

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

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of the County Executive of Kisii set out on pages 1 to 43, 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 statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 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, except for the effect of matters described in the Basis of Qualified Opinion section of my report, the financial statements present fairly, in all material respect, the financial position of County Executive of Kisii as at 30 June 2017, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the Public Finance Management Act, 2012.

In addition, as required by Article 229(6) of the Constitution, except for the matters described in the Basis for Qualified Opinion and Other Matter sections of my report, based on the procedures performed, I confirm that nothing has come to my attention to cause me to believe that public money has not been applied lawfully and in an effective way.

Basis for Qualified Opinion

1.0 Failure to Bank All Revenue to County Revenue Fund

1.1 Facility Improvement Funds (FIF)

Included in the Executives own generated receipts balance of Kshs.553,383,047 is Kshs.116,249,981 collected at Kisii Level 5 Teaching and Referral Hospital as facility improvement fund scheme which was spent at source and was thus not banked in the County Revenue Fund Account as required by Section 109 of the Public Finance Management Act, 2012. However, no explanation was provided for the omission.

1.2 Other Revenue not Banked in the Revenue Fund

Included in the Executives own generated receipts balance of Kshs.553,383,047 is trade and industry revenue of Kshs.7,704,000, meat inspection fees Kshs.2,228,730 and revenue from Agricultural Training College Kshs.14,161,575 which were not banked in

the County Revenue Fund as required by Section 109 of the Public Finance Management Act, 2012.

Consequently, the management was in breach of the law.

2.0 Revenue Analysis

2.1 Local Source Revenue

The Executive budgeted to collect Kshs.725,000,000 during the year under review. However, only Kshs.553,383,047 was collected in the year translating to 72.5% of the budgeted revenue as shown below;

Revenue Item	Budget Kshs.	Actual Collection Kshs.	Under Collection Kshs.
Rents	46,000,000	5,930,469	40,069,531
Other property income	21,000,000	9,664,176	11,335,824
Receipts from administration	-	116,750	116,750
Fines, penalties & Forfeitures	5,950,000	1,223,811	4,726,181
Business Permits	140,000,000	48,253,533	91,746,467
Cess	22,000,000	7,642,073	14,357,927
Plot rents	7,000,000	1,815,752	5,184,248
Other local levies	23,050,000	19,814,847	3,235,153
Fire compliance	8,500,000	6,475,265	2,024,735
Market trade fees	106,000,000	59,065,218	46,934,782
Vehicle parking fees	67,000,000	76,569,405	(9,569,666)
Plan approvals	25,000,000	11,990,666	13,009,334
Public health facilities operations	162,500,000	255,972,669	(93,472,669)
Slaughter House	11,000,000	646,750	10,353,250
Meat Inspection Fees	-	2,228,730	2,228,730
Trade & Industry	-	7,704,000	7,704,000
Agricultural/ATC	22,000,000	14,161,575	7,838,425
Advertisement	35,000,000	24,107,360	10,892,640
Total	725,000,000	553,383,047	191,482,411

No explanation has been given for the poor revenue collection which suggests there were revenue leakages in the system or unrealistic targets set.

2.2 Outstanding Property Rates

The property rates register indicates that outstanding property rates in the County increased by Kshs.74,734,838 from Kshs.203,956,660 in the previous year to Kshs.278,691,498 in the year under review. Further, the Executive has not put in place recovery measures to recover these outstanding revenues as required by the County Finance Act, 2016.

In view of the foregoing, it has not been possible to confirm that the revenue for the year ended 30 June 2017 is fairly stated.

3.0 Accounts Receivables (Outstanding Imprests)

The statement of financial assets as disclosed under note 15 to the accounts reflects an outstanding imprest balance of Kshs.19,014,076 as at 30 June 2017. The imprests issued during the year remained un-surrendered at the closure of the financial year. Further, two officers had more than one imprest at the same time, contrary to Section 93(4) of the Public Finance Management (County Government) Regulations, 2015 governing issuance of imprests. Consequently, the management was in breach of the law.

4.0 Pending Bills

The County Government disclosed accumulated pending bills totalling Kshs.894,977,152 as at 30 June 2017 relating to supply of goods and services. However, the ledger balance reflected total pending bills of Kshs.940,338,827 as at 30 June 2017. Further, a pending commitment under arbitration of Kshs.24,893,469 was not disclosed in the financial statements. Pending bills records revealed that a total of Kshs.65,383,707 represented bills committed after 31 May 2017 contrary to the provisions of Regulation 50(1) of the Public Finance Management (County Government) Regulations, 2015 which states that all commitments for supply of goods or services shall be done not later than 31 May each year except with the express approval of the Accounting Officer in writing. No approval from the Accounting Officer was obtained to justify the late commitments. Consequently, the propriety of the pending payables totalling Kshs.894,977,152 as at 30 June 2017 could not be confirmed.

5.0 Acquisition of Assets

The statement of receipts and payments and as indicated in note 11 of the financial statements reflects expenditure totalling Kshs.1,299,533,511 relating to acquisition of assets. Included in this amount are expenditure totalling Kshs.10,572,008 whose procurements revealed inconsistencies as detailed below;

5.1 Upgrading of Executive Office Block Power Supply

Included in the acquisition of assets figure of Kshs.1,299,533,511 is Kshs.219,616,328 under construction and civil works which in turn includes Kshs.14,771,890 paid to a local company for upgrading power supply system at the executive office block.

The scope of works involved relocating power switches, supply of 3 phase generator, battery power back up system, supply and installation of lightning arrestors, construction of power control room finishes and erection of two generator houses at a cost of Kshs.450,450. The supplier's bill of quantities had several corrections contrary to Section 82 of the Public Procurement and Asset Disposal Act, 2015.

Site verification done in the month of January 2018 revealed that only one generator house had been done yet payment was made for the two houses totalling Kshs.450,500.

Consequently, the management may have lost Kshs.225,250 from the contractor for works not done and which should be recovered.

6.0 Use of Goods and Services

6.1 Procurement of Goods and Services

The statement of receipts and payments reflects use of goods and services figure of Kshs.2,081,416,486 which include Kshs.6,428,135 for air travel services which were procured without following the due procurement process for direct procurements as provided in the law. Consequently, the propriety of the expenditure of Kshs.6,428,135 could not be confirmed.

6.2 Direct Procurement of the Governor's Residence

Included in the use of goods and services balance of Kshs.2,081,416,486 is Kshs.3,600,000 paid as rental charge to a landlord being rent for the Governor's residence without following due procurement process. It is not clear how the supplier of the service was identified. The payment terms may not have promoted efficiency, economy and effectiveness in public expenditure due to lack of competitiveness.

6.3 Inadequate Policy Guidelines

Included in the use of goods and services balance of Kshs.2,081,416,486 is an amount of Kshs.432,167,676 relating to domestic travel and subsistence which in turn includes Kshs.3,500,000 issued as an imprest for funding public participation in revenue collection automation. Payments totalling to Kshs.1,826,500 were made at the rate of Kshs.500 to various participants in the sub-counties. However, there was no policy on public participation in county planning and it is not clear how the rate of Kshs.500 was determined and approved.

Consequently, the propriety and value for money on the expenditure of Kshs.16,876,800 incurred on domestic travel and subsistence allowance during the year cannot be confirmed.

7.0 Payments for Liaison Office

Included in the use of goods and services figure of Kshs.2,081,416,486 is other operating expenses of Kshs.601,356,457 out of which Kshs.10,000,000 was paid to the Council of Governors (COG) for rental space for liaison office at Delta House, LR No. 1870/X/126 in Nairobi. The contract agreement on which the payment was based was between the COG and the landlord, therefore the County Executive was not obliged to pay for the services yet the COG is funded from the Exchequer.

Consequently, the propriety of the expenditure of Kshs.10,000,000 incurred in the year under review could not be confirmed.

8.0 Irregular Borrowings

Included in the use of goods and services of Kshs.2,081,416,486 is an amount of Kshs.432,167,676 for domestic travel and subsistence. It was noted that a total of

Kshs.28,000,000 appropriated to bursary account in education sector was used for domestic and subsistence account under the Executive. In addition, evidence availed revealed that only Kshs.20,350,000 was refunded, leaving a balance of Kshs.7,650,000 as not approved by the County Treasury as required by Section 154 2(b) of the Public Finance Management Act, 2012.

9.0 Miss-Classification of Expenditures

A sampled review of the Integrated Financial Management System (IFMIS) ledger revealed that expenditure totalling Kshs.34,184,380 were posted to incorrect ledger accounts as detailed below;

Item	Account charged in Financial Statements	Correct Account to be charged	Amount Kshs.	Remarks
Supply of Hospital Beds	Construction of Buildings	Supply of Specialized Equipment	3,782,500	No evidence of re-allocation
Tourism Event Management	Construction of Buildings	Trade Shows	2,500,000	No evidence of re-allocation
Supply of Playground Swings	Construction of Buildings	Supply of specialized equipment's	4,487,880	No evidence of re-allocation
Supply of new Ambulance	Other operating expenses	Acquisition of Assets	10,000,000	No evidence of re-allocation
Supply of Refuse Skips	Purchase of Motor Vehicles	Specialized equipment's	5,220,000	No evidence of re-allocation
Purchase of waste disposal site	Purchase of Motor Vehicles	Acquisition of Land	544,000	No evidence of re-allocation
Bursary Disbursement	Domestic travel and Subsistence	Bursary Grants	7,650,000	No evidence of re-allocation
Total			34,184,380	

10.0 Duplicate Posting in the Ledger

Surrender of imprest issued to one officer vide warrant Nos.2479821 and 2569472 of Kshs.5,069,800 and Kshs.5,000,000 respectively were posted in both the acquisition of land and other operating expenses. Consequently, the duplication of the payment charged in two different votes heads at the same time overstates the payments rendering the account of acquisition of land and other operating expenses inaccurate. In addition, it is not clear why acquisition of land would be done using imprest.

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

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. Except for the matter described in the Basis for Qualified Opinion and Other Matter sections of my report, I have determined that there are no other key audit matters to communicate in my report.

Other Matter

1.0 Budget and Performance Analysis

Under/Over Expenditure

During the year under review, the County Executive budgeted for an aggregate expenditure of Kshs.10,070,531,914 being Kshs.6,361,322,470 and Kshs.3,709,209,444 under recurrent and development votes respectively. However, the actual expenditures on recurrent vote amounted to Kshs.5,775,848,075 while Kshs.2,574,825,306 was incurred on development thus representing 57 % and 25% respectively as shown below;

Item	Budget Kshs.	Actual Kshs.	Absorption Rate %	% of total Expenditure
Recurrent *	6,361,322,470	5,775,848,075	90.79	69
Development *	3,709,209,444	2,574,825,306	69.42	31
Total	10,070,531,914	8,350,673,381		

* *Assembly's budget included.*

Development projects have not been properly implemented thus denying residents needed services.

In addition, the following anomalies were noted in relation to the expenditure records:

- i. The Controller of Budget report reflects Kshs.1,819,890,000 for development (executive) which is different from Kshs.1,662,857,915 in the summary statement of appropriation development. The difference of Kshs.157,032,085 has not been explained or reconciled.
- ii. The Controller of Budget report reflects Kshs.5,180,630,000 for recurrent expenditure (executive) which is different from Kshs.5,783,748,000 from the analysis of expenditure for the County departments. The difference of Kshs.603,118,000 has not been explained or reconciled.

2.0 Delayed Water Projects

Contracts awarded to various firms in respect of water projects faced challenges in

implementation resulting in delays and increased costs as shown below;

Project Details	Location/ Ward	Name of Contractor	% Work done	Contract Sum Kshs.	Remarks
Various project sites	Various wards	Vajira Drill		24,619,400	2 No. Sites at Mochengo drilled but dried up due to low water yield.
Various project sites	Various wards	Sparr Drilling Limited	50%	22,558,400	Slow Progress on 3 No. Borehole Drilled and equipped with hand pump. Irondi drilled but dry- Thus sunk cost.
Sameta Borehole	Sameta/ Mokwerero	Rosama Building Contractors	30%	2,000,000	Slow Progress
Nyamagwa Water Supply	Bogetaorio	Binsaris Lighthouse	20%	1,692,500	Dispute between Nyamagwa Schools and Community hindering progress of the project.
Nyamesocho Water Supply	Borabu	Anekos Ltd.	50%	3,269,500	Contractor left site before completing the project
Kionduso Borehole	Bogetaorio	Gesure Building Construction Co. Ltd.	10%	2,030,250	Work not started
Kegochi Borehole	Boitangare	Hevero Contractors	20%	655,400	Slow Progress
Nyakerato Water Supply	Bosoti/ Sengera	Bassecom International Ltd.	0%	2,803,000	Contractor yet to take up site
Mokenene Water Supply Project	Magenche	M/s Endo Enterprises Ltd.	60%	3,574,700	Slow progress
Riongata Borehole Project	Kiamokama/ Gesusu	Platinum Axe	-	3,728,200	Construction of the project yet to begin and has

					been re-advertised.
Nyamondo Borehole Water Project	Bogusero	Emmanuel Agencies Ltd.	-	3,426,650	Work yet to begin
Nyasasa Gravity Water Project	Moticho/Chitago	Joskaby Agencies Ltd.	10%	2,793,760	Slow Progress
Nyabinyinyi Water Project	Sensi/Marani	Menetonka Construction Ltd.	-	10,366,040	Construction of the project yet to begin and has been re-advertised.
i.) Nyosia ii.) Entanda/ Mwakibagendi iii.) Entanda PAG. iv.) Nyakeyo	Bogeka Marani Monyerero Kegogi	DKO Investment Company Ltd.	-	19,843,700	Construction of the project yet to begin and has been re-advertised.
Various sites	Various wards	Pass Africa Ltd.	-	17,167,200	Contractor yet to take up site. Tender has been re-advertised.
Various sites	Various wards	Jara Construction Ltd.	-	15,050,200	Contractor yet to take up site. Tender has been re-advertised.
Nyabinyinyi Water Project	Sensi/Marani	Menetonka Construction Ltd.	-	10,366,040	Construction of the project yet to begin and has been re-advertised.
Various sites	Various wards	DKO Investment Company Ltd.	-	19,843,700	Construction of the project yet to begin and has been re-advertised.
Various sites	Various wards	Pass Africa Ltd.	-	17,167,200	Contractor Yet to take up site. Tender has been re-advertised.
Various sites	Various wards	Jara Construction Ltd.	-	15,050,200	Contractor yet to take up site. Tender has been re-advertised.

The delays in commissioning water projects and slow works at some sites has affected provision of services to the residents of the County.

3.0 Unexplained Year End Adjustments

Several journal adjustments were made at the close of the financial year that were not supported by authorisations as required. The adjustments debit adjustments were not approved as required.

Items	Year End Adjustments Kshs.
Rehabilitation of civil works	1,000,000
Other Transfers-User forgone fees	14,457,329
Purchase of specialized Equipment	2,438,885
Purchase of Certified Seeds	3,796,854
Office Operations	1,003,300
Total	22,696,368

Consequently, the validity and accuracy of the adjustments could not be confirmed.

4.0 Compensation of Employees

4.1 Excess of Employment Expenditure beyond Set Limits

The compensation of employees reflects a figure of Kshs.3,702,331,589 which is an increase by Kshs.468,417,099 (14%) from the previous year figure of Kshs.3,233,914,490. Further, the compensation of employees cost of Kshs.3,702,331,589 accounted for 38% of the total county revenue budget. This is above the 35% limit set out by Section 25(1) (b) of the Public Finance Management (County Governments) Regulations, 2015. In addition, the County executive committee member for finance with the approval of the Assembly has not set a limit on the county government expenditure on wages and benefits for its public officers pursuant to Section 107(2) of the Act. The increase in wages may affect implementation of development projects. Consequently, the management was in breach of the law.

4.2 Engagement of Casual Workers

Included in the compensation of employees' balance of Kshs.3,702,331,589 is basic wages of temporary employees of Kshs.30,054,871 out of which basic wages of temporary employees, totalling Kshs.14,064,193 was paid to individual casuals at different rates of Kshs.4,500; Kshs.5,000; Kshs.10,000 and Kshs.12,000 per month. The engagement of casuals contravened the Ministry of Labour minimum wages circular of 20 May 2015.

In addition, payment records for the month of March 2017 revealed that 115 casual workers were under paid by Kshs.491,316 which translates to Kshs.5,893,227 for 12 months during the year under review. Consequently, the management was in breach of labour laws.

4.3 Differences between Ledger and Financial Statements

Included in the compensation of employees figure of Kshs.3,702,331,589 is Kshs.1,663,292,963 paid as basic salaries, Kshs.30,054,871 paid as temporary wages and Kshs.2,008,983,755 paid as pension and security benefits. However, analysis of supporting schedules for payments revealed a net variance of Kshs.60,161,388 as shown below:

Item	Amount as per payment schedules - 30 June 2017 Kshs.	Amount as per financial statements-30 June 2017 Kshs.	Variance Kshs.
Basic salaries (Permanent employees)	3,480,151,334	1,663,292,968	1,816,858,366
Basic wages (Temporary employees)	44,804,193	30,054,871	14,749,322
Pension and other security benefits	117,214,679	2,008,983,755	(1,891,769,076)
Total	3,642,170,206	3,702,331,594	60,161,388

Consequently, the accuracy and validity of compensation of employees' figure of Kshs.3,702,331,589 could not be confirmed besides the management being in contravention of the County Government regulations.

4.4 Penalties on Statutory Deductions

Included in the compensation of employees' balance of Kshs.3,702,331,589 is Kshs.26,926,196 being penalty paid to the National Hospital Insurance Fund Act (NHIF) due to late remittance of employees' monthly deductions.

The management may have thus lost an estimated amount of Kshs.26,926,196 on wasteful expenditure as a result of the penalty due to delays in payment of monthly statutory deductions.

5.0 Ethnic Composition

The Executive has three thousand six hundred and eleven employees (3611). However, ninety-one percent (91%) are from the dominant ethnic community (Kisii) which contravenes Section 65(1) of the County Governments Act, 2012 which requires that the Public Service Board in recruiting employees must ensure that at least thirty percent (30%) of the vacant positions at entry level are filled by candidates who are not from the dominant ethnic communities. Consequently, the Executive is in breach of the County Governments Act, 2012.

6.0 Previous Year Matters

The County Executive 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.

7.0 Failure to spend at least 30% on Development

The statement of receipts and payments for the year ended 30 June 2017 reflects a figure of Kshs.1,299,533,511 on acquisition of assets which is 15.5% of the total expenditure of Kshs.8,350,673,381. The development expenditure was below the permitted limit of 30% as set in the Public Finance Management Act. Although the management has attributed low development spending on late exchequer disbursements, the Controller of Budget had approved a total of Kshs.1,585,385,331 for development vote. Consequently, the management was in breach of the law.

8.0 Lack of Audit Committee

Section 155 (5) of the Public Finance Management Act, 2012 requires County Government entities to establish internal audit committees that oversee management of internal controls and address issues as reported to by Internal audit department.

The County Executive has not constituted an audit committee from the time of its inception in 2013. With the absence of an audit committee, the internal audit department has therefore not been able to carry out its functions independently since internal audit reports administratively to the accounting officer and functionally to the audit committee. Consequently, the management was in breach of the law.

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 County Executive'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 management either intends to cease operations.

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 County Executive'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

Report of the Auditor-General on the Financial Statements of County Executive of Kisii for the year ended 30 June 2017

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 conducted in accordance with ISSAIs, I exercise professional judgment 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 County Executives 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 Executive 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 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 Executive 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 of the entities or business activities to express an opinion on the financial statements.

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.

Handwritten signature of Edward R. O. Ouko in black ink.

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

Nairobi

30 July 2018