REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF TANA RIVER FOR THE YEAR ENDED 30 JUNE 2018

REPORT ON THE FINANCIAL STATEMENTS

Disclaimer of Opinion

I have audited the accompanying financial statements of County Executive of Tana River set out on pages 10 to 30, which comprise the statement of assets 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 do not express an opinion on the accompanying financial statements. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on these financial statements.

Basis for Disclaimer of Opinion

1. Presentation of the Financial Statements[FGW1]

The statement of receipts and payments indicates acquisition of assets of Kshs.1,277,792,616 for year ended 30 June 2018. However, the County Executive did not include a summary of fixed asset balances as provided in the County Executive Financial Statements Template issued by National Treasury in June 2018. This is also contrary to Section 21 (f) of International Public Sector Accounting Standard 1 which prescribes that a complete set of financial statements 'comprises notes which comprise significant accounting policies and other explanatory notes'. Further, the fixed assets register provided for audit review had not been updated as at 30 June 2018.

Consequently, the accuracy, completeness and validity of the financial statements as at 30 June 2018 could not be confirmed.

2. Inaccuracies in the Financial Statements

A review of the financial statements for the year ended 30 June 2018 revealed the following inaccuracies:

2.1. Arithmetical Errors in the Statement of Receipts and Payments

Audit review of the statement of receipts and payments reflect total receipts of Kshs.5,653,092,625 and total payments of Kshs.4,531,356,121 resulting into a surplus of Kshs.1,121,736,504. However, the statement of receipts and payments shows a surplus of Kshs.1,343,860,032 resulting to an unreconciled difference of Kshs.222,123,528.

Consequently, the accuracy of surplus as reported in the statement of receipts and payments could not be confirmed.

2.2. Variances Between Figures in the Financial Statements and Trial Balance

The expenditure figures in the statements of receipts and payments availed for audit review were not in agreement with the balances reflected in the trial balance provided for audit as detailed below:

Details	**Financial statement Figure Kshs.**	**Trial Balance Figure Kshs.**	**Variance Kshs.**
Compensation of employees	1,205,792,636	1,305,294,352	-99,501,716
Use of goods and services	900,814,116	632,075,921	268,738,195
Transfers to other government units	602,061,594	0	602,061,594
Other grants and transfers	155,168,072	0	155,168,072
Other payments	360,644,879	0	360,644,879
Acquisition of assets	1,277,792,615	126,994,840	1,150,797,775
Grant Total	**4,502,273,912**	**2,064,365,113**	**2,437,908,799**

The expenditure ledgers and schedules were also not provided to support the figures presented in the statement of receipts and payments. Consequently, the accuracy and completeness of the financial statements could not be confirmed.

2.3. Overstatement of Exchequer Releases

The statement of receipts and payments for the year ended 30 June 2018 reflects total exchequer receipts of Kshs.5,345,400,000 as detailed in Note 1 to the financial statements. However, an examination of the County Revenue Bank Statements revealed that the total Exchequer Receipts from the National Treasury from 1 July 2017 to 30 June 2018 was Kshs.4,490,136,000 resulting to an unreconciled difference of Kshs.855,264,000.

In view of the above anomalies, the accuracy of the exchequer releases could not be confirmed.

2.4. Un-supported Receipts

The statement of receipts and payments reflect totals receipts for the year under review of Kshs.5,653,092,625. Included in this figure is Kshs.131,106,831 and Kshs.145,272,306 being proceeds from domestic and foreign grants and transfers from other government entities respectively. However, schedules to support the two figures of Kshs.131,106,831 and Kshs.145,272,306 were not provided for audit review.

Consequently, the accuracy of the figures could not be confirmed.

2.5. Unaccounted for Revenue

2.5.1[FGW2]. Own Generated Revenue

An audit review of revenue cashbook indicated that total own generated revenue collected during the year under review was Kshs.40,330,218, the County Revenue department banked Kshs.27,087,776 while the balance of Kshs.13,242,442 was spent to pay cost of collection of revenue contrary to Section 109(2) of the Public Finance Management Act, 2012 that requires all revenue collected be transferred to county revenue fund.

2.5.2. Integrated Payroll and Personnel Data (IPPD)

A review of Integrated Payroll and Personnel Data (IPPD) summaries indicated that Kshs.1,373,750 was deducted from staff salaries as rent for county houses occupied by staff members but it was however not paid into the county collection account. Further, included in Kshs.1,373,750 rent deductions is Kshs.190,650 rent in arrears which was not disclosed as accounts receivables as at 30 June 2017. In addition, a register of the number of houses occupied and amount charged per house was not provided for audit review.

2.5.3. Unrecorded Revenue in the Cash Book

An audit examination of counterfoil receipt book indicated that revenue books for miscellaneous income issued were completed and returned. However, verification of serial numbers revealed that 2999 receipts used to collect Kshs.1,923,389 tabulated below were not captured in revenue abstract that was used to account for revenue collected. The receipts were also not recorded in the cashbook.

Serial Number		**No. of Receipt Books**
From	**To**	
13201	16001	2800
37801	37900	99
38151	38251	100
Total		**2999**

In the circumstances, the revenue collected with the receipts of Ksh.1,923,389 could not be accounted for.

2.6 Inaccuracies in the Summary Statements of Appropriation

Comparison between figures presented in the statement of receipts and payments, summary statements of appropriation and the approved budget revealed material differences as analyzed below:

Differences between Approved Budget Figures and Figures Reported in the Summary Statement of Appropriation - Recurrent and Development

Details	Approved Estimates Kshs	Summary Statement of Appropriation Kshs	Variance Kshs
Receipts	5,972,465,262	5,765,034,389	207,430,873
Recurrent Expenditure	2,993,645,852	3,448,141,029	-454,495,177
Development Expenditure	2,333,595,023	2,524,324,232	-190,729,209

Differences between Figures in the Statement of Receipts and Payments and the Summary Statement of Appropriation - Combined

Details	Statement of Receipts and Payments (Actual) Kshs	Summary Statement of Appropriation (Actual) Kshs	Variance Kshs
Total Receipts	5,653,092,625	5,611,171,251	41,921,374
Total Payments	4,531,356,121	3,107,166,210	1,424,189,911

The differences have not been reconciled or explained.

Consequently, the accuracy of the figures presented in the summary statements of appropriation could not be confirmed.

2.7. Cash and Cash Equivalents

The cash and cash equivalents balance of Kshs.1,143,299,803 as at 30 June 2018 is drawn from fourteen accounts held in CBK and other commercial banks. Although bank balances certificates for the accounts were availed for audit review, the bank reconciliation statements and payment cash books for the same were not provided for audit review.

Under the circumstances, it was not possible to confirm the accuracy of the bank balance of Kshs.1,143,299,803.

2.8. Un-vouched Expenditure

Analysis of expenditure on use of goods and services as per payment records provided for audit verification against expenditure recorded in the vote books for three sectors revealed material variance between the two sets of records as summarized below: -

Sector	Expenditure as per Vote Book Kshs.	Expenditure as per Payment Records Kshs.	Variance Kshs.
Office of the Governor	203,524,082	140,178,028	63,346,054
Finance and Planning	99,955,367	67,836,543	32,118,824
Special Programmes	156,457,820	67,828,768	88,629,052
Total	**459,907,269**	**735,740,608**	**184,093,930**

Consequently, the regularity and authenticity of expenditure amounting to Kshs.184,093,930 could not be confirmed.

2.9. Other Payments

The statement of receipts and payments in note 12 to the financial statement reflects expenditure under other payments of Kshs.360,644,879. However, ledgers and schedules supporting the payments were not provided for audit review. In addition, the payment vouchers and other accompanying documents used to process the expenditure were not provided for audit review.

Consequently, the propriety, accuracy and completeness of the expenditure of Kshs.360,644,879 reported as other payments could not be confirmed.

2.10. Foreign Travel and Subsistence

Included in use of goods and services under note 6 to the financial statements is Kshs.41,583,399 incurred on foreign travel and subsistence. However, payment records and other relevant documents supporting the expenditure were not provided for audit verification.

In the circumstances, it was not possible to confirm the accuracy, validity and probity of the expenditure.

2.11. Compensation of Employees

Analysis of vote book in respect of compensation of employees revealed an outstanding commitment on basic salary amounting to Kshs.101,635,154 as at 30 June 2018. However, no disclosure on pending staff payables was made in the financial statements submitted for audit.

3. Acquisition of Assets

3.1. Irregularities in Procurement of Construction Contracts

Audit examination of documents for contracts awarded during the year under review revealed the following;

(i) Contracts for projects worth Kshs.45,521,320 were not advertised in the County Website, Government Tenders' Portal or newspapers with national circulation as provided under Section 92 of the Public Procurement and Assets Disposal Act, 2015.

(ii) Contracts worth Kshs.78,777,180 issued were not supported by professional opinion of the Head of Procurement unit and where availed, it was not signed.

(iii) The annual procurement plan for 2017/2018 financial year was not approved.

In view of the above anomalies, it was not possible to confirm if the projects were awarded competitively.

3.2. Refurbishment of Buildings

Included in the refurbishment of buildings figure of Kshs.204,337,798 is Kshs.191,225,134 paid to contractors for refurbishment of buildings. However, projects worth Kshs.164,870,433 had no project files containing key procurement documents such as advertisement newspaper cuttings, tender opening minutes, evaluation and awarding minutes, contract agreements, inspection and acceptance reports. In addition, project files provided for audit for projects worth Kshs.26,354,789 did not contain key documents such as bills of quantities, evaluation minutes, contract agreement and company profile of the winning and losing bidders.

Consequently, the validity of the expenditure for Kshs.191,225,133 could not be ascertained.

3.3. Non-Compliance with Procurement Laws

Provisional sum amounting to Kshs.14,710,000 was made in the bills of quantities as contingencies, project management expenses, mechanical and electrical expenses. However, expenditure for the provisional sum was not supported with detailed schedules of payments and other supporting documents. Further, there was no documented evidence to confirm that the utilization of provisional sum was requested and approved by tender evaluation committee as required by Section 139 (2) of Public Procurement and Assets Disposal Act, 2015.

Under the circumstances, the authenticity of the expenditure for Kshs.14,710,000 [FGW3]could not be confirmed.

4. Poor Performance in Implementation of Development Projects

According to the approved supplementary budget of the County Government of Tana River for 2017/2018, the Executive planned to spend Kshs.2,333,595,023 on development programmes. Although annual financial statements indicate that the Executive spent Kshs.1,277,792,615 on acquisition of assets, it was noted that bulk of the expenditure was incurred on settlement of pending bills. According to the projects report provided for audit verification during the 2017/2018 financial year, the County Executive signed twenty-six contracts for development projects worth Kshs.307,903,993 out of which works done and certified as at 30 June 2018 amounted to Kshs.73,816,524. However, only Kshs.2,044,187 representing 0.09% of the total development budget had been paid as at 30 June 2018.

In the circumstances, the Executive did not utilize the required percentage for development for the year under review.

5. Accumulation of Pending Bills

Note 1.0 under other important disclosures reflects outstanding pending bills balance of Kshs.1,671,114,308 as at 30 June 2018. The County Executive did not maintain a permanent ledger for the pending bills. A proper movement schedule to show opening balance, additions, amount settled during the year and closing balance was also not provided for audit review. The huge amount of outstanding pending bills implies that the County Executive irregularly entered into commitments without approved budgets or funds budgeted for goods, works and services were diverted to activities not budgeted. The schedule did not include key details of the projects such as contract numbers making it difficult to reconcile payments against the outstanding balances.

Consequently the accuracy and completeness of the outstanding pending bills balance of Kshs.1,671,114,308 could not be confirmed.

6. Use of Goods and Services

Examination of records for fuel and lubricants revealed that two suppliers were paid a total of Kshs.12,250,088 for supply and delivery of fuel.

A total of 30,777 litres of fuel with an estimated cost of Kshs.3,421,947 were supplied to private vehicles and those belonging to other National Government departments. No proper explanation was provided for supplying fuel to vehicles that do not belong to the County Executive. In addition, the amount reflected under this line item is Kshs.4,818,900 leading to an unexplained difference of Kshs.7,431,188.

Under the circumstances, the propriety of the expenditure for Kshs.4,818,900 could not be ascertained.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

I do not express a conclusion on the lawfulness and effectiveness in the use of public resources as required by Article 229(6) of the Constitution. Because of the significance of the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for my audit conclusion.

Basis for conclusion

1. Non-compliance with Budget Procedures

Evaluation of the Budget process of the County Treasury revealed that the management did not prepare County Budget Review and Outlook Paper for 2017/2018 financial year within the statutory time line of 30 September 2017 as required by Section 118 of Public Finance Management Act, 2012. Instead it was finalized and signed in February 2018. It was further observed that the County Executive did not publish the County Fiscal Strategy Paper, the County Budget Review and Outlook Paper, and the County Annual Development Plan as required by Sections 117(8), 118(4)(b) and 126(4) of the Public Finance Management Act, 2012. No proper explanation was given for not preparing the documents.

In view of the foregoing, the Executive management operated without the relevant policy documents and guidelines in budgetary matters.

2. Final and Supplementary Estimates

The County Executive revised its original budget through supplementary estimates which were approved by the County Assembly on 3 May 2018. Scrutiny of the estimates revealed that re-allocations between sub-votes for twenty eight sub-votes exceeded 10% limit provided under section 154(2)(c) of the Public Finance Management Act, 2012.

Further the supplementary budget reduced development budget for water and energy sub-sector by 46% or Kshs.210,000,000 which is considered as one of the key priority sub-sectors in the County. No explanation was given for the re-allocation.

In the circumstances, it was not possible to confirm if the budget was used for intended purpose.

3. Irregular Engagement of Casual Employees

Review of the Manual Payroll (excel worksheets) maintained by the County Executive revealed that there were three hundred and twenty (323) casual employees who were engaged by the Executive in the year under review contrary to requirements of the Employment Act, 2007 Part iii Section 9(i) which requires that casuals should be engaged on permanent/contract terms if they served for a continuous period of more than three months. In addition, documents in respect of their recruitment, the work for which they were hired or paid, their terms and conditions of services were not provided for audit review.

In view of the foregoing, the management was in breach of Employment Act 2007.

4. Irregular Payment of Allowances

Audit scrutiny of payments of allowances for the period under review revealed numerous irregularities as follows;

(i) Payment of lunch allowances to officers while carrying out assignment within their normal stations of duty.

(ii) Extraneous allowances were not approved by County Public Service Board and were paid through vouchers and not payroll.

(iii) Officers were paid per diem for undisclosed official duties without documentary support of the assignments and for unrealistic periods of between ten to thirty days every month.

Consequently, the validity of the amounts paid as allowances could not be ascertained as well as to confirm lawfulness.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, GOVERNANCE AND RISK MANAGEMENT SYSTEMS

Conclusion

I do not express a conclusion on the effectiveness of internal controls, risk management and governance as required by Section 7 (1) (a) of the Public Audit Act, 2015. Because of the significance of the matters described in the Basis for Conclusion of Internal Controls, Risk Management and Governance section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for my audit conclusion.

Basis for conclusion

1. Weaknesses in Internal Controls

The County Executive of Tana River had no strong internal control at the County Treasury. The controls designed for ensuring effective administration of public funds were not followed. The following anomalies were noted in regard to enforcement of internal controls on payments.

Item	Amount

	(Kshs)
Payments not approved by AIE Holder	16,841,077
Payments approved by same officer as AIE holder/Accounting officer	11,122,212
Payments without authorization by Accounting officer	45,358,378
Payments not examined	124,344,854
Payments without completed vote book certificates	85,999,269
Payments not stamped 'PAID'	70,116,757

In view of the foregoing, there is no internal control in the county treasury and therefore the authenticity of the expenditure could not be confirmed.

2. Lack of Risk Management Policy

The County Executive did not have a risk management policy contrary to the requirements of Treasury Circular No.3/2009 of 23rd February, 2009 which requires all heads of public institutions to develop and implement a risk management framework as a fundamental step towards establishing an accountable and innovative public service. In addition, It was noted that management did not perform formal risk assessment during the year under review.

In view of the foregoing, it was not possible to confirm how accountability was guided.

3. Failure to Establish Audit Committee

The County Executive did not establish an audit committee to oversee financial operations of the County and also to support the accounting officers with regard to their responsibilities for issues of risk, control and governance and associated assurances.

Establishment of an audit committee is a requirement as per the Public Finance Management Act, 2012 Section 155(5) and Section 167(1). In the absence of an audit committee, the management can easily override controls and in such instances, cases of fraud and errors may not be detected or corrected in a timely manner.

4. Lack of Disaster Recovery Plan

A review of the County Executive's ICT Environment revealed that there was no formal approved ICT Policy, the management has not assessed the impact of an outage or disruption to the information communication technology systems and did not develop business continuity or information technology disaster recovery plan. In case of a disaster significant delays or disruptions of activities may occur. Additionally, the Executive may not recover or restore critical infrastructure services and systems affecting all operations that rely on the Information Communication Technology.

This results to lack of a consistent approach towards addressing the handling of ICT issues due to lack of ICT Policy.

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 Executive's ability to continue sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the management either intends to liquidate the 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 money is applied in an effective manner.

Those charged with governance are responsible for overseeing the Tana River 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 review is planned and performed to express a conclusion with limited assurance as to 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 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. The nature, timing and extent of the compliance work is limited compared to that designed to express an opinion with reasonable assurance on the financial statements.

Further, in planning and performing the audit of the financial statements and review 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 Executive’s 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 Executive's 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 Executive 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 Executive 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

18 February 2019