



REPUBLIC OF KENYA

THE SENATE

ELEVENTH PARLIAMENT-FOURTH SESSION

**REPORT OF THE SENATE SESSIONAL COMMITTEE ON COUNTY PUBLIC
ACCOUNTS AND INVESTMENTS ON THE INQUIRY INTO THE FINANCIAL
OPERATIONS OF KIAMBU, BUSIA, TANA RIVER, TRANS NZOIA, NYANDARUA,
MIGORI, KWALE AND KISUMU COUNTY EXECUTIVES FOR THE FINANCIAL
YEAR 2013/2014 (1ST JULY, 2013 TO 30TH JUNE, 2014)**

VOLUME I

CLERK'S CHAMBERS

THE SENATE

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ACRONYMS/ABBREVIATIONS

AIE	- Authority to incur Expenditure
CASB	- County Assembly Service Board
CBA	- Collective Bargaining Agreement
CBK	-Central Bank of Kenya
CPSB	- County Public Service Board
IFMIS	- Integrated Financial Management Information System
IGRTC	- Inter Governmental Relations Technical Committee
IPOA	- Independent Police Oversight Authority
KRA	- Kenya Revenue Authority
MCA	- Member of County Assembly
OAG	- Office of the Auditor General
PFM	- Public Finance Management
SO	- Standing Orders
SRC	- Salaries and Remuneration Commission
VAT	- Value Added Tax

DEFINITION OF TERMS:

Disclaimer:

- issue that has been stood over generally, without determination. Determination is subsequent to the fulfilment of the conditions for clearing or declining to clear an audit query.

Reprimand:

- issuing a stern warning to desist from the action under concern. In the event that the issue reoccurs in subsequent audit reports, appropriate action be taken in line with the law

PREFACE

Mr. Speaker Sir,

Committees are a creation of the Constitution through Article 124(1) of the Constitution which empowers each House of Parliament to establish Committees and make Standing Orders (SO) for the orderly conduct of its proceedings, including the proceedings of its Committees.

The Senate Sessional Committee on County Public Accounts and Investments is established by the Senate pursuant to Standing Order No. 212 and is mandated:-

- a) Pursuant to Article 96(3) of the Constitution, to exercise oversight over national revenue allocated to the county governments,
- b) Pursuant to Article 228(6) of the Constitution, to examine the report of the Controller of Budget on the implementation of the budgets of county governments,
- c) Pursuant to Article 229(7) and (8) of the Constitution, to examine the reports of the Auditor-General on the annual accounts of the county governments,
- d) To examine special reports, if any, of the Auditor-General on county government funds,
- e) To examine the reports, if any, of the Auditor-General on the county public investments, and
- f) To exercise oversight over county public accounts and investments

Mr. Speaker Sir,

The membership of the Committee comprises of the following Senators:-

- | | | |
|-----------|-------------------------------|------------------------|
| 1. | Sen. (Prof.) Anyang Nyong'o | - Chairman |
| 2. | Sen. (Prof.) John Lonyangapuo | - Vice Chairman |
| 3. | Sen. Henry Tiolo Ndiema | |

4. Sen. Wamatangi Kimani
5. Sen. Karue Muriuki
6. Sen. Hassan Omar Hassan
7. Sen. Wangari Martha
8. Sen. Khaniri George
9. Sen. Sitswila Wako Amos
10. Sen.(Dr.) Boni Khalwale
11. Sen. Kennedy Okong'o Mongare
12. Sen. Stephen Ole Ntutu

Mr. Speaker Sir,

The Committee was first constituted on 27th March, 2014 pursuant to Senate Standing Order 181 following a resolution of the House on Thursday 27th February 2014 to amend the Senate Standing Orders. The Committee was subsequently reconstituted on 17th February, 2015 Pursuant to Senate Standing Order 210(1) which requires *Sessional Committees* to be reconstituted at the Commencement of every session.

Mr. Speaker Sir,

The Senate Sessional Committee on County Public Accounts and Investments is the avenue through which the Senate under the provisions of Article 96(3) of the Constitution carries out the ex-post scrutiny of County Governments Budgets.

Mr. Speaker Sir,

The Committee largely relies on the report of the Auditor General and the Controller of Budget as key instruments for its ex-post scrutiny of County Governments Accounts.

Mr. Speaker Sir

The Office of the Auditor General on various dates from the month of June, 2015 forwarded reports on the financial operations of the County Governments for the

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financial year 2013/2014 to the Senate pursuant to the provisions of Article 229(7). The reports, once tabled, stand committed to the Sessional Committee on County Public Accounts and Investments.

The Committee held several meetings with the County Government Executives on various dates during the session where it considered the reports of the Auditor General under review. The Committee was not able to visit any of the Counties due to their busy schedule and a huge backlog of business before the Committee.

The sittings were primarily investigatory and the Committee received evidence from the Governors of the County Executives as the Chief Executive Officers Officer to the County Governments pursuant to Article 179 (4) of the Constitution. The members of the County Executive Committee and other County officials also attended the meetings of the Committee.

The main issues for determination and investigation were the various audit queries contained in the report of the Auditor General on the Financial Operations of the various counties for the financial year 2013/2014(for the period 1st July, 2013 to 30th June, 2014).

This report is issued pursuant to the requirements of Articles 96 (3) and 229(8) of the Constitution of Kenya and the Senate Standing Order 203.

Mr. Speaker Sir,

The Committee in arriving at particular recommendations in this particular report of the Auditor General on the Financial Operations of the counties under review took into account the challenges faced by Counties at their nascent days particularly the financial year 2013/2014.

The Committee was further guided by the mandate of the Senate pursuant to the provisions of Article 96(1) of the Constitution; particularly the need to strike a balance between protection of the counties vis-a-vis the oversight role of the Senate over counties

in accordance with the provisions of Article 96(1) and 96(3) of the Constitution respectively.

COMMITTEE'S GENERAL OBSERVATIONS

The Committee observed that -

1. Most of the Counties covered under this report had failed to submit the required documents to the Auditor- General at the time of audit or within reasonable timelines thereafter contrary to the Public Audit Act ;

(Disclaimer: where any breach of law has an attendant remedy, consequence or penalty in law, recommendations of this report do not preclude any liability that may arise as a result of any legal action within the breach of the prescribed law.)

2. Most of the Counties covered in this report alleged to have technical incapacity in terms of professional human resource during the period under review;
3. Most of the Counties had excessive expenditure on foreign travel;
4. Misuse of imprest, untimely surrender of imprest and poor imprest management, was a recurring issue in most Counties;
5. The National Government, through the defunct Transition Authority, had not adequately built capacity of the Counties especially in the matters of procurement and financial management;
6. Procurement laws and Regulations were not being strictly adhered to by the Counties;
7. The issue of assets and liabilities inherited from defunct local authorities remains an outstanding issue;
8. There was reluctance by some governors to appear before the committee, forcing the Committee in many instances to issue summons to compel the Governors to appear before the committee;

9. During the financial year under review, monies allocated to the County Assemblies was disbursed to the County Executives ;
10. Many counties did not co-operate with the Office of the Auditor-General in provision of documents, during the audit period;
11. Most Counties remitted funds to the Council of Governors outside the realm of law.
12. Poor record keeping, made accountability and audit difficult.
13. Capacities of county assemblies should be built for oversight purposes.

GENERAL COMMITTEE'S RECOMMENDATIONS

The Committee recommends that:-

1. All recruitment of county government staff to serve in the Executive should be done through the County Public Service Boards.
2. Legislation should be put in place to ensure county governors structure an organogram on staff structure and regulate employment of staff.
3. After rationalization of staff in the county governments, a national scheme should be established to find the most prudent way to deal with excess staff.
4. If county governments should continue to remit funds to the Council of Governors, an appropriate law should be put in place to deal with shortcomings of the existing law, failing which, strict compliance to the Inter-Governmental Act should be adhered to.

ACKNOWLEDGEMENTS

The Committee wishes to acknowledge the support it received from the Office of the Speaker and the Clerk of the Senate during the consideration of the Auditor General's Report. The Committee further appreciates the cooperation it received from the various Governors of the County Governments under consideration.

Final appreciation goes to the distinguished and dedicated members of the Committee who created time out of their busy schedule to attend and actively participate in the proceedings.

Mr. Speaker Sir,

I wish to confirm that the resolutions of the Committee in this report were unanimous.

Mr. Speaker,

It is therefore my pleasant duty and privilege, on behalf of the Senate Sessional Committee on County Public Accounts and Investments to table this report and commend it to the House for debate and adoption pursuant to the provisions of the Senate Standing Order 203(6).

SIGNED:

.....

DATE:

.....

HON. SEN. (PROF.) ANYANG' NYONG'O, MP

CHAIRPERSON

CHAPTER ONE

KIAMBU COUNTY EXECUTIVE

The Governor of Kiambu, Hon. William Kabogo, was invited to appear before the Committee to respond to the audit queries raised in the Auditor General's report of Kiambu County Government for the financial year 2013/2014. The Governor appeared before the Committee on Tuesday 4th May, Wednesday 5th May, Tuesday 17th May and Thursday 1st September, 2016 and made submissions to respond to the audit queries. The Governors written submission and relevant evidence collected by the Committee are marked as **ANNEX. 1**

The committee made observations and recommendations in line with each audit query raised as follows-

1.0 Lack of Policy and Plans

The Auditor General's report noted that during the period ended 30 June 2014; the County Executive of Kiambu did not comply with the designing and implementation of the County Human Resource Policies and Plans. It had no approved staff establishment for the County, integrated Human Resource Plan and job evaluation and analysis policy and report.

Submissions Received from the Governor

The Governor presented that at the time of the audit review the policy and plans were not in place but they had initiated and implemented the policy and have since submitted the same for verification by the Auditors.

Committee Observations

The Committee observed that although the policy and plans were not in place at the time of Audit, they had since been submitted to the Auditors and verified as satisfactory

Committee Recommendation

The Committee having considered and deliberated on the audit query is satisfied that the matter has been resolved but cautions the County Government that Human resource policies and plans must be in place in good time

2.1 Cash and Bank Balances

Incomplete Records of Receipts and Payments

The Auditor General's report noted that during the period under review, the County Executive did not maintain cashbooks and updated bank reconciliation statements for revenue and expenditure. Consequently, the accuracy of the reported balances of collected revenue and payments made in the period could not be ascertained. Further, the accuracy of cash and bank balances as at 30th June, 2014 could not also be confirmed.

Submissions Received from the Governor

The Governor presented as follows-

1. At the time of the review, the County had not instituted the said mechanisms as raised by the Auditor;
2. the County Government had since instituted proper financial controls and had since reconciled the revenues during the period under review and that no money had been lost ;
3. The County was currently on IFIMIS and that all revenue collection was electronic on a platform that automatically generates electronic cashbooks.

Committee Observations

The Committee observed that:

1. despite the current improvement of the financial management systems in the County, the query on the accuracy of the cash and bank balances at the time of the Audit had not been resolved; and,
2. That reconciliations were not done and cash books were not prepared at the time of Audit;

Committee Recommendation:

1. **That notwithstanding the fact that the county adjusted its books of account after the Auditor General's Report. Proper financial management was not adhered to at the time of audit contrary to the Public Finance Management Regulations, 2006; and,**
2. **The County Government must at all times keep proper financial accounts to ensure proper use of public funds.**

2.2 Outstanding Temporary Imprest

The County Executive had outstanding imprest balances of Kshs.26,364,579 as at 30 June 2014. These were imprests which ought to have been surrendered on or before 30 June, 2014 but were not. Review of the Imprest register revealed that there were cases of officers being issued with multiple imprests some of which were unsurrendered.

Further, most of these imprests were paid in cash to the officers instead of depositing cheques directly to the individual bank account. Although the imprest register was maintained, the register was not properly recorded and updated. The management did not provide explanation as to why the outstanding Imprest has not been recovered from the defaulting officers.

Submissions Received from the Governor

The Governor presented as follows-

1. That at the time of review there were some imprest that were not surrendered but the situation had since been rectified;
2. That the County Government had submitted records showing recovery steps instituted against those with unsurrendered imprests

Committee Observation

The Committee observed that:

1. the Auditor General's office had seen and verified the imprest registers, vouchers and recovery statements;
2. the Committee noted and raised concerns with the issue of specific officers having unusually high imprest balances which were unsurrendered at the time of Audit; and,
3. In light of (2) above, resolved that the Governor submit details, including ID numbers, Personal Numbers, reason for receiving imprest and reasons for non-surrender, of the following officers during the Governors next encounter with the Committee;
 - i. *Mr. Samuel Kioko*
 - ii. *Ms. Margret Gati Wambura*
 - iii. *Ms. Grace Njambi*
 - iv. *Mr. Elias kariuki*

Members were apprised in a subsequent meeting that:

1. the Auditor General had verified the documents and a sum of Ksh. 2,966,697.00 was still outstanding as at May 2016;

2. the Auditor General's office had seen and verified the vouchers and recovery statements; and
3. that the purpose for which the imprests had been issued could not be ascertained.

Committee Recommendation

1. the governor be held responsible for advancing imprest contrary to Section 197 of the Public Finance Management Act, 2012; and
2. the EACC investigate the management of imprest and breach of financial regulations that led to the apparent loss of 2,966,697.00 by officers of the County including: Mr. Samuel Kioko, Ms. Gati Wambura, Ms. Grace Njambi and Mr. Elias Kariuki, with a view to recover the money and prosecute those responsible.

2.3 Loss of Cash at Ruiru Sub County

Review of Ruiru Sub-County records for the period up to June 2014 revealed that Liquor licensing committee allowances totaling Kshs.150, 000 was stolen from the cash office on the night of Thursday, 5th June 2014. However, no evidence was availed to show that the officers reported the matter to the police and that investigation were being undertaken.

Submissions Received from the Governor

The Governor presented as follows-

1. That the matter was immediately reported to the Police under OB /24/6/6/2014;
2. The County Government had put in place measures to ensure safeguarding of public monies in the Sub Counties; and,
3. The matter was now under the jurisdiction of the Kenya Police, and stated that any assistance from the Committee to intervene on the matter would be welcomed

Committee Observation

The Committee observed that:

While the Committee had verified the original Police Abstract tabled by the Governor, the issue remains unresolved.

Committee Recommendation

The matter should be reported to IPOA (Independent Police Oversight Authority) for further action, recovery and prosecution

3.1 Land

The County Executive inherited a total of 593 parcels of land from the defunct local authorities. However, the County did not maintain a fixed assets register to record its parcels of land and other assets it owns. Further, records of land handed over from some defunct local authorities were not available for audit verification, most of the land did not have titles or estimated worth and those with values had unrealistic balances.

Submission from the Governor

The Governor presented as follows:

1. The matter on transfer of assets of the defunct local authorities was being handled by Transition Authority (TA).
2. Using its own internal audit team, the County initiated its audit and has a preliminary report of its assets, which is currently undergoing verification. Once authenticated, a comprehensive fixed assets register will be in place.
3. This issue can only be concluded/resolved once the County receives the TA (Now the Intergovernmental Relations Technical Committee) report particularly on non-current assets.
4. The County has an updated asset register for all the assets it acquired from 2013.

5. With regard to the lack of land records, virtually all the land held by the defunct local authorities was not documented.
6. The County has since initiated a survey of all public land. Once the survey is completed, all the land parcels will have identification or land reference number and thus can be registered and issued with their respective title deeds and proper valuation made. The Survey assignment will also ascertain the exact acreage of the various land parcels.
7. A valuation exercise that will be undertaken in conjunction with the survey. For the parcels that have titles, the County Government has custody of them and they are available for audit verification.
8. The County Government initiated the process of securing public utility land through the process of preparation of part development plans (PDPs) surveying, and subsequently monumenting the parcels to show the public that it belongs to the County and its proposed use. So far, there are 228 fully processed PDPs with 14 already approved.
9. The County Government through its department of Land, Housing and Physical Planning is at an advanced stage of identifying all public utility land within the County and will prepare a comprehensive report on the same once the exercise is concluded.

Committee Observation

The Committee observed that:

To effectively deal with the issue of land that was owned by the defunct local authorities, since the Transition Authority had ceased to exist, there was need for the Committee to meet with the Intergovernmental Relations Technical Committee, the National Land Commission and the Council of Governors.

Committee Recommendation

National Land Commission to investigate all existing subdivision of the land, and stop any future attempts at subdivision, allocation or any dealings whatsoever of the public land

3.2 Motor Vehicles

Records revealed that the County Executive inherited motor vehicles and equipment from the defunct local authorities.

However, most of these motor vehicles were grounded and needed repairs. No efforts were seen to have been made whatsoever to have the vehicles repaired or boarded for the benefit of the County Executive.

Submissions Received from the Governor

The Governor presented as follows-

1. That indeed the vehicles were inherited from the defunct local authorities;
2. That the County Government, on evaluation of technical reports had only repaired three out of sixteen (16) vehicles which were currently in operation;
3. The other vehicles were found to be in an irreparable state and will be boarded by the County Government and tabled pictures of the said vehicles for verification by the Committee.

Committee Observation

The Committee observed that:

1. the Auditor had verified the presence of the vehicles but that no report on the vehicles due to be boarded was provided; and,
2. Resolved that the Governor process the vehicles to be boarded

Committee Recommendation

Upon the finalization of the IGRTC report in March, 2017, the County Government needs to board the remaining grounded thirteen (13) vehicles without further delay.

4.1 Pending Legal Fees

The County Executive had pending Legal bills amounting to Kshs.99,015,662.00 for the period ended 30 June 2014. Review of the legal records showed that some of these debts were inherited from the defunct local authorities dated back to the year 2000. However, the accuracy and authenticity of this balance could not be confirmed due to lack of complete records and documentation.

Submissions Received from the Governor

The Governor presented as follows-

1. That the County Government had taken the position that it would not take up liabilities from the defunct local authorities until they were verified;
2. That the verification was a function of the defunct Transition Authority and hence the successor, Intergovernmental relations Technical Committee, should complete that task;
3. That the County Government had continued to appear for the defunct Local Authorities in the ongoing court cases but had negotiated with representative lawyers on the fees payable.

Committee Observation

The Committee observed that:

1. the list provided was not detailed on the cases represented, and the fee per case and directed the Governor to produce a detailed list of pending legal fees; and,
2. the validity of the pending legal fees could not be verified as there was no supporting documentation provided.

Committee Recommendation

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1. A specific scrutiny on a one Karuru and Company should be done to determine the nature and authenticity of claims against the County; and,
2. In line with the Senate motion urging the National Government to take up the liabilities of the defunct local authorities, the matter should be dealt with at that level.

5.0 PROCUREMENT ISSUES

5.1 Irregular Procurement of Goods

The County Executive irregularly procured goods worth Kshs.720,190.00 as follows:

1. Quotations for supply of stationery amounting to Kshs.330,190 by Kellnett Agencies General Merchants were opened by one person, a Clerical Officer instead of three officers as per regulations.

Further, payment for supply of typhoid vaccine by Molars Limited amounting to Kshs.390,000 was made without form S13, a delivery note and quotations. Proforma invoices were used, as a result, the propriety of the expenditure Kshs.720,190 could not be confirmed. The Auditor General presented that despite the explanation been logical, an illegality had been committed and the Committee should pronounce itself on the matter.

Submissions Received from the Governor

The Governor presented as follows-

1. That it was true that only one officer had opened the tender document and was indeed irregular;
2. That the County Government had disciplined the said clerical officer and have since demoted him
3. That the payment for the supply of vaccines was done as there was an emergency to procure them due to an acute shortage of the vaccines and an imminent outbreak of typhoid.

Committee Observations

The Committee observed as that:

1. the Auditor was not satisfied and hence the query was outstanding; and,
2. That in the case of the vaccine purchase, documents listed in the query should have been provided to prove actual receipt of the vaccines to the intended users;

Subsequent verification by the Auditor General confirmed the validity of the direct procurement method used due to the urgency of the matter. The Auditor General informed the Committee the matter is resolved.

Committee Recommendations

Although administrative action was taken against the officer, further action should be taken against the Clerical Officer under the Public Finance Management Act, 2012 as the officer had committed a crime.

5.2 Architectural Designs for Juja Sub-County

The County paid Kshs.600,000 to Saxon Services Ltd vide payment voucher number 600 dated 29 June 2014 for preparing architectural designs for Juja Sub-County offices. It was not clear why the County Executive out-sourced the services yet it has its own experts who include architects, surveyors and engineers. The designs and drawings were not availed for audit purposes, the services were single sourced and the Kshs.600, 000 payments appear exaggerated. The Auditor submitted that the Quotations were never submitted and hence they could not ascertain if the tender was competitive

Submissions Received from the Governor

The Governor presented as follows-

- 1 That at the time, the County Government did not have in-house architects and hence the need to out-source such services;

- 2 That Copies of the Evaluation report and tender Committee minutes had been verified and proved that the County Government did not single source for the works;
- 3 The designs and quotation were available for verification by the Auditors.

Committee Observation

The Committee observed that:

- 1 in the absence of the quotations, it was not possible to clear the query as it appeared to have been single-source procurement contrary to the law; and,
- 2 Auditor subsequently presented that the Tender committee minutes, evaluation report and original quotations were availed and verified, therefore issue is now resolved.

5.3 Unsupported Fuel Expenditure

According to vote book records, the County Executive made payments amounting to Kshs.5,965,336 to Global Material Resources on several occasions for supply of fuel. The following anomalies were noted: delivery notes were not available, fuel could not be traced to the fuel register in form of an S3 card, daily petrol/oil issues and vehicles work tickets, no documents were availed on how the contractor was identified and only payment voucher no.336 was availed for audit.

Submissions Received from the Governor

The Governor presented as follows-

1. That at the time systems were not very well set up as it was a transition but officers did enter the fuel in logs which were presented for verification. The major anomaly was that it was not recorded in the vehicles work tickets which has since been rectified.

2. He further presented that he had made administrative changes to streamline the purchase of fuel including having another officer head the transport unit and training of officers.

Committee Observation

The Committee observed that:

- 1 The Auditor presented that he was satisfied with the procurement of the fuel with exception of the lack of entering fuel details in the work tickets;
- 2 the Governor's response and acknowledged the measure taken to streamline the issue of fuel management; and,
- 3 Urged the County Government to ensure that fuel is managed effectively as it was high risk area on matters of theft of public funds.

Subsequently the Committee was informed by the OAG that procurement procedures had been adhered to, fuel was recorded in bin cards and fuel issue forms but not entered in the work tickets

Committee Recommendations

Notwithstanding the action taken after the Audit process, service providers should be identified in line with procurement procedures, and proper records maintained.

5.4 Acquisition of Land

During the period under review, the County Executive acquired land valued at Kshs.999,600.00. However, the title of documents to prove ownership of this land, details of the size and the location of the land were not available for audit verification.

Submissions Received from the Governor

The Governor presented as follows-

1. That the County Government, in relation to this query, did not purchase any land; and,
2. That the said money was an expenditure which had been erroneously charged to a vote on purchase of land and hence it was an accounting error.

Committee Observations

The Committee observed that:

1. The Auditor confirmed that they had verified the relevant documents and that it was an accounting error; and,
2. The Committee was satisfied with the explanation.

6.0 ROADS

6.1 Rehabilitation of Hospital – St. Peter and Paul Catholic Church Road

The County Executive paid Don Woods Company Ltd Kshs.3,127,200 for rehabilitating Hospital - St Peter and Paul Catholic Church Road. However, it was observed that the contractor was single-sourced contrary to procurement regulations. Further, the Bill of quantities (BQ) supporting the payment was not signed. At the time of audit, the road was still in a dilapidated condition despite the repairs. In addition, no inspection and acceptance committee certificate of completion was produced to show that the work was completed before payments were made.

Submissions Received from the Governor

The Governor presented as follows-

1. the Contractor was competitively sourced. A public notice to procure some four contracts which included the road in question was placed on the Kiambu Sub-County notice board on 3rd December 2013.

2. The quotations were returned on 17th December 2013 and were opened the same day. The three (3) bidders who had responded were evaluated and the evaluation report tabled to the Tender Committee on 29th January 2014.
3. An Inspection report by the Inspection and Acceptance Committee was prepared on 21st March, 2014 and signed by the members on 25th March 2014 and the same was attached to the payment voucher.
4. With respect to the dilapidated condition of the road, there were heavy rains over 6 months after completion of the works which affected the condition of the road.

Committee Observation

The Committee observed that:

1. the Auditor had verified the procurement process was done according to the law. The Auditor however maintained that at the time of the Audit the road was in a dilapidated state; and,
2. The Committee noted the comments of the Auditor but observed that due to lapse of time it would not be in a position verify the state of the road at the time of the audit taking into consideration that the road was a murram road.

Committee Recommendation

1. Notwithstanding that the committee was subsequently informed by the Auditor General that the inspections certificates were availed and verified, the County should present certificates to the Auditor in a timely manner at the time of Audit;
2. All contracts must have the quantities properly measured and the completion certificates signed at the time of payment as lack of this would compromise the standard of work; and,
3. The Committee directed that the bill of quantities must be properly authenticated and adhered to.

6.2 Construction of Kiambu County Executive Headquarters

The County Executive spent a total of Kshs.26, 477,230.00 on construction of its headquarters in Kiambu town during the period ended 30 June 2014. The project started in June 2013. The work involves demolishing part of the former Municipal Council of Kiambu offices, the canopy, excavating trenches for the perimeter wall and office extension. A physical verification of this project revealed that the project has not been completed as at October 2014. This has delayed the moving of Kiambu County Executive Headquarters from Thika to Kiambu town. No explanation was given for this delay.

Submissions Received from the Governor

The Governor presented as follows-

1. That the delay was not deliberate and the works had since been completed.

Committee Observation

The Committee observed that:

the completion of the Headquarters was a welcome step as it had allayed public fears of possible relocation of the County Headquarters.

Committee Recommendation:

The committee noted that the issue was found to be satisfactory, and directs that the Governor upon completion of the facility, should move his offices to the facility as it has been gazetted as the official headquarters

6.3 Kiganjo and Madaraka Market Roads

A payment of Kshs.364,000 was made to M/S Wanja Masons Enterprises for the delivery, of 100 M3 hardcore quarry murrum to Kiganjo and Madaraka Market Roads vide LPO no. 1211-0041 dated 27.11.12 and invoice no. 253 dated 28.05.14. The payment voucher dated 09.10.2013 was unnumbered. The roads were inspected on

13.06.14 and it was found that traders had encroached on the road making the drainage work impossible. Documents adduced revealed that the contractor delivered soft rock instead of quarry murram as per the engineer's specification.

Submissions Received from the Governor

The Governor presented as follows-

1. An inspection and acceptance committee report (Ref. MCT5/6/3 dated 31st May 2013) indicated that soft rocks was provided instead of hardcore;
2. The LPO NO. 1211-0041 was found not to have properly specified the type of materials needed with specificity; and,
3. Administrative action was taken against the officer who drafted the LPO.

Committee Observations

The Committee observed that the Auditor provided documentation on actions taken (administrative action taken, documents provided) - and this satisfied the query raised.

Committee Recommendation

The Counties should follow proper procedure ensure that proper specification are made and adhered to during construction of county infrastructure projects and all works.

6.4 Stage 160 Finance – Mwiki Ward

Waseges Enterprises were paid Kshs.498,800 for delivery of 58 No. 7 tons lorries quarry murram vide LPO no. 027 dated 28.11.14 and invoice no. 1002 dated 08.01.14. The payment voucher dated 15.01.14 was unnumbered. A visit was made on 17.06.14 found that approximately 200 metres had not been done due to insufficient resources that had been allocated. It was also noted that there was no provision for storm water drainage and

in some instances, storm water was being drained into private land. It was also found that private home owners were dumping cotton soil on the roads.

Submissions Received from the Governor

The Governor presented as follows-

1. That it was true the said firm was contracted for the works but upon delivery of the murram, it emerged that the volumes delivered were not enough for the entire road and a section measuring 200 metres was outstanding;
2. A variation of contract would not have been done as the budget line had been exhausted at the time;
3. The 200 metre stretch has since been completed; and,
4. The County Government had put in place a surveillance team to ensure there was no encroachment of roads and dumping of cotton soil by individuals has ceased henceforth.

Committee Observation

The Committee observed that the Auditor examined documents provided to response to the query and was satisfied with the documentation given.

Committee Recommendation

The Counties should follow proper procedure ensure that proper specification are made and adhered to during construction of county infrastructure projects and all works.

6.5 Mukawa – Munandaini

Town and City Construction Company were awarded the contract of installing culverts along Mukawa-Munandaini road. As at the time of audit, Kshs.1,998,448 had been

allocated towards this project. A site visit done on 13th June 2013 revealed that trenching had been done, however there were no materials including the culverts on site.

Submissions Received from the Governor

The Governor presented as follows-

1. It was true the said firm was contracted for the works and the outstanding works of installing culverts had been done and this was verifiable.

Committee Observation

The Committee observed that:

the Auditor subsequently verified the actions taken.

Committee Recommendation

The County should follow proper procedure, and ensure that proper specifications are made and adhered to during construction of county infrastructure projects and all works.

7.1 Irregular Payment of Casual Wages

- i. A total of Kshs.6,808,378.00 was paid during the year in respect of casuals engaged to serve in various sub-counties in Kiambu County Executive. The following observations were made: Most of the casuals were employed by the defunct Local Authorities with some having served for as many as seventeen years. No contract letters were availed to support their engagement. In addition, policy documents / guidelines were not provided to support the subsequent engagement and payment to the casual workers by the County Executive during the year under review.
- ii. The schedules supporting the payments had not been signed by the casuals.

- iii. The Human Resource department at the County headquarters did not have any details about the casuals.

Submissions Received from the Governor

The Governor presented as follows-

1. That almost all the casual employees were inherited from the defunct local authorities;
2. That payment was done based on the work done and the number of days worked by the casuals;
3. That the records were manual and were inadvertently not availed to the auditor at the time of audit;
4. Subsequently all casuals had been issued with 90 days renewable contracts and engagement of casuals subjected to CPSB approval;
5. That Muster rolls in support of casual engagements were maintained against signed supporting documents; and,
6. That the formulation of the Casual employment and remuneration policy was in progress.

Committee Observation

The Committee observed that:

1. the Schedules supporting payments were not signed by the casuals at the time of the audit; and,
2. The committee was not in a position to ascertain whether the money was paid to the casuals.

Committee Recommendation

1. The government to maintain proper and up to date records of its employees and their remuneration; and

2. The committee urges the County government to complete formulation of the policy, and to adhere to labour laws as regards hiring of casuals.

7.2 Unsupported Acting Allowances

A review of the County's Executive payroll revealed that a total of Kshs.416,415 was paid as acting allowances to various officers between July, 2013 and January, 2014. However, no letters appointing the officers in acting capacity were availed for audit. Details of the payments are as follows:

Month	Amount (Kshs)
July, 2013	79,009
August, 2013	79,009
September, 2013	79,009
October, 2013	79,009
November, 2013	79,009
December, 2013	10,685
January, 2014	10,685
Total	416,415

Submissions Received from the Governor

The Governor presented as follows-

1. That from July 2013 to January 2014 a total sum of Kshs.416,414.00 was paid for acting allowance;
2. That the decision to pay was provided for in the CBA Clause 8 and that there were only 8 officers in acting capacity;
3. That Acting Allowance was stopped in December 2013 for 7 officers and the remaining officer was stopped in February 2014 after the formalization of duties and filling up of vacancies in the County Public Service.

Committee Observation

The Committee observed that:

1. No letters of appointment were availed at the time of audit; and
2. Letters were subsequently submitted to the auditors after the matter had been brought to the attention of the Senate, and the auditors had verified the letters of appointment of the officers;

Committee Recommendation

The County Government should ensure proper personnel records are kept and letters submitted to the auditors in good time.

7.3 Irregular Payment of Special Duty Allowance

A total of Kshs.310, 000 was paid through IPPD payroll during the months of July, August, September, October and November, 2013. There was however no authorization for the payment of the Special duty allowance and the payment was therefore irregular.

Submissions Received from the Governor

The Governor presented as follows-

1. That the County Government paid special duty allowances from July 2013 to November 2013 amounting to Kshs. 310,385.85;
2. That Special duty allowance was provided for in the Collective Bargaining Agreement for the former local authority staff under clause 9.
3. That Officers drawing Kshs. 200 was due to lack of earning code for dirty and heavy work bonuses in the IPPD System as per Clause 45 of the CBA, thus was paid under the special duty earning code;
4. That Officers drawing Kshs. 1000 (askaris in the former municipal council of Kiambu) was due to lack of earning code for risk allowance in the IPPD System as per Clause 45 of the CBA, thus was paid under the special duty earning code; and

5. That the Special Duty allowance payment ceased, from November 2013 after intervention by the SRC

Committee Observations

The Committee observed that:

1. The auditors confirmed that the CBA provided the authority for the payment of the special duty allowance.
2. That the auditors had verified minutes of the former and were satisfied with the Governor's response;

Committee Recommendation

There was no clear directive during the transition period on payment of allowances. However, since the matter was resolved with the Auditors, the county should observe the SRC directive.

7.4 Payment to Employees of Muranga County

During the period under review, a total of Kshs.23,403,274.00 was paid to officers working in Gatanga Sub-County which is in Murang'a County . The expenditure should not have been incurred by the Kiambu County Executive since the services were offered by the employees to a different County.

Submissions Received from the Governor

The Governor presented as follows-

1. That during the year 2013/2014, a total of Kshs.23,403,274.00 was paid as salaries by the County Government of Kiambu to officers working in Gatanga Sub-County;
2. That this resulted from the fact that the officers who up to then, were employees of the then Thika County Council, had already been incorporated in the Kiambu County IPPD system;

3. That the County Government was not aware then that these officers had been transferred to Murang'a County;
4. That the Governor had been pursuing the matter with Murang'a County for a reimbursement with no avail;
5. That The matter was brought to the attention of both Murang'a and Kiambu Counties by the Transition Authority and a joint Consultative meeting between the two counties was convened and chaired by the Transition Authority on 20th May 2014 at the Transition Authority's Boardroom, Extelcoms House 8th Floor.

The meeting deliberated on the whole issue and resolved that:

- a) Kiambu County would pay the staff up to and including 30th June 2014;
- b) Murang'a County would then take over from 1st July 2014;
- c) Murang'a County would reimburse Kiambu County all monies paid from March 2013, when the staff effectively started working for Murang'a County.

Committee Observation

The Committee observed that the auditors were not satisfied because the monies had not been reimbursed to-date.

Committee Recommendation

1. the matter should be referred to the Senate Standing Committee on Finance, Commerce and Budget; and,
2. Murang'a County Executive to reimburse the Kshs. 23,403,274 for the officers working in Gatanga sub-County before end of the end of the 2016/17 financial year.

7.5 Leave Allowance

During the year 2013/2014, leave allowance paid through the IPPD payroll amounted to Kshs.33,944,604.40. Out of this allowance paid, Kshs.25,104,795.20 related to arrears. The arrears were not supported by relevant documentation. The amount couldn't

therefore be confirmed as correct. Some officers were paid multiple leave allowances with some even being paid thrice

Submissions Received from the Governor

The Governor presented as follows-

1. That Leave allowances amounting to Kshs.33, 944,604.40 were paid through the IPPD payroll out of which Kshs.25, 104,795.20 were depicted as arrears;
2. That the leave allowance was paid in November 2013 and December 2013 to former local authority staff as requested by the sub counties guided by the CBA Leave Allowance clause 22(f);
3. That upon verification of the data provided indicating that officers were paid double in the month of November and December, the list provided did not correspond with officers paid in November 2013;
4. That Former municipal council of Thika had calculated leave allowances for their staff based on the old CBA with a difference being paid in February 2014.

Committee Observation

The Committee observed that the auditors were satisfied as the matter was one of miscoding and there was no double payment

Committee Recommendation

The County Government should keep proper books of account to avoid unnecessary audit queries.

7.6 Unsupported Basic Salary Arrears and Payment Inconsistencies

During the year 2013/2014, basic salary paid through the IPPD payroll amounted to Kshs.152,733,152.75 and out of this, Kshs.261,885.45 related to arrears. The arrears were

not supported by necessary documentation such as staff schedules and the corresponding arrears for each officer. An analysis of the payroll between July 2013 and January 2014 revealed that the basic salary for some officers changed significantly during the months. No reasons were provided for the inconsistencies in basic salaries during these months, and analysis of the changes in basic pay between July 2013 and January 2014.

Submissions Received from the Governor

The Governor presented as follows-

1. That due to the serious gaps and inconsistencies identified in the data provided by the councils, the Ministry of Devolution & Planning configured the system to accommodate the gaps thus the enforcement of payroll related business rules (IPPD) internal controls were affected;
2. That cleansing of data exercise started in December 2013 and January 2014 and a Circular was issued over the same;
3. That the result was that any officer who was underpaid was compensated and overpayments were recovered.

Committee Observation

The Committee observed that the auditors had verified the documents and were satisfied.

Committee Recommendations

For purposes of accountability, the County Government should maintain proper Human Resource records.

7.7.0 Failure to Adhere to Recruitment Policies

During the year, a total of 126 employees were recruited and only seven (7) recruits were from non-dominant community, representing 5% of the total number employed. This is too low compared to the 30% required by Section 65(1)(e) of the County Government Act, 2012. Among the new employees recruited were thirty nine (39) enforcement officers and seventy two (72) revenue collectors. An analysis of the score sheets for the

enforcement officers revealed that 9 recruits who scored below 50% were employed with one scoring as low as 23%. This was contrary to the board's policy on the threshold score for appointments.

Submissions Received from the Governor

The Governor presented as follows-

1. That the County Public Service Board (PSB) was sworn in on the 25th July, 2013 and since then the Board has undertaken recruitment on behalf of the County Government;
2. That the County Public Service Board had to a large extent complied with the statutory requirement of 30:70 as enumerated under Section 65(1)(e) and Section 59(1)(3) of the County Government Act 2012 and had been recognized twice for inclusivity since the inception of County Governments;
3. That Recruitment of County staff was a continuous process and the Board remained committed to meet all statutory requirements;
4. That, with respect to recruitment of persons who scored below 50%, that error was orchestrated by the then Secretary to the Board; and
5. That on discovery of the same, the issue was reported to the police for investigations and disciplinary action taken against the officer

Committee Observation

The Committee observed that:

the Governor's response did not remedy the situation at the time of audit

Committee Recommendation

1. Directed that the County Government submits information on the status of the employees hired below the set threshold at the time of audit.

2. The recruitment requirement on 30% threshold espoused in section 65(1)(e) of the County Governments Act, 2012 should be observed in subsequent recruitment processes and the county should adhere to the law.
3. There is need for appropriate regulations to be put in place to enforce the 30% requirement.

7.7.1 Excessive Wage Bill

Compensation to employee costs for Kiambu County Executive during the period 2013/2014 was Kshs.4,029,700,974 against total expenditure of Kshs.6,741,586,923. The compensation to employee cost represents 59.77% of total expenditure, an indication that the wage bill is huge compared to other expenditure.

Submissions Received from the Governor

The Governor presented as follows-

1. That this has been necessitated by the fact that the County inherited a huge number of employees from the defunct local authorities and also seconded employees from the National Government.
2. That to remedy the situation it would be necessary for counties that had inherited a huge wage bill to be cushioned by the Senate; and
3. That subsequently, the County was working closely with the National Government to ensure that the escalating wage bill was brought to an acceptable level by identifying the productive staff needed and pressing for a compensation fund to provide for early retirement for the excess and redundant staff.

Committee Observations

The Committee observed that:

1. the auditors maintained the County Government should take the necessary measures to reduce its wage bill; and
2. The county is spending too much on personnel emoluments than on development

Committee Recommendations

1. The County needs to hire staff in line with its functions, to avoid a bloated wage bill;
2. All recruitment should be done through the County Public Service Board; and,
3. The County government prepare a tally of all the staff categorized in former local authorities staff, seconded staff and newly hired staff to the Committee.

7.8 Use of Manual Payroll

By June, 2014, a total of 133 members of staff were being paid through a manual payroll and not through the IPPD. A total of Kshs.34,527,423.00 was paid to the officers on manual payroll between December 2013 and May 2014.

Submissions Received from the Governor

The Governor presented as follows-

1. That the County maintained a manual payroll at the time;
2. That this was necessitated by the fact that there were state officers and other officers who had not been provided with personal numbers and approved designations who were paid through manual payroll; and
3. That the use of manual payroll had been minimized.

Committee Observations

The Committee observed that:

the auditors had verified the payroll, and were satisfied with the response of the Governor;

Committee Recommendation

All payments should be done through the IPPD payroll system.

8.1 Unsurrendered Receipt Books at Ruiru Sub-County

A Counter Receipt Book Register (CRBR) held at Ruiru Sub-County revealed that several receipt books with a total value of Kshs.8,498,240.00 issued to various revenue clerks had not been surrendered back to the station as at 26th June, 2014. Included in the list of the un surrendered receipt books were 2587 leafs of miscellaneous receipts which had not been denominated. The dates when the receipt books were issued to the clerks were not disclosed. It was also noted that the revenue clerks were issued with several books contrary to provision of 6.11.4 which requires issuance of “only sufficient books”. The receipt books comprised of the following receipts with the listed values: Parking receipts (March) Kshs.2,768,400; Parking receipts Kshs.750,000; omnibus / trucks receipts (200) Kshs.134,000; Motor cycle / bodaboda stickers Kshs.129,200; monthly parking stickers saloon car / pickup Kshs.400,000; monthly parking sticker- Omnibus / trucks Kshs.255,000; monthly parking sticker - 7 seater and below Kshs.300,000; monthly parking sticker - 35 seater Kshs.250,000; monthly parking sticker- 24-34 seater Kshs.210,000; monthly parking 14 seater Kshs.1,050,000; monthly parking sticker- 11 seater Kshs.330,000; Miscellaneous receipts Kshs.30,000; market fees Kshs.1,668,240; and bus park books Kshs.223,000.

Submissions Received from the Governor

The Governor presented as follows-

- 1 That whereas as at time of the audit some receipt books at Ruiru Sub- County had not been surrendered, the surrenders had already been done and administrative action taken on the responsible officer for not following Financial Regulations and County Circulars;
- 2 That Internal auditors from the National Government (National Treasury) were called in to help strengthen the systems;
- 3 That revenue receipts had since been automated through use of revenue collection systems;

- 4 That the County has since fared extremely well in the area of transparency and accountability in revenue collection as evidenced by CRA, Controller of budget reports and benchmarking missions from the other County governments; and
- 5 That the County had more than doubled the amounts the defunct councils used to collect through sealing of loopholes.

Committee Observation

The Committee observed that:

the auditors were satisfied with the Governors response, and noted the Governor's mitigation that it would not be cost effective to pursue the cash books;

Committee Recommendation

1. The Committee noted with concern that the County Government did not maintain their books in line with set standards. The Committee directs the County Government adhere to the recommendations of the Auditor General in the Audit Report.
2. Director of Criminal Investigations should investigate and recover any lost funds.

8.1.1 Lack of Controls on Accountable Documents

As at the time of audit, the officer charged with the responsibility of receiving and issuing of accountable documents such as receipt books, detail orders, local purchase orders and imprest warrants had opened a counterfoil receipt book register in which the documents received were recorded. However, the issue notes and the dates vide which the accountable documents were received were not disclosed in the register.

The officer to whom the accountable documents were issued, his /her signature, date issued, date the documents were completed was not disclosed in the register.

In view of the findings, the accountable documents issued to various user departments could not be ascertained. In addition, all unsurrendered receipts issued to the user departments could not be ascertained.

Submissions Received from the Governor

The Governor presented as follows:

that the County had since improved the maintenance system of accountable documents through automation and all officers had been trained and sensitized on how to complete all the information required on the Counter Receipt Book.

Committee Recommendation

The Committee noted that the auditors were satisfied with the explanation of the Governor but urged the County to continue improving their systems so as to limit possible misuse.

8.2 Loss of Revenue at Ruiru Sub-County

An audit inspection carried out at Ruiru Sub-County revealed that revenue totaling Kshs.817,563 was lost through theft on 5th June, 2014. The amount comprised of cash on hand of Kshs.594,714 and cheques worth Kshs.222,849. The theft was reported to the County Secretary, County Executive of Kiambu on 9th June, 2014. No police abstract was availed to confirm that the incident was reported to the police and that investigations were being carried out.

Committee Observation

The Committee noted that this query was dispensed with, together with query 2.2

8.3 Operation of a Safaricom Paybill Account by Kiambu Sub-County

The Kiambu Sub-County opened a Safaricom pay bill account in June 5th 2014. The paybill number is 927411 registered under Kiambu Sub-County. The County Treasury

was not aware of the existence of the Safaricom pay bill number. It was noted that there was no authorization from the County Treasury for opening the paybill account for the Sub- County yet the revenue collected is for services offered by the County Executive of Kiambu. Between 18th and 25th June 2014 the pay bill number had collected a total of Kshs.810,798. Kiambu Sub-County did not provide a statement of the pay bill account they were using to collect revenue. There was no evidence on how the amount collected was transmitted to Kiambu Revenue account.

Submissions Received from the Governor

The Governor presented as follows-

- 1 That the County Government applied and operated a Safaricom Pay bill Account No. 927411 for Kiambu Sub-County;
- 2 That the account was opened by the County Treasury during the piloting of Revenue Automation System;
- 3 That the information that it was not authorized by the County was erroneous and was given by a sub County officer who did not have information of the authorization given; and
- 4 That the County wrote to Safaricom to close the Pay bill Account and transfer the amount to the county's main collection account.

Committee Observation

The Committee observed that the auditors were satisfied with the mitigation of the Governor and the supporting documents provided showing that the paybill account was closed on 2 December, 2015, and an amount of Kshs 1,095,550 was transferred to the Kiambu sub-County revenue account.

8.4 Unreliable Revenue Reports

The County revenue section prepares revenue reports detailing the revenue received by the County Executive or on its behalf from the sub counties, hospitals and other entities

under the County. During the audit exercise some variances were noted between revenue reports prepared by the County Revenue Section and revenue records maintained at the Sub County level.

Submissions Received from the Governor

The Governor presented as follows:

- 1 That the Sub-Counties used to submit their detailed reports analyzed from the LAIFOM system; and
- 2 That the county treasury had since reconciled the data.

Committee Observations

The Committee observed that the auditors were satisfied with the Governors mitigation that the variances had been reconciled, and the matter stands resolved.

CHAPTER TWO

BUSIA COUNTY EXECUTIVE

The Committee invited the Governor of Busia, Hon. Sospeter Ojamoong, who appeared before the Committee on Tuesday 14th June, Wednesday 15th June, and Thursday 11th August, 2016. The Committee considered the audit queries against the Governor's responses and made recommendations accordingly.

The Governor's written submissions and relevant evidence collected are marked as **ANNEX 2**

1.0 Unsupported Cash and Cash Balances

The certificate of bank balance for the development bank account maintained at Kenya Commercial Bank with a reported balance as at 30th June 2014 of Kshs.352,120,896.00 was not availed for audit review.

The Governor presented as follows:

1. That he concurred with the Auditor that the certificate was not submitted at the time of the Audit;
2. That the said account was at the Central Bank of Kenya and not Kenya Commercial Bank as stated in the audit report and;
3. That the County had requested for the certificate from the CBK and had subsequently acquired it online and presented it for verification.

Committee Observations

The Committee observed that-

1. the certificate presented by the County Government from the Central Bank of Kenya was actually a statement of account with no forwarding letter from the CBK; and,
2. that the Governor failed to submit the Certificate from the CBK to the auditors for verification, as directed by the Committee.

Committee Recommendations

The Committee recommends that the Director of Public Prosecutions takes appropriate action with a view of charging the Governor under section 62(1)(c) of the Public Audit Act.

2.0 Non Remittance of Revenue

Article 207 (1) of the Constitution of Kenya, 2010 states that there shall be established a revenue fund for each County Government, into 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.

It was observed that since the County government took over on 4th March, 2013 to the time of audit, the department of land, survey and mapping had never remitted its revenue of Kshs.15,721,286.00 to the County Revenue Fund Account.

The Governor presented as follows:

1. That he concurred with the Auditor that at the time of Audit the revenue had not been remitted;
2. That the revenues were submitted to the National Government as Appropriation-in-Aid (AIA) due to confusion of reporting channels;

3. That it had proven difficult to recover this money from the National Government due to strained working relationships between the two levels of Government; and,
4. That currently the revenues were being deposited in the County Revenue Fund.

Committee Observations

The Committee observed that:

1. the Auditor- General had seen and verified the relevant documents and was not satisfied because the money had still not been remitted; and,
2. That the remittance of revenue collection to the revenue fund was a statutory issue and needed to be resolved.

Committee Recommendation

The Committee having considered and deliberated on the audit query resolved to pursue the matter with the IGRTC and the National Treasury.

2.1 Airtime Cards Not Accounted for

According to paragraph C (2) of the Salaries and Remuneration Commission circular ref: SRC/HRCOH/3/25 of 27th May, 2013, airtime should be provided as follows:

Governor - Kshs10,000 per month;

Deputy Governor- Kshs.7,500 per month; and

County Assembly Speaker-Kshs.5,000 per month.

Other officers were entitled to airtime in accordance with government guidelines issued from time to time. The County bought airtime cards worth Kshs.778, 000.00. However, it was not possible to tell who the recipients were. Apart from payment vouchers, no other records or information was availed to show how the cards were utilized.

The Governor presented as follows:

1. That he concurred with the Auditor that at the time of Audit the supporting documents had not been attached; and,
2. That the documents had been attached and cleared by the auditors.

Committee Observation

The Committee observed that the Auditor-General had seen and verified the relevant documents and was satisfied.

Committee Recommendation

The Committee guided by the verification of the Auditor-General were satisfied with the documents presented by the Governor and urged the Governor to ensure timely submission of documents during audit reviews.

3.0 Jobs Reserved for Youth, Women and Persons with Disabilities-Kshs.1,097,278.00.

Paragraph 2 of Treasury Circular No.14/2014 of 25th September, 2013, requires that a number of tenders be reserved for the Youth, Women and Persons with Disabilities. This is in line with the national government policy to reserve 30% of all the annual procurements to special groups. Examination of payment vouchers together with related showed that the County Government did not abide by this requirement.

The Governor presented as follows:

1. That during the said financial year, there were capacity challenges, limiting the County from adhering to this provision;
2. There was a scarcity of registered entities in the said categories who could do business with the County at the time; and
3. That the County was now compliant.

Committee Observation

The Committee observed that the Auditor- General had seen and verified the relevant documents and was not satisfied.

Committee Recommendation

The Committee noted the county's late adherence to the policy and cautioned the County Government to ensure that the matter did not appear in future audit reports.

4.0 Allowances for Preparing Final Accounts

According to best practices of financial management in the public service, an officer should not draw extra pay or allowances when carrying out his/her normal duties which are supposed to be done within the designated duty station.

Officers were paid Kshs.457,000 as travelling and accommodation allowances to prepare financial statements for the period March to June 2013.

The Governor presented as follows:

1. That the County Government used its own staff to prepare financial statements for the financial year; and
2. That the said staff, undertook the exercise as a workshop.

Committee Observation

The Committee observed that there was no evidence of where the workshop had taken place and a report on the same was not availed.

Committee Recommendations

The committee recommends that the Governor be surcharged Kshs. 457,000 for failure to provide information under section 62(1)(c) of the Public Audit Act, 2015.

4.1 Liabilities Not Qualifying for Payment

According to Section 130(1) (c) of the Public Finance Management Act, 2012, the County Executive Member for Finance should submit to the County Assembly information regarding any payments and liabilities to be made or incurred by the County Government for which an appropriation is not included in an Appropriation Account, together with the Constitutional or National Legislative Authority for any such payments or liabilities.

The County Government paid Kshs.6,375,000.00 towards settling liabilities incurred by the defunct local authorities. These were casual salary arrears amounting to Kshs.3,375,000.00 and Pay As You Earn (PAYE) arrears amounting to Kshs.3,000,000. The handing over of assets and liabilities of the former Local Authorities had not been finalized. No budgetary allocation was availed for the same. Further, no legal provision was stated to show the basis of making such payments.

The Governor presented as follows:

1. That the County Government budgeted and paid salaries and statutory deductions;
2. That the payments were based on demand letters from the statutory agencies.

Committee Observation

The Committee was not satisfied with the Governor's response as no evidence of the staff paid was availed.

5.0 Department of Agriculture, Fisheries and Livestock

i) Funds Not Accounted for

According to Section 162(2) (i)&(ii) of the Public Finance Management Act, 2012, every public officer shall ensure that the resources within the officer's area of

responsibility are used in a way that is lawful and authorized; effective, efficient, economical and transparent.

The Acting Chief Officer in the department of Agriculture, Fisheries and Livestock was advanced Kshs.1,352,622.00 in his capacity as chief officer. The amount remained unaccounted for.

ii) Procurements Not Planned for or Vouched

According to Section 26(3) (a) and (c), of the Public Procurement Act, all procurement should be-

- (a) within the approved budget of the procuring entity and shall be planned by the procuring entity concerned through an annual procurement plan; and
- (b) handled by different offices in respect of procurement initiation, processing and receipt of goods and services.

Farm inputs worth Kshs.30,303,302.00 were procured for the department of Agriculture, Fisheries and Livestock. However, there was no detailed annual procurement plan showing what the department intended to do during the financial year. Also, it was not possible to vouch for all the stages of the procurement process including invitation for bids, buying and returning of bid documents, evaluation and finally award of contracts as not all information was made available for audit review.

The Governor presented as follows:

1. That they had submitted their procurement plan for verification; and
2. That subsequently the surrenders were done after compilation of all the activities.

Committee Observation

The Office of the Auditor General on verification, was satisfied that all relevant recoveries were made.

iii) Procurement of Tractors and Ploughs

According to Section 26 (3) (c) of the Public Procurement and Disposal Act, 2005, all procurement should be handled by different offices in respect of procurement initiation, processing and receipt of goods, works and services. Further, Section 34 (1) –(4) of the Act requires the procuring entity to prepare specific requirements of what is to be procured based on performance rather than design, trademark, name, design, type, producer or service unless there is no other way of describing the requirement or the description allows the equivalent of what is required.

The County Government of Busia procured seven tractors and ploughs at Ksh.48,335,571 from Cooper Motors Corporation (CMC). Although government tender prices were used to do the procurement, it was not possible to tell specifications of the user requirements and whether there was a budget for the same.

The unit prices obtained from the letter of offer from the Ministry of Public Works to the Sales Manager, M/s CMC Motors Group Limited, did not include Value Added Tax (VAT). As a result, the county government ended up paying VAT of Kshs.6,176,000.00.

The Governor presented as follows:

1. That it was true that the relevant documents were not submitted during the time of audit; and,
2. That the supporting documents had since been submitted for verification to the Auditors.

Committee Observation

The Committee observed that the Auditor-General had seen and verified the relevant documents and was satisfied.

Committee Recommendation

The Committee guided by the verification of the Auditor-General were satisfied with the documents presented by the Governor and urged the Governor to ensure timely submission of documents during audit reviews.

iv) Tree Planting Project- Kshs.7,000,000.00

(a) According to the Ministry of Youth Affairs and Sports Circular No.10 of 2009/10, before funding, the following preliminary activities should be carried out i.e. identification of land for planting trees which must be for public utility, identify appropriate species with the help of forest officers and identify the youth groups to be engaged in the tree planting programme.

A work plan was prepared and Kshs.7,000,000 advanced against the same. However, no entry was made in the departmental cash book to receive the same. There was no evidence of having first identified the sites where the seedlings were to be planted. Also there was no involvement of the forestry department in identifying suitable tree species.

A visit to some sites within Matayos sub-county showed most of the seedlings were of blue gum species. They were not doing well since the area is dry. Some were being destroyed by termites and domestic animals.

(b) Implementation Stage

According to paragraph 7.0 of Ministry of Youth Affairs and Sports Circular No.8 of 2009/2010, the role of the Youth Officers was to monitor and evaluate the project for implementation and sustainability. There was no evidence of supervision by the county staff, despite having incurred a cost of Kshs.185,000.00

(c) Payments and Supervisions

The County Government should recover any monies paid for tree seedlings not delivered. Further to the above reference, Youth Officers were to make payments to the youth and keep proper records. They were also to monitor and supervise the works to ensure that the trees survived. Local purchase orders (LPOs) were raised for assorted tree seedlings. Tree

seedlings were paid for, before being certified as received in good order and condition. No muster rolls were maintained to show the number of days each youth worked to support payments.

The Governor presented as follows:

1. That there was involvement of the forest department in the tree planting exercise contrary to the Auditor's report;
2. That the trees were certified by the same department before payment was done;
3. That the omission of Ksh. 7,000,000 had since been corrected: and,
4. That there was evidence of monitoring and evaluation as per site minutes and muster roll to support the number of days worked.
5. That the payments were based on demand letters from the statutory agencies.

Committee Observations

The Committee observed that the Governor failed to submit the master roll, payment schedule and other relevant documents as directed by the Committee.

Committee Recommendations

The Committee recommends that the Director of Public Prosecutions takes appropriate action with a view of charging the Governor under section 62(1)(c) of the Public Audit Act, 2015.

(v) Kenya Inter-Counties Sports and Cultural Association (KICOSCA) Games

According to practice of organizing events like KICOSCA, there should be a time table or programme from the organizers to the concerned parties showing when the event will take place, the cost to be incurred and who will meet the costs.

However, only the departmental cash book together with bank statement and payment vouchers were availed for audit review. All other information relating to the schedule of the games and related costs was not made available for audit review. As a result, the scope of the audit was limited. Payments of Kshs.16,709,750 were made.

The Governor presented as follows:

1. That at the time of the Audit, the relevant documents were not submitted for audit review;
2. That the timetable and schedules were subsequently submitted for verification to the Auditors.

Committee Observation

The Committee was not satisfied with the responses as the annexures provided were not satisfactory, specifically, as the payment schedules were missing.

Committee Recommendation

The Committee having considered and deliberated on the audit query noted that contrary to section 62(1)(c) of the Public Audit Act of 2015, the documents were not availed. The Committee recommends that the Director of Public Prosecutions takes appropriate action with a view of charging the Governor under section 62(1)(c) of the Public Audit Act, 2015.

5.1 Accounting Records

i) Main Cash Books

Two (2) column cashbooks were maintained. It was noted that the cash books were not balanced on monthly basis and reconciled with the bank statements.

ii) Vote Book

The county maintained manual vote book which was not fully completed as there were no commitments and payments recorded.

iii) Payment Vouchers

Cases were noted where payment vouchers did not have vote book certificates confirming availability of funds against the chargeable item. Further, most payment vouchers lacked serial numbers and were not certified by heads of departments as required by the existing financial regulations.

iv) Local Purchase Service Orders

There were no duplicates, triplicates and quadruplicates in the books. Only the original copies are available and their copies are used in the preparation of the payment vouchers.

The Governor presented as follows:

1. That the County Government main cash books had not been maintained at the time of audit due to capacity challenges, but documents have been updated and availed to the auditor for audit verification;
2. That the County Government uses the IFMIS platform;
3. That the approvals by the heads of departments are done electronically on the IFMIS system using their mandates. Vote books are also kept electronically by the same system;
4. That the County Government has now introduced local purchase orders and local service orders which have duplicates, triplicates and quadruplicates as recommended by the Auditor

Committee Observation

The Committee having considered and deliberated on the audit query noted with concern that the County Government did not maintain their books in line with set standards.

Committee Recommendation

The Committee reprimands the Governor and recommends that the Governor adheres to the recommendations of the Auditor- General set out in the Audit Report.

6.0 Imprest management

Government Financial regulations and procedures require holders of temporary imprests to surrender or account for imprests within 48(forty eight) hours after returning to duty station. Further, the regulations require Accounting officers to recover the full amount from the salary of the imprest holder in the event that the officer fails to account for the imprest on the due date.

- (i) Temporary Imprest amounting to Kshs.18,317,913.00 issued to various officers among them members of the County Executive had not been surrendered by 30th June 2014. The audit also revealed that officers were issued additional imprest before surrender of previous issues ending up with individuals holding several imprest un-surrendered which is against the regulations .
- (ii) Issuance of Temporary Imprests for Procurement of Goods and Services
Treasury Circular No. 3/2010 of 7th May, 2010 provides that temporary imprest should not be used for procurement of goods and services. Officers were advanced imprest amounting to Kshs.7,124,473.00 for purchase of various items against financial regulations. Procurement of goods and services in cash denies the Government the benefits of value for money through competitive bidding processes.
- (iii) Unaccounted for Imprests
According to Section 52(3) of the Public Finance Management Act, 2012, a Public Officer to whom a cash advance is made shall account for the use of the

advance within a reasonable time. It was observed that an imprest of Kshs.5,919,500.00 which should have been accounted for on or before 30th June 2014 was still outstanding as at July 2014. Records further show that officers were issued with multiple imprests prior to accounting for the previous ones.

The Governor presented as follows:

1. Temporary imprest amounting to Kshs. 18,317,913.00

That the imprests were fully surrendered and the surrender documents availed to the auditors for verification;

2. Issuance of temporary imprests for procurement of goods and services. 7,124,473.00

That the County Government issued imprest to various officers including those from the department of roads, transport and infrastructure development to address emergencies urgently in view of the then prevailing circumstances. These imprests were duly surrendered after the respective duties for which they were issued were completed.

3. Unaccounted imprests Kshs. 5,919,500.00

That the imprest of Kshs. 5,919,500.00 was still outstanding. However, the imprests was fully surrendered and availed for audit verification.

Committee Observation

The Committee observed that documents verifying the surrender of unaccounted imprest of Ksh.5,919,500 was not submitted to the Committee or Auditors.

Committee Recommendations

The Committee having considered and deliberated on the audit query recommends disciplinary action against officers who did not surrender imprest within the stipulated timelines. The Governor should institute recoveries of the Kshs. 5,919,500 according to

the Public Finance Management Regulations, failing which the Governor should be held liable.

7.0 Un-surrendered Receipt books

Scrutiny of the counterfoil receipt book register revealed that some revenue collection books issued as early as October 2013 had not been returned as of the time of concluding the audit in July 2014. Revenue collected through such books may not have been accounted for satisfactorily.

The Governor presented that receipt books were fully surrendered after the audit.

Committee Observation

The Committee observed that the Auditor-General had seen and verified the relevant documents and was satisfied.

Committee Recommendation

The Committee guided by the verification of the Auditor-General were satisfied with the documents presented by the Governor and urged the Governor to ensure timely submission of documents during audit reviews.

8.0 Over-Expenditure on Domestic Travel, Subsistence and other Transportation Costs Kshs.40,292, 330.00

An amount of Kshs.127, 698, 568.00 was spent on domestic travel, subsistence and other transportation costs , between July 2013 and June 2014 against a provision of Kshs.87, 406, 238.00 resulting in an over expenditure of Kshs.40,292,330.00 or 46.1% of the approved expenditure budget.

The Governor presented as follows:

1. That, as at May 2014 when the audit was conducted, there was no over expenditure of the said amount due to under budgeting.; and,
2. That the over expenditure was later fully budgeted for in the last supplementary budget estimates that was approved in June, 2014 to comply with Section 135 of the Public Finance Management Act, 2012.

Committee Observation

The Committee observed that the Auditor-General had seen and verified the relevant documents and was satisfied.

Committee Recommendation

The Committee guided by the verification of the Auditor-General were satisfied with the documents presented by the Governor and urged the Governor to ensure timely submission of documents during audit reviews.

9.0 Unimplemented Projects - Kshs.293,637,700.00

According to Regulation 21(1) (b) of the Public Procurement and Disposal Regulations, 2006, the Annual Procurement Plan for each procuring entity shall include a schedule of the planned delivery time of implementation dates for all goods, works or services required. During the year under review, the County received funds for various projects.

However, projects amounting to Kshs.293,637,700.00 had not been implemented as at 30th June, 2014. Projects for the previous year were not done hence delaying the service delivery for which they were intended to fulfil.

The Governor presented as follows:

1. That the budget was approved in December 2013, and the first development fund disbursement was received late December 2013;

2. That the long procurement process to be followed delayed implementation of most of the projects that were to be carried out during the Financial Year;
3. That part of the development funds of Kshs. 307,116,689.00 meant for implementing the projects was received after the closure of the financial year on 3rd July, 2014; and
4. That the County re-voted and implemented projects in the FY 2014/2015

Committee Observation

The Committee observed that the Auditor-General had seen and verified the relevant documents and was satisfied.

Committee Recommendation

The Committee guided by the verification of the Auditor-General were satisfied with the documents presented by the Governor and urged the Governor to ensure timely submission of documents during audit reviews.

10.0 Un- Updated Fixed Assets Register

Government controls over non-current assets require all Public Entities to maintain a fixed assets register to help in safeguarding its assets.

During the year under review, fixed assets worth Kshs.863,929,779.00 were acquired as per details extracted from the 2013/2014 Financial Statements.

Item Description	Estimated value (Kshs)
Refurbishment of Buildings	116,142,923.00
Construction	49,982,080.00

Motor vehicles	25,022,000.00
Furniture and Equipment	14,958,189.00
Plant and Equipment	53,866,000.00
Land	5,210,000.00
ICT assets	24,574,594.00
Total	<u>289,753,786.00</u>

Although the County Government had opened a fixed assets register to record assets, the register was not updated with the additional purchase of land , buildings, furniture and equipment. Further, no motor vehicle details e.g date of acquisition, invoice and payment voucher number were indicated in the asset register.

The Governor responded as follows:

1. That there were challenges in ascertaining the exact ownership of some of the assets inherited from the defunct local authorities and the devolved units from the national government;
2. That Transition Authority had not handed over the assets of both the defunct local authorities and the devolved units to the County Government; and
3. That the asset register was updated with acquisitions made within the FY 2013/14 and availed to auditors for verification.

Committee Observation

The Committee observed that the Auditor General had expressed concern that there was no fixed asset register from the defunct Transition Authority.

Committee Recommendation

The Committee noted that IGTRC with other stakeholders has embarked on an asset verification exercise for all Counties, due for completion in March 2017. This once done should be submitted to the Senate.

11.1 IT Internal Control Environment

The Control Objectives of Information Technology (COBIT) business processes require organizations to perform the following in respect of their IT internal control environment:

- Manage the IT investment;
- Communicate management aims and direction;
- Manage IT Human resources;
- Manage quality;
- Manage projects;
- Manage changes;
- Define and manage service levels;
- Manage third party services; and
- Monitor and evaluate IT performance.

Information Technology (IT) management was not supported by an established IT strategic committee and IT steering committees. Further, there were neither documented tested emergency procedures to provide guidelines for emergency response nor any offset ICT continuity and disaster recovery plan to cater for disaster management. The county government is in the process of establishing its own IT strategic committee and IT steering committees to help in the governance of IT. This will set out the IT strategic plan and policies and procedure.

11.2 Internal Audit and Audit Committees

Treasury Circular No. 16/2005, Ref: No. MOF/IAG/GEN/055/(16) dated 4th October, 2005 and Circular No. 3/2009, Ref: No. MOF/IAG/033/(75) dated 23rd February, 2009 provided guidelines for the development of an efficient and effective internal audit function in the public service through sound Risk Management Policy Framework and a competent audit committee with oversight role.

Internal audit work for the year covered a limited scope on unused receipt books, casual wages and rehabilitation of Matayos/Rakite Water Project, verification of Assets and Liabilities of the defunct local authorities.

The Governor presented as follows:

1. That the County Government had established an IT Steering Committee to help set out the IT strategic plan and ICT Road Map; and
2. That the County Government has a functional internal audit directorate;
3. That the County is in the process of establishing an internal audit committee to improve management of the internal audit functions awaiting guidelines from the Salaries and Remuneration Commission; and
4. That the County Government has written to the Commission seeking guidelines on the same.

Committee Recommendation

The Committee having considered and deliberated on the audit query recommends that the County Audit committee should be in place as per the SRC regulations of July 2016.

12.1 Salaries payments not included in the IPPD Payroll – Kshs.16,531, 593.00

Section 5.10 of the Government Financial Regulations and Procedures provides the criteria for the processing of computerised payrolls. All the payments of salaries for all officers other than casuals and works paid staff should be processed through Integrated

Personnel Payroll Data (IPPD) program. One hundred and twenty (120) officers of the County Government of Busia were not included in the IPPD program during the year and thus were paid salaries through vouchers. The payments were effected for six (6) months from January 2014 to June 2014. The officers had not been allocated IPPD Payroll Identification numbers. Personal files for the officers were also not provided thus it was not possible to examine their respective terms of engagement

12.2 Performance Management

Section C of the County Public Service Human Resource Manual of May, 2013 requires the County Executive Committee to design a performance management plan to evaluate performance of the county public service and the implementation of county policies as provided for in Section 47 of the County Governments Act, 2012. The plan sets out the criteria for performance appraisal.

The County Government had not established the required performance management plan. Further, there was no evidence of staff performance appraisal reports during the year to assess as comprehensively and objectively as possible the officer's performance against set targets and is aimed at the realization of the overall departmental objective. The management concurred with the finding and advised the plan was in the process of development. Staff performance appraisal was yet to be carried out as the financial year had not ended by the time of audit.

The Governor presented as follows:

1. That the officers were from the ministry of health and sanitation, mainly the ESP workers and newly employed staff whose personal numbers had not been processed and uploaded in the IPPD;
2. That Officers have since been absorbed by the County Government and put on the payroll;

3. That the County Government has now established a performance contracting system which is being implemented through the performance management contracting committee, and the performance contracting steering committee to evaluate the performance of the county public service and the implementation of county policies and development agenda.

Committee Observations

The Committee observed that-

1. there wasn't sufficient evidence that all the workers who had been included in the appendices had been fully transferred/absorbed by the County Government; and
2. IPPD payroll numbers and personal files were not availed for verification

Committee Recommendation

The Committee recommends that the county government be reprimanded.

CHAPTER THREE:

TANA RIVER COUNTY EXECUTIVE

The Committee invited the Governor of Tana River, Hon. Hussein Dado and he appeared before the Committee on Monday, 1st August and Wednesday 17th August, 2016. The Committee considered the audit queries against the Governors response and made recommendations accordingly:

The Governors written submission and relevant evidence collected are marked as **ANNEX. 3**

1.1 Procurement of Road Works

The County Executive of Tana River undertook construction of various roads within Galole District amounting to Kshs.97,286,068.80 under the development budget for the year 2013/2014. However, no development plan describing significant capital projects to be undertaken was made available for audit review contrary to the provisions of the Public Finance Management Act, 2012. In addition, evidence of approval of the projects by the Executive Committee was not availed for audit verification. Further procurement initiation records as required by Section 9 of the Procurement Regulations, 2006 were not also available for audit review. Also no documentary support to enable confirmation as to whether the relevant procurement committees were duly appointed as per the Public Procurement and Disposal Regulations, 2006 and also there was no preliminary evaluation report as required by Section 47 of this Regulation that was available. The contract agreements for the road works that were availed did not specify the contract period as required and there was no evidence of award of the tender by a validly constituted Tender Committee contrary to the Public Procurement and Disposal 2005. In the circumstances, it has not been possible to confirm that the procurement of road works amounting to Kshs.97,286,068.80 was done in line with the Public Procurement and

Disposal Act, 2005 and the related Public Procurement and Disposal Regulations 2006 and 2013.

The Governor presented as follows:

1. That in the development budget of financial year 2013/2014 the County Government undertook to maintain various roads in Tana River Sub-county as per the development plan;
2. That the prioritized roads were approved by the CEC and recommended for bidding
3. That the road works were advertised in the local Daily Newspapers dated 1st January 2014 and 26th March 2014, subsequent procurement procedures were duly adhered to.

Committee Observation

The Committee observed that:

1. the documents were not in available at the time of Audit; and,
2. the Auditors were satisfied after subsequent verification of the submitted documents.

Committee Recommendation

The Committee having considered and deliberated on the audit query having understood what the County was going through in terms of security concerns recommends that the Senate reprimands the Governor for late submission of documents contrary to section 62 (1)(c) of the Public Audit Act, 2015.

1.2 Repairs of the County Assembly

Records available for audit indicate that the County Government undertook repairs and refurbishment of the County Assembly debating chambers on behalf of the County

Report of the Sessional Committee on County Public Accounts and Investments on the inquiry into the Financial Operations of eight County executives for the period 1st July, 2013 to 30th June, 2014.

Assembly at a cost of Kshs.6,883,150. The project which the County Executive used sourcing and selection of the contractor for this refurbishment had the following anomalies.

- i. The tender was awarded through a restricted tendering process in June 2013 without the participation of the County Assembly Management.
- ii. The use of restricted tendering process had no prior approval from the county tender committee.
- iii. The tender was awarded through a restricted tendering process in June 2013 without the participation of the County Assembly Management.
- iv. The use of restricted tendering process had no prior approval from the County tender committee.
- v. The tender committee approved the use of restricted tendering four months after the tender had closed and the bids were already opened (Tender closed and opened on 14 June 2013, approval or use of restricted tender granted on 8 October 2013). The contract was awarded at a cost of Kshs.6,883,150 and a mobilization payment through the first certificate amounting to Kshs.5,604,134 represents 81.5% paid before works commencement.
- vi. Although the works indicated supply of hansard equipment for the chambers, no evidence was availed for audit to show that the equipment met the detailed specifications.

The Governor Presented as follows:

1. That the County Government in the development budget of financial 2013/2014 undertook the repairs and refurbishment of the county assembly debating chamber on behalf of the County Assembly at a cost of Kshs. 6,883,150 in full participation of the county assembly management as per the tender evaluation report dated July 2014 for tender No. CATR/20/2/2013/2014;

2. That the repairs to the county assembly debating chambers were an emergency since it formed the basis for the establishment of the County Government; and,
3. That the contract was awarded on 8th October 2013 and the first interim payment certificate was done on 12th November 2013. The contractor was paid 81.5% of the contract sum as a result of work done as at 11th November 2013 as per the Valuation Report

Committee Observation

The Committee observed that:

1. there was no evidence of prior approval for the use of restricted mode of tendering; and,
2. the Auditors were not satisfied after verification of the submitted documents;

Committee Recommendation

The Committee having considered and deliberated on the audit query noted that the Public Procurement and Disposal Act, 2005 was breached, and recommends that the Director of Public Prosecutions takes appropriate action with a view of charging and prosecuting the individuals responsible, and recovering the amounts lost.

1.3 Construction of Perimeter Wall Around the County Government Offices

Documents availed for audit review indicated that on 26 September 2013 a contractor was awarded a contract to construct a perimeter wall around the County Government offices at a cost of Kshs.16,323,288. However, records availed for audit review indicated that the contractor was paid a total of Kshs.19,201,417 resulting to unexplained or unsupported excess expenditure of Kshs.2,878,129. Further, records availed for audit

review indicated that the County Executive under unclear circumstances used restricted tendering for the procurement of construction works for the wall contrary to the Public Procurement and Disposal Regulations, 2006 and 2013. Also the evaluation of the works was done without an indication of participation of the user department contrary to Section 9 (b) of the Public Procurement and Disposal Regulations, 2006 and the engineers' estimates. In the circumstances, it was not possible to ascertain that the County Assembly obtained value for money in the construction of the perimeter wall.

The Governor presented as follows:

1. That the offices which were being used as county headquarters were not fenced;
2. That the County treasury while reconciling the difference of un supported expenditure of Kshs. 2,878,129 in the construction of the perimeter wall obtained the payment vouchers that were used to pay the contractor and analyzed them as shown below.

Particulars	Amount
Payment voucher No.1058 (<i>1st Payment</i>)	8,732,016
Payment voucher No.1940 (<i>2nd Payment</i>)	6,016,897
Payment voucher No. 3711(<i>3rd Payment</i>)	1,505,053
Payment Voucher (<i>Retention Amount</i>)	774,289
Total Amount paid as per the voucher	17,028,255
Inspection and acceptance report recommendation	2,173,161
Total amount Paid as per audit report	19,201,416
Total Contract Sum	16,323,288
Difference as per audit report	2,878,128

Committee Observation

The Committee observed that:

1. there was no evidence of prior approval for the use of restricted mode of tendering

Committee Recommendation

The Committee having considered the governors mitigation, that the County treasury while reconciling the difference of un supported expenditure of Kshs. 2,878,129 in the construction of the perimeter wall, obtained the payment vouchers that were used to pay the contractor and provided a breakdown of the analysis. The Committee therefore recommends the Senate clears the audit query.

1.4 Purchase of Emergency Relief Food

Records availed for audit indicate that the County Government procured relief food amounting to Kshs.88,000,600. However, the procurement process had the following anomalies.

- i. The advertisement for supply of the relief food did not indicate the items to be supplied and the quantities for each item.
- ii. Bids were received, evaluated and awarded even though there were no clear basis of evaluation.

In addition, although the County Government had a budget for the procurement of relief foods amounting Kshs.22,937,500, an additional amount of Kshs.22,937,500 was reallocated from subsidies to Finance Institution Women Empowerment Vote. No approvals for the reallocation was availed for audit verification. Further, although part of payment of Kshs.45,875,000 was made in respect of the supply, no evidence to show that the supplies were received at the county and distributed to the beneficiaries was availed

for audit review. In the circumstances, it has not been possible to ascertain whether or not the procurement process was competitively carried out in accordance with Public Procurement and Disposal Act, 2005 and respective regulations and the County executive obtained value for money in the purchase of emergency relief food.

The Governor Presented as follows:

1. That the County Government advertised for the supplies of relief food in a local daily on 26th February, 2014;
2. That after taking note of the anomaly in the advertisement that the food stuff and quantities to be supplied were not included, another advertisement to correct the anomaly was placed in the local daily on 12th March 2014;
3. That this formed the basis for evaluation of the bids received;
4. That the County Government in the financial year 2013/2014 had budgeted for Kenya shillings 100 million for purchase and distribution of foods and non food items to vulnerable households during crisis under the department of special programs; and,
5. That the county received all the supplies and distributed to all beneficiaries as per District Steering Group Report, Delivery notes, S13, Way bills.

Committee Observation

The Committee observed that:

1. There was an unnecessary expenditure for two (2) newspaper advertisements and the officer responsible was subsequently sacked for incompetence following human resource guidelines;
2. the district steering committee in the county determines where the food is distributed within the County, and the Auditor verified the list of recipients;

3. the Governor clarified that the actual figure of the budget was 100 million and not 10 million as erroneously stated in the documentation provided to the committee;
4. the Governor informed the committee that All relief food maize was negotiated in a tripartite agreement to be purchased from Hola Irrigation scheme at a price of Kshs. 3,000 per bag as an incentive to alleviate farmers' debt. Farmer production capacity was 60,000 bags, but an aflatoxin rumour that the maize from 11 out of 12 villages was contaminated caused panic. Investigations by KEPHIS revealed that it was only one village that had maize contaminated by aflatoxin. the farmers however, panicked and sold to others at a cheaper price and not the county government;
5. Auditor to confirm the budgeted amount of 100 million from the Controller of Budget and inform the committee

Committee Recommendation

The Committee was satisfied with the explanation provided, given that the Auditor General had verified the evidence subsequently submitted including the amount of 100 million, and was satisfied that the issue was satisfactorily supported.

1.5 Hire of Motor Vehicle

Records availed for audit reflected that Kshs. 9,634,000 was spent on hiring of vehicles to transport officers within the County during public participation forums and outside the County attending workshops and meetings. However, there was no evidence of how the suppliers were identified as no pre-qualification list was availed for audit verification.

The Governor presented as follows

1. That during the financial year 2013/2014 the county government had not acquired enough vehicles for use by county Government; and
2. That the County had pre-qualified suppliers of transport services to the county for efficient service delivery.

Committee Observation

The Committee observed that:

1. the documents regarding the identification of prequalified suppliers were not availed at the time of Audit; and,
2. Noted that upon later submission of the documents, the Auditors were satisfied with the prequalification list of all the items.

Committee Recommendation

The Committee recommends the query stands resolved

1.6 Procurement through Imprest

Records availed for audit indicates that the County Government procured goods using imprest without involvement of the procurement department. The users were observed to raise requests for items from which an imprest was issued to travel to Malindi or Mombasa to procure the items. A total of Kshs.3,769,583 from a sample verified was found to have been procured through imprest and items procured included laptops, iPads, carpets and television sets.

The Governor presented as follows:

1. That the County Government required basic amenities and hence approved payment of imprest to the officers as required by section 152 of the public finance management Act; and,

2. That the procurement of these items was contributed by the urgency with which the items were required.

Committee Observation

The Committee observed that:

1. there was no evidence of prior approval for the use of restricted mode of tendering at the time of audit; and,
2. after verifying the submitted documents, the Auditors were satisfied that the approval was actually given.

Committee Recommendation

The Committee recommends the query stands resolved.

1.7 Procurement of Laptops, Ipads, Xray, Ultra Sound Machine and Public Address Systems

Records availed for audit indicates that the County Government procured goods without developing specific requirements. Items such as laptops, Ipads, Xray, ultra sound machine and public address systems and other various items amounting to Kshs.45,811,614 were procured without specifications being developed as only general descriptions were made in the name of laptop, Ipads and Xray. Users of specialized machines such as Xray and Ultra sound were not involved in providing the specifications. Also the absence of an annual procurement plan, it was not possible to confirm that the items procured were required and that sufficient funds had been budgeted for the items. Further, there were no evidence or inspection or acceptance report in support of the items procured notwithstanding that various items had been directly procured without the necessary approvals as per the Law.

The Governor presented as follows:

1. That the county experienced challenges in attracting experts in the relevant fields of expertise;
2. That the county had since hired experts including engineers, quantity surveyors, doctors, anesthetists, IT experts;
3. That these experts were involved in preparation of specifications for the procurement of various goods and services in their departments; and,
4. That the specifications were clear in the LPO and LSO though the documents could not be availed in time due the resignation of the CEC finance who was the custodian of the documents.

Committee Observation

The Committee observed that:

1. the Auditors were not satisfied after verification of the submitted document;

Committee Recommendation

Noting that the Public Procurement and Disposal Act, 2005 was breached, the Committee recommends that the Director of Public Prosecutions takes appropriate action with a view of charging the individuals responsible, prosecuting and recovering the amounts lost.

1.8 Procurement of Conference Facilities Services

Records availed for audit indicate that the County spent a total of Kshs.12,612,474 on acquisition of conference facilities, accommodation, catering, communication, board and committee expenses. However, there was no evidence of how the suppliers were identified as no prequalification list of suppliers was availed for audit verification. In some cases, the procurement was done through cash payment, in contravention of Section

29 and part VI of the Public Procurement and Disposal Act, 2005 and its regulations. The relevance of the services to the county executive could also not be confirmed.

The Governor presented as follows:

1. That during the financial year 2013/2014 the county government spent monies on acquisition of conference facilities, catering, and communication and board committees as provided for in the budget; and,
2. That the County had pre-qualified suppliers of the above services.

Committee Observation

The Committee observed that:

1. the Auditors were not satisfied after verification of the submitted documents.
2. Issued a disclaimer on the matter and directed the County Executive to submit relevant documents to the auditors within one week; and
3. subsequently the documents were then submitted for audit verification.

Committee Recommendation

The Committee having considered and deliberated on the audit query noting that there was a breach of the Public Procurement & Disposal Act, 2005 on the use of cash and recommends prosecution for breach of the law.

1.9 Motor Vehicle Repairs

Information availed for audit show that the county spent a total of Kshs.7,252,800 on purchase of tyres and maintenance of motor vehicles amounting to Kshs.4,622,700 and 2,630,100 respectively. However, there was no evidence of how the suppliers were identified as no prequalification list was availed for audit verification. No records were

availed indicating the registration numbers of vehicles fitted with the tyres and recording of defects in the work tickets before repairs could be undertaken. The basis of these repairs is therefore not clear as no inspection and mechanical works reports availed for audit verification.

The Governor presented as follows:

1. That in the financial year 2013/2014 the county government spent monies on repairs and maintenance of its motor vehicles;
2. That the vehicles were inherited from the devolved ministries and the defunct county council; and,
3. That Suppliers of the services were selected from the county's pre-qualified list of suppliers.

Committee Observations

The Committee observed that:

1. there was no evidence of prior approval for the use of restricted mode of tendering.
2. Noted that the Auditors were satisfied with procurement list after verification of the submitted document and they adopted it formally.

Committee Recommendation

The Committee urges the Governor to ensure proper financial records of the County are maintained.

1.10 Procurement Motor Vehicles

Tana River County Executive paid Kshs.38,800,000 for the supply and delivery of eight (8) Ford Everest station wagon motor vehicles. It was observed that no procurement process was initiated from the users of these motor vehicles and it appears that direct procurement was made for which no explanation has been made. Though the vehicles were delivered, there was non-compliance to Public Procurement and Disposal Act, 2005 and no registration certificates were available to confirm ownership.

The Governor presented as follows:

- i. That the county government adopted the standard national procurement procedures from the Ministry of Transport prequalification tenders on the procurement of motor vehicles and while there was no letter from the Ministry of Transport, the County officers collected the list from the Ministry in person.
- ii. That the county therefore settled on COOPERS MOTOR CORPORATION (CMC) and Toyota Kenya in procuring the motor vehicles. CMC is the sole supplier of FORD Everest in the country, and
- iii. The Governor provided evidence of the following:
 - a. standard national wide procurement prequalification list
 - b. Copies of all the logbooks of the vehicles, and
 - c. Payment Vouchers for the four vehicles amounting to 24 million which were have availed to the Office of the Auditor-General for verification

Committee Observation

The Committee noted that the Auditor general had seen and verified the relevant documents and was satisfied.

2.0 Domestic Travel Costs

Records made available revealed that the County Executive had utilized Kshs.11,372,316 for domestic travel. These payments were not supported with adequate relevant documentation. Documentations presented lacked authorization for journeys made, work tickets and bus tickets as proof of travel.

The Governor presented that the relevant travel documents have been availed to the Auditors.

Committee Observation

The Committee noted that the Auditor general had not received work tickets that were to be earlier availed for verification. These were later submitted and found to be in order.

3.0 Salary Payment and Refund of Medical Expenses

The County Executive of Tana River paid an amount of Kshs.894,385.95 as basic salaries for Ministry of Health employees in the County. However, no supporting documentation in form of payroll for the officers of the Ministry was availed for audit review.

In addition, during the period under review an amount of Kshs.336,000 was advanced to the County Executive Member responsible for Health as a refund for paying medical fee fora County Government employee from his own sources who was involved in an accident.

However no accident report was availed to support the claim to confirm that at the time of accident the said employee was in line of duty. No policy is in existence to enable refund of such claims whenever they occur.

The Governor presented the following:

- i. The county treasury paid Kshs. 894,385.95 as basic salary for MOH employees through payment voucher 3366 and 3386 of Kshs. 792,286.55 and 102,099.40;

- ii. That the medical refund of Kshs. 336,000 was a refund to the county executive member of health Mr. Salim Mohamed vide payment voucher no. 605 who had paid the medical bill of a County Officer who was involved in an accident while in the course of duty at Mater Hospital Nairobi and who later passed on; and
- iii. The respective payroll supporting these payments were fully surrendered after the audit

Committee Observations

The Committee observed that the Auditor general had seen and verified the relevant documents; and was satisfied

4.0 Store Records for Drugs

During the period under review an amount of Kshs.14,500,546 was paid to Kenya Medical Supplies Agency for supply and delivery of drugs to hospitals in the County. Included in the Kshs.14,500,546 are drugs amounting Kshs.2,641,732 supplied and delivered to Hola District Hospital. Perusal of records revealed that the drugs have not been recorded in the stores records such as S3. Verification in the form of physical counts or confirmation of the stock levels was therefore not possible.

The Governor presented that during audit the stores ledger card (S3) had been misplaced but were later found and availed for Audit verification

Committee Observation

The Committee observed that the Auditor general had seen and verified the relevant documents and was satisfied.

Committee Recommendation

The Committee recommends a reprimand for the Governor, because documents were availed one year later, and drug supply issues should not be taken lightly.

5.0 Travel and Accommodation

5.1 Travel and Accommodation Claims

Records availed for audit review indicated that the County Government paid a total of Kshs.10,489,756.25 on travelling and accommodation expenses for the officers. However, the expenditure was not supported with documentary evidence like signed schedules, work tickets, detailed work programme or records of meetings attended and mode of travel outside their duty stations. It was also not made clear how some of the payments were made without authority by authorizing officials.

The Governor presented as follows:

- i. That the procedure followed regarding travel costs is that the staff of the Tana River County Government normally make formal request to the County Secretary requesting his approval of the intended journeys;
- ii. That County secretary approval forms the necessary authority to initiate travel claims; and
- iii. That the county treasury therefore uses this approval as attachments to the relevant payment vouchers together with other necessary documents such as bus tickets, work tickets to support the travel claims.

Committee Observation

The Committee observed that:

- 1. more details are required on the authority/legality approving the payments and requested a copy of the budget approved by the Assembly be availed immediately; and,*
- 2. that subsequently the documents were provided to the Auditor General and verified.*

5.2 Air Travel Expenses

Information availed for audit review indicated that the County Government paid Kshs.2,682,590 on air travel for officers. However, the payments were not supported by local service orders. Also the payments were done without disclosing how the two suppliers were engaged to offer air travel services to the County Executive. Similarly the County Executive did not avail documentary evidence on their air travel policy to determine officers entitled to use air transport.

In addition, the county executive was invoiced and paid Kshs.7,089,415 for air tickets during the period under review. Evidence of actual travel in form of boarding passes were not availed for verification and the purpose of travelling was not disclosed.

The Governor responded as follows:

- i. That the county has developed a transport policy which serves as term of reference with regards to matters of transport;
- ii. That the county secretary has issued a circular instructing all persons travelling by air to surrender the boarding passes and copies of the visas for those travelling outside the county; and
- iii. That the same should accompany their imprest surrender documents.

Committee Observation

The Committee observed that the Auditor General verified the documents however actual boarding passes were not availed, these were later submitted for verification and found to be satisfactory.

5.3 Accommodation and Subsistence Allowance

Subsistence allowance and accommodation expenditure on domestic and foreign travel amounting Kshs.14,523,704 had no supporting document. Documentation to support travel details were not availed for audit verification and the recipients of the subsistence allowance amounting to Kshs.14,115,844 did not sign for the cash.

The Governor presented that the adequate relevant travel documents have been availed for verification.

Committee Observation

The Committee observed that the auditor verified the documents and was satisfied

6.0 Outstanding Imprest

Imprest records availed for audit review indicated an outstanding amounts totaling Kshs.8,253,992 where officers were issued with multiple imprests without having surrendered the previous ones contrary to regulations governing imprests. No explanation has been made as to why the imprests were not surrendered as required or recoveries made from the defaulting persons.

The Governor presented as follows:

1. That in the financial year 2013/2014 the county had no departmental accountants to account for the imprests leading to officer being issued with multiple imprests; and,

2. That the County Government had since rectified the situation and had recovered monies from officers in default.

Committee Observation

The Committee noted that the Auditor general had verified the documents and was satisfied with the recoveries been made, but had issues with the fact that officers were issued with multiple imprests;

Committee Recommendation

The Committee recommends the query stand resolved, after subsequent verification from the Auditor revealed that all the recoveries had been made.

7.0 Fuel Expenditure

The County Executive spent Kshs.5,484,903 on purchase of fuel during the period under review. However, no records have been made available to confirm drawing and recording of fuel in the work tickets as required. The fuel was drawn from suppliers who are not pre-qualified.

The Governor presented as follows:

1. That the county government employed new drivers who had not been inducted on government procedures and regulations regarding motor vehicle use work tickets in government vehicles;
2. That due to the aforementioned, proper documentation were not kept; and,
3. That the said anomalies had been rectified.

Committee Observation

The Committee observed that:

1. the Auditor general had verified the documents and was not satisfied with the response provided by the Governor as work tickets had not been submitted for audit review; and
2. Issued a disclaimer on the query and directed the Governor to submit the work tickets and other relevant documentation to the auditors for verification within two days.
3. the OAG subsequently reported that the work tickets were later submitted for verification, but were not complete as they did not cover fuel drawn.

Committee Recommendation

The Committee recommends that the Governor fully recover the monies lost from the relevant officers.

8.1 Unconfirmed Revenue

During the period under review, records made available indicated that the County Executive realized revenue amounting Kshs.26,979,968.40 as reflected in the bank pay in slips made available. However, relevant surrender records such as F.O. 17, cash control sheet and official receipts to account for this revenue were not availed for audit review.

Examination of the counterfoil receipt book register revealed that a total of 77 revenue books were outstanding and were long overdue and had not been surrendered as 31 March 2014 and officers were being issued with new collection receipt books without accounting for previous ones.

During audit review, it was observed that the County Executive was paying a 15% commission on collected revenue to agents. The commission paid amounted to Kshs.839,219.50. However, no contract was availed to confirm how these agents were selected, appointed and the terms of reference determined.

The Governor presented as follows:

1. That all revenues collected in during the financial year 2013/2014 were banked at the Tana River county Government revenue collection account held at KCB Bank Limited Hola and consequently transferred to the Tana River County Revenue Fund held at Central Bank of Kenya (CBK) thus eliminating possible loss of revenue.
2. That the County Public Service Board had appointed a director of revenue through competitive selection;
3. That the director had subsequently assumed the position of receiver Revenue;
4. That the revenue agents were inherited from the defunct Local Authority of Tana River; and
5. That the 77 revenue books outstanding were those in operation before devolution which became null and void on the onset of the county Government since it introduced new Revenue collection books Printed by the Government printer for efficiency.

Committee Observation

The Committee observed that:

1. the Auditor general was not satisfied with the response provided by the Governor as there were no annexures provided to support the response, and the matter of the missing receipt books had not been properly accounted for; and,
2. Issued a disclaimer on the query and directed the Governor to submit relevant documentation to the auditors for verification.

Committee Recommendation

The Committee recommends that the matter be investigated by the relevant authorities with a view of recovery of the Kshs. 839,219.50 commission money and