## REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF KILIFI FOR THE YAER ENDED 30 JUNE 2018

REPORT ON THE FINANCIAL STATEMENTS

### Adverse Opinion

I have audited the accompanying financial statements of County Executive of Kilifi set out on pages 1 to 34, which comprise the statement of assets and liabilities as at 30 June 2018, and the statement of receipts and payments, statement of cash flows and summary 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 County Executive of Kilifi as at 30 June 2018, 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 County Government Act, 2012.

### Basis for Adverse Opinion

### 1.0. Inaccuracies in the Financial Statements

The financial statements for the year ended 30 June 2018 availed for audit review had the following inaccuracies:

### 1.1. Variance Between Surplus Amount in the Statement of Receipts and Payments and the Amount Reflected in the Statement of Cash flows

The statement of receipts and payments reflects a surplus of Kshs.247,076,841 while the statement of cash flows reflects net increase of cash and cash equivalents of Kshs.329,396,259, resulting to unreconciled nor explained variance of Kshs.82,319,417.

Consequently, the accuracy and completeness of the surplus figure of Kshs.247,076,841 in the statement of receipts and payments for the year ended 30 June 2018 could not be confirmed.

### 1.2. Variance Between Opening Balances and Prior Year Audited Financial Statements

The comparative figures reflected in these financial statements differ with the audited financial statements balances for the year 2016/2017 with a net balance of Kshs.287,236,428 as summarized below;

| Financial Statement Item | Figures as per Financial Statements Opening Balances for 2017/2018 Kshs | Figures as per Audited Financial Statements for 2016/2017 Kshs. | Variance Kshs |
|---|---|---|---|
| Proceeds from domestic grant and foreign grants | Nil | 304,843,204 | (304,843,204) |

| | | | |
|---|---|---|---|
| County own – generated revenue | 674,617,674 | 665,814,286 | 8,803,388 |
| Bank Balance | 599,389,096 | 590,585,708 | 8,803,388 |
| **Total** | **1,274,006,770** | **1,561,243,198** | **(287,236,428)** |

In the circumstances, the accuracy and completeness of the comparative balances totaling Kshs.1,274,006,770 for the year ended 30 June 2018 could not be confirmed.

### 1.3. Difference Between Financial Statements and Integrated Financial Management Information System (IFMIS) Balances

The financial statements availed for audit review for the year ended 30 June 2018 were at variance with the Integrated Financial Management Information System (IFMIS) balances with net of figure amounting to Kshs.1,776,979,989 as summarized below:

| **Item** | **Financial Statement Figure Kshs.** | **IFMIS Figure Kshs.** | **Variance Kshs.** |
|---|---|---|---|
| Exchequer Releases | 9,950,900,000 | 15,025,589,000 | 5,074,689,000 |
| Proceeds from Domestic & Foreign Grants | 583,123,717 | 445,414,513 | (137,709,204) |
| County Own Generated Revenue | 508,594,540 | 528,932,613 | 20,338,073 |
| Return Issues to CRF | 1,489,355 | 0 | (1,489,355) |
| Transfer from Other Government Units | 0 | 295,726,728 | 295,726,728 |
| Compensation of Employees | 3,357,579,534 | 2,213,051,583 | (1,144,527,950.85) |
| Use of Goods and Services | 2,090,636,135 | 978,603,642 | 1,112,032,492.25 |
| Transfer to Other Government Units | 880,923,148 | 288,921,690 | (592,001,457.55) |
| Other Grants and Transfers | 897,867,702 | 350,000,000 | (547,867,702) |
| Social Security | 123,901,757 | 90,224,704 | (33,677,052.55) |
| Other Payments | 0 | 12,638,117 | 12,638,117.60 |
| **Total** | **18,395,015,888** | **20,229,102,590** | **1,834,086,702** |

In the circumstances, the accuracy, validity and completeness of the balances amounting to Kshs.18,395,015,888 reflected in the statement of receipts and payments for the year ended 30 June 2018 could not be confirmed.

## 2.0. Cash and Cash Equivalents

### 2.1 Retention Bank Account

Note 13A to the financial statements reflects bank balance of Kshs.943,922,434 as at 30 June 2018. Included in this figure is retention bank account balance of Kshs.117,194,233.

However, scrutiny of records availed for audit review indicated that during the year under review, payments amounting to Kshs.112,193,713 were paid as temporary imprest and salaries expenses out of the retention bank account. The amounts paid were irregularly charged to retention account as the account is supposed to hold only retention money for contractors. This was contrary to Regulation 53(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that except as provided for in the Act and these Regulations, an accounting Officer of an entity may not authorize payment to be made out of funds earmarked for specific activities for purposes other than those activities.

The balance is reported under note 15A as borrowing from retention in the financial statements.

Consequently, the regularity of the payment of Kshs.112,193,713 from the retention account could not be ascertained and accuracy of the retention balance of Kshs.117,194,233 as at 30 June 2018 could not be confirmed.

### 2.2 County Revenue Fund

Note 13A to the financial statements reflects bank balance of Kshs.943,922,434 as at 30 June 2018. Included in this figure is County Revenue Fund account balance of Kshs.274,199,491. However, the cashbook and bank reconciliation as at 30June 2018 reflects a balance of Kshs.281,245,171 resulting to unreconciled nor explained variance of Kshs.7,045,680. Further, the bank reconciliation as at 30 June 2018 reflects receipts in bank not yet recorded in cash book of Kshs.4,770,724. The receipts are dated from 19 Sep 2016 to 6 November 2017. It was not explained why the receipts have not been recorded in cash book.

In the circumstances, the accuracy and completeness of the bank balances of Kshs.943,922,434 as at 30 June 2018 could not be ascertained. Further, it is clear indication that income for those respective years have been understated by the same amount.

### 2.3 Development Bank Account

Note 13A to the financial statements reflects bank balance of Kshs.943,922,434 as at 30 June 2018. Included in this figure is development bank account balance of Kshs.74,303,449. However, the cashbook and bank reconciliation as at 30June 2018 reflects a balance of Kshs.74,873,499 resulting to unreconciled nor explained variance of kshs.570,050.

In the circumstances, the accuracy and completeness of the bank balances of Kshs.943,922,434 as at 30 June 2018 could not be ascertained.

## 3.0. Accounts Receivables

### 3.1. Accounts Receivables - Outstanding Imprest

The statements of assets and liabilities as at 30 June 2018 reflects accounts receivables balance of Kshs.51,312,864. Included in this figure and as disclosed in Note 14 to the financial statements for the year ended 30 June 2018 is outstanding imprests of Kshs.8,072,124. Support schedule listing officers with outstanding imprests as at 30 June 2018 reflects a balance of Kshs.9,243,024 resulting to unexplained nor reconciled variance of Kshs.1,170,900. Further, review of support schedule of the balance revealed that imprest amounting to Kshs.4,564,162 have been outstanding for more than one year. This is in contravention of Section 93(5) of the Public Finance Management (County Government) Regulations, 2015 which requires imprests to be surrendered within 7 working days after return to duty station.

Consequently, the accuracy and regularity of imprest balance of Kshs.8,072,124 as at 30 June 2018 could not be confirmed.

### 3.2. Accounts Receivables – Loss of Cash

As reported previously, note 14 to the financial statements reflects accounts receivables balance of Kshs.51,312,864 as at 30 June 2018. Included in this figure is other accounts receivables – loss of cash of Kshs.43,240,740. The schedule availed for audit revealed the total amount of cash lost before recovery was Kshs.51,569,775, out of which an amount of Kshs.8,329,035.60 was recovered, resulting to an unaccountable loss of Kshs.43,240,740. These amounts were lost through online transfer of funds without supporting vouchers.

Consequently, the accuracy and completeness of the accounts receivables balance of Kshs.43,240,740 as at 30 June 2018 could not be ascertained.

### 3.3. Proceeds from Domestic and Foreign Grants

The statement of receipts and payments for the year ended 30 June 2018 reflects proceeds from domestic and foreign grants of Kshs.583,123,717. Included in this balance is a disbursement for user fees foregone amounting to Kshs.65,756,778 and which was not disbursed. This was contrary to the conditions of the grant as captured in the County Revenue Fund Act, 2017, which is effected through County Allocation of Revenue Act of each financial year passed by the Senate.

In the circumstances, the value for money and the intended objective for disbursements amounting to Kshs.65,756,778 for the year ended 30 June 2018 could not be confirmed.

## 4.0. Use of Goods and Services

### 4.1. Routine Maintenance of Other Assets

Note 7 to the financial statements for the year ended 30 June 2018 reflects payments for routine maintenance of other assets of Kshs.121,071,750. This included a payment of pending bills amounting to Kshs.9,144,730. However, review of closing pending bill list for the year 2016/17 did not include this amount.

In the circumstances, the validity of expenditure on routine maintenance of other assets of Kshs.9,144,730 for the year ended 30 June 2018 could not be ascertained.

### 4.2. Other Operating Expenses

Note 7 to the financial statements for the year ended 30 June 2018 reflects payments for other operating expenses of Kshs.397,860,718. Included in this amount is an expenditure of Kshs.97,617,358 for legal fees. However, the expenditure was for proceedings dating as far back as the year 2015 and yet the same had not been disclosed as pending bills in the previous years. Further, review of fee notes revealed that there was no breakdown of the specific activity and rates charged as per Advocates Remuneration Order, 2014 which requires an agreement with respect to remuneration and sets the minimum charges that an Advocate may charge for services depending on the type of legal services offered.

Consequently, the propriety and completeness of payments for legal fees amounting to Kshs.97,617,358 for the year ended 30 June 2018 could not be confirmed.

### 5.0. Acquisition of Assets

The statement of receipts and payments for the year ended 30 June 2018 and as disclosed in Note 12 to the financial statements reflect acquisition of assets of Kshs.3,446,122,495. This includes a payments of Kshs.750,136,952 for construction and civil works. Included in this figure is payment of Kshs.7,166,157 for the construction of a water supply project. However, the construction was procured through restricted tender and awarded the contract at price of Kshs.23,887,188.07 against a budgeted amount of Kshs.20,000,000. During the year under review, final payment of Kshs.7,166,157 was made. However, project verification revealed that part of the pipeline was laid in the storm water drain leaving some parts exposed. In addition, marker post for the pipeline route was not installed as per the bill of quantity. This was contrary to Section149(1) of Public Finance Management Act, 2012 which requires an accounting officer for a County government entity to be accountable to the County Assembly for ensuring that resources of the respective entity for which he or she is the accounting officer are used in a way that is lawful and authorized, efficient, economical and effective.

In the circumstances, the propriety, regularity and value for money of the expenditure of Kshs.7,166,157 for the construction of a water supply for the year ended 30 June 2018 could not be ascertained.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs).  I am independent of County Executive of Kilifi 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 adverse opinion.

### Key Audit Matters

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

**Other Matter**

### 1.0. Budgetary Control and Performance

### 1.1. Budget Utilization

According to the summary statement of appropriation: recurrent and development combined, the County Executive had an approved budget of Kshs.12,126,905,105 for the financial year 2017/2018 against actual expenditure of Kshs.10,797,030,770 resulting to an overall under expenditure of Kshs.1,329,874,335 or 11% as detailed below:

| Components | Final Budget 2017/2018 Kshs. | Actual on comparable basis Kshs. | Under Expenditure Kshs. | Over Expenditure Kshs. | % Variance |
|---|---|---|---|---|---|
| Compensation of Employees | 3,275,670,000 | 3,357,579,534 | | 81,909,534 | 3% |
| Use of Goods and Services | 2,330,956,791 | 2,090,636,135 | 240,320,656 | 0 | 10% |
| Transfer to Other Government units | 1,050,223,148 | 880,923,148 | 169,300,000 | | 16% |
| Other Grants and Transfers | 1,351,019,258 | 897,867,702 | 453,151,556 | 0 | 34% |
| Social Security Benefit | | 123,901,757 | | 123,901,757 | 100% |
| Acquisition of Assets | 4,119,035,908 | 3,446,122,495 | 672,913,413 | | 16% |
| **Total** | **12,126,905,105** | **10,797,030,770** | **1,535,685,626** | **205,811,291** | **5%** |

From the above analysis, it was observed that the County Government overspent by a total of Kshs.205,811,291 on two (2) votes and the approval by the County Assembly was not availed for audit. Further, the County underspent by a total of Kshs.1,535,685,625 on four (4) votes, an indication that some development activities planned for the year that were not undertaken. This may have had a negative effect on delivery of goods and services for the residents of Kilifi county.

### 1.2. Variance Between Appropriation Amount and Forward by County Executive Committee Member for Finance

The forward by CEC member for Finance on page v of the financial statements indicates approved budget for 2017/2018 of Kshs.9,950,000, while statement of appropriation indicates an amount of Kshs.12,126,905,105, resulting to unexplained nor reconciled variance of Kshs.2,176,005,105.

### 2.0 County Own Generated Revenue - Under Collection

The statement of receipts and payments for the year ended 30 June 2018 reflects county own generated revenues amount of Kshs.508,594,540 and in the year 2016/2017 it was Kshs.665,814,286 resulting to a decrease of Kshs.157,219,746 or 24%. The management explanation that the drop was caused by political instability in the general elections of 8 august and 26 October, 2017 is not satisfactory.

In the circumstances, the accuracy and completeness of county own generated revenues amount of Kshs.508,594,540 for the year ended 30 June 2018 could not be confirmed.

### 3. Project Verification

Physical verification of nineteen (19) projects with a contracted sum of Kshs.622,225,163 during the audit between October to November 2018 revealed the following:

| | **Project** | **Contract sum (Kshs)** | **Observation on Physical verification** |
|---|---|---|---|
| 1 | Construction of Marereni-Kanagoni-Muyu wa Kae Water Project | 9,988,900 | Physical verification revealed the pipeline was laid and water kiosk erected on a road reserve with no Way-Leave approval from the Kenya National Highways Authority (KENHA). In addition, the works was not completed as the air valve and sluice valves chambers had no cover |
| 2 | Construction of Mambrui water supply line | 9,983,350 | completed but not in use |
| 3 | Construction of Songoresa-Kambi Ya Waya Water Supply Pipeline | 3,935,400 | completed but not in use |
| 4 | Construction of Mjanaheri Mapimo water project in Magarini | 3,997,000 | completed but not in use |
| 5 | Construction of ICT Lab at Kaloleni Youth Polytechnic | 5,199,460 | No wiring had been done to allow for electricity to be installed. Delivered to the Institution but not in use. |
| 6 | Construction of 2no. Classroom Block at M'buyuni ECD | 3,928,166.00 | Finishing works including plastering not complete. |
| 7 | Construction of 2no. Classroom Block at Mawe Mabomu Pre-School | 3,249,136.80 | The classrooms were fitted with electricity fittings yet no power connection. The windows were not fitted with louvres. |
| 8 | Construction of 2no. Classroom Block at Mwamtsunga Polytechnic | 2,376,986 | The project was ongoing with two classrooms complete but not fitted with windows. |
| 9 | Construction of perimeter fence at Gongoni Health Centre LSO 1433004 | 3,243,772 | Perimeter fence not completed- contractor not on site |
| 10 | Medical equipments - Various | 124,502,064 | Still held in stores. Not issued to facilities |
| 11 | Upgrading of Malindi Township Roads to Cabro Standard (Ngala-HGM-St-Kevin Sch-AIC) | 183,963,340 | The drainage works were not done in some sections due to road encroachments while in other areas the drainage works cut-off feeder road entrances. Power and water pipelines had not been properly removed and some were inside the road carriageway. |

| | | | |
|---|---|---|---|
| 12 | Upgrading to Cabro Standards of A7-Junction Shell Petrol Station-Slaughter House Road-Ngowe House-Red Cross-Tamani Jua A7-Junction | 188,508,691 | Ongoing |
| 13 | Kibaoni Social Hall | 9,503,145 | Plastering not yet done yet contract duration lapsed on 15/01/2017. No project signage erected. Contractor not on site |
| 14 | Kibarani Social Hall | 11,257,942 | Plastering not yet done contract duration lapsed on 12/02/2017. No project signage erected. Contractor was not on site |
| 15 | Eza Moyo Social Hall | 11,995,659 | Plastering not yet done yet the contract duration lapsed on 10/01/2018. No project signage erected and contractor not on site |
| 16 | Mwarakaya Social Hall | 9,593,252 | Only foundation was complete and walling started halfway yet the contract duration lapsed on 1/04/2017. No project signage erected and contractor not on site |
| 17 | Rabai Kisurutini Social Hall | 9,503,145 | Contract duration lapsed on 30/06/2017. Plastering was ongoing and windows fixed. No project signage erected. |
| 18 | Proposed Setting up of a County Radio station | 24,995,755 | Ongoing |
| 19 | Renovation of Marafa market | 2,500,000 | project complete but not in use |
| | **Total** | **622,225,163** | |

In the circumstances, the citizens of the County may not have received value for money on Projects worth Kshs.622,225,163 for the year ended 30 June 2018.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

**Conclusion**

As required by Article 229(6) of the Constitution, because of the significance of the matters discussed in the Report on Lawfulness and effectiveness in Use of Public Resources/ Basis for Adverse Opinion sections of my report, based on the audit procedures performed, I confirm that public resources have not been applied lawfully and in an effective way.

**Basis for Conclusion**

**1. County Own Generated Revenues**

The statement of receipts and payments for the year ended 30 June 2018 and as disclosed in Note 4 to the financial statements reflects receipts from county own generated revenues of Kshs.508,594,540. Review of cashbooks, bank reconciliations and bank statements availed for audit revealed the following:

**1.1. Revenue Not Transferred to County Revenue Fund**

Records availed for audit revealed that an amount of Kshs.174,504,990 was collected but not transferred to the County Revenue Fund Account, contrary to Article 207 (1) of Constitution of Kenya, 2010 which establishes a County Revenue Fund (CRF) for each county and requires all money raised or received by or on behalf of the county government to be paid into County Revenue Fund unless reasonably exempted by an Act of Parliament.

The management was therefore in breach of the Law.

### 1.2. Revenue Spent at Source

Note 4 to the financial statements reflects county own generated revenue of Kshs.508,594,540 for the year ended 30 June 2018. However, review of Facility Improvement Fund (FIF) account cashbooks and payment vouchers, revealed that total collections spent at source amounted to Kshs.41,259,839. This is contrary to Article 2017(1) of the Constitution, 2010 which establishes County Revenue Fund which shall be paid all money raised or received by or on behalf of the County Government, except money reasonably excluded by an Act of Parliament. This is also emphasized by Chapter 5 par.5.3 of the County Finance Accounting and Reporting Manual that requires all revenues collected to be banked intact in an agreed commercial bank account for onward transfer to the County Revenue Fund.

The management was therefore in breach of the law.

### 1.3. User Fees Collected by Facilities

Note 4 to the financial statements reflects county own generated revenue of Kshs.508,594,540 for the year ended 30 June 2018. However, review of books of accounts availed by level 1 and level 2 health facilities revealed that the health facilities were variably charging user fees; some at Kshs.20 and others Kshs.50. The fees had not been approved through the County Finance Act, 2017 and were contrary to National Government policy on provision of services at level 1 and 2 health facilities that required them to provide services at no charge.

Review of level 1 and 2 health facilities annual income and expenditure reports revealed that a total of Kshs.7,329,528 was collected as user fees and spent at source contrary to Section 63(4) of the Public Finance Management (County Government) Regulations, 2015 which requires all collections to be banked in a designated bank account. This is despite the fact that the national government compensated the county through a grant of Kshs.26,392,597 for user fees forgone as evidenced in the second schedule of the County Allocation of Revenue Act, 2017.

In the circumstances, the county government did not adhere to national government grant conditions and was therefore in breach of the law.

### 1.4 Collections by Contracted Service Provider

#### 1.4.1. Revenue Target

As reported in the previous year, the County Executive engaged a contractor for the collection of cess fees and parking fees revenue for a period of 15 years, that is, from 20 February 2014 to 19 February 2029. Perusal of the contract document availed for audit revealed that the County Executive was entitled to 70%, while the revenue collection service provider was entitled to 30% of the revenue collected annually. The agreement further indicated that the share to the county of the total revenue collection should not fall below Kshs.123 million annually.

The project investor was also required to reimburse the County Government in case the County Government apportionment was below Kshs.123,440,243 annually. The investor was further required to achieve an annual revenue of Kshs.766,500,000 within two years failure to which the investor would forfeit 2% of its apportionment.

During the year under review, the County Executive budgeted to receive an amount of Kshs.255,086,204 from cess fees and parking fees from the contractor. The total revenue collected during the financial year 2017/2018 from cess and parking fees cumulatively totaled Kshs.159,535,434, which is only 21% of the agreed amount of Kshs.766,500,000. Thus, the service provider failed to meet the revenue collection target of Kshs.766,500,00 by Kshs.606,964,566 or 79%. It was not clear why the project investor did not achieve the revenue targets and therefore value for money for this contract could not be determined for the year ended 30 June 2018.

### 1.4.2. Use of Service Provider's Own Receipt Books

Further, evidence that the County Executive participated in printing, control and issuance of revenue receipt books and accountability of the used receipt books was not availed for audit review. In addition, it was observed that the service provider deposited money in their private Chase bank accounts directly instead of depositing into the escrow account without supervision by the County Executive. In addition, the County Executive prepared cash books from the transfers made in the bank by the service provider without independent verification of the actual amounts collected. The following variances were noted between figures reported by the service provider and those recorded in the County Executive's cash books as per the monthly analysis:

| Month | Figures as Per Cash books Availed for Audit Kshs | Figures as per Service Provider's Schedule Kshs | Variance Kshs |
|---|---:|---:|---:|
| July 2017 | 14,416,497 | 14,020,038 | 396,459 |
| August 2017 | 10,994,196 | 9,826,252 | 1,167,944 |
| September 2017 | 10,711,862 | 9,756,667 | 955,195 |
| October 2017 | 9,842,745 | - | 9,842,745 |
| November 2017 | 12,996,202 | - | 12,996,202 |
| December 2017 | 11,856,395 | 11,015,419 | 840,976 |
| January 2018 | 18,680,719 | 11,485,293 | 7,195,426 |
| February 2018 | 12,573,065 | 10,645,705 | 1,927,360 |

| | | | |
|---|---|---|---|
| March 2018 | 15,455,738 | 14,127,869 | 1,327,869 |
| April 2018 | 13,737,606 | 16,763,839 | -3,026,233 |
| May 2018 | 14,399,514 | 13,229,868 | 1,169,646 |
| June 2018 | 13,216,488 | 17,098,148 | -3,881,660 |
| **Total** | **158,881,027** | **127,969,098** | **30,911,929** |

Further, Note 4 to the financial statements for the year ended 30 June 2018 reflects total amounts for cess and parking fees of Kshs.159,535,434, resulting to unreconciled and unexplained variance of Kshs.654,407 from the amounts recorded in the County Executive's cash books.

Consequently, the accuracy and completeness of the County own generated revenues of Kshs.159,535,434 for the year ended 30 June 2018 could not be confirmed.

### 1.4.3. Prevention of Access into Information Data

During field visit in the month of October, 2018, efforts to verify daily collections by the service provider was not possible since access to the revenue collection system was denied by the service provider. This is contrary to Section 9 of the Public Audit Act, 2015 which grants the Auditor General, or an officer authorized for the purposes of carrying out his or her duties effectively, powers of unrestricted access to all books, records, returns, reports, electronic or otherwise.

Consequently, the accuracy and completeness of Kshs.159,535,434 reported as parking fees and cess fees for the year ended 30 June 2018 could not be ascertained.

## 2.0. Compensation of Employees

### 2.1. Non-Remittance of Statutory and Other Deduction

The statement of receipts and payments for the year ended 30 June 2018 reflects compensation of employees of Kshs.3,357,579,534. Review of pending bills revealed that Widows Children Pension Scheme (WCPS) and GOK Rent deduction on employee's salary amounting to Kshs.24,705,559 and Kshs.7,874,795 respectively, were not remitted to the relevant bodies as at 30 June 2018. The non-remittances were observed to have taken place for more than 6 months.

Consequently, the management was in breach of the law.

### Reallocation of Funds from Wages to Non-Wages

Note 6 to the financial statements for the year ended 30 June 2018 indicates compensation of employees balances of Kshs.3,357,579,534. However, included in this amount and as confirmed from the vote-book, were reallocations amounting to Kshs.115,780,412 undertaken from wages to non-wage expenditure in contravention to Section 154 (1) (c) of the Public Finance Management Act, 2012 that requires an accounting officer not to authorize the transfer of an amount that is appropriated for wages to non-wages expenditure.

In the circumstances, the propriety, probity and validity of compensation of employees budgetary controls could not be ascertained.

### 3.0. Use of Goods and Services

### 3.1. Pre -Payments for Goods

The statement of receipts and payments for the financial year ended 30 June 2018 reflects use of goods and services amount of Kshs.2,090,636,135. However, included in this figure are pre - payments totaling Kshs.7,421,648 made for goods and services not delivered as summarized below:

| Item Not supported | Date Paid | Amount - Kshs |
|---|---|---|
| Fuel, oil and lubricants | 14 June 2018 | 6,161,648 |
| Utilities | 25 June 2018 | 1,260,000 |
| **Total** | | **7,421,648** |

This was contrary to Section 146 of Public Procurement and Asset Disposal Act, 2015 which states that no works, goods or services contract shall be paid for before they are executed or delivered and accepted by the accounting officer of a procuring entity.

Consequently, the validity and regularity of the use of goods and services amount of Kshs.7,421,648 for the year ended 30 June 2018 could not be ascertained.

### 3.2. Communication Supplies and Services

Note 7 to the financial statements reflects payments for communication, supplies and services amounting to Kshs.9,574,812. This includes payment of Kshs.5,373,899 for provision of internet service as well as wide area network. Full installation, testing and confirmation was done in 12 sites out of 18 according to the completion report. Six sites namely Kilifi South, Kilifi North, Ganze, Magarini, Rabai and Kaloleni had installed but untested and unused networks due to lack of electricity. These installations were fully paid for. This was contrary to Section 149(1) of Public Finance Management Act, 2012 which requires an accounting officer for a county government entity to be accountable to the County Assembly for ensuring that the resources of the respective entity for which he/she is the Accounting Officer are used in a way that is lawful and authorised, efficient, economical and effective.

In the circumstances, the propriety and value for money of the expenditure on communication supplies and services of Kshs.5,373,899 for the year ended 30 June 2018 could not be ascertained.

### 3.3. Domestic Travel and Subsistence

Note 7 to the financial statements for the year ended 30 June 2018 includes payments for domestic travel and subsistence amounting to Kshs.118,991,706. Included in this are payments for member of County Assembly allowances totaling to Kshs.2,667,000 to attend devolution conference in Kakamega County on April 2018. This was contrary to Section 154(1)(a) of Public Finance Management Act, 2012 which requires an accounting officer not to authorise the transfer of an amount that is appropriated for transfer to another county government entity or person.

No satisfactory explanation was offered as at why the county executive paid for the members of County Assembly yet the county assembly has its own budget to finance local travel.

In the circumstances, the regularity and validity of domestic travel and subsistence amount of Kshs.2,667,000 for the year ended 30 June 2018 could not be confirmed.

### 3.4. Foreign Travel

The statement receipts and payments and as disclosed in Note 7 to the financial statements for the year ended 30 June 2018 reflects use of goods and services of Kshs.2,090,636,135. Included in this figure are payments for foreign travel and subsistence of Kshs.46,279,986.

Perusal of the expenditure revealed that there was no clear annual work plan on international events to participate and identified objectives for attending the conference and seminars. The travelling was based on invitations by organizing entities and were not linked to the departments' annual work plans and objectives. This was contrary to Section 149(1) of Public Finance Management Act, 2012 which requires an accounting officer for a county government entity to be accountable to the County Assembly for ensuring that the resources of the respective entity for which he or she is the accounting officer are used in a way that is Lawful and authorized, efficient, economical and effective.

Consequently, the management was in breach of the law.

### 3.5. Specialized Materials

Note 7 to the financial statements for the year ended 30 June 2018 reflects use of goods and payments of Kshs.2,090,636,135. Included in this figure are payments for specialized materials of Kshs.403,515,487.

However, review of procurement files and contract documents availed for procurement of specialized materials revealed despite the special conditions of contract requiring the suppliers to execute a performance security of 5% contract price within 21 days after letter of notification of award, performance bonds for contracts valued at Kshs.80,835,331 were not availed for audit. This was contrary to Section 142(1) of Public Procurement and Asset Disposal Act, 2015, which requires successful bidder to execute performance security if required by conditions of contract.

The management was therefore in breach of the law.

## 4.0. Acquisition of Assets

The statement of receipts and payments for the year ended 30 June 2018 and as disclosed in Note 12 to the financial statements reflects acquisition of assets of Kshs.3,446,122,495. Review of the expenditure revealed the following:

### 4.1. Contract Signed Outside Tender Validity Period

Note 12 to the financial statements for the year ended 30 June 2018 reflects payment for construction of building of Kshs.749,162,636. Included in this payments is Kshs.7,937,132.15 for construction of Eza Moyo social hall. The county procured works for construction of a social hall at Eza-Moyo for Kshs.11,995,659.76. The Letter of Notification of award was issued on 18 November 2016 yet the Contract agreement was signed on 10 July 2017 almost 8 months later, long after expiry of the 120 days' tender validity period contrary to Section 135 (3) of the Public Procurement and Asset Disposal Act, 2015 which requires the written contract (procurement contracts) to be entered into within the period specified in the notification but not before fourteen days have elapsed following the giving of that notification provided that a contract shall be signed within the tender validity period.

Consequently, the management was in breach of the law.

### 4.2. The County Awarded a Contract Before Submission of Bids

Note 12 to the financial statements for the year ended 30 June 2018 reflects construction and civil works amount of Kshs.750,136,952. Included in this figure is payment of Kshs.9,654,992.05 for delivery and installation of irrigation equipment/Infrastructure at Balaga (Magarini sub county. The tender for this project was advertised at county website on 12 Feb 2018 and the deadline for the submission of the bids was on 27 February 2018. The tender opening committee was constituted on 8 Feb 2018. The bids were evaluated on 13 Feb 2018 as per evaluation minutes and professional opinion issued on 14 Feb 2018. The notification of award accepted on 19 Feb 2018 (SFL/KLF/007/022) 8 days before bids submission date as per invitation to bid. The contract was awarded before bid submission date.

The management did not abide by the terms of the bid.

### 4.3. Procurement of Agrochemicals

Note 12 to the financial statements for the year ended 30 June 2018 reflects purchase of certified seeds, breeding stock and live animals amounting to Kshs.66,713,402. Included in this figure is an amount of Kshs.7,544,700 for the supply and delivery of agro chemicals. Review of tender documents in support of this expenditure revealed that among the mandatory documents that the tenderers were to submit was a valid tax compliance certificate. However, review of the successful tenderers bidding documents revealed that a valid tax compliance certificate was not attached therein. Despite the lack of a valid tax compliance certificate, the tenderer was found responsive by the evaluation committee contrary to Section 79 (1) of the Public Procurement and Asset Disposal Act, 2015 that requires a tender to be determined responsive if it conforms to all the eligibility and other mandatory requirements in the tender documents.

The management was therefore in breach of the law.

### 4.4. Mtwapa Water Scheme Supply

Note 12 to the financial statements reflects payments of Kshs.750,136,952 for construction and civil works. Included in this figure is payment of Kshs.19,940,118 for construction of Mtwapa Scheme water supply which included Kshs.1,200,000 for construction of water kiosks. However, physical inspection of the project in the month of October 2018 revealed that although the project was substantially complete, water kiosks were not constructed. Further, a portion of the pipeline was laid on Kenya Agricultural and Livestock Research Organization (KARLO) land and a Way-Leave was not acquired.

In the circumstances, the propriety and value for money of the expenditure of Kshs.1,200,000 for the construction of a water kiosks for the year ended 30 June 2018 could not be ascertained.

### 4.5. Procurement of Borehole Drilling Rig

Note 12 to the financial statements reflects payments for purchase of specialized plant, machinery and equipment of Kshs.297,547,478. This includes a payment of a Borehole Drilling Rig (Mounted on a truck complete with compressor) of Kshs.46,414,062.68. however, the Chief Mechanical and Transport Engineer (CM &TE) inspection certificate, user's manual and manufacturer's warranty were not availed.

Further, as per the voucher log availed for audit, all the stages of payments were done on 20 February 2018 even before the rig had been inspected and before the item was inspected by an inspection team on 26 February 2018. This is contrary to Section 48(4) of Public Procurement and Asset Disposal Act, 2015 which requires an acceptance and inspection committee to ensure correct quality of goods are supplied and that supplied goods have met technical specifications and ensure that all required manuals or documentations have been received.

In the circumstances, the regularity of the payment of Kshs.46,414,062.68 for a Borehole Drilling Rig (Mounted on a truck complete with compressor) for the year ended 30 June 2018 could not be ascertained.

### 4.6. Acquisition of Strategic Stock

Note 12 to the financial statements reflects purchase of purchase of certified seeds, breeding stock and live animals of Kshs.66,713,402. This includes a total of Kshs.15,907,185 paid for supply of school milk. Review of documents availed for audit revealed that a tender was awarded to supply, 2,500,000 packet of branded school milk each costing Kshs.31 to a bidder at a total cost of Kshs.77,500,000.

This tender was advertised on the County Website and opened on 7th February 2018 with response from only two bidders responding with the lowest quoting Kshs.31 per packet. However, delivery notes obtained from the respective schools indicated that the milk was being supplied by New KCC Ltd, not involved in the tender process, at a price of Kshs.18 per packet. As a result of not buying from the New KCC, the County Government lost Kshs.6,670,755 being 513,135 packets multiplied by (Kshs.31-18). This was contrary to

Section 54 (2) of Public Procurement and Asset Disposal Act, 2015 which requires standard goods, services and works with known market prices shall be procured at the prevailing market price.

Consequently, the value for money and regularity of strategic stock of Kshs.6,670,755 for the year ended 30 June 2018 could not be confirmed.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

**Conclusion**

As required by Section 7 (1) (a) of the Public Audit Act, 2015, because of the significance of the matters discussed in the Basis for Adverse Opinion section of my report, based on the audit procedures performed, I confirm that Internal controls, risk management and governance were not effective.

**Responsibilities of Management and Those Charged with Governance**

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 maintaining effective 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 and for its assessment of the effectiveness of internal control.

In preparing the financial statements, management is responsible for assessing the County Executive of Kilifi's ability to continue as a going concern/ sustain services, disclosing, as applicable, matters related to going concern/ sustainability of services and using the applicable basis of accounting unless the management either intends to liquidate the Kilifi County Executive 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.

In addition to the responsibility for the preparation and presentation of the financial statements described above, management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective manner.

Those charged with governance are responsible for overseeing the Kilifi County Executive financial reporting process, reviewing the effectiveness of how the entity monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

**Auditor-General's Responsibilities for the Audit**

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.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them, and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7 (1) (a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal control may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

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.
- 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 ability to continue as a going concern or 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 to cease to continue as a going concern or 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 County Executive of Kilifi 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**

**08 January 2019**