	6,351,300	1,352,968
Total	**947,465,024**	**258,815,674**	**688,649,350**

There was no evidence of any prior year adjustments as required by International Public Sector Accounting Standards No. 3 on accounting for changes and errors in prior years.

Consequently, the accuracy and completeness of the financial statements for the year ended 30 June 2017 could not be ascertained.

2.0 Car Loans Fund

2.1 Deposits for Car loans

As reported in the year 2015/2016 audit report, the County Assembly of Mombasa placed a deposit of Kshs.20 million in respect of car loans to Members of the County Assembly with Chase bank. However, this amount has been omitted from the balance of receivables and it was not clear and the management has not explained how the deposit has been accounted for in these financial statements. In addition, audit review of the Chase Bank loan repayment schedule revealed that a total of Kshs.7,317,336 was owing from twenty one (21) former Members of the County Assembly at 30 June 2017. Public funds amounting to Kshs.7,317,336 may be lost in case of loan default by the twenty one (21) former members of the County Assembly.

2.2 Financial Statements for Car Loan Fund

Financial statements for the Car Laon Fund were not submitted to the Auditor-General for audit contrary to Section 167 (1) and (3) of the Public Finance Management Act, 2012 which requires the administrators of funds to prepare financial statements for each financial year and submit the same to the Auditor-General.

As a result, the propriety, accuracy and completeness of deposit for car loan of Kshs.20 million could not be confirmed.

3.0 Pending Bills

Note 17.1 to the financial statements reflects pending accounts payables amounting to Kshs.71,229,077. However, audit verification of the pending accounts payable revealed that the pending bills were not supported with relevant documents including LPOs, LSOs, supplier invoice, delivery notes among others. It was therefore not possible to confirm the validity of the balance. In addition, the dates on when the firms were contracted to deliver goods and services were missing on Annex 1 to the financial statements. It was not possible to determine when goods and services were delivered or rendered.

Further, included in payables are unremitted staff pension contributions amounting to Kshs.18,664,656 as per Note 17.3 to the financial statements. This is an increase from Kshs.1,360,712 as reported in the financial year 2015/2016.

In the circumstances, the accuracy and validity of the pending bills' balance of Kshs.89,893,733 could not be confirmed.

4.0 Transfers from County Treasury / Exchequer

The statement of receipts and payments reflects an amount of Kshs.533,187,927 in respect of transfers from County Treasury / Exchequer for the year ended 30 June 2017. However, the Report by the Controller of Budget indicates that the County Assembly received exchequer of Kshs.471,250,000 resulting in an unexplained and unreconciled variance of Kshs.61,937,927.

In addition, according to the County Executive of Mombasa's financial statements, Kshs.455,563,943 was transferred from the County Treasury to the County Assembly during the financial year leading to an unexplained and unreconciled variance of Kshs.77,623,984.

Consequently, the validity and accuracy of the transfers from County Treasury / Exchequer of Kshs.533,187,927 for the year ended 30 June 2017 could not be confirmed.

Key Audit Matters

Key Audit Matters are those matters that, in my professional judgment, were of most significant in the financial statements. Except for the matters discussed in the Basis for Adverse Opinion Section, I determined that, there were no other Key Audit Matters to report in the year under review**.**

Other Matter

1.0 Budgetary Controls and Performance

According to the County Assembly's IFMIS Vote book, the County Assembly of Mombasa had a total budget of Kshs.659,159,770 comprising of Kshs.618,543,362 for recurrent expenditure and Kshs.40,613,408 for development expenditure as summarized below:

Item	Budgeted Allocation as Per Vote Book 2016/2017 Kshs	Actual as Per Vote Book 2016/2017 Kshs	Under Absorption	Under Absorption %
Recurrent	618,543,362	519,176,967	99,366,395	14
Development	40,613,408	0	40,613,408	100
Total	**659,159,770**	**519,176,967**	**139,979,803**	**21%**

In overall, the County Assembly under spent to a tune of Kshs.139,979,803 or 21% of the total budget allocation. The funds could have been allocated to other deserving areas that would improve goods and services delivery to the residents of Mombasa County. This is may also be an indication of improper planning and the management may need to re-think on its budget making process in view of focusing on more priority areas.

In addition, according to the Vote book, there was no expenditure on the development Vote allocation of Kshs.40,613,408 during the financial year. Although the management has attributed the non-absorption of funds to the Controller of Budget's decline to approve the release of funds due the nature of items, it was not clear why the funds were not reallocated in the supplementary budget. Public funds lay idle at the expense of service delivery to the residents of Mombasa County.

2.0 Lack of an Audit Committee

It was observed the County Assembly of Mombasa had not constituted audit committee contrary to the Section 167 of the Public Finance Management (County Government) Regulations, 2015. It was not clear who carries the financial oversight role for the County Assembly.

In addition, the internal audit department has no internal audit charter creating functions, roles and powers of the function. It was also observed that the head of internal audit function reports administratively and functionally to the Clerk which casts doubt on the independence of the department.

In the circumstances, assurance on the risk management, control and governance of the County Assembly is in doubt due to lack of an effective audit committee.

3.0 Outstanding Imprest

3.1 Long Outstanding Imprest

The statement of financial assets as at 30 June 2017 reflects a balance of Kshs.17,957,538 in respect of accounts receivables – outstanding imprest. Audit review of imprest ledger revealed that imprest amounting to Kshs.12,170,000 had been outstanding for over six(6) months. This is contrary to Section 93 (5) of the Public Financial Management (County Government) Regulations, 2015 which require a holder of a temporary imprest to account or surrender it within seven (7) days after returning to duty station. In addition, the audit examination revealed that Kshs.13,903,138 was held as multiple imprest by thirteen officers contrary to Section 93 (4)(b) of Public Finance Management (County Government) Regulations 2015 which requires the Accounting officer to ensure that the applicant has no outstanding imprests. Although management indicates that the imprest shall be recovered through payroll, it was not clearly explained why it had taken long to effect the recoveries.

3.2 Imprest from Former Members of the County Assembly

Audit examination of the list of outstanding imprest balance of Kshs.17,957,538 revealed that imprest amounting to Kshs.2,608,938 was owing from former Members of the County Assembly who are no longer members of the County Assembly. It was not clearly explained why the imprest was not surrendered before end of their term. Recovery of the unsurrendered imprest is doubtful.

3.3 Imprest Signed on Behalf of Other Officers

It was observed that during the period under audit, imprest amounting to Kshs.35,863,047 was issued to staff of the County Assembly on behalf of Members of the County Assembly contrary to the Section 91(2) of the Public Finance Management (County Government) Regulations, 2015 which states, "that the officer authorized to hold and operate imprest shall make a formal application for imprest through an imprest warrant". It was not clear why Members of the County Assembly could not take responsibility for their imprests. It was further noted that there were no clear security arrangements while carrying such large amounts of cash to avoid loss of public funds as stipulated in Section 89 of the Public Finance Management (County Government) Regulations, 2015 on security for cash in transit. The County Assembly was therefore in breach of the law.

In the circumstances, the propriety and recoverability of accounts receivables – outstanding imprest balance of Kshs.17,957,538 as at 30 June 2017 could not be confirmed.

4.0 Domestic Travel and Subsistence

The statement of receipts and payments reflects a figure of Kshs.230,161,424 in respect of use of goods and services for the year ended 30 June 2017 as detailed in note 5 to the financial statements. Included in this figure is domestic travel and subsistence amount of Kshs.66,808,595. However, information available indicates that an expenditure of Kshs.2,799,100 was incurred in respect of seven (7) sittings of committees of the County Assembly held outside Mombasa County Assembly chambers. There was not proper justification for holding the meetings outside the County Assembly chambers. This is contrary to the Standing Orders No. 163 which requires that any committee of the Assembly held outside the precincts of the house must be approved by the Speaker.

Further, there was no evidence of how the venues were identified and selected. This 6s contrary to Section 103 (1) of Public Procurement and Asset Disposal Act, 2015 which states that, "*A procuring entity may use direct procurement as allowed under sub-section (2) as long as the purpose is not to avoid competition".* The County Assembly incurred unnecessary expenditure on the travel, venue costs and subsistence allowance at the expense of service delivery to the residents.

In the circumstances, the propriety and legality of the expenditure of Kshs.2,799,100 for the period ended 30 June 2017 could not be confirmed.

5.0 Rentals of Produced Assets

Note 5 to the financial statements reflects rentals of produced assets amount of Kshs.45,106,577. Included in the rentals of produced assets is expenditure amounting to Kshs.1,006,000 to Council of Governors. However, audit verification revealed that the payment was for rent for office space in Nairobi by the County Executive of Mombasa. It was not clearly explained why the expenditure was charged to the County Assembly.

Consequently, the accuracy and validity of expenditure on rentals of produced assets amounting to Kshs.1,006,000 for the year ended 30 June 2017 could not be determined.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of County Assembly of Mombasa 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 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 a basis for my qualified audit opinion.

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 continue sustaining its services.

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 as a going concern. 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 sustain its services.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the consolidated and separate 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
<u>AUDITOR-GENERAL</u>

Nairobi

16 July 2018