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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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TABLE OF CONTENTS

ACRONYMS/ABBREVIATIONS 3
DEFINITION OF TERMS: 4
PREFACE 5
GENERAL COMMITTEE'S RECOMMENDATIONS 11
ACKNOWLEDGEMENTS 12
CHAPTER ONE: .....
KIAMBU COUNTY EXECUTIVE 13
CHAPTER TWO: .....
BUSIA COUNTY 47
CHAPTER THREE: .....
TANA RIVER COUNTY 69
CHAPTER FOUR .....
TRANS NZOIA COUNTY EXECUTIVE 98
CHAPTER FIVE .....
NYANDARUA COUNTY 116
CHAPTER SIX .....
MIGORI COUNTY EXECUTIVE 164
CHAPTER SEVEN .....
KWALE COUNTY EXECUTIVE 218
CHAPTER EIGHT .....
KISUMU COUNTY EXECUTIVE 234

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 Tiole 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

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

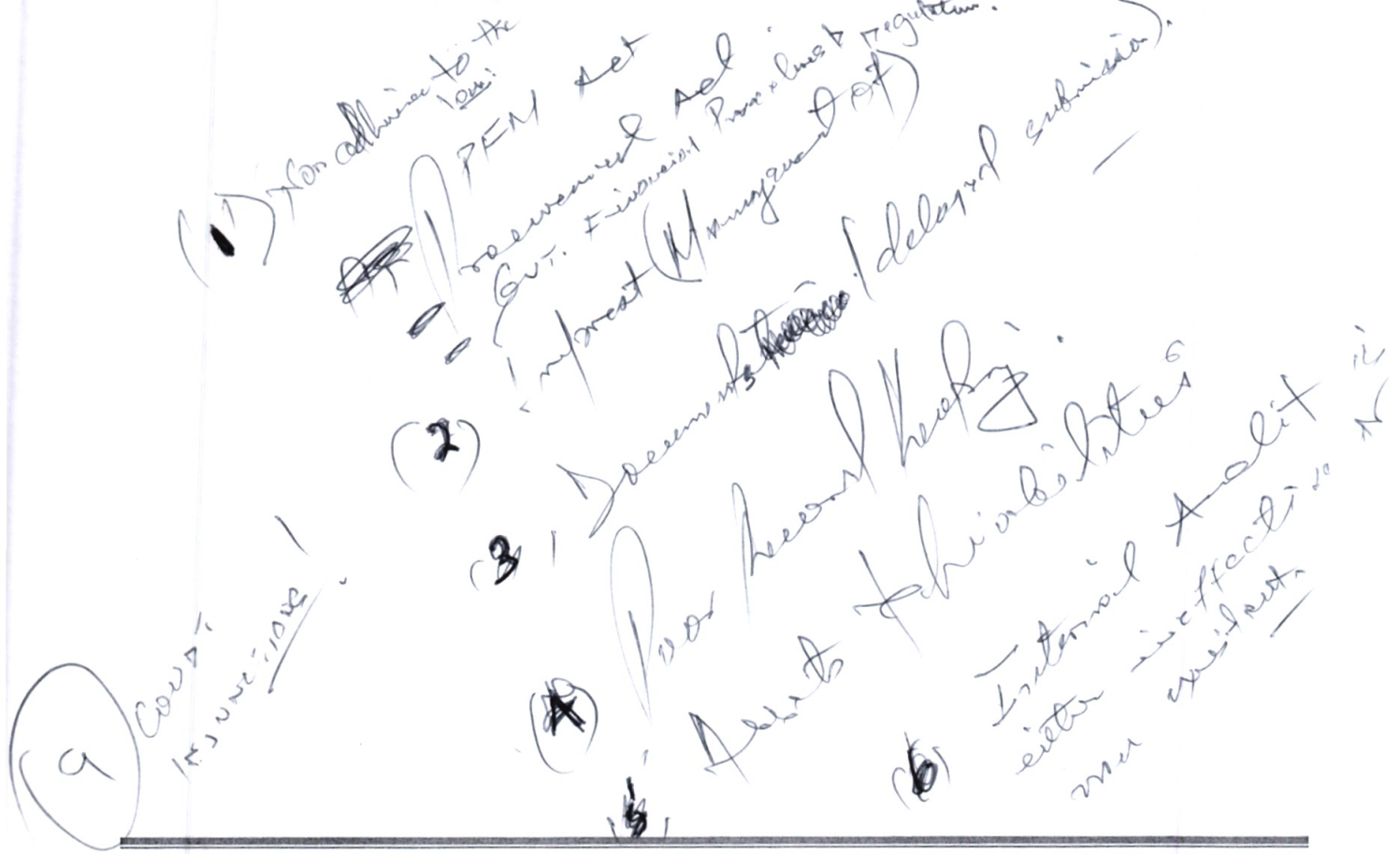
The Committee recommends that:-

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

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 murram 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 bought 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) Muranga 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 faired 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 paybilll 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	**289,753,786.00**

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

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 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 *(1st Payment)*	8,732,016
Payment voucher No.1940 *(2nd Payment)*	6,016,897
Payment voucher No. 3711 *(3rd Payment)*	1,505,053
Payment Voucher *(Retention Amount)*	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 aflotoxin 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 of100 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

the receipt books be recovered. Where the law is found to have been contravened, full recovery be made, and prosecution be instituted.

8.2 Under Performance in Collection on Local Generated Revenue

The County collected Kshs.28,192,397 against budgeted target of Kshs.87,290,000 from local revenue sources. This represented a collection of 32.3% of budgeted local revenue indicating low levels of revenue collection. No explanation has been made to remedy the low collection.

The Governor presented as follows:

1. That The county collected Kshs.28,192,397 against budgeted target of Kshs.87,290,000 and the discrepancy was due to non-remittance by the national government of the contribution in lieu to rates (CILOR) due to the county;
2. That revenue from devolved units was not included in the 2013/2014 collections because the transition authority officially transferred the devolved functions to the counties in December, 2013;
3. That revenue collected by the devolved units was included in the 2013/2014 budget but was collected and remitted to the district treasury instead of the county treasury;
4. That in the absence of a finance bill the County relied on the defunct county councils fees and charges which were not up to date;
5. That the county has also done mapping of all its revenue sources and was in the process of automating it's revenue collecting system.

Committee Recommendation:

The Committee having considered and deliberated on the audit query recommends:

1. **that the County sets realistic revenue targets in the future and ensure that all money collected locally is banked and properly accounted for;**
2. **Further, there is need to come up with an automated system of collecting revenue locally running uniformly across all counties to enhance accountability; and**
3. **The module for revenue collection in IFMIS that has not been activated and made operational, and should be activated with immediate effect.**

8.3 Variance between Revenue Recorded in Cashbook and Cash Banking

The cashbook availed for review reflected revenue collected totalling Kshs.28,967,325.40 in the period from 1 July 2013 to 30 June 2014, while the County revenue collection bank account statements showed a total of Kshs.35,172,475.35 as having been banked resulting to a variance of Kshs.4,458,449.95. No reconciliation on this account has been done to confirm the sources of direct banking of excess revenue banked.

The Governor presented as follows:

1. That The variance between the revenue recorded in the cash book and the cash banking of Ksh.4, 458,449.95 arose from the direct banking done by field officers at the sub county levels; and,
2. That the officers had not submitted their weekly returns by the closure of the financial year for reconciliation thus resulting in the difference

Committee Observations

The Committee observed that:

1. the Auditor general was not satisfied with the response provided by the Governor as there were no supporting documentation; and

2. after subsequent requests for docouments, they were still not availed to the Auditors.

Committee Recommendations

1. **The Committee recommends that the County Government improves on its record keeping and ascertains that all collected revenues are properly banked and accounted for;**
2. **Further, such week systems are likely to result in the loss of funds; and,**
3. **Investigations need to be done by the relevant authorities to address the under reporting in the figures.**

9.1 Bank Reconciliation Statement

Records availed for audit review indicated that the County Government maintained three (3) accounts at Central Bank and three (3) accounts at Kenya Commercial bank for development, planning and revenue. However no bank reconciliation were availed for audit review for the six bank accounts despite the fact that the bank statements balance seen reflected a significant balance amounting to Kshs.1,283,894,952 as at 30 June 2014.

The Governor presented as follows:

1. That during the financial year 2013/14, the County executive did not prepare bank reconciliation statements for its accounts as stated because;

i. The County did not maintain a cashbook for the county revenue fund account

ii. The County was using the G-Pay system for payment purposes but the system could not generate bank statements for the Recurrent and development accounts

iii. The IFMIS System which was used to generate payments could not generate a cashbook for each account i.e recurrent and development but instead only

departmental cashbooks can be generated, this made preparation of bank reconciliation a nightmare.

2. That the challenges have been addressed partially with the introduction of Internet banking hence reconciliations are being prepared as required

Committee Recommendation

The Committee recommends the Governor be reprimanded.

10.1 Employee Expenses

Records availed for audit review indicated that the County Executive made payments totaling to Kshs.202,106,903.50 as refund of salaries to National Treasury and Ministry of Health by Tana River County Government for devolved ministries for the period July to November 2013. However, the payments were not supported by details of the beneficiaries and station of work.

The Governor presented that the County executive paid Kshs. 202,106,903.50 being refund of salaries to national treasury and Ministry of health for respective county employees, whose services had been devolved for the period July to November, 2013.

Committee Observation

The Committee observed that:

1. the issue of the national Government requiring Counties to reimburse salaries during that period was widespread across the Counties and required a global approach in handling the matter

Committee Recommendation

The Committee recommends that the Inter-Governmental Relations Technical Committee (IGRTC) looks into the deduction of the money by the National Treasury, with a view to resolving the matter between the two levels of government.

10.2 Casual Expenses

Records made available for audit review revealed that an amount totaling Kshs.5,530,125 was paid as casual expenses. However, no signed payrolls and muster rolls for casuals paid for were maintained and could therefore not be made available to confirm attendance and duties allocated.

The Governor presented that casual expenses amounting to Kshs. 5,530,125 was paid by the county government to casuals working in various departments within the county.

Committee Observation

The Committee observed that the Auditor general had verified the documents and was satisfied with the response provided by the Governor;

Committee Recommendation

The Committee urged the Governor to comply with the PFM Act and to observe Labour laws, and further that the issue of an over bloated workforce that should be ironed out by the County Government as a matter of urgency noting that this issue is recurrent across all counties.

11.0 IT Network Equipment

Records made available revealed that the Tana River County executive installed IT networking equipment in its offices at a cost of Kshs.7,679,321.49. The inspection and acceptance committee report was not signed as required by all the three (3) signatories as required as the chair did not sign.

The Governor presented as follows:

1. That retention money was not deducted from the Interim payment certificate of the supplier because the nature of the work did not warrant deduction of the same; and,
2. That the inspection and acceptance report had been availed for audit verification.

Committee Observation

The Committee observed that:

1. the Auditor general had verified the documents;
2. there was an inconsistency with the inspection and acceptance report – as the report was not signed by the Chairman during audit verification but the during the meeting with the Committee, the submitted document had been signed

Committee Recommendation

The Committee noting the late signature of the Chairman appended to the document, recommends that proper and timely procedures must always be followed.

12.0 Budgetary Control

The annual budget for Tana River County Government as at 30 June 2014 was Kshs.2,026,642,022 for recurrent expenditure and Kshs.1,179,455,101 for development expenditure. Expenditure incurred on development during the year amounted Kshs.94,278,329. Analysis indicates an absorption rate of 7.99%. The absorption rate of 7.99% for development expenditure indicates that few development projects were undertaken during the period under review. No explanation has been made confirming the under absorption of funds.

The Governor presented that during the financial year 2013/2014 the County faced a number of challenges that affected budget implementation, namely:

i. Low absorption of the development funds which was caused by delays in preparing procurement plans, work plans and limited technical capacity;

ii. A delay in appointment of chief officers affected full operation of devolved functions in the first 6 months' period of the first year. This resulted in partial implementation of planned activities at the departmental level.

Committee Recommendation

The Committee recommends that the County take steps to improve on the absorption of development funds in the future.

CHAPTER FOUR

TRANS NZOIA COUNTY EXECUTIVE

The Committee invited the Governor of Trans Nzoia, Hon. Patrick Khaemba, who appeared before the Committee on Tuesday, 17th May and Wednesday, 18th May, 2016. The Committee considered the audit queries against the Governor's responses and made recommendations accordingly:

The Governor's written submission and relevant evidence collected are marked as **ANNEX. 4**

1.0 Outstanding Imprest

Audit review of imprest records showed that as at 30th June, 2014, an imprest of Kshs.64,151,407 which ought to have been surrendered by 30th June, 2014 were still outstanding. It was also noted that some officers were holding more than one imprest with one officer holding 54 imprests totaling Kshs.6,214,872 contrary to Regulation 5.6.4 of the Government Financial Regulations and Procedures.

Consequently, the purpose for which the imprest was issued could not be ascertained.

The Governor presented as follows:

1. That out of the queried amount of Kshs. 64,151,407, Kshs.38,173,938 had since been accounted for and the culpable officers had been surcharged for the un-surrendered imprest;
2. That the anomaly was caused by the weak systems in the County Government during that period: and,
3. That firm instructions had been issued to relevant officers to adhere to set regulations on the management of imprest.

Committee Observations

The Committee observed that the Governor did not address the query on how the monies issued were spent.

Committee Recommendations

Given the fact that the governor had failed to provide any documents, the committee recommends that the governor be held responsible that the governor and all officers responsible be investigated, prosecuted and surcharged with the amount lost, with interest rates charged at prevailing CBK interest rates. The interest should be charged commencing July, 2014. This should be done by 1st May, 2017{the committee may consider proposing a number of days after adoption of the report rather than a specific date}.

2.0 Payment of Creditors Taken Over From Defunct Local Authorities

Examination of expenditure records revealed that the County Government of Trans Nzoia paid creditors a total of Kshs.45,168,329, inherited from the defunct Municipal Council of Kitale and County Council of Nzoia. However, there was no proof that the same had been validated by the Transition Authority as was then required by the Transition to Devolved Government Act, 2012. Consequently, the legality and propriety of the expenditure of Kshs.45,168,329 could not be confirmed as at 30th June, 2014.

The Governor in his response, presented as follows:

1. That it was true that the County Government paid Ksh. 45,168,329 to creditors inherited from the defunct local authorities;
2. Most of these payments were statutory deductions which would have attracted serious penalties if defaulted;
3. That other pending payments were awaiting verification and validation by the defunct Transition Authority.

Committee Observations

The Committee observed that the action by the Governor to pay outstanding statutory deductions was proper and financially prudent but no supporting documents to prove the said payment had been provided .

Committee Recommendations

The Committee recommends that the governor and the responsible officers be prosecuted for failing to provide information under the Public Audit Act, 2015. Failure to provide information is an offence under the Public Audit Act. Section 62 of the Act Provides-

62. Other Offences

(1) A person shall not—

(a) without reasonable cause or lawful excuse, obstruct or hinder, assault or threaten a member of staff of the Office of the Auditor-General or professional acting under this Act;

(b) without justification, fail to provide information required under this Act;

(c) without justification, fail to provide information within reasonable time that is required under this Act;

(d) submit false or misleading information;

(e) misrepresent to or knowingly mislead a member of staff of the Office of the Auditor-General or professional acting under this Act; or

(f) interfere with or exert undue influence on any staff of the Office of the Auditor-General or on any person authorized by the Auditor-General to perform functions under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years, or to both.

3.1 Hire of Graders

The County Government of Trans Nzoia made payments amounting Kshs.29,080,000 to various firms in respect of hire of graders. According to the local purchase orders and invoices supporting the payments, the rate is indicated as Kshs.46,560 per day.No documentation had been provided for audit review to show how the suppliers of the graders were identified and the daily charge rate of Kshs.46,560 determined. Further, the details of the graders including the registration numbers and the respective roads worked on had not been availed for audit review.

The Governor presented as follows:

1. That the suppliers of graders were identified through restricted tendering and by using guidelines from the Ministry in-charge of Public Works ; and,
2. That the tendering was restricted as a matter of urgency due to the expected onset of long rains at the time.

Committee Observations

The Committee observed that-

1. the Governor had not submitted the quotations received for the supply of graders;
2. the open tender procurement method would have been more preferable as it would most probably lead to cheaper costs.

Committee Recommendations

The Committee recommends that the governor and the responsible officers be prosecuted for failing to provide information under the Public Audit Act, 2015.

Further, the governor and the persons involved be investigated, prosecuted and monies lost recovered from those found culpable.

3.2 Bush Clearing and Road Grading

Audit review of expenditure records showed that payments amounting to Kshs.129,277,002 were made to various firms in respect of bush clearing, road grading and other road maintenance in various county wards. Two other payments totaling Kshs.9,394,800 were made to two firms, M/s HAC Enterprises (Kshs.4,094,000) and M/s Lyavo Enterprises Ltd (Kshs 5,300,800) in respect of marking of roads within Kitale town.

However, in all cases, there were no documents to support how the firms were identified and the contract sums determined. In addition, the list of roads that were to be graded, road contract sums allocated to each contractor and the necessary supporting documents were not availed for audit review.

The Governor presented as follows;

1. That the contractors were identified by restricted tendering, by floating quotations to various pre-qualified contractors; and,
2. That the relevant documents were available for verification.

Committee Observations

The Committee observed that-

1. The Governor had not presented requisite documents to the Auditor- General ;
2. Restricted tendering was not the most appropriate procurement method for bush clearing and road grading.
3. The Governor needed to give the necessary documentation to enable the committee consider the query appropriately; and
4. Value for money cannot be ascertained without provision of documents.

Committee Recommendations

The Committee recommends that the governor and the responsible officers be prosecuted for failing to provide information under the Public Audit Act, 2015. Further, the governor and the persons involved be investigated, prosecuted and monies lost recovered from those found culpable.

3.3 Cash Purchases

During the year under review, examination of payment records revealed that the County Government made cash purchases amounting Kshs.31,072,113 as summarized below for goods and services whose values were more than the Class A entitlement as stipulated by Regulations. In addition, no records were availed for audit review to show that the goods and services procured were actually received.

The Governor presented as follows:

1. That these anomalies took place because of staff capacity challenges;
2. That administrative action was taken against the then Chief Finance Officer whom was a seconded officer from the Transition Authority;
3. The Goods and services were received and rendered to the County Government; and,
4. That to address the challenge, the Governor had recruited chief officers to serve all departments.

Committee Observations

The Committee observed that the relevant documents on this query had not been submitted to the Auditor-General .

Committee Recommendations

The Committee recommends that the governor and the responsible officers be prosecuted for failing to provide information under the Public Audit Act, 2015. Further, the governor and the persons involved be investigated, prosecuted and monies lost recovered from those found culpable.

3.4 Purchase of Land

The County Government of Trans Nzoia entered into a land purchase agreement for 10 acres of land with an individual based in Nairobi for Kshs.23million. The land was said to be for the official residence of the Governor. Subsequently, a payment of Kshs.11,500,000 being 50% of the purchase price was made on 19th May, 2014 vide payment voucher No.03451. However, there was no documentary evidence to confirm that the tender for purchase of land was advertised as was then required by the Public Procurement and Disposal Act, 2005 Regulations.

In addition, no land valuation report was provided for audit review and as such, it was not clear as to how the land was identified and the purchase price determined.

The Governor in his response, presented as follows:

1. That it was true that the County Government paid Ksh. 11,500,000 on 19th may 2014 Vide PV No. 03451 as 50% of the purchase price for the land; and
2. That the procurement was done through open tender and that relevant documents were available for verification:

Committee Observations

The Committee observed that-

1. The Governor had not submitted relevant documents on this query to the Auditor- General; and
2. The agreement was not signed by the seller.

Committee Recommendations

The Committee recommends that the governor and the responsible officers be prosecuted for failing to provide information under the Public Audit Act, 2015. Further, the governor and the persons involved be investigated, prosecuted and monies lost recovered from those found culpable

3.5 Purchase of Uniforms

A review of payment records showed that an amount of Kshs.2,356,150 was made to a company for supply of staff uniform on 28th October 2013 vide payment voucher number 85 and cheque number 403. However, according to stores and delivery records, uniforms worth Kshs.652,400 were supplied as at 31st January 2015. No reason had been given for making full payment for goods that had not been supplied.

The Governor presented as follows:

1. That the uniforms had since been supplied and issued for use in the County and acknowledged that procedures had not been adhered to;
2. That Andrew Wanyonyi ,the officer who authorized the payment, was interdicted;
3. The EACC was called in to conduct investigation on this and other malpractices which led to the prosecution of six officers and the cases were ongoing.

Committee Observations

The Committee observed that-

1. The Governor had not submitted the pro-forma invoices, requisitions and letters of administrative action taken, to the Auditor- General .
2. Documentation was important in order to verify the governor's submissions.

Committee Recommendations

The Committee recommends that the responsible officers be surcharged and to pay the county government by 1st May 2017. (The Committee may consider making a recommendation on the investigation report by EACC, when/if the matter is concluded)

3.6.1 Expenditure on Motor Vehicle Insurance

Review of the documents availed indicated that an amount totaling Kshs.13,289,505 was paid to various insurance firms in respect of insurance premiums for County Government vehicles, motor cycles and graders. However, there was no documentary evidence to confirm that the insurance providers were identified through a competitive bidding process as was then required by the Public Procurement and Disposal Act, 2005 and the Regulations.

In addition, there were no valuation reports to support the values of the insured vehicles and it was therefore not possible to confirm how the premiums paid were determined. Further, the insurance policy documents were not provided for audit review. Consequently, the propriety of the premiums paid could not be confirmed.

The Governor presented as follows;

1. That the cost of the new motor vehicles was used to determine the insurance premiums;
2. That for the old vehicles, the Insurance providers were identified through restricted tendering and they conducted the valuation of the vehicles. This was a contravention as the valuation ought to have been done by the Ministry in charge of transport; and,
3. That administrative action was taken against the officer who caused the anomaly.
4. That the relevant documents were available for verification.

Committee Observations

The Committee observed that-

1. The Minutes provided by the Governor reveal that the tender had been awarded before and that it was just a ratification exercise;
2. The Minutes were not admissible as they had not been signed;
3. That relevant documents including policy documents, had not been forwarded to the Auditors.

Committee Recommendations

The Committee recommends that the governor and the responsible officers be prosecuted for failing to provide information under the Public Audit Act, 2015. Further, the governor and the persons involved be investigated, prosecuted and monies lost recovered from those found culpable.

3.6.2 Irregular payment for supply of Fuel

A review of payment records revealed that payments totaling Kshs.4,867,830 were made to two oil dealers between January and May 2014 for supply of fuel against cash sale receipts. The payments were made in January and May 2014 while some of the cash sale receipts supporting the payment date as far back as 30th June 2013. There was however no evidence that the fuel paid for was supplied, received and recorded in the stores records. In addition no documentation had been provided to show how the firms were identified and the prices charged determined. Consequently, the propriety of the expenditure of Kshs.4,867,830 cannot be confirmed.

The Governor presented as follows;

1. That this had been occasioned by the challenges experienced by the County Government in terms of proper fuel record keeping;
2. That the firms were identified by competitive bidding; and,
3. That the concerned chief finance officer who was in charge at the time had since been suspended.

Committee Observations

The Committee observed that the documents had not been presented to the Auditor-General.

Committee Recommendations

The Committee recommends that the governor and the responsible officers be prosecuted for failing to provide information under the Public Audit Act, 2015. Further, the governor and the persons involved be investigated, prosecuted and monies lost recovered from those found culpable.

3.6.3 Fuel Issued to Privately owned Cars

Audit review of fuel records including fuel register, detailed orders, invoices and statement of accounts from the fuel suppliers revealed that fuel worth Kshs.4,174,818 was drawn from a Petrol Station by vehicles that were not among vehicles owned by the County Government . No documentation was provided to show the ownership and whether they were in use by the County Government.

In addition, the registration numbers of some motor vehicles were incomplete or incorrect. In the absence of the ownership records, lease rental records and confirmation as to whether the vehicles were in use by the County Government, it was not possible to confirm that fuel worth Kshs.4,174,818 was used .

The Governor presented as follows;

1. That the fuel was used by county government officials and MCAs as at the time there was an acute shortage of County Government vehicles necessitating the use of private vehicles in line with section K3 of the code of regulations; but,

2. The County Government had since acquired its own vehicles and hence this had been rectified.

Committee Observations

The Committee observed that the documents presented by the Governor had not been submitted to the Auditors .

Committee Recommendations

The Committee recommends that the governor and the responsible officers be prosecuted for failing to provide information under the Public Audit Act, 2015. Further, the governor and the persons involved be investigated, prosecuted and monies lost recovered from those found culpable.

4.0 Procurement of Consultancy Services for Preparation of County Integrated Plans

The County Government of Trans Nzoia entered into agreement with a consultant firm on 12th June 2013 for the preparation of county integrated plans at a contract sum of US$.864,401.84 (Kshs.73,897,713) at the exchange rate of Kshs.85.49. The integrated plans included; revenue study plan, integrated development plan, strategic plan, human resource plan, urban/spatial plan and sector plan. The contract period was for twelve (12) months effective 26th June 2013. However, it was not clear how the consulting firm was identified and the contract sum of US$.864,401.84 determined as no documentary evidence was seen to confirm that the bidding process was done through a competitive and transparent manner.

According to the payment schedule, the payment was to be made as below:

i. 30% on submission of inception report;
ii. 40% on submission of approved draft report;
iii. 10% on submission of final draft report; and
iv. 20% on submission of the final assignment.

However, a payment of Kshs.10milllion (US$117,647.05 at exchange rate of Kshs.85 to the US dollar) was made to the consultant on 12th July 2013, an amount equivalent to 14% of the contact sum, yet no inception report had been submitted as required by the provisions of the contract. A further payment of Kshs.18,000,000 was made on 30th June 2014 vide payment voucher No.04269.

The management had not provided an explanation as to why the consultancy services were not procured through competitive bidding as required by the Public Procurement Act, 2005 and the Regulations. In addition, no reason or explanation had been provided for making payments while the consultant had not submitted any report as required by the contract.

Further, there is no evidence that the County Budget and Economic Forum was constituted as required by the Public Finance Management Act, 2012 before engaging the consultant to prepare the county integrated plan.

The Governor presented as follows;

1. That it was true that the County Government had entered into the said contract because the County did not have qualified staff at that time and the strategic plan and the other plans were urgent according to the Government;
2. That the County Tender Committee awarded, through direct procurement, the contract to Price Waterhouse Coopers in line with the Public Procurement and Disposal Act, 2005;
3. That the spatial planning was not concluded because the county had to recruit another firm to conduct the aerial mapping which was a requirement for proper spatial planning; and,
4. That the County government had since recruited competent officers and operationalized the planning department.

Committee Observations

The Committee observed that:

1. the documents presented by the Governor had not been submitted to the Auditors;
2. the procurement method adopted was not the best.
3. Without documentation, it would be difficult to ascertain whether the tender was awarded to PWC.

Committee Recommendations

The Committee recommends that the Governor and the responsible officers be prosecuted for failing to provide information under the Public Audit Act, 2015. Further, the governor and the persons involved be investigated, prosecuted and monies lost recovered from those found culpable.

5.1 Cash Books

The County Government operated six (6) bank accounts, three with two Commercial Banks and the other three with the Central Bank of Kenya. It was however, noted that the cash books for the Imprest Account and Revenue Collections Account had only been updated up to 30th April 2014 while the Operations Account maintained with the Commercial Banks was not updated since July 2013 as required by Regulations 5.9 and 5.11 of the Government Financial Regulations and Procedures. Further, the cashbooks for the three accounts with Central Bank of Kenya; that is Recurrent, Development and Revenue were not provided for audit review while the County Executive also failed to provide bank reconciliation statements for audit review.

In the absence of proper and up to date cashbooks and non-preparation of bank reconciliation statements, it may not be possible to detect errors and incidences of impropriety.

The Governor presented as follows;

1. That at the time the County Government had a lean staff complement and could not handle the workload;
2. The county government had since recruited enough staff who are keeping the records properly.

Committee Observations

The Committee observed that the Auditor was satisfied with the response and the documents presented by the Governor.

Committee Recommendation

The Committee observed that the County Government must at all time keep proper books of account and present the documents at the appropriate time.

5.2 Bank Overdraft

The County Government continued to make payments out of the Imprest account and Operations account without sufficient funds which resulted into the accounts being overdrawn on various dates between 1st September 2013 and 21st February 2014 . The overdraft on Imprest account which stood at Kshs. 18,892,116 as of 12th September 2014 attracted an interest of Kshs.570,973 as at 30th June 2014, while overdraft on Operations account stood at Kshs.100,218,603 as of 6th May 2014 attracting an interest Kshs.411,322 as at 30th June 2014.

The payment of interest could have been avoided with prudent financial management practices. No reason had been provided for securing overdraft facilities.

In addition, the authority from the County Assembly to allow the County Executive to borrow or set the limit on borrowing as required by Sections 141 and 142 of the Public Finance Management Act, 2012 was not provided for audit review.

The Governor presented as follows;

1. That the overdraft was sought to bridge a funding gap from the National Treasury; and,
2. That authority was sought from the County Assembly as required by the Law.

Committee Observations

The Committee observed that the documents presented by the Governor had not been submitted to the Auditors and as such no verification could be done.

Committee Recommendations

The Committee recommends that the Governor and the responsible officers be prosecuted for failing to provide information under the Public Audit Act, 2015. Further, the governor and the persons involved be investigated, prosecuted and monies lost recovered from those found culpable.

5.3 Cash Withdrawals

A review of the cash book and the related records revealed that during the month of June 2014, amounts totaling Kshs.72, 316,862.60 ha been withdrawn from the KCB Operations Account No.1140772694. However, no documentation has been provided to show how the cash withdrawn was utilized. Consequently the propriety of the cash withdrawn amounting to Kshs.72, 316,862.60 cannot be confirmed.

The Governor presented as follows;

1. That it was true that the money was withdrawn and used for official purposes; and,
2. That the relevant documents were availed for verification.

Committee Observations

The Committee observed that the documents presented by the Governor had not been submitted to the Auditors and as such no verification could be done.

Committee Recommendations

The Committee recommends that the Governor and the responsible officers be prosecuted for failing to provide information under the Public Audit Act, 2015. Further, the governor and the persons involved be investigated, prosecuted and having not explained the use of the money, the money be recovered from those found culpable, at CBK interest rates, effective from the time when the money was withdrawn.

6.0 Un-Vouched Expenditure

Audit review of expenditure records showed that payments totaling Kshs.23,812,029.30 were made to three firms and two financial institutions, but the payment vouchers together with the supporting documents were not provided for audit review. It was therefore not confirmed what the payments were for.

Consequently, the propriety of the expenditure of Kshs.23,812,929.30 could not be confirmed.

The Governor presented as follows;

1. That the payments were for valuation of land, maintenance of sewerage line and bush clearing to three firms namely Mwamba valuers, Trans-Judy general Suppliers and Mika Investment;
2. That the other two payments were in respect of salary payments and remittances of statutory deductions to Ukulima FOSA and CO-OP Bank of Kenya

Committee Observations

The Committee observed that the documents presented by the Governor had not been submitted to the Auditors and as such no verification could be done.

Committee Recommendations

The Committee recommends that the Governor and the responsible officers be prosecuted for failing to provide information under the Public Audit Act, 2015. Further, the governor and the persons involved be investigated, prosecuted and having not explained the use of the money, the money be recovered from those found culpable, at CBK interest rates, effective from the time when the money was withdrawn.

CHAPTER FIVE

NYANDARUA COUNTY EXECUTIVE

The Governor of Nyandarua, Hon. Daniel Waithaka, was invited to appear before the Committee to respond to the audit queries raised in the Auditor General's report of 2013/2014 financial year on Nyandarua County Government. The Governor appeared before the Committee on Wednesday 18th November, 2015, Thursday 7th April, 2016 and Thursday 28th April, 2016 and Friday, 2nd 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. 5**

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

1.1 Irregularities in roads rehabilitation works

The County Executive of Nyandarua spent Kshs.657,947,191.00 in roads maintenance and rehabilitation in all five sub-counties. The work entailed grading, gravelling, opening and murraming of weather roads. However, the amount spent was Kshs. 410,447,191.00 or 165% more than amount provided for roads maintenance and rehabilitations in the budget which was Kshs. 247,500,000.00 for financial year 2013- 2014.

Further, the following anomalies were observed:

i. The County Executive hired graders, shovels, loaders, excavators and tippers/lorries at government dry rates, it would fuel them and engage temporary drivers and casual workers to supply and spread murram and perform the clearing work. However, there was no procurement plan prepared for this works and all materials and services were procured directly without

regard to procurement procedures provided by the Public Procurement and Disposal Act, 2005 and Regulation 2006.

ii. Details of the roads rehabilitated in kilometres and width were not made available for audit verification. Further, there were no bills of quantities prepared, showing specifications of wok to be done and corresponding costs.

iii. There were instances where the date of invoice was earlier than the Local Service order (LSO). This means that invoices were raised before the work was given out and done.

iv. There were no completion certificates, site meetings minutes or inspection and acceptance report before the works were paid for as required by regulation 17 (1) of the Public Procurement and Disposal Regulations 2006.

v. The fuel control register was not properly maintained and detail orders to support fuel use were not provided for audit verification. Further, fuel drawn was not posted in the vehicle work tickets.

vi. Most Work tickets for the hired machineries were not signed by the officers in charge of road works and it was not possible to ascertain propriety of the journeys made.

vii. During physical verification, it was observed that some hard core delivered to some of the roads were still lying on the road sides; In some other roads e.g. Bosnia Matura was poorly done resulting into it being redone after the initial murraming barely two months after the works had been done while MathakwaMirangine road was being re-graded and re-murramed after the initial murram was found to be substandard, thus a proof of poor workmanship. In view of the foregoing, the propriety of spending Kshs.657,947,191.00 on roads works by the County Executive cannot be confirmed. It cannot also be confirmed that value for money was attained.

Governors Response

1. The tender committee had approved the procurement method of hiring of equipment using the agreed government rates as a way of quick fix to the deplorable state of the road network in the county;

2. The money has only been paid for completed and inspected road projects supported with the relevant documents. The initial budget was Kshs. 506, 118,000 and the department of roads, public works and transport carried out their works with the said budget;

3. There was Kshs. **251,000,000** that was earmarked for the purchase of machinery out of which only Kshs. **58,094,000** was used leaving a balance of Kshs 192,906,000. The balance of **Kshs 192,906,000** was utilized for road works and hence the total amount that was dedicated to the roads was Kshs. **699, 024,000;**

4. The total amount spent was Kshs. **671, 948,269** which implies that there is no over-expenditure;

5. In total, **381 roads** were done covering a total **1075.35 kilometres** graded and **620** Kilometres gravelled;

6. Nyandarua County had very pitiable and neglected road network. Consequently by bringing the government close to the people through the County Governments, the expectations and pressure from the residents to improve the road network in order to deliver their farm products which predominantly occupies the Nyandarua main economic activity demanded an urgency of gravelling of roads.

7. Measures have been put in place to ensure that there will be no repeat of the issues raised in the future. These include contracting by quantities other than hourly payments and stoppage of the hire of machinery. The workforce is also being beefed up through recruitment. In regard to the materials that were lying on the

roads, this was because by the time the audit was undertaken, work was still in progress and the same had been spread and hard pressed.

8. The Executive has suspended seven officers including the County Executive Committee member and a Committee has been formed to thoroughly investigate and deliberate any flouting of regulations and elements of fraudulent activity after which appropriate action will be taken.

Committee Observation

The Committee had previously directed that the Office of the Auditor General conducts a special audit on the issue.

The Committee was informed that the Office of the Auditor General was in receipt of the request and that the Special Audit would be availed within the next two weeks.

Committee Recommendation

Following the enormous irregularities, the special audit report on the matter should be discussed and recommends that after the deliberations, appropriate action be taken on the Governor and persons involved in the irregularities if the concerns are confirmed.

1.2 Irregular procurement of feasibility study of Olkalou Town Sewerage system

During the financial period under review, the County Executive of Nyandarua entered into an agreement with TAHAL Group of Israel to carry out a feasibility studies and the preparation of designs for Ol-Kalou Town Sewerage system at a cost of Kshs.55,312,500.00 through a Public Private Partnership agreement. The total cost of the project was to be Kshs.110,625,000.00 but was shared equally between County Government of Nyandarua and TAHAL Group as per agreement signed on 30 April

2014. However, the awarding of contract was not subjected to a competitive bidding and the following anomalies were observed;

i. Price setting and success fees could not be confirmed as competitively determined in absence of competitive bidding. This was also against section 28(1) of the P.P.P. Act No 15 of 2013.

ii. The project was not approved by Public Private Partnership's committee and the cabinet as per the section 7 (d) and 24(1) of P.P.P Act No 15 of 2013; iii. There was no established public private partnerships node in the County Government as per Section 16(1) of the P.P.P. Act No 15 of 2013;

The County Executive was therefore in breach of the law.

Committee Observation

The Committee observed that:

The response from the County Government was insufficient, as neither the Report of the works done and the Public Private Partnership Agreement were availed;

1. Official communications between Nyandarua and Tahal Group (Israel)
2. Justification of the payment of 55,000,000; 110,000,000
3. There was no evidence of who was the Bank Guarantor and all supporting documentation relating to this were not availed.
4. There was no justification for the advanced payment
5. There was no evidence of competitive bidding process availed to the Committee

Governors Response

The Governor during the following sitting responded by informing the Committee that;

1. Tahal Consulting Engineers from Israel entered into an agreement with the County Government of Nyandarua to develop the County's Water Master Plan and review designs for Ol'kalou Sewerage System as per the terms of agreement and not feasibility studies;

2. The process used to engage the consultant was direct sourcing and it was not a PPP arrangement. This was because the structures for PPP engagement were not in place in the County as at the time the agreement was signed; and

3. The total cost of the consultancy was US$ 625,000 (Kshs. 55 Million).

The criterion used and considerations given in the selection of Tahal Consultants were based on the following:-

1. Tahal Consulting firm has the know-how and experience in the development and advancement of water sector internationally, including development of surface water and groundwater resources, urban and rural water supply, water treatment, waste-water treatment and reuse;

2. Commitment by Tahal to link the County with partners who would provide funds towards the implementation of projects in the Master Plan. Tahal would use its reputation with these partners to ensure that the County obtained the funds at favorable terms;and

3. The fact that Nyandarua County had no likelihood of sourcing the Kshs. 2.5 Billion which is the estimated cost of water projects in the County Integrated Development Plan (CIDP). A further Kshs. 16 Billion would be required to implement the proposed mega dams' projects in the county.

The pricing of the consultancy at Kshs. 55 Million was decided through negotiations and comparative analysis of other projects that the consultant had undertaken as listed below.

a) El Nino Emergency Project (ENEP), Nairobi Water – Design and Construction for Approx. Value of Contract: US$ 2.7 million (Kshs. 240 Million);

b) Consultancy services for Water supply Master Plan for Mombasa and other towns within Coast Region, Mombasa – Approx. Value of services in USD: 1,824,900 (Kshs. 162 Million);

c) Master plan for Development of Coastal Zone, Angola – Approximate value/contract UD$ 7,000,000 (Kshs. 623 Million); and

d) Rehabilitation/Expansion of Rural Water Supply, Ghana – Approximate Value /contract US$ 56,200,000 (Kshs. 5 Billion).

A bank guarantee was provided by the consultant to ensure that County funds were secure in the event of non-delivery of agreed products in the contract. The agreement with Tahal Consultants was in two stages:-

a) Stage one consists of:

i) Inception report for Nyandarua County Water Master Plan

This report was very detailed and comprehensive in that it contained all relevant background information on the county. To complete the remaining part of the master plan, only some data gaps will need to be filled.

ii) Design review of Ol-kalou town Sewerage System

The initial sewerage design had been carried out in 2009 when Ol-kalou town did not have its current status of county headquarters. Thus a number of parameters needed to be changed to take into account the present situation.

b) Stage two consists of interim and final report for Nyandarua County Water Master Plan

The cost of stage one is Kshs. 55 Million and reports have already been finalized and handed over.

The Tahal Team visited the County for a field visit from 11th to 15th August 2014. During this period, they visited all the 25 wards in the county. The ward visits enabled them to meet with members of the county assembly (MCAs) and community members. A brief report on the field visit is annexed.

The County Government of Nyandarua and MASHAV, the Israel agency for international development has signed intent for cooperation in areas of water, agriculture, health, technology transfer and development of green energy.

Committee's Further Observations

The Committee observed that:

1. the Governors response did not address why the County resorted to single sourcing as a procurement method;
2. Noted that the Auditor general had seen and verified the relevant documents and remained dissatisfied with the procedures used;

Committee Recommendation

The Governor and any other person(s) involved in the entire process be investigated to confirm whether they bridged the Public Procurement and Disposal Act and in the event that it is confirmed, action should be taken against them in accordance with the Law.

Irregular Leasing of the County Offices

During the financial period under review, the County Executive of Nyandarua rented a building (Njorah House) to house the County offices within OlKalou town. This was done through single sourcing and other building owners in Olkalou town were not invited to bid. Further, audit verification revealed that the County Government entered into a short term lease of two (2) years renewable at a cost of Kshs 300,000.00 per month payable twelve (12) months in advance amounting to Kshs 3,600,000.00 per year. This was found to be too short for the County Government to have realised value for investment on renovation and modification of the building in case owner refuses to renew the lease contract. However, no funds had been paid out by end of June 2014.

The regularity of the leasing procedures could not be confirmed.

Governor's Response

The Governor presented that:

1. A survey was conducted by a team of officers in Ol Kalou to look for a suitable office for H.E,the Governor. The team which comprised of all Interim officers from Transition Authority, Ministry of Housing and Public Works, recommended the current building that was found to be the only one having sufficient space, parking lot and more strategically located to house the Governor and the Executive.

2. In regard to the short time, the County intended to relocate to its own building thus there was no need for a long lease to avoid legal complications during termination. However there was provision in the lease for extension if need arose.

3. The construction of County offices has already started near the Nyandarua County Commissioner's offices. Fixtures and fittings will be removed at the end of lease period. The lease has also been extended while awaiting completion of County offices.

Committee Observation

The Committee observed that minutes of the tender committee and the extension of the lease should be availed for further review and the Committee visits the leased offices.

Committee Recommendation

The Law was flouted in procuring the offices required since single sourcing was used. However the committee then notes there was limitation of suitable office space and this is unique to this particular town.

Therefore in future the Law must be strictly followed.

1.4 Irregular procurement of County Offices Refurbishment works

During the financial period under review, the County Executive of Nyandarua contracted a contractor to carry out the work of refurbishing and partitioning its offices at the County Headquarter at a cost of Kshs.12,811,950.00. However, the following anomalies were observed on this process;

i. The contractors was said to be procured through use of restricted tendering method from a list of contractors obtained from the Ministry of Public Works at Nyahururu but this bit of information could not be confirmed as it was not supported by any documentary evidence.

ii. This contract was later varied to include additional works of Kshs 8,847,391.00 or 69% of the original contract sum. This was done without resulting to retendering process as required by section 31 (c) of the Public Procurement and Disposal regulations 2006 for contract variations above 15%.

The regularity of procurement procedures for the refurbishment of the County headquarters could not be confirmed.

Governor's Response

The Governor asked his CEC Roads and Public Works who informed the Committee that due to the urgency to settle the county executive, the county government resolved to use restricted tendering method. Quotations were sought from a list of 10 pre-qualified tenderers.

The Governor further presented that:

1. Due to the urgency to settle the County Executive, the County Government resolved to use restricted tendering method and quotations were sought from a list of 10 prequalified tenderers held by the Ministry of Public Work this action can be supported by Section 73 (2) of the PPDA 2005.

2. An approved list of prequalified suppliers from the Ministry of Public Works was used to invite the bidders and hence the law was not contravened as indicated above.

3. Regarding the failure to widely circulate the restricted tendering: 10 bidders were invited which was considered as a wide circulation and hence the rules were not contravened

4. Under the PPDA Act 2005 and regulations 2006, procurement of public works County Government falls under class A which requires 6 million for Open Tender and not 3 million.

5. Section 25(3) of Public Procurement and Regulation 2006- Tender invited from the prequalified list. Ref NYA/TC/010/2012-2013 of 24th June 2014 **(Approval)**

6. Restricted Tender Procurement followed. Ten (10) tenderers were invited as per the Approval of the above TC ref NYA/TC/004/2012-2013.

7. The regularity of the procurement procedures was confirmed through reference of Agenda No NYA/TC/3/004/2012-2013 of NYA/TC/004/2012-2013

Committee Observation

The Committee observed that:

- Part(i) documentation on list of the ten contractors who bidded was not availed
- Part(ii) was problematic because of the variation on works amounting to 69%

There was a need to visit Nyandarua county to ascertain the building that was renovated with Kshs. 21,000,000

The Committee observed that the County Government did not re-advertise upon realization that the new works exceeded the 15 per cent mandatory.

The Committee also observed that the Governor acknowledged flouting of the law and proceeded to sack the CEC Roads and transportation in the County Government at the time.

Committee Recommendation

The variation was irregular and thus flouted the law in restriction of re-tendering. Further investigations should be done on the matter with the intent of apprehending persons involved.

1.5 Irregular Procurement of Works

During the financial period under review, the County Executive approved construction of five(5) Eco toilets in Kasuku, Njabini, Miharati, Ndaragwa and Captain Markets each at Kshs.5,000,0000.00 totalling Kshs.20,000,000.00. However; The following anomalies were observed;

i. The contractors who were invited to make quotations were not in the list of prequalified suppliers in the financial year 2013/2014.

ii. For Ndaragwa toilet, contract agreements, tender evaluation and award minutes were not made available for audit;

iii. The Kasuku market project was abandoned after it was found to have been done in road reserve. A total of Kshs 695,241.36 had already been paid to the contractors although upon inspection, the only work which was found to have been done was digging of trenches and some materials on the site which did not correspond with the amount paid.

iv. There was no Environmental Impact Assessment report that was produced for audit verification to prove that these projects met the environmental requirements before implementation.

The propriety of the expenditure and the regularity of the procurement procedures could not be confirmed.

Governor's Response

The Governor presented that:

1. Authority was not sought from Tender Committee to apply selective tender. Advertisement required 6M and above. The BQ was prepared for each area hence each Sub county given its individual quotation.

2. Most were prequalified from the 2013-2014 FY from County Government while others from the sub counties in the national prequalification lists within the county.

3. Kasuku town has been seriously affected by lack of a public toilet. In an attempt to respond to the pressure by the residents, the County Government proposed the construction of a public toilet whose initial approval and valuation of works was done by Public Works. Works were awarded using the right process and construction work kicked off. However it was realized that the identified site was part of road reserve. With this, works were halted and public works department assessed the work done and value of materials on site and raised the certificate of payments of Kshs. 695,241.36.

5. Environmental Impact Assessment (E.I.A) from NEEMA was not done prior to the project.

6. The County Government is undertaking EIA as auditor's advice and recommendation.

The Governor also informed the Committee that they paid the aforementioned sum based on the certificate they were given and that Kshs. 335, 000 was used on materials and the balance from Kshs. 695,241 was what was incurred before the stoppage of the project was given.

He further informed the Committee that this was a partial payment because the contractor was discontinued and the rest of the money could not be paid.

Committee's Observation

The Committee observed that:

1. There was need for the recovery of Kshs. 695,241.36 or the balance after deduction of materials;
2. Resolved to visit to ascertain the existence of the toilet; and,
3. Directed that contracts for eco toilets should be availed to the Committee at the time of the visit.

The Committee was in agreement with the County Government that the county government should move fast to continue with the construction of the toilet on the land that has been identified.

Committee's Recommendation

The Committee recommends that the Kshs. 695,241.36 be investigated. If confirmed the Governor and any other persons involved be surcharged and the amount recovered from the persons involved with the prevailing CBK Rates.

1.6 Uncompetitive procurement of repairs and maintenance of motor vehicles, plant and machineries

During the financial year under review, the County Government spent Kshs 9,662,207.14 on repair and maintenance of the county vehicles and heavy machineries.

However, these services appear to have been procured without following laid down procedures; No quotations or other tender documents were produced for audit verification and there were no reports of Government Mechanical Engineer to support the repairs. Further, there were no reports of the inspection and acceptance committee produced to confirm that the services done as required.

The County Executive was therefore in breach of the law and the propriety of the expenditure could not be confirmed.

Governor's Response

The County Government responded by informing the Committee that they have since submitted all the documentation to the Auditor General for verification. Further, they informed the Committee that they inherited from the defunct county council where vehicles to be repaired were inspected internally by a mechanical foreman. They also attached an inspection report and also purchased a number of new vehicles which were serviced by the dealers who are prequalified by the national Government.

The County Government then informed the Committee that, they realized that there was a deficiency in the process, a circular dated 22nd April 2014, Nyandarua County Government, TIE 8/04, was issued to all departments advising on how the procedure would apply in vehicle maintenance.

Committee's Observation

The Committee observed that that there was no competitive bidding. They did not identify contractors to service the vehicles.

The Committee however, noted that the County Government rectified the anomaly .

Committee's Recommendation

The Committee recommends that, at all times the County Government should follow procedure in accordance with the Public Procurement and Oversight Act in acquiring or disposing of government property.

1.7 Irregular Procurement of pipes

During the financial year under review, the County Executive through the Ministry of Environment, Water, Energy and Natural Resources procured pipes worth Kshs. 401,500.00 from a supplier who was not in the list of prequalified supplier of goods and services in the financial year under review. It was not clear why the County Government ignored other suppliers who were shortlisted. Further it was not explained how the supplier was sourced.

The County Executive flouted the Procurement Procedures by not sourcing the quotations from the prequalified suppliers.

Governor's Response

The Governor responded by informing the Committee that all documents in this respect were forwarded to the Auditor General for verification.

Committee's Observation

The Committee confirmed that the auditors had indeed verified the documents as being in order and satisfactorily responded to the audit query .

Committee's Recommendation

The Committee recommends that going forward the documentation should be submitted in time as at the time of audit.

2.0 Expenditure

2.1 Unaccounted for funds for construction of County headquarter

The County Executive received Kshs.62,000,000.00 from the Transition Authority on 5 June 2013 to facilitate acquisition of office structures. However, the funds were not utilized for the intended purpose since no construction of offices has been done to date. Records showed that the funds were used to pay for other unapproved expenditure. Further, the County Government did not give details of how the amount was utilized and accounted for.

Governor's Response

The Governor informed the Committee that;

The figure captured by the auditors is incorrect; the correct figure is Ksh. 61, 592,200.

Out of the amount Ksh 61,592,200, the County has since accounted for Ksh 56,745,968 by surrendering the said expenditure voucher to Transition Authority. Ksh.62,000,000 was the amount of money which was the balance brought down as treasury returns and budgeted in financial year 2013/14, where an amount of Kshs. 46,991,874 was budgeted for office construction and refurbishments. Kshs. 19,774,024 was used for office refurbishments in the county headquarters; and an amount of Kshs. 5,309,350 was used by the Nyandarua county assembly for the purchase of the Hansard and electronic equipment's as the directive from transition authority as per attached letter on physical verification on utilization of Kshs 61,592,200. The Kshs. 45 million which was budgeted for in the financial year 2013/14 had not been used for office construction and it was later budgeted for in the financial year 2014/15 for office construction where Kshs. 31,

662,594 which has been used to pay for construction of the offices currently on going to be occupied by the Executive in the financial year 2014/15.

He attached copies of surrender voucher and the forwarding letter to the Transition Authority.

Further, he informed the Committee that the remaining balance of Kshs. 4,846,532 has been spent to pay the contractor in this financial year 2015/16 since the construction of the offices is ongoing.

Committee's Observation

The Committee raised concerns with the manner in which the County utilized the funds and the failure to account for the balance of Kshs. 39 Million was flagged out by TA because part of the money allocated for 2013/2014 was spent on refurbishing the county government offices that were leased.

Committee's Recommendation

The Committee recommends that, since the County Government has not accounted for the money advanced to it in the financial year 2013/14, ~~the Committee recommends to the Senate that~~ the same money be recovered from the Governor and those involved if it is not accounted for in the subsequent financial year.

2.2 Unsupported fuel expenditure

The County Executive of Nyandarua procured fuel totalling Kshs.38,065,012.00 for its motor vehicles and machineries during the year. However, fuel register was not completed with the details of fuel purchased and how it was consumed by the vehicles, authorization to draw through the use of detailed orders was not enforced and fuel drawn was not recorded in the work tickets. Further, most of the vehicles which had

malfunctioned odometer; in the circumstances, the fuel purchased could not be properly accounted for.

The propriety of the fuel expenditure amounting to Kshs 38,065,012.00 could not be confirmed as a correct charge to public funds.

Governor's Response

The Governor responded by informing the Committee that he seized of the matter and he wrote to the EACC requesting them to investigate certain offices in various departments who were involved in such malpractices. Among those to be investigated are officer in the Roads department. He tabled before the Committee both Letters, the letter to EACC and confirmation of receipt of the request by EACC.

The Governor assured the Committee that going forward the County would result in better ways that would ensure accountability during such projects and avoid dry rate when hiring.

Committee's Observation

The Committee observed that there were a number of loopholes in the entire process and that since the EACC has taken charge of the matter then the suspects should be brought to book and going forward the County Government should device better measures to seal all the loopholes during such projects.

Committee's Recommendation

The Committee urges the EACC to expedite the investigations and bring those involved to book.

2.3 Unsurrendered imprests

The County Executive was found to have issued imprests totalling Kshs.25,763,259.00 during the financial year under review. These imprests remained unsurrendered as at 30 June 2014. This includes imprest to the office of the Governor and his deputy for entertainment and security amounting to Kshs 2,200,000.00 and Kshs. 200,000.00 respectively.

Further, the County's Ministry of Agriculture, Livestock and Fisheries had issued imprest totalling to Kshs. 2,122,109.00 to various officers which also remained unaccounted for as at 30 June 2014. It was further observed that some officers were issued with additional imprest without having surrendered the previous one.

The propriety of the expenditure amounting to Kshs 30,285,368.00 could not be confirmed as correct charge to public funds.

Governor's Response

The Governor informed the Committee that;

1. Vouchers amounting to Kshs. 11,502,800 were surrendered;
2. The money was being recovered from respective officers' salary - monthly recoveries totalled to Kshs 1.6 Million;
3. The amount yet to be recovered was Kshs. 5,933,435.75 this was to be fully recovered by end of June 2016.
4. Kshs. 2,122,100 issued through County Ministry of Agriculture, Culture and social services had been fully recovered.

The imprests were however surrendered and fully accounted for within the first quarter of the 2015/16 Financial Year to the satisfaction of the ministry, and the County department of finance.

On the issue of officers being issued with more than one imprest, he informed the Committee that it only happened to a few Veterinary Officers who had to undertake emergency services specifically to carry out vaccinations against Foot and Mouth Disease (FMD), Lumpy Skin Disease (LSD) and baiting Rabid dogs to control Rabbies. These were notifiable diseases by law and the earliest opportunity is taken to control them.

He assured the Committee that it will not recur in future.

Committee's Observation

The Committee was satisfied with response provided given that the Auditor General Representative (AGR) submitted that the vouchers surrendered to clear Kshs. 11,502,800 were admissible but noted that the audit query is addressing a figure of Kshs 25,763,259.

The governor referred to and accounted for only Kshs 25,193,459 with a difference of Kshs 569,800 that he informed the committee he will follow up.

The Committee emphasized that the un-cleared imprest must be cleared by end of June, 2016 and noted that an officer who was yet to clear imprest should not be issued with another imprest.

Committee's Recommendation

The Committee recommends that the officers responsible be brought to book and the imprests recovered from them at the prevailing CBK interest rates as from the time the imprests were to have been surrendered.

Further, the County Government is advised to desist from giving imprests without consideration of the law. The Accounting Officer should therefore ensure that all money is recovered from the persons who have un-surrendered imprests.

3.0 Irregularities in the Ministry of Education, Children, Culture and Social Services

(i) Improper procurement procedures and accountability of Kshs. 26,151,000.00 for Developments Projects

The County Executive disbursed Kshs. 26,151,000.00 through the Ministry of Education to 33 (ECDs) Early Childhood Development schools and 6 youth polytechnics for construction of classrooms and other facilities during the financial year under review.

During the implementation of the projects, the schools management did not adhere to procurement process since they used quotations to source for contractors instead of using the open national tendering, considering the budgeted amount was Kshs 600,000.00 for ECD classrooms and between one million and six million for Youth polytechnic facilities which was above Kshs 500,000.00 as set out under class C threshold matrix. In addition, no bills of quantities were made available for audit to show the extent of work to be done in each project. Further, physical verification in some institutions like Kangui Polytechnic revealed that the work done was not commensurate with the amount already paid of Kshs 1,000,000.00 since only foundation works had been done. It was also noted there was no proper accountability of the funds since some schools e.g. at Gachigirira E.C.D, the school had its own quarry where they were getting the building stones and therefore the payments paid could not be accounted for.

In addition, there was no evidence to show that the work being done was supervised by the engineers from the Ministry of Public Works as required.

Governor's Response

The Governor informed the Committee that:

1. The necessary documents which were missing were submitted to the office of the Auditor General.

2. However, accounting of funds allocated to Kangui Polytechnic, Kshs. 1 million, was a challenge since the work done could not justify the funds allocated.

3. When the Governor's office conducted investigation, the officer was found to be culpable, she was suspended and the matter was forwarded to EACC for further investigations.

4. By the date of meeting there wasn't any response from EACC on the matter.

Auditor General's Response

The Auditor General's Representative informed the Committee that after scrutinisation of the documents submitted they were satisfied with the explanations except the issue of Kangui Polytechnic.

Committee's Observation

The Committee requested the Governor to also consider other measures that may be taken other than referring the issues to EACC.

Committee's Recommendation

The Committee recommends recovering of the money from the officer as a more expeditious approach. The Committee recommends that the governor and the responsible officers be prosecuted for failing to provide information under the Public Audit Act, 2015. Further, the governor and the persons involved be investigated, prosecuted and monies lost recovered from those found culpable.

b) Unaccounted for recurrent expenditure of Kshs 6,192,072.00

An examination of bank statements revealed that the Ministry of Education, Youth, Children, Culture and Social Services had a total expenditure of Kshs. 28,220,027.00 for both Development and recurrent.

Out of this amount, Kshs. 11,900,000.00 was spent on project development while Kshs 16,380,000.00 was recurrent expenditure. However, from the available records and payment vouchers, the Ministry could only account for total of Kshs. 10,183,955.00 resulting to un-accounted for Kshs. 6,196,072.00.No explanation was given for failure to account for the amount.

The propriety and accountability of the Development expenditure of Kshs. 11,900,000.00 and re-current expenditure of Kshs. 6, 196,072.00 could not be confirmed.

Governor's Response

The Governor informed the Committee that during the financial year under review, the Ministry was allocated Ksh. 16,380,000 for recurrent expenditure and that not all expenditure documents (Payment vouchers) were availed for audit review because of files mix up at the County Treasury stores but were later traced during the audit response.

He informed the Committee that, copies of the payment vouchers amounting to Ksh. 6,196,072 and was availed to auditor.

Auditor General's Response

The Auditor General confirmed to receiving the payment vouchers and verified them.

Committee's Observation

The Committee observed that since the Auditor General was satisfied with the submissions and documentation provided following verification, it then follows that the matter may be settled.

Committee's Recommendation

The Committee recommends that going forward all documentation must be submitted in time.

3.1 Pending bills and Flawed procurement procedures in the Ministry of Agriculture, livestock and fisheries

The County Executive through the Ministry of Agriculture, Livestock and Fisheries procured goods and services totalling Kshs.27,524,840.00 in the month of June, 2014.

On 30 June 2014 alone, the Ministry had paid out Kshs.16,611,750.00 to various suppliers leaving outstanding bills of Kshs.10,913,090.00. Further, the procurement procedures were not followed in the purchase of these goods and services; quotations were issued to the pre- qualified suppliers but there were no opening, evaluation and awarding minutes produced for audit verification. It was not therefore clear how the contracts were awarded. Further, these payments were paid through local cheques instead of government approved Integrated Financial Management Information System (IFMIS).

Public funds must have been wasted through procurement of goods at exorbitant prices due to absence of competitive bidding. The ministry was also in breach of the laid down rules and regulations regarding government accounting standards, procedures and policies.

Governor's Response

The governor informed the Committee that the relevant documents were forwarded to the office of the Auditor General.

Committee's Observation

The Committee observed that since the OAG had confirmed verification of the submitted documentation, the matter could be settled.

Committee's Recommendation

The Committee recommends that going forward all documentation must be submitted in time.

3.2 Unsupported expenditure on KICOSCA games

During the period under review, the Ministry of education spent Kshs.5,543,000.00 on K.I.C.O.S.C.A games in the month of August 2013. However, the supporting documents including hotel accommodation receipts, invoice or cash sale for the uniforms bought for the goods and other payments were not produced for audit verification.

Governor's Response

The Governor informed the Committee that:

1. The documents submitted by the officer in charge were not credible; out of pocket list was signed by one person, the ID numbers of beneficiaries were not indicated; some of his officers were on the list but had not attended the event.
2. After noting the anomaly he constituted a team to conduct thorough investigation.
3. The report of the team indicated that the receipts' authenticity could not be established.
4. He referred the matter to the EACC for further investigation.

Auditor General's Response

Committee's Observation

The Committee observed that:

1. The office of the Auditor confirmed that the documents were inconsistent;
2. The Office of the Auditor should thoroughly scrutinize the documents and establish the amount of money not properly accounted for;
3. The Governor should recover the money from the officer concerned once the unaccounted sum is established.
4. The Governor to conduct a thorough scrutiny to establish the responsible officer(s).

Committee's Recommendation

The Committee recommends that the following; *Ernest Macharia – 1.072000 Macharia, Muthangi* should surrender the money back to the County Revenue Fund with the prevailing CBK interest rates not later than 30th June, 2017.

3.3 Lack of proper Records in the Ministry of Environment, Water, Energy and Natural Resources

The Ministry received Kshs.3,463,000 during the financial year 2013/2014. All the funds received by the ministry were properly accounted for. However, the expenditure was not being recorded in the cash books and therefore bank reconciliations could not be prepared. Further, no vote books were maintained to control expenditure.

In absence of cash books, bank reconciliations, the County Executive is highly exposed to loss of funds through fraud and other malpractices.

Governor's Response

The Governor informed the Committee that cash books and vote books had been prepared and submitted to the Auditor General's office.

Committee's Observation

The Committee observed that since the OAG had confirmed verification of the submitted documentation, the matter could be settled.

Committee's Recommendation

The Committee recommends that going forward all documentations must be submitted in time.

4.0 Irregular payment of Subsistence Allowance to Deputy Governor and County Executive committee member-Education

In September, 2013, the African Forum on Religion and Government 3 (AFREG 3) organized for a Continental consultation/training in Lusaka – Zambia and invited Deputy Governor and Committee Executive member for Education.

The flight charges/fees amounting to Kshs.267,495.00 for the two officers were arranged (paid for in full) by the County Government of Nyandarua to Tours and Travel Company whereas accommodation and local travelling was catered for by The Host Committee of African Forum on Religion and Government 3 (AFREG 3).

The Deputy Governor and the County Executive member for Education were paid 6 night outs at full standard rates (full perdiem) worth to Kshs371,700.00 i.e. (Kshs 206,325.00 and Kshs 165,375.00)and a further Kshs. 100,000.000 (combined) to cater for contingencies. The two officers should have instead received one-quarter (1/4) of the standard rate of their subsistence allowances worth Kshs. 92,925. This resulted to an irregular overpayment of Kshs. 378,775.00to the two officers. The County Executive was therefore in breach of the law.

Governor's Response

The Governor informed the Committee that:

a) The anomaly was discovered thereafter and recovery process was instituted.

b) CECM – Education requested that the sum of Kshs. 124,031.25 be recovered in whole from his salary; this was done.

c) A sum of Kshs 154,743.75 was being recovered from the Deputy Governor through monthly deductions.

d) He also tabled the payroll excerpt as a proof of deductions.

Committee's Observation

The Committee acknowledged the effort made in correcting the anomaly, and noted that recoveries must be made in full.

Committee's Recommendation

The Committee commends the Governor for taking the appropriate step of recovering the funds as confirmed by the office of the auditor general.

5.0 Irregular Rehabilitation of Dispensaries and Heath Centres

The M.C.As demanded to be allocated funds for renovation and rehabilitation of dispensaries and health centres in their respective wards through health facilitation committee at the ward level.

A total of Kshs.14,048,840.15 was spent in fifteen (15) wards for the projects. Quotations for renovation and rehabilitation of health centres and dispensaries in the wards were floated at the tenders awarded to different contractors. However most of the contractors who were awarded the tenders were not prequalified during the year 2013/2014. In addition, no procurement documents were provided for audit verification.

The regularity of ward health facilities development fund, process of awarding the contracts and payments thereon could not be confirmed.

Governor's Response

The Governor informed the Committee that:

a) Procurement and Disposal Act, 2005 indicated that health centres and dispensaries committees were supposed to create procurement and tender committees. These would work independently.

b) When the funds were allocated to various centres it was upon the respective committees to conduct procurement process.

c) However after follow–up, it revealed that 15 contracts were awarded by different centres and only 4 were awarded to un-prequalified contractors.

Auditor General's Response

The OAG confirmed that the relevant documents were submitted to them and after scrutinisation, they were satisfied that the matter was later explained.

Committee's Observation

The Committee observed that since the OAG had noted matters that were then later explained, the Committee would consider cautioning the Governor in following tendering procedures.

Committee's Recommendation

The Committee recommends that in future he must ensure that all the tenderers are prequalified before issuing the tender.

6.0 Human Resource management irregularities

6.1 Un-procedural Hiring of staff

The County Executive of Nyandarua employed nineteen (19) instead of eleven (11) employees, as approved in the office of the County Governor from July 2013 thereby incurring additional Kshs 11,434,107.00 as at 30 June 2014. The following further anomalies were observed on this;

There was no evidence to show that the staff employed have been regularized by the County Public Service Board (C.P.S.B) as per the provisions of the circular from the Transition Authority.

The County Public Service Board advertised for the position of Chief Officers on 24 September 2013. The applicants applied, were shortlisted and the interviews were

conducted culminating in the C.P.S.B appointing them vide appointment letter dated 3rd February 2014.On Chief Officer; Finance and Economic planning, the C.P.S.B recommended for appointment of three candidates based on the merit of scores from the interview.

It was however noted that one of the Officer who was not among the three shortlisted candidates, was appointed to the post.

The Office of the Governor irregularly appointed Chief Officer Land, Housing and Physical planning despite the County Public Service board issuing an adverse report on the officer including issue of integrity which required further investigations and failure to produce relevant documents during an interview.

The County breached Section 65(1)(a-j) of the County Executive Act No. 17 of 2012 and Chapter six of the Constitution on leadership and integrity, Section 73(1) a (i-iv) by irregularly appointing officers who were not the most qualified for those posts. Their suitability to perform those duties could also be ascertained.

Governor's Response

The Governor informed the Committee that

a) The County Public Service Board (CPSB) presented a list of 3 nominees.

b) However, on scritinising the interview performance list which was also submitted, No. 2 was not in the nomination list.

c) It was alleged that No. 2 had some issues which warranted him not to be nominated; those allegations were not substantiated.

d) After consulted with cabinet, it was resolved that in order to satisfy the

- A third gender rule; and

- Regional balance

The no. 2 was to be appointed.

Committee's Observation

The Committee observed that:

a) CPSB should not rank a candidate who has un-clarified issues; and

b) The CPSB should submit to the Committee the report which they presented to the Governor.

Auditor General's Comments

The hiring of the 19 employees was later regularized with the CPSB.

Committee's Recommendation

The Committee recommends that the decision of the Governor to satisfy the gender balance may be settled following clarification and confirmation by the OAG.

6.2 Irregular employment of casuals

The County Executive inherited ninety six (96) casuals from the defunct local authorities' i.e. County Council of Nyandarua and Town Council of Ol'kalou. The casuals were being paid Kshs. 205.00 per day thus translating to Kshs. 5,195,520.00 (Kshs 205x22 days x 96x12months) for eleven months up to 30 June 2014.The status of the long serving casuals has not been sorted out as at the time of the audit.

The County Executive was violating the rights of these workers by engaging them on casual basis longer than required and is also against the employment Act which could lead to expensive ligations against the County Government.

Auditor General's Comments

The auditor general informed the Committee that the casuals were inherited from defunct councils. However, the County should have formalized the contracts. The matter is pending in court.

Committee's Recommendation

The Committee having considered and deliberated on the audit query recommends that the practice should be stopped henceforth

6.3 Incomplete staff audit

The County Executive was required by the Transition Authority letter Ref TA/7/3/Vol. 1/67 dated 24 July 2013 to carry out staff audit through head count to confirm job placement and needs assessment for proper management of the human resources aspect of the County. However, interview with the County Public Service Board revealed that the purported head count previously conducted was not conclusive and that the C.P.S.B was not fully involved in the exercise as enshrined in the County Government Act No 17 of 2012. The report was not implemented and at the time of audit, no proper staff count and placement been done.

Failure by the County Executive to follow up on the various enacted legislations, circulars and other information from the various constitution bodies to help in management of devolved human resources may result to breach of the law.

Committee Observation

The auditor general informed the Committee that the County is awaiting for the biometric report by ministry of devolution.

Committee's Recommendation

The Committee recommends that the County Government should expedite the implementation of the biometric audit of their staff.

6.4 Inadequate staffing structures/matters within the County Government

The following issues were noted;

There were no approved organization structure to date detailing the flow of information, authority and the interconnectivity between the departments;

There has been no approved staff establishment to guide employment of staff within the County Executive. It therefore meant that the County Executive might be overstaffed/overstaffed due to lack of information on the total staff number requirements vis a vis the work load. This has lead to some complaints from county executive members and previous the County secretary to the County Public Service Board (C.P.S.B). e.g. A letter to the C.P.S.B by the CECM-Ministry of Agriculture, livestock and fisheries Ref .MOEL/NYA/CEC/CON/COR/Vol1/1 of 15 January 2015 was requesting suspension of recruitments for the department until full staff positions/established were established indicated there was a lapse in the recruitment process between the C.P.S.B and the different ministries. Further, communication through letter Ref: NYA/CNT/GOVT/HR/3/3 dated 11 November 2014 from the interim county secretary requested for consultations between the departments and County Public Service Board before media adverts on recruitment. This was meant to manage the costs implications and to agree on the terms and condition of service for various cadres of staffs

There was no human resource policy to guide in the management of staff matters. Job description and specifications have not been redeveloped to facilitate proper integration of devolved staffs from the central government and those that came from the defunct local authorities;

Review of the appointment letter issued by the C.P.S.B to the newly recruited staffs revealed that some staff were given appointment letters without probation period while other were issued with letter appointing them on permanent and pensionable basis at the date of the letter together with other clause which indicated that the staffs were to work on probation period of one year. This was against section B 13 subsection 1 of the county

human resource 2013 which advises that a newly recruited officer should be put into probation period of 6 months according to the employment act 2007.

Communication channels between the CPSB and the County Executive particularly the County Secretary who is the head of County Public Service was found not to be very consultative. Despite the board enjoying independence from the County Government Act 2012 section 58 among others, there was need for constant consultation by the two offices for smooth running of the human resource affairs; Further, the C.P.S.B should consider application of section 86 of the County Government Act by ensuring that mundane issues like opening the files for new recruit is placed in the human resource department to avoid the board being tied down in mundane issues that can be handled by other departments;

Despite the County Government having been in existence for almost two years, no skill audit has been done to determine the skill capacities for all the staffs. It was therefore difficult for the county Government to do staff training and placements. Further, without skills audit, it was difficult to fully justify the various new recruitments that have been done by the County Public Service Board;

It was also noted that there are no scheme of services designed for some of the new posts e.g. ward administrators. This was against County Human Resource manual 2013 section B.19 which stresses the need for a scheme of services to guide in the appointment of staffs;

Committee Observation

The auditor general informed the Committee that the organization structure has been approved, capacity assessment exercise has not been concluded and human resource policies not yet finalized.

Committee's Recommendation

The Committee recommends that the County Government should have an appropriate HR manual, an organized organogram and rules to be used from every department in the public service.

6.4.1 Irregular admission of applications after the closure date

It was noted that some applications were irregularly accepted after the official closure date for applications. A case in point was noted in the recruitment of County Policing

Officers where two extra applicants were received after the closure date of 28 February 2014.The number of applicants at the closure date was one Hundred and seventy nine

(179) while the extra applicants were allocated numbers 267 and 268. This gave unfair treatment and favourism in the recruitment.

Committee Observation

The auditor general informed the Committee that there is a possibility that the applications were received after the closure date.

Committee's Recommendation

The Committee recommends that in future the County Government should demonstrate fairness in recruitment and administration.

6.4.2 Unfair discrimination of qualified and recruited candidates

It was noted that some qualified candidates were not employed even after having the requisite qualifications. A case in point was noted in the appointment of ward administrators where a candidate named Jemima W. Kimani was interviewed and shortlisted for recruitment for the post of ward administrators together with other twenty(20) candidates.

However, she was later disqualified on the basis of not being a resident of Nyandarua County. This violated the constitution which required promotion of fairness in all recruitment.

Further, all applicants for four other wards were disqualified and not shortlisted for interviews on other basis other than the advertised qualifications required; The five posts for Nairobi, Kipipiri, Murungaru and Githabai were ear marked for readvertisement which meant that the C.P.S.B was to incur further expenditure on readvertisement.

Committee's Recommendation

The Committee recommends that the County Government should follow the law during recruitment.

6.4.3 Failure to promote ethnic diversity in the county establishment

The county Executive through the C.P.S.B and office of the Governor has engaged two hundred and two (202) staffs in various departments as at 28 February 2015.The following distribution of new recruited staffs based on ethnic balance is as follows

Ethnicity Number

Kikuyu 196, Kalenjin 2, Luhya 1, Luo 1, Kisii 1, Nandi 1: **Total 202**

From the distribution, the Kikuyu which was the dominant community occupied 97% of the total posts which was found to be against section 175 of the Constitution of Kenya 2010 which outlines that 30% of the recruitment should from minority communities.

Committee Observation

The auditor general informed the Committee that the matter remains a challenge to the County and efforts should be made to adhere to the Constitution.

Committee's Recommendation

The Committee recommends that uniformity of the law should be applied in recruitment and a Bill to deal with such matters can be steered by the Joint Committee on National Cohesion.

6.4.4 Inefficient and uneconomical use of funds in placement of adverts in the media

Audit verification revealed that the C.P.S.B has regularly placed adverts in the newspapers inviting applicant for various posts. Instances were noted where some posts were being advertised twice or thrice and this exposed the County government to serious financial implications. Due to lack of staff establishment, the County Executive could not enjoy economies of large scale in advertisements.

This was because without approved staff establishment, there was likelihood of piece meal advertisement for various posts in the media which was noted to be very costly in the long run.

The county may not achieve the 30% threshold from the minority communities within the establishment as per section 175 (c) of the constitution of Kenya 2010.

Committee's Recommendation

The Committee recommends that the County Government should not spend unnecessarily on advertisements, as this leads to the wastage of public funds.

7.0 Unsupported Creditors Balances

The County Executive did not maintain accurate and complete records of its creditors. It was also noted that there were no laid down procedures of managing the accountable documents including Registers for LPO's/LSO's were in place. The used LPOs/LSOs were also not being cleared from the Counter Foil Receipt book register (CRBR) therefore exposing them to possible fraud and other malpractices. Further, invoices totaling Kshs.12,089,000.00 were not supported by either LPOs or LSOs at the end of financial year. Their validity could not therefore be ascertained.

The validity of the liabilities (unpaid) could not be confirmed as representative of the liabilities incurred. Further, possible errors and fraud could pass undetected due to incomplete records and weak accountability system.

Governor's Response

The Governor presented as follows:

1. That the County Government has instituted a proper system of recording creditors as they get contracted;
2. That the department has been preparing a list of creditors after every closure of a financial year;
3. That the County Government had engaged the national government to second staff, particularly accountants, and the County Public Service Board had recruited additional staff to boost staff capacity;
4. That the Governor had constituted a team to authenticate the pending bills without documentation.

Committee's Recommendation

The Committee recommends that;

i) **A special forensic audit of all the pending bills be carried out.**
ii) **Those found culpable be brought to book and all monies paid by the County Government of Nyandarua recovered from the said persons.**

8.0 Unaccounted and Un-procedural Bursary Awards

The County Executive disbursed Kshs 6,917,750.00 to various wards in respect of bursary funds to needy students within the county during the financial period under review. However; the following audit issues were noted;

i. There was no approved fund and the corresponding regulations to cater for the bursary as outlined in PFM Act 2012, section 116(1);

ii. The criteria used in the administration of the bursary could not be confirmed as there were no structures put in place to administer the fund, i.e. there were any ward committee minutes to indicate how the beneficiaries were identified.

iii. The acknowledgment documents from various beneficiary schools were not produced to confirm they were indeed received.

In the absence of proper structures as outlined in the PFM Act 2012, Section 116(1), the County Government was therefore in breach of the law.

Governor's Response

The Governor presented as follows:

1. That during the period of disbursement of bursary awards to the 25 wards of the County, there were interim ward bursary committees which were formed with the consent of the County Executive and the County Assembly;
2. That the committees were mandated to disburse Ksh. 6,917,750 available during 2013/2014 financial year; and,
3. That during 2014 the County Assembly formulated draft bursary bill whose purpose was to formalize the issuance of bursary awards.

Committee's Observation

The Committee observed that:

1. the auditors had just received the approved budget and the acknowledgement schedule; and,
2. Directed that the auditors to verify the documents within two days and report back to the Committee of their findings.

Auditor General's Subsequent Findings

There was no approved fund as per the PFM Act 2012 section 116(I). The Nyandarua County Bursary Fund Act, 2014 was gazzetted on 29/09/2014.

Only Magumu, Kaimbaga, Rurii, Gathara and Mirangine ward Committee minutes were availed. However, the minutes did not include the process of vetting the beneficiaries. It only included the names of the beneficiaries.

Committee's Recommendation

The Committee recommends that the County Government should only disburse funds according to the necessary laws as required.

9.0 Revenue

The County Executive had budgeted to receive Kshs.3,150,207,289.00 from the National Government in the F/Y 2013/2014. As at 31 May 2014 the County executive had received Kshs.2, 646,174,124.00. The balance of Kshs.504,033,166.00 was expected in the month of June 2014.

Further, it had budgeted to collect Kshs 174,000,000.00 from the Local sources in the same year. However, it had collected Kshs 127,627,088.00 as at May 2014 with only one month to the end of the financial year.

This meant that the County might not achieve its target on local revenue collections. Further, the following anomalies were noted;

i. The collection of Kshs 127,627,088.00 was Kshs.15,110,716.00 less compared to Kshs. 142,737,804.00 in the same period in 2012/2013 before the County Government took over from the defunct local authorities.

ii. The County Government took over land rates arrears totalling Kshs. 3,173,936,312.00 on 4th March 2013. As at 31st May 2014, the balance stood at Kshs. 4,077,319,973.00. The County Government managed to collect only Kshs. 11,280,775.00 or 0.3% of total debt during the financial period under review. The County Government has not shown determination to collect this debt and their recoverability appears in doubt.

The revenue collection policy of the County Government therefore appear ineffective and the County Government could be losing revenue through misappropriation or been uncollected.

Governor's Response

The Governor presented as follows:

1. That upon taking over, the County Government set up specific committees tasked with revenue enhancement;
2. That the county further gave a waiver in interests on land/plots, which had increased rates collectability; and,
3. That the County had procured an automated revenue collection system which was aimed at reducing pilferage of revenue.

Committee's Recommendation

The Committee recommends that the County Government puts in place measures to enhance revenue collection that includes starting with automation and enabling of IFMIS modules to cater for revenue collection so that the County can meet its targets.

9.1 Uncontrolled issue of Revenue collection books

It was noted that some officers were being issued with additional revenue collection books before surrendering the previously issued ones. An audit review of Boda Boda fee

collection records revealed that receipt books with value of Kshs 2,820,000.00 had not been surrendered yet the collector had been issued with more books.

Revenue collected could have been misappropriated.

Governor's Response

The Governor presented as follows:

1. That the issuance of some additional books before surrendering of previously issued books was done as precautionary measure to avoid loss of revenue on areas that were far from the County headquarters;
2. That the books had since been returned to the sub county offices and the revenue collection had been controlled; and,
3. That proper control had been put in place.

Committee's Observation

The Committee observed that:

1. the auditors had just seen the photocopies of the register and needed the original to enable them verify; and,
2. Directed the Governor to submit the originals to the auditors for verification within two days.

Committee's Recommendation

The Committee recommends that the receipts, going forward must be surrendered in time and properly serialized in line with the PFM Act. Further, the committee recommends that automation is highly encouraged as a preferred mode of collecting revenue.

9.2 Unsurrendered Revenue collections at Ol-kalou District Hospital

During the period under review, the Ol'kalou Hospital collected revenue totalling Kshs.28,059,777.00 up to May 2014. However, the hospital had only transferred Kshs.20,400,065.00 to the County Revenue Account, resulting to a deficit of Kshs.7,659,712.00 which was spent without approval from the Controller of Budget. In addition, the hospital did not maintain separate revenue bank accounts distinct from its normal operations account where collections were to be banked for onward transfer to County Revenue Account as provided for by Section 109(2) of the Public Financial management Act 2012.

The hospital was therefore in breach of the law.

Governor's Response

The Governor presented as follows:

1. That Kshs. 7,659,712.00 had been spent in the hospital as they had sought authority from Provincial Director of Medical Services (PDMS) for the collections that had been done in 1st quarter of the financial year;
2. That this was as a result of the previous structures in place before county government structures took over; and,
3. That the collection accounts which were operated by the Hospital had mandatory signatories from provincial administration and were only for clearing upon issuance of Authority to Incur Expenditure (AIE) issued by the Provincial Director of Medical Services.

Committee's Observation

The Committee observed that:

1. the auditors had verified the AIEs and confirmed that the accounts had been opened but had not verified the original bank Statements; and

2. Directed the Governor to submit the originals to the auditors for verification within two days.

Committee's Recommendation

The Committee recommends that the Olkalou District hospital should always submit its documentation in time to avoid audit queries.

9.3 Non-appointment of Proper Revenue Collectors

During the financial period under review, the County Government has not designated in writing, persons to be responsible for collecting, receiving and accounting for such revenue. This could partially be blamed for low land rates collection

It was also noted that some revenue collectors were engaged on casual basis. They are listed in.

This posed a danger of the collector disappearing with the collected revenue or misappropriating due to absence of accountability mechanism including recovery of lost cash from their salaries. Failure by the County Executive Committee member for finance to adhere to the laws on revenue enhancement and accountability may result to breach of Section 157 of PFM Act, 2012.

Governor's Response

The Governor presented that the CEC finance had since appointed revenue collectors in line with the provisions of the Public Finance Management Act (PFM).

Committee's Observation

The Committee directed the Governor to submit documentary evidence of the appointments to the auditors within two days.

Committee's Recommendation

The Committee recommends that going forward all documentations must be submitted in time.

10.0 Fixed Assets Register

The management of County Executive of Nyandarua produced for audit review an Assets Register which showed the value of its assets as Kshs. 202,706,686.00. Further, most of the land included in the register did not have ownership documents and its ownership could not be established. The County government did not seem to be making effort to acquire title documents in order to secure public land in its control.

The assets of the County Government may be lost or misused due to poor recording and management.

Governor's Response

The Governor presented as follows:

1. That the County Government had recorded all the additional assets acquired from Financial Year 2012/13 and 2014/15;
2. That the County was in the process of identifying all other assets owned by the defunct local authorities; and,
3. That the fixed assets register was currently being maintained and updated with additional assets.

Committee's Observation

The Committee observed that:

1. The auditors commented on the need to improve the asset register and that tagging of assets should be expedited; and,
2. Advised the Governor to consider procuring a consultant to comprehensively develop a proper asset register.

Committee's Recommendation

The Committee recommends that automation is a more appropriate way to ensure a well maintained proper asset register.

11.0 Implementation of IFMIS

The County Executive started using I.F.M.I.S in November 2013 and therefore the financial transactions from July to October 2013 were done through manual system. Audit verification of the IFMIS utilization revealed that the reports generated through IFMIS were not comprehensive. Other reports like suppliers statements, interrogation of vote book balances were not done. It was also noted that the staff capacity was limited and this has contributed to the slow implementation of IFMIS by the County Government.

Further, it was noted that the County Executive continued to use the LAIFOMS system that was being used by the defunct local authorities. However, the support system of the LAIFOMS by the vendor was found to be unreliable after the cessation of local authorities and therefore its sustainability could not be confirmed. Based on the above, the County Executive ability to successfully utilize the information technology is highly constrained.

Governor's Response

The Governor presented as follows:

1. That the county had a problem of lack of trained IFMIS officers until they were given one in July 2014.

2. That the County Government had since recruited key staff with capacity on information technology to facilitate adequate and comprehensive usage of all IFMIS features; and,

3. That the others were being trained both on the job and through external seminars.

Committee's Observation

The Committee directed that the Governor submits a list of all the employed officers and their job description within two days.

Committee's Recommendation

The Committee also recommends that going forward all documentation must be submitted in time.

CHAPTER SIX

MIGORI COUNTY EXECUTIVE

The Committee invited the Governor of Migori, Hon. Okoth Obado, and he appeared before the Committee on Wednesday, 8th June, Thursday 11th August and Tuesday 6th September, 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. 6**

1.1 Internal audit Unit

Findings

a) The Internal Audit has not been allocated adequate resources. The Unit has only two officers who may not be capable of handling all the work at the County Government.
b) There was no formal channel of communication between the internal audit and the County Government thus making it difficult for the department to have any effective oversight over the various functions at the county.
c) The Accounting Officer has not issued any letter providing the Internal Auditor unrestricted access to all records, departments, assets etc. of the entity.
d) The internal audit charter detailing the scope, responsibilities and purpose of internal audit has not been developed.
e) The Internal Auditor has not prepared and operationalized annual audit plans.
f) There was no evidence of documented audit approach followed for internal audit assignments. The relevant audit programs and sample items for audit have not been identified.

g) The Audit Committee does not exist contrary to the requirements of Treasury Circular No. 16/2005 and section 155 of the Public Financial Management Act 2012 that provides for internal audit arrangements according to guideline by the Accounting Standards Board that require all entities in the Public Service to establish and operationalize internal audit committees.

h) There is no evidence of value addition accruing from the services of the internal audit office in as far as oversight functions expected from such a unit.

The Governor presented as follows:

1. That the County Government was in the process of restricting the internal Audit office;
2. That they had since hired a Director of internal Audit;
3. That they currently had five (5) internal auditors and had allocated Ksh. 20,000,000 to the department; and,
4. That they had completed the process of forming the County Audit Committee and the names had been forwarded for gazettement.

Committee Observations

The Committee observed that:

IFMIS is currently operational, and the vote book is being maintained.

Committee Recommendation

The Committee also recommends that going forward, all documentation must be submitted in time, and the County Government focuses on the strengthening of the Internal Audit department and financial management processes.

1.2 Maintenance of Accounting Records

Generally accounting records are poorly maintained by the county Government. Most transactions are processed and recorded manually.

Petty cash management

There is a significant amount of cash transactions by the County which by its nature is susceptible to misuse and also poses security challenges.

Review and approval of postings to the cash books

There is no evidence of review of cash books to ensure proper records are being maintained for the transactions that have taken place. There are also numerous cases of corrections and cancellations which is inherent in such cases of manual records.

Multi location processing of payment vouchers

There are various points of processing payment vouchers and recording of the same making it difficult to track payments. There were payment vouchers at the ministries, treasury and other departments and cash books maintained at various locations with no regular reconciliations amongst them evident.

Budgetary control

There is no evidence of comparison or tracking of actual expenditures to the approved budgets. This is a key accounting control which is not evident from the payments verified.

Governor's Responses

The Governor admitted that it was true during the transition period in the FY2013/14 they had not fully implemented the IFMIS due to challenges of connectivity and lack of qualified personnel. Most of their accounting records were therefore manually done.

- Manual Accounting System

Currently they have embraced IFMIS government financial automation system to reduce manual and cash transactions.

- Cash Management

They have also engaged qualified and competent accountants to help in proper record keeping and operationalization of the IFMIS system. They attached the list and qualifications of the newly recruited accountants who are since helping in proper accounting and record keeping.

- Cashbook Reconciliation and Reviews

Their cash books are being reviewed by the internal audit department and updated and reconciled on regular basis. Reviewed cash books have since been forwarded to auditors for verification.

- Record Keeping

With the engagements of qualified accountants, the county Government has assigned accountants to each department to help in tracking, reconciling and proper record keeping of departmental expenditures records.

- Budget Control

The county treasury has put in place budget/vote book office and accountants deployed to check and confirm all payment adhere to the Appropriation Act.

Committee Observation

The Committee observed that:

1. There was no written response at the time by the Governor and ruled that as un-procedural.
2. The Committee further directed the Auditors to present a breakdown of the actual figures described under petty cash in this query as soon as they have it ready for the Committee to consider.

Committee Recommendation

The Committee recommends that proper accounting records need to be updated and maintained, since failure to do so, is flouting of the law and officers involved should be brought to book.

2.1 Un-surrendered Imprests

The County Treasury had issued imprests worth Kshs.29,392,212 which were still outstanding by 30 June 2014. There were also cases where some officers held more than one imprest as at the end of the financial year.

Governor's Responses

The Governor informed that Committee that;

- Officers taking more than one imprest

During the transition period from local authority to the county government, there were numerous activities that were being carried out concurrently and this resulted to officers sometimes acquiring more than one imprest to hasten the operation within the county.

- Un-surrendered Imprest

They have since made the necessary efforts to ensure that the imprests of Kshs 29,392,212 were fully surrendered by the imprests holders and all the supported payment vouchers were submitted to auditors for verification.

- **Control measures**

Control measures have been put in place to ensure that no employee holds more than one imprest at a time. Those who fail to comply have their salaries attached. In addition imprest registers have been introduced to track all imprests issued and surrendered.

Committee Observation

The Committee observed that:

1. the Auditor General had not verified annexures and hence could not deliberate on the query; and,
2. Issued a disclaimer to this Query and resolved that all relevant documents be submitted to the Auditor general within two weeks for verification.

Auditor General's Subsequent Review

The Auditor General informed the Committee that the Un-surrendered imprests amounting to Kshs 29,392,212, imprests totaling to Kshs 22,492,456 were verified while Kshs 6,899,756 were not verified as analyzed below:

DEPARTMENT	TOTAL IMPRESTS (KSHS)	VERIFIED (KSHS)	NOT VERIFIED (KSHS)	REMARKS
Finance and economic planning	2,965,460	2,794,445	171,015	Payments were not fully supported
Agriculture	881,060	720,560	140,400	Payments were not fully supported
Public Service management	12,361,780	8,288,280	4,073,500	Outstanding surrenders and payments not fully supported
Education, Youth and Culture	1,230,000	1,142,500	87,500	Outstanding surrender and payment not fully supported
Public Works	5,503,222	4,768,871	734,351	Un-surrendered balance, payments not

				fully supported
County Assembly	1,708,000	1,608,000	100,000	Payees did not sign for amounts received
Trade	2,700,700	1,985,210	715,490	Payments not fully supported
Lands	2.041,990	1,164,490	877,500	Payments not fully supported
TOTAL	29,392,212	22,492,456	6,899,756	

Some officers held more than one imprest at a time

Committee Recommendation

The Committee recommends that the officers responsible be brought to book and the imprests recovered from them at the prevailing CBK interest rates as from the time the imprests were to have been surrendered.

2.2 Unsupported Payment to Kenya Medical Supply Agency

In the year under review, the County bought drugs worth Kshs. 14,682,051.20 However, the distribution schedule and delivery records were not provided for audit verification.

Governor's Responses

The Governor informed the Committee that;

The department of Health had made an agreement with KEMSA to make deliveries of drugs direct to the facilities.

He said that, it would have been costly for the county to receive them and thereafter distribute them to the facilities. The counter receipt voucher (s13) from facilities was then forwarded to the chief officer for health for payment.

He attached delivery notes, invoices and S13 for the items supplied between 20th and 24th December 2013.

Committee Observation

The Committee observed that:

1. the Auditor General had not verified the annexures and hence could not deliberate on the query; and,
2. Issued a disclaimer to this Query and resolved that all relevant documents be submitted to the Auditor general within two weeks for verification.

Auditor General' s Subsequent Review

The payment relate to payment voucher no 001165 – Kshs. 14,682,051.20

HOSPITAL	DELIVERY NOTE	AMOUNT	REMARKS
Kegonga District Hospital	EMB-2-081255-2013/2014	1,115,081	Delivery note/invoice Kshs.1,252,500.11
Kuria District Hospital	EMB-2-081261-2013/2014	1,836,075	S13 verified delivery notes not seen
Macalder Sub-District Hospital	EMB-2-081262-2013/2014	945,574	
Ntimaru Sub-District	EMB-2-081263-2013/2014	875,650	S13 verified, deliveries total to

Hospital			Kshs.2,652,723
Isibania Sub-District Hospital	EMB-2-081264-2013/2014	1,339,143	Deliveries Kshs.1,129,181.28
Migori District Hospital	EMB-2-081265-2013/2014	5,055,940	
Othoro Sub-District Hospital	EMB-2-081266-2013/2014	721,893.80	
Rongo District Hospital	EMB-2-081267-2013/2014	1,435,225.40	
Awendo Sub-District Hospital 12	EMB-2-081268-2013/2014	1,357,469	
TOTAL		**14,682,051**	

- S13 (counter receipt voucher), S11 (issues) and delivery notes were availed.

Committee Recommendation

The Committee notes that from the evidence adduced by the Office of the Auditor General it appears that some drugs were either missing or documentation misplaced. The Committee therefore recommends that further investigations be done to ascertain whether all drugs were delivered.

2.2 Unsupported Payment to Kenya Medical Supply Agency

In the year under review, the County bought drugs worth Kshs. 14,682,051. However, the distribution schedule and delivery records were not provided for audit verification.

Committee Observation

The Committee observed that:

1. *the Auditor General had not verified annexures and hence could not deliberate on the query; and,*
2. *Issued a disclaimer to this Query and resolved that all relevant documents be submitted to the Auditor general within two weeks for verification.*

Auditor General' s Subsequent Review

The payment relate to payment voucher no 001165 – Kshs. 14,682,051.20

HOSPITAL	DELIVERY NOTE	AMOUNT	REMARKS
Kegonga District Hospital	EMB-2-081255-2013/2014	1,115,081	Delivery note/invoice Kshs.1,252,500.11
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Isibania Sub-District Hospital	EMB-2-081264-2013/2014	1,339,143	Deliveries Kshs.1,129,181.28
Migori District Hospital	EMB-2-081265-2013/2014	5,055,940	
Othoro Sub-	EMB-2-081266-2013/2014	721,893.80	

District Hospital			
Rongo District Hospital	EMB-2-081267-2013/2014	1,435,225.40	
Awendo Sub-District Hospital 12	EMB-2-081268-2013/2014	1,357,469	
TOTAL		**14,682,051**	

In summary S13 (counter receipt voucher), S11 (issues) and delivery notes availed and the Query stands resolved.

2.3 Items paid for but not delivered

The Health Sector purchased goods worth Kshs. 770,000 which could not be accounted for. The two payments were made through an "Estimate of costs" instead of an invoice and the attached LPO was not priced hence irregularly paid without proper procedures. Further, the counter receipt documents were not availed at the time of the audit but were later supplied though they lacked item description details and other information. Consequently it was not possible to confirm that goods were delivered.

Governor's Responses

The Governor informed the Committee that;

The items mentioned in this audit finding refer to the office of the Deputy Governor and not Health Sector as is indicated in the report.

- All those items were fully delivered and received in the Deputy Governor's office before the payment were done.

- There was just an oversight on the officer who received the items when he failed to fill the required counter receipt documents (S13) completely as observed by auditors.
- All these are attributed to transitional problems due to lack of capacity which have since been addressed by recruiting competent stores clerks across all the departments.

He further attached the receiving and inspection reports to confirm deliveries.

Committee Observation

The Committee observed that:

1. the Auditor General had not verified annexures and hence could not deliberate on the query; and

Committee Recommendation

The Committee recommends that going forward all documentation must be submitted in time.

2.4 Advance Payments for various ICT Projects

It was observed that in the year under review, the County Government incurred expenditure totaling Kshs.36,831,140 on various ICT projects. The suppliers of the services were paid deposits upfront for works that had not been certified. There was no indication as to whether an assessment of the financial capacities of the firms carrying out the works was done. In some instances, the inspection and acceptance certificates for the projects were not made available for audit verification.

Governors Response

The Governor informed the Committee that;

- The requests for advance payments were put before the tender committee which accordingly authorized the advance payments to have the projects urgently implemented. He attached the tender committee minutes.
- The tender committee combined both technical and financial evaluation as reflected in the attached minutes.
- The works were done and continuously inspected and certified by the projects management committee and certificate of completion issued before final payments were done to account for the advance payments. He also attached the project completion certificates certified by the project implementation committee for the Committee's perusal.
- The ICT platform that was procured was successfully completed and is now fully operational. The Governor further attached the certificates of connectivity.

Committee Observation

The Committee observed that auditors were satisfied with value for money, and that the issue that is pending determination is the advance payment .

Committee Recommendation

The Committee recommends that the law must be properly followed adhered to. Any procurement laws that were flouted should be properly investigated and those held responsible must be brought to book.

2.5 Fuel used in Road Works

On diverse dates during the period under review, the County Government purchased fuel worth Kshs.4,500,000 sourced from three suppliers for road works. There were no proper mechanisms in place to ensure that the fuel was properly and fully accounted for and efficiently used.

Governor's Responses

The Governor informed the Committee that the fuel mentioned was paid to three petrol stations as follows;

- Mairi filling station (kshs.1, 500,000) - The fuel was used in the opening/improvement/maintenance of roads in Kuria East and West sub counties.
- Hass Petroleum (kshs.1, 000,000) - The fuel was used in the construction of roads in Suna west, Nyatike and parts of Suna-East sub counties.
- National Oil Corporation (kshs.2,000,000) - The fuel was used in undertaking the road work in Rongo, Awendo, Uriri and parts of Nyatike sub county.
- He further attached some of the fuel consumption statements, Copies of works tickets and list of roads done for your perusal.

The Governor the informed the Committee that currently the department of Roads has strengthened the fuel accounting system by use of detail orders which are then registered on fuel registers and use of work tickets.

Committee Observation

The Committee observed that:

1. the Governor submitted evidence in response to the aforementioned audit query and the auditors were not satisfied since the documentation did not outline how the billing was done and what the dates of billing were;
2. The Governor further undertook to provide the more information on the query; and
3. Issued a disclaimer on the matter and informed the County Government that mechanisms should be put in place to ensure efficient use of county resources and proper accountability, particularly of fuel.
4. The Committee noted that Only fuel from Hass Petroleum of Kshs.1,000,000 was supported with consumption records and work tickets. The balance of Kshs. 3,500,000 was not verified by the auditors and the Work plan missing; and,

5. The Committee also noted that copies of fuel register and detail orders were not availed to the Auditors.

Committee Recommendation

The Committee recommends that the law must be properly followed adhered to. Any procurement laws that were flouted should be properly investigated and those held responsible must be brought to book and any public funds that were lost recovered with accrued interest with the prevailing central bank rates.

3.0 NON-CURRENT ASSETS

3.1 Purchase of Furniture

Purchase of furniture at a cost of Kshs.6,457,200 was made through restricted tender. The choice of this method used did not meet the requirements specified in the Public Procurement and Disposal Act, 2005 since there are many suppliers for such items and there were no time constraints. Further, payment of Kshs.1,855,500 was made on the basis of a proforma invoice.

Governor's Responses

The Governor informed the Committee that;

- The purchase was done through the use of prequalified suppliers at the predetermined prices. That this was during the transition period and the newly established offices did not have any furniture including the executive and county assembly departments. They therefore requested the prequalified suppliers to supply at the prices which had been set by the technical evaluation committee during prequalification.
- The items were then delivered and received. He attached the delivery notes.

Kshs 1,885,500.00 was for purchase of 24 Bay Bulk filler which is a specialized machine for file being used in our registry. First Choice Ltd was the only supplier of such

equipment and had put a demand of payment before delivery according to the response of the Governor.

Committee Observations

The Committee observed that:

1. the Governor submitted evidence in response to the aforementioned audit query and the auditors were not satisfied since the documentation did not indicate why payments were done based on the proforma invoice; and
2. those involved have since been suspended following EACC's involvement on the matter;

Committee Recommendation

The Committee notes the administrative action taken and the EACC's involvement and cautions the County Government that going forward strict compliance with the procurement laws and regulations should be observed.

3.2 Unaccounted for Photocopier Machines

The Ministry of Trade procured two Kyocera photocopier machines at a cost of Kshs.445,138. The photocopier machines were not physically available during the audit. The Chief Officer and the Accountant could not confirm whether they were actually purchased since both were not working with the Department when the order was placed.

Governor's Responses

The Governor informed the Committee that;

- The photocopier machines were bought during the transition period by the T/A officers and were not taken to trade department as was intended instead they were issued to other departments as follows;

- Serial no.NX43817041 is at Deputy Governor's office and Serial No.NX43816969 is at roads and works department.
- They were being serviced regularly by MFI company ltd.

He informed the Committee that attached are the service job cards. The photocopiers existences have also been physically verified by the Auditors.

Committee Observation:

The observed that:

1. the Governor submitted evidence in response to the aforementioned audit query and the Auditors informed the committee that the matter has been adequately addressed;

Committee Recommendation

The Query stands resolved, however the Committee cautioned the Governor that procurements must be fully accounted for in accordance with the law.

4.0 Purchases of assorted items for the Deputy Governor's office

4.1 Purchases of Curtains and Other Items

A payment for the supply of curtains amounting to Kshs.145,000 was not supported.

It was not possible to confirm that the said items were ever supplied.

Governor's Responses

The Governor informed the Committee that;

- The office of the deputy governor requested for curtains and furniture to be purchased for his office use during the financial year 2013/2014.The items were then delivered and received according to procurement procedures and physically verified.

- Currently they have inventory for all county departments.
- After issue of LPO, Delivery notes and Invoices were brought together with the goods.
- Copies of Acceptance and Inspection report and S3 cards were then availed.

Committee Observation

The Committee observed that the Governor submitted evidence in response to the aforementioned audit query and the Auditors informed the committee that the matter has been adequately addressed;

Committee Recommendation

The Committee cautioned that inventory records of items in every office should be kept in the offices.

4.2 Purchase of Motor Vehicles

The County Government procured 41 Motor Vehicles at a cost of Kshs. 231,678,610 by use of supplies branch circular no. R04/2011-2012 which had expired on 31 November 2013. The procurements were done by selecting a supplier from the list based on the preferred vehicle type without reference to other suppliers in the list who had different models. This in our view was not competitive as it locked out other suppliers. Further, there were no tender committee minutes approving such purchases.

Governor's Responses

The Governor presented as follows:

1. That the purchase of the vehicles was not direct procurement as stated instead it was guided by the supplies branch circular;

2. That the purchase of motor vehicles was not done at once but were spread throughout the financial year after adoption of the circular by the tender committee on 3rd July 2013;
3. That while purchasing the motor vehicles the county government also considered the terrain of the area on identifying the suitable vehicles;
4. That CMC supplied the motor vehicles at recommended prices and accepted to deliver before payments; and,
5. That the matter was under active investigation by the EACC

Committee Observation

The Committee observed that:

1. *the auditors were not satisfied with the response as relevant documentation had not been submitted; and,*
2. *Issued a disclaimer and ordered the Governor to submit relevant documentation to the auditors within one week.*

Auditor General' s Subsequent Review

The County Government used an outdated circular (RO4/2011-2012) which was up to date for earlier purchases but obsolete after the expiry of the circular which was 31st November, 2013. 27 vehicles, were purchased after the expiry of the circular.

Committee Recommendation

Committee recommends that since the County Government didn't follow PPOA Act, in using open tendering processes, and the use of the obsolete circular, the tender committee shall face the consequences of the law for making such approvals.

5.1 Budget Over Run (Purchase Of Motor Vehicles)

The approved budget allocation for the year 2013/2014 for purchase of motor vehicles to the various Ministries and Departments was Kshs.122,700,000. However, the actual amount used for purchase of motor vehicles was Kshs.267,988,539. Resulting in a budget over run on purchase of motor vehicles amounting to Kshs.145,288,539 (118%). There was no supplementary budget approved by the assembly for the over expenditure.

Governor's Responses

The Governor presented as follows:

1. That the County Executive Committee had previously discussed and approved the acquisition of vehicles due to transport challenges that the county was facing during the transitional period;
2. That It was decided to purchase the required number of vehicles to minimize use of hired vehicles which were expensive for the county; and,
3. The excess expenditure on the motor vehicles was as a result of savings on Recurrent in the supplementary budget lines within the departments which were then transferred to Development expenditure for the purchase of motor vehicles.

Committee Observation

The Committee observed that:

1. the auditors had not verified the supplementary budget and other necessary documents; and,
2. Resolved that the auditors verify the documents and report back to the Committee.

Committee Recommendation

The Committee was subsequently informed by the Auditor that they had verified that supplementary budget was approved by the County Assembly and the query stands resolved.

5.2 Purchase of Plastic Water Tanks

The Ministry of Water and Energy purchased one hundred (100) 10,000 litre capacity plastic water storage tanks at a price of Kshs.92,000 each. The procurement was not in the procurement plan and hence there was no budgetary allocation for it. The procurement procedure used was also not appropriate considering the amounts involved, for which open tendering should have been used. There was no competitive process as all supplies quoted the same price.

Governor's Responses

The Governor presented as follows:

1. That The tender for supply of plastic water tanks was advertised in the daily nation of 3/05/2013 and the standard newspaper of 8/05/13 , closed and opened on 23/05/13 at 10.00am.The tenderers submissions were subjected to technical evaluation and the same was adopted and approved by the tender committee on 24th July 2013 ;
2. That the prequalification was competitively done and after different suppliers quoting their prices, the technical evaluation committee agreed on the standard prices to be used by any supplier willing to supply plastic water tanks which was then approved by the tender committee;
3. That the LPOS were then issued to the prequalified suppliers for building and hardware materials as per the predetermined prices ;
4. The water tanks were delivered and received in the store and inspection done by the inspection and acceptance committee for the purpose of receiving the water tanks.
5. That in the financial year 2013/14 the development budget was not itemized or activity based but departments were allocated lump sum amounts in the budget to spend according to the priorities of the department;

6. That the plastic water tanks purchased was within the development consolidated budget of ksh.261,426,885 under water department.

Committee Observation

The Committee noted that the auditors had verified the documents and were satisfied;

Committee Recommendation

Committee recommends that since the County Government didn't follow Public Procurement & Disposal Act, by using the open tendering processes, the tender committee shall face the consequences of the law for making such approvals.

5.3 Purchase of Water Pipes

The Ministry of Water and Energy also purchased water pipes of different sizes at a total cost of Kshs. 7,004,500. The purchase was done from one supplier through direct procurement even though 67 suppliers had been prequalified for the same. There is no evidence that the other suppliers had been invited to bid.

The Governor presented as follows:

1. That the tender for supply of water pipes was advertised in the daily nation of 3/05/2013 and the standard newspaper of 8/05/13 and closed /opened on 23/05/13 at 10.00am.The tenderers submissions were subjected to technical evaluation and the same was adopted and approved by the tender committee on 24th July 2013;
2. That the prequalification was competitively done and after different suppliers quoting their prices, the technical evaluation committee agreed on the standard prices to be used by any supplier willing to supply water pipes which was then approved by the tender committee. The LPO was then issued to the prequalified supplier for water pipes as per the standard prices;

3. That the water pipes were received and taken on charge vide delivery Note no.314 which is hereby attached for your perusal.

Committee Observation

The Committee noted that direct procurement method was used

Committee Recommendation

Noting that the procurement method used was irregular and did not allow for competitive bidding, flouting the Section 74 of the Public Procurement and Disposal Act, 2005. The Committee therefore recommends that the tender committee shall face the consequences of the law for making such approvals.

5.4 Water Pan Project

The Department of Agriculture undertook to construct three water pans in the County namely Dak Maguar (Kshs.2,000,000), Bam Got (Kshs.2,000,000) and Okenge (Kshs.2,908,250). The Dak Magwar Water Pan whose construction commenced on 15 February 2014 and estimated to take 32 days had not been completed by the time of audit in July 2014. The Okenge Pan project which was to be completed in March 17 2014 was 80% complete at the time of audit. The contractors hired to construct the pans appeared not to have capacity to undertake the projects within the required period considering that their equipment was not in a working condition at the time. The cost of completing the pans is likely to increase due to inflation. Delay in projects implementation leads to continued suffering of the targeted residents from effects of drought.

Governor's Responses

The Governor presented as follows:

1. That the construction of Dak Magwar water pan and Okenge water pan was not complete at the time of audit. This was attributed to heavy rains in the month of

April, June and July 2014.The machine got stuck in the mud and could not be pulled out till when the ground was dry enough;

2. That the contracts were awarded to the Counties Agricultural Mechanization Services Department (AMS);
3. That the AMS machines were later moved to the water pans and works were completed.

Committee Observation

The Committee noted that the auditors had not visited all the sites to confirm completion, but had verified one dam.

5.5 Payment Vouchers without Support Documents

Most payment vouchers did not have adequate support documents such as stores receipt records (S 13) and inspection reports. Some of the counter receipt vouchers provided as support/ responses to audit queries had no details as to the nature of items being received, quantities, dates or unit of measure. This is an indication that the documents were completed long after the goods were received. Some Payment vouchers such as number 004 and 075 amounting to Kshs. 782,000 have no support documents an indication that they may have never been supplied. There were also payments totalling Kshs 1,375,300 in the ministry of education that lacked various support documents in the form of bus tickets, work tickets and other returns necessary to authenticate the expenditure. Three primary schools were given financial assistance of Kshs 100,000 each during emergencies when their classrooms were destroyed. However, returns for this expenditure were not made.

Governor's Responses

The Governor presented as follows:

1. That It took time for the county government to acquire the necessary accountable documents from the government printers in Nairobi during the initial stages of the financial year;

2. That during that period, the stores were managed and controlled by individual departments and some of them did not have qualified stores clerks;
3. That the County had since acquired sufficient store accountable documents e.g. S11, S13, S3 cards for use and centralized the stores;
4. That three primary Schools (Kanyimach, Anjego and Moheto primary Schools) were given financial assistance of kshs 100,000 each during emergencies.

Committee Observation

The Committee observed that:

1. *the auditors had verified the documents and were satisfied with vouchers totaling Ksh.829,300 but were unsatisfied with vouchers amounting to Ksh.545,500 and hence the query remains outstanding;*

Auditors' subsequent response

The Committee was informed that payments not relevant to the payment in the query were submitted by the County Government.

Of the relevant payments received, they were analyzed as follows:

pmt.voucher	amount	supported	not supported
3	104,000	104,000	-
229	440,800	440,800	-
33	33,000	33,000	-
199	40,000	-	40,000
200	56,000	56,000	-

pmt.voucher amount supported not supported

205	126,500		-	126,500
227	76,000	-	76,000	
222	99,500	-	99,500	
219	100,000	100,000	-	
217	100,000	100,000	-	
-	100,000	100,000	-	
222	99,500 -		99,500	
	1,375,300	**829,300**	**545,500**	

Committee Recommendation

The Kshs. 545,500 remains outstanding, therefore, the Committee recommends that the governor and the responsible officers be prosecuted for failing to provide information under the Public Audit Act. Further, the governor and the persons involved be investigated, prosecuted and monies lost recovered from those found culpable.

5.6 Procurement of Motor Vehicle Insurance Services

Insurance services for motor vehicles were procured from one insurance firm at a cost of Kshs.7,986,750 using direct procurement method. The reasons advanced for use of this method could not be justified. There was therefore contravention of the law in the procurement of the service.

Governor's Responses

The Governor presented as follows:

1. That during the period under review, the county government had just bought new motor vehicles necessitating immediate need of insurance covers;
2. That the vehicles were to be urgently delivered to Migori from Nairobi and this could not be possible without insurance covers. There was therefore need to identify a firm among the prequalified list that could issue the covers without necessarily being paid in advance;
3. That M/S AMACO Assurance Co. Ltd was requested to submit its costs based on the regulated rates;
4. That the quotations were requested over the phone

Committee Observation

The Committee observed that:

1. *the auditors had verified the documents and were not satisfied with the response of the Governor; and,*
2. *Resolved that the payment vouchers and other relevant documents should be submitted within one week to the auditors for verification.*

Committee Recommendation

The Committee was subsequently briefed by the Auditor that single sourcing method of procurement was used, and the issue remains unresolved. The Committee therefore recommends that the tender committee shall face the consequences of the law for making such approvals.

5.7 Hotel Services

Payments for hotel services amounting to Kshs.3,244,345 were made to hotels that were single sourced. Hospitality services were not prequalified in the financial year under

review hence basis of contracting hotels was not explained. No quotations were issued out for competitive purposes hence it is not clear how prices charged were arrived at without comparison. Further, the lists of staff who attended meetings in those hotels were not availed for audit verification casting doubt as to whether such meetings were held.

Governor's Responses

The Governor presented as follows:

1. That the meetings held in the hotels were preliminary meetings held by the county government when no prequalification for supplies had been done;
2. That the county government thereafter prequalified suppliers and proper procurement for hotel services subsequently done; and,
3. That the amount mentioned of kshs 3,244,345 was payment to the hotels.

Committee Observation

The Committee observed that:

1. the auditors were not satisfied with the response of the Governor but confirmed that they had seen the attendance lists related to the functions held; and
2. Directed the Governor to submit all relevant documents within one week to the auditors for verification.

Committee Recommendation

The Committee was subsequently briefed by the Auditor that no further documentation was availed, the County concurred on the use of single sourcing method of procurement, and the issue remains unresolved. The Committee therefore recommends that the tender committee shall face the consequences of the law for making such approvals.

5.8 Variation of Structural Designs without reference to the County Tender Committee

During the year under review, the County Government entered into a contract for the construction of a Medical Training Centre at a contract sum of Kshs.13,434,319.60. Additionally, there was a contract for construction of a Paediatric Ward at Migori District Hospital at a contract sum of Kshs. 14,151,782.50. Both contract agreements were dated 15 January, 2014. The Bill of Quantities made available for audit verification indicated that the structures were to be bungalows. However, during physical verification, it was found out that the contractors were constructing storey buildings. The redrawn structural designs and cost implications as approved by the County tender committee were not availed for audit verification. The change in construction works from bungalow to storey is a major contract variation that should have been referred to the County Tender Committee. Also the contractors are engaging in works that were not contained in the Bill of Quantities and contract agreement, which is irregular.

Governor's Responses

The Governor presented as follows:

1. That the decision to change the scope of work of the two buildings from bungalow to storey buildings was done by the project management committee in consultation with the CEC in charge of lands on realization that the Hospital would not get more land in the stadium for expansion; and,
2. That by this time, foundation works had already started. The revised bill of quantity were prepared and submitted to the tender committee for ratification.

Committee Observations

The Committee Observed that:

1. the auditors had verified the documents and were satisfied; and,

Committee Recommendation

The Committee also recommends that going forward all documentation must be submitted in time.

5.9 Contract for the Construction of Aedo – Nyamage - Wang'chieng Lela Road

Examination of payment vouchers and other support documents as well as physical verification of works provided no evidence to show how the contractor was sourced and whether it was in the procurement plan. Further it could not be determined whether the road works were in the procurement plan for the year 2013/2014 and whether an inspection and acceptance committee was appointed for the work.

Governor's Responses

The Governor presented as follows:

1. That the contractor for the construction of Aedo-Nyamage-Wangchieng Lela road was competitively sourced through the procurement process;
2. That Quotations were raised and technically evaluated; and,
3. That all road works were supervised by the county Roads' Engineer who gave certifications of work done before payments.

Committee Observations

The Committee Observed that:

1. the auditors had verified the documents and raised the issue that the road was not in the procurement plan;
2. the procurement plan included a global number of Kilometers of road to be done and not specific roads; and,

Committee Recommendation

The Committee also recommends that going forward all documentation must be submitted in time.

5.10 Hire of Plant and Equipment for Unspecified Works

The Department of Roads hired excavator, tippers, steel roller, bull dozer, water tanker, motor grader and low loader at a total cost of Kshs. 10 million from the Mechanical Department – Ministry of Roads and Public Works to perform works on unspecified roads in the sub counties. A payment of Kshs 10,000,000 was subsequently made to the Ministry of Roads and Public Works on the basis of a proforma invoice No 17657 of 17.9.13 as per payment voucher No 01 of 19.9.13. Information to show where the machinery and equipment hired were used was not provided by management for audit verification.

Governor's Responses

The Governor presented as follows:

1. That the county hired machine for Plant and equipment works from National Government mechanical department-Ministry of Roads and public works to open and improve roads in all sub counties within Migori County;
2. That this was done during the period which the county did not have adequate Roads maintenance machines; and,
3. That the machines were used to open and repair various roads within Migori County.

Committee Observations:

The Committee observed that:

1. the auditors had verified the documents and were satisfied;

Committee Recommendation

The Committee also recommends that going forward all documentation must be submitted in time.

5.11 Procurement of Seedlings

During the year under review, the department of environment procured seedlings worth Kshs.43,832,325 through the use of quotations contrary to the provisions of the Public Procurement Regulations, 2013 that limits the use of quotations to a maximum of Kshs.2,000,000. It was also noted that no provision was made in the budget for maintenance of the planted seedlings given that most of the seedlings were planted during the dry spell. As a result, most of the seedlings withered and dried off. Physical verification at Achama hills where 20,000 seedlings were planted and Oyani demonstration farm where 14,040 seedlings were planted revealed that the survival rate was about 60%.

Governor's Responses

The Governor presented as follows:

1. That the procurement was done through quotations to the prequalified suppliers where by a total of 24 suppliers were asked to quote their prices depending on the stock varieties/species of the seedlings they were having in their nurseries.
2. That the supply of tree seedlings from within the county warranted special circumstances for reasons as:-
3. That the Kshs 28,700,000 was used to purchase seedlings from 10 youth and women groups and persons living with disability who had the required seedlings varieties, and Kshs 15,132,325 was paid to 330 groups engaged in plantation spread across the county.

Committee Observations

The Committee Observed that:

1. Noted that the auditors had verified the documents and were not satisfied with the response of the Governor;
2. Directed the Governor to submit schedules of payment for the outstanding Ksh. 6,411,695 as labour for tree planting in Oyani, Sori, Ranen, Taragwai and Achama within two days.

Committee Recommendation.

The Committee also recommends that going forward all documentation must be submitted in time.

5.12 Payment for Hire of Tools

The Ministry of Environment hired working tools from various suppliers at a total cost of Kshs. 852,000. On close scrutiny of the supporting documents, it was noted that the quantities of working tools (jembes, mattocks, wheelbarrows) required was not specified. The tools were to be used in the planting of tree seedlings by various youth groups but it was not clear how their use would be controlled. There should be direct relationship between services rendered and value for money earned.

Governor's Responses

The Governor presented as follows:

1. That in the establishment of forests on hilltops, the ministry had to grapple with clearing of vast tracts of bush land and rough terrains;
2. That given the project design to use the local communities and especially the youth groups to undertake the work, the ministry made the decision to mobilize the groups to do bush clearing, staking and eventually the tree planting exercise.
3. That the quantities of working tools were specified on the contract agreements and were accordingly received by the receiving and inspection committee.

Committee Observations

The Committee Observed that the auditors had verified the documents and were satisfied;

Committee Recommendation

The Committee recommends that going forward all documentation must be submitted in time.

6.0 PERSONNEL MATTERS

The payroll of Migori County was not clearly structured separating staff from different ministries or departments. By the time of the audit, there were staff who were not captured within the IPPD system. Migori County Public Service Board had recruited four town administrators in December 2013 whose appointment was later revoked in February 2014 since they had been done before the establishment of the town Committees.

These officers were redeployed to other departments pending the lifting of the revocation order. The employment and redeployment of these officers is an indication of poor planning and non-adherence to procedures in hiring of staff. The records availed during the audit indicated that Migori County Government had engaged 383 casual workers. The verification exercise carried out between 3 June 2014 and 20 June 2014 revealed that there were 29 casual workers whose existence could not be established even though their names were in the monthly payment schedules.

Another 141 casual workers were found on the ground but their names did not appear in the payment schedule. There were also no formal contracts between the workers and the County Government for those properly engaged. A suitability interview was carried out on some 594 employees of Migori County Government with a view of placing them where they are best suited. The verification exercise revealed that 22 officers were degree holders with various professional qualifications.

It also revealed that 98 officers were Diploma holders. However, some of these officers have not been deployed and are unaware of their responsibilities in Migori County Government even though they are being paid. The other staff had lower qualifications.

Examination of personnel files kept at the personnel registry indicated that the files are not updated with documents/information required including photocopies of National Identity Card, Tax Pin Card, Academic certificates, Medical Certificates, application letter etc.

Governor's Responses

The Governor presented as follows:

1. That the staff establishment of the county government was composed of employees inherited from the former local authorities and those seconded from the national government and hence there was a technical challenge in separation of the departmental payrolls since the former local authority staff inherited were scattered in all the departments yet the payroll was consolidated;
2. That the county payroll was processed through IPPD which was facing technical challenges at the transition period since it required that the payroll be separated as per departments;
3. That subsequently, staff establishment was pegged on the departmental budgetary provisions and in compliance to SRC recommendations as per the county human resource recruitment plan as implemented by the county public service board;
4. That the county public service board advertised for the positions of four town administrators following the gazettement and listings of the towns and urban areas by the transition authority and competitively engaged qualified town administrators for Kehancha, Migori, Awendo, and Rongo towns;
5. That the County Assembly, however, reversed the appointment much later in February 2014 after the officers had been recruited and included in the payroll;

6. That the county public service board then resolved to deploy them to serve in other capacities to perform other responsibilities commensurate to their scales and salaries and relevant to their qualifications;
7. That the casual workers in question were inherited from the defunct local authorities and the county had been cautious while handling them to avoid court battles which would be expensive and tedious to the county;
8. That the verification carried out between 3rd of June and 20th June 2014 was done by the county's Human Resource Department to ensure compliance with the labour requirements;
9. That the Migori county public service board conducted suitability test for the purpose of staff rationalization- the implementation of the report was ongoing; and,
10. That a central registry point had subsequently been established with Personnel files been updated accordingly.

Committee Observation

The Committee Observed that:

1. the auditors had verified the documents and were satisfied with response of the Governor; and,
2. noted that the matters were cross cutting in nature and resolved to address them at a global scale.

Committee Recommendation

The Committee met the Intergovernmental Relations Technical Committee (IGTTC) and discussed the matter at length and resolved that the matter should be one of the recommendations of the IGTRC Committee.

The Committee further recommends that Counties should finalize staff rationalization and the implementation of the reports findings should be implemented.

7.0 GROUNDED MACHINERY AT AGRICULTURAL MECHANIZATION CENTRE – MIGORI

During the audit, a physical verification of equipment and machinery at the Agricultural Mechanization Centre was carried out which revealed that all the machinery, except for the five tractors purchased in the year 2014, are not operational and have various mechanical problems. The funds estimated to meet the repair costs amount to Kshs.4,669,445.60. The net effect is that the Centre is not able to fulfill its mandate of promoting agriculture, constructing soil and water conservation structures and generating revenue.

Governor's Responses

The Governor presented that the management of Migori County through department of Agriculture serviced the stalled machines with a view of promoting Agriculture.

Committee Observation

The Committee observed that:

1. the auditors had verified the documents and were satisfied with the response of the Governor;

Committee Recommendation

The Committee also recommends that going forward all documentation must be submitted in time.

8.0 ADVANCE PAYMENT FOR SUPPLY OF ELECTRICITY CONNECTION TO THE DEPARTMENT OF FISHERIES - NYATIKE

The department of Fisheries and Livestock Development paid Kenya Power & Lighting Company, Kisumu an amount of Kshs 3,002,651 through LSO No 0610971 dated 27 May, 2014 for electricity connection to Nyatike Office. However by the time of our audit, the service has not been rendered.

Governor's Responses

The Governor presented as follows:

1. That the Supply of power to Nyangwina Fish Auction centre was initiated by the National Government in 2013 but was unssucseful;
2. That the county department of fisheries reinitiated the process of installing power to Nyangwina Fish Auction centre on 9th January 2014 through a letter reference no. FISH/MIG/ADM18/VOL.1/27.Through this letter, a request for an estimate for the installation works was made;
3. That one of the conditions was that the department had to pay the quoted sum, Kshs.3, 002,651, within 90days for KPLC to undertake the installation works and the county did not have any other option since Kenya power enjoys monopoly of power supply;
4. That this was the major reason why advance payment was made to KPLC in July 2014; and,
5. That the delay in completing of the work was occasioned by complications in obtaining way leave which took some times due to local politics and non availability of some materials which were out of stock at the time of order; and,
6. That the installation had since been completed.

Committee Observation

The Committee Observed that the auditors indeed received the quotation letter by KPLC demanding payment and verified all the documentation

Committee Recommendation

The Committee also recommends that going forward all documentation must be submitted in time.

9.0 RECEIPT OF MEDICAL SUPPLIES AT THE HEALTH CENTRES

A review of delivery notes of medical supplies to health facilities revealed that the same had not been acknowledged by an inspection, acceptance and disposal committee as required by the public Procurement and Disposal Act, 2005. These supplies were instead being received by officers in charge of the health facilities. An inspection of some of the facilities that were receiving large quantities of medical supplies indicated that they may not have the capacity to handle them both in terms of manpower and storage. For example, Othoro Sub-county hospital had received drugs worth Ksh.885,049 in May 2014 yet it had only one Medical Officer handling clinical and drugs dispensing functions. The storage facility was also not secure to safeguard against theft. The facilities were also not making proper use of the stock cards as a tool to control movement of the received items. Stock takes were also not being done regularly as noted in some facilities visited and when done, discrepancies were being noted between the balances as per the cards and the physical count balances. This was noted in Othoro Sub-County hospital, Otacho Dispensary and Begumbe dispensary.

Governor's Responses

The Governor presented as follows;

1. That KEMSA delivered medical commodities to all medical facilities in the county where the commodities are received and verified by the facility in-charge, departmental in charges as well as a representative of the facility management committees;
2. That Given the huge number of facilities (i.e. 127) it was realistically not tenable for the centralized county inspection team to access all the facilities to timely inspect the commodities;
3. That KEMSA was supplying anti malarial and family planning commodities which are provided free of charge by the national government; and,
4. That the disparities identified in stocks against the laid down store management procedures and tools (Forms S11, S13 and delivery notes) was primarily due to lack of human capital.

Committee Observation

The Committee observed that the auditors observed that the Governors response confirmed the query and hence were not satisfied

Committee Recommendation

The Committee recommended that since documentation was not available at the consumer level of the 3 sub counties the matter be investigated further and persons responsible for poor record keeping be brought to book.

The medical facilities concerned need to keep proper documentation on deliveries by KEMSA, they should also keep prompt and accurate records at all times and avail them to the inspectors and auditors at the time of audit. The County Government should issue instructions to all health centers to keep updated records of all health records.

10.0 APPOINTMENT OF COUNTY PUBLIC SERVICE BOARD SECRETARY

Migori County Public Service Board has operated without a substantive Secretary for almost one year in contravention of the County Government Act that requires the board to have qualified secretary. During this period, the chairman has been performing the duties of both the secretary and chair.

Governor's Responses

The Governor presented as follows;

That a certified Secretary of good professional standing has been competitively interviewed by the county public service board and nominated by the governor. The person had since been vetted by the county assembly.

Committee Observation

The Committee Observed that:

1. the auditors had verified the appointment process of the county service secretariat and the CPSB nomination by the Governor was proper.
2. documents were submitted and were satisfied with the response of the Governor;

Committee Recommendation

The Committee also recommends that going forward all documentations must be submitted in time.

11.1 Payment to a Football Club

Payment amounting to Kshs.168,000 was made in favour of a football Club. The management could not explain the purpose of the payment. There was no LSO or invoice to support the payment. There was therefore no authority for such a payment

Governor's Responses

The Governor presented as follows:

1. That the county department of youth sports and culture had organized a mentorship programme for the youths through promotion of sports;
2. That for the purposes of exposure of the football talents of our youths and experience sharing the department of youth invited Gor mahia team to play with their county team;
3. That the county then paid ksh 168,000 to Gor mahia football club to settle for expenses they incurred while attending Migori Agricultural show to play with the county team on request by the county youth department

Committee Observation

The Committee observed that:

1. the auditors were satisfied with the response;

11.2 Team Building Seminar at the Reef Hotel

An amount of Kshs 1,535,440 was made for a seminar at the Reef Hotel in Mombasa between 27/09/2013 and 28/09/2013. The list of participants indicates a total of 82 attendees who included MCAs and other staff; however the invoice is for 91 persons. The correct procurement process was not followed to procure the Hotel services as no quotations were given out, no LSO is attached hence direct purchase of services which is against the procurement process. Also the payment voucher is not fully processed as it did not pass through vote book control purposes.

Governor's Responses

The Governor presented as follows:

1. That it was a consultative meeting between the county executive, County public service board and members of the county assembly;
2. That due to the unfavorable political environment prevailing then immediately after elections, there was an urgency of stabilizing the working environment between the two arms of county government hence the team building meeting was organized and Reef hotel was identified as the ideal venue for the meeting; and,
3. That the excess numbers of people queried in the auditor's report were members of county public service board who also attended the meeting.

Committee Observation

The Committee observed that the auditors were not satisfied with the response of the Governors as the procurement process of identifying the Hotel was still outstanding

Committee Recommendation

The Committee recommends that since the County Government didn't follow PPOA Act, in neither using open or prequalified tendering processes, the tender committee shall face the consequences of the law for making such approvals.

11.3 Travelling, Accommodation & Subsistence Claims not supported

Various travelling, accommodation and subsistence claims of security officers and other officials attached to the Governor's offices were not adequately supported. Some of the schedules were not signed to indicate receipt of money and some payment vouchers were not fully processed i.e AIE holders did not sign the payment vouchers. Further, there were instances where large purchases of soft drinks were done in Nairobi without imprests issued and the functions where the purchases were used were not disclosed. The total sum of payments identified as not having adequate support from the audit sample tested was Kshs.24,438,613.

Governor's Responses

The Governor presented that the relevant documents required by the auditors to fully support the payments had subsequently been availed to auditors for verification.

Committee Observation

The Committee Observed that the auditors were not satisfied as Ksh. 3,298,000 had not been supported;

Committee Recommendation

The Committee recommends that, the money should be surrendered back and recoveries done with the prevailing CBK rates. This is in contravention of the PPOA Act and the persons involved should be identified and surcharged.

11.4 Hire of Motor Vehicles

During the year under review, the County Government hired motor vehicles/ taxis at a cost of Kshs. 3,020,900. The services were in most cases sourced from one supplier. 23 The activities carried out during such trips were not specified. The rates quoted by the suppliers could also not be considered as standard. The method of procurement for such services could not be explained. In conclusion, the criteria used for the selection of suppliers and how the amounts charged was determined could not be explained by management.

Governor's Responses

The Governor presented as follows:

1. That the vehicles were hired on a need to need basis since the county had not purchased vehicles for our operations during the transition period; and,
2. That Travel time leader company had been prequalified to offer transport services. Due to continuous need of means of transport, call for quotation would not be appropriate and LSOs were always issued to prequalified dealers like travel time leader company

Committee Observation

The Committee observed that the auditors were not satisfied as the documentation provided was inadequate

Committee Recommendation

The Committee recommends that as Kshs 850,140 could not be accounted for and since the money is still owed, the officer must pay back the money to the County Treasury by 1st May, 2017.

Under the PFM Act Section 71(4), the money should be paid with the prevailing CBK rates.

11.5 Accommodation for Staff at Tiwi Beach Resort

A payment of Kshs. 1,738,000 was made to Tiwi Beach Resort for hosting a seminar vides a payment made on 24 December 2013. However the payment did not indicate the dates the seminar took place. The payment voucher was not authorized for payment by the AIE holder and there was no evidence it was controlled in the vote book. The procurement procedures were not followed as no quotations were raised and no Local Service Order (LSO) was raised. The minutes for the meeting that authorized the seminar were not appropriately signed to qualify as adequate support for the expenditure.

Governor's Responses

The Governor presented that he and his team of twelve officers as indicated travelled for a consultative meeting in Mombasa.

Committee Observation

The Committee observed that:

Auditors had indeed received and verified the vouchers and that the money has been properly accounted for.

Committee Recommendation

The Committee also recommends that going forward all documentation must be submitted in time.

12.0 Failure to deduct Withholding Tax from Payments to Contractors

Payments to contractors arising from Engineers' certificates indicated withholding tax deductable, however the taxes were not deducted. Contractors were paid gross of

withholding tax. A review of payments to contractors for the period April to June 2014 indicated that Kshs. 1,839,263 had not been withheld as required by law.

Governor's Responses

The Governor presented as follows:

1. That the preparation of payments to contractors was normally done by the relevant departments and they would make all deductions while certifying the work done and only prepare the net payments due to contractors;
2. That the cases highlighted were omission done on certification;
3. That the County had communicated the same to the affected contractors to pay the taxes that were not withheld; and,
4. That the taxes had subsequently been paid and the named contactors issued with certificate of compliance by the KRA.

Committee Observation

The Committee directed the auditors to verify the compliance certificates mentioned in the Governors response within two days.

Committee Recommendation

The Committee recommends that the County Government should submit the certificates by 1st May, 2017 to the Auditors since they hadn't physically confirmed the compliance certificates .

13.1 Revenue collection shortfall

A review of revenue collection revealed that the county had budgeted to collect local revenue of Kshs.795m in the year 2013/2014. However, revenue collection for the period was Kshs.238m resulting in to a shortfall of approximately Kshs. 557m (70%).

Governor's Responses

The Governor presented as follows;

1. That the revenue figure was a projection which was targeted for collection of ksh.795m but only 238m was realized;
2. That the County subsequently had put in place a Revenue enhancement team and also introduced payment of revenue through Mpesa to improve revenue collection; and
3. That the County was also in the process of full automation of revenue collection.

Committee Observation

The Committee observed that:

1. the auditors were not satisfied with the response given by the Governor;
2. the Governor needs to further enhance revenue collection strategies in the County; and
3. requested the Governor to submit a tabulation of the revenues collected during the times of the now defunct local authorities.

Committee Recommendation

The Committee recommends that since the management has provided the revenue analysis for 2014/2015 as 238 million and 2015/2016 as 355 million they must institute and implement automation of revenue.

The Committee recommends that the County Government should submit to the office of the Auditor General the status of revenue collections in the county by 1st May, 2017 to the Auditors.

The Committee also recommends that going forward all documentations must be submitted in time.

13.2 Revenue Collection by Hospitals

An inspection of records of banking and daily cash collections for Othoro Sub-district hospital (April, June, July and August 2014) and Isebania Sub-district hospital (June and April 2014) revealed differences between the bankings and the daily collection. Even though, the variances were not individually significant, there is a possibility, that there are other institutions having similar issues but which were not visited. There were also instances where collections were not banked daily from the facilities visited.

Governor's Responses

The Governor presented the in the month of April a total of Kshs.222, 480 were collected while Kshs.208, 580 was banked the same month. The balance of Kshs.13, 900 was banked in the following month of May.

Committee Observation

The Committee observed that the Governor's response confirmed the query

Committee Recommendation

The Committee recommends that since there was under banking and the reason not ascertained and the matter is cross-cutting a law should be established at the Senate to cater for this matter.

13.3 Variances in Revenue Figures

A review of the revenue records maintained revealed discrepancies between the revenue summary report and actual records available at the Revenue Office. For example a review of income for the period April to June 2014 revealed the following:

ITEM	REVENUE REPORT	RECORDS	VARIANCE
Cess – sugarcane	7,626,605.00	6,651,290.00	(975,315.00)

Public works (building)	165,000.00	156,000.00	(9,000.00)
Physical planning	7,000.00	367,000.00	360,000.00
Fisheries	60,210.00	62,400.00	2,190.00
Survey fees -	-	137,370.00	137,370.00

It was therefore not possible to ascertain the correct revenue figures.

Governor's Responses

The Governor presented as follows:

1. That the actual Cess - Sugarcane revenue realized was Kshs 7,626,605 as per the revenue report and not Kshs. 6,651,290.00;
2. That there existed a variance of Kshs 975,545 which was as a result of an omission of cheque Nos. 014481 of Kshs 435,952 and 043447 of Kshs 539,593. Totaling to the variance figure of Kshs. 975,545; and,
3. The cheques were deposited in Migori County Revenue Account on 16th May 2014 & 26th June 22015.
4. Public Works (Building)

   That the County record for the period shows that the actual collection was Kshs. 165,000 and was erroneously recorded as Kshs.156, 000.

Committee Observation

The Committee Observed that:

1. the auditors had verified the figures regarding the sugar cane documents and were satisfied with the response of the Governor;

13.4 Non Collection of Revenue-Parking Fees

A spot check of collection of parking fees revealed that motor vehicles parking in most spots in town were not paying parking fees. A spot check at the post office area revealed that forty one vehicles, taxis and private vehicles stationed there at the time of the visit

had not paid. The County Government may have lost undetermined amount during the year 2014 in uncollected revenue.

Governor's Responses

The Governor presented as follows:

1. That there had been a dispute between the county and the taxi operators over the payment of parking fees;
2. That the taxi operators complained of lack of designated parking slots as the main reason for not paying parking fee; and,
3. That subsequently there was a meeting between the taxi operators & the County Government officers & a resolution was reached that the operators pay the levies as the County Government renovates the temporary parking site.

Committee Observations

The Committee observed that:

1. the auditors observed that subsequent audits would confirm if the parking fees were been paid; and,
2. Resolved to follow the issue in the subsequent audits.

Committee Recommendation

The Committee recommends that this matter be sorted during the FY14/15 audited accounts.

13.5 Unaccounted for Revenue

In the process of reviewing the revenue collection processes, it was noted that there are loopholes being exploited by some of the County staff to misappropriate funds. For example, one employee, who was a revenue collector and has reportedly left employment, misappropriated a total of Kshs 126,980. He is also reported to be in

possession of the following receipt books, as per the internal audit department letter Ref: MCG/I/A/2014/016 dated May 5 2014;

Single business permits	01116-01150
Miscellaneous receipt	2868601-2868650
Miscellaneous receipt	013108-013200
Miscellaneous receipt	009051-009100

Governor's Responses

The Governor presented as follows:

1. That the employee Robert Marowa Mwikwabe- PF 34401128 was immediately reported to the county head of human resource;
2. That he was interdicted and later appeared before county human resource disciplinary committee and deployed out of revenue department; and,
3. After his submission and defense, the committee resolved that Mr. Robert Marowa be surcharged for the money lost.

Committee Observation

The Committee observed that:

1. the auditors were satisfied with the recovery efforts being made in regard to this query; and,
2. Directed the Governor submits verification of the recovered booklets.

Committee Recommendation

The Committee recommends that since the auditors confirmed that no docs have been received, the committee recommends that by 1st May, 2017, the Governor is

hereby directed to submit the information required to the Auditors, else the Governor be surcharged the amount in full with the prevailing CBK rates.

14.0 ALLOWANCES PAID TO THE PROCUREMENT COMMITTEE MEMBERS

The committees involved in procurement were paid sitting allowances totaling Kshs.2,500,000 in the months of April, May and June 2014. It was noted that, the members were paid between 4 and 6 allowances per procurement meeting based on the item being discussed. It was also noted that there are very many officers involved in one meeting with several support staff included.

Governor's Responses

The Governor presented as follows:

1. That due to the volume of the work, some evaluations were done in piece meal and could extend for many days; and,
2. That most of the officers were paid in arrears for meetings attended earlier.

Committee Observations

The Committee observed that:

1. the auditors confirmed that they had received and verified the documentation.

15.0 PROCUREMENT OF ICT EQUIPMENT AND SERVICES

A review of the procurement plan for the year 2013/2014 indicated that Kshs 47,687,259 was set aside for establishment of ICT infrastructure and purchase of related ICT equipment for service delivery. However, scrutiny of payment vouchers and other documents availed for audit indicated that a total of Kshs 130,528,306 was spent.

Further, it was noted that eight (8) Citizen Service Centres have been established at a cost of Kshs 87,174,040. Each Centre was supplied with 12 computers, 13 desks and chairs, 1 server, one printer and networking infrastructure. In all a total of 101 computers were supplied to the eight centres.

It was however observed that these computers have not been branded. Although training was provided to 76 members of staff to offer services at these centres, they have not been deployed to these stations. The citizens are yet to benefit fully from these centres.

It was also observed that the County Government purchased 65 computers at a cost of Kshs 7,205,995 for distribution to the Youth Polytechnics within the County. However, upon physical verification, it was noted that the computers were still in store and are yet to be distributed to the Polytechnics. These computers were delivered on 9 June 2014 vide delivery note No. 191.

Governor's Responses

The Governor presented as follows;

1. That in an attempt to implement the CIDP projects the county experienced growth on the need for computers to implement information technology programmes that were embedded in the business process;
2. That the demand for the automation of various processes led to the expenditure in terms of infrastructure expansion and support;
3. That the department of ICT was later transferred to the office of the Governor to incorporate the E-Government initiatives like citizen service centers coupled with county wide net working of all sub county offices; and,
4. That Supplementary budgetary allocation were made to the adjusted scope of the department accordingly to accommodate the reallocation of funds of Kshs 150,000,000 which was therefore sufficient to accommodate the ICT expenditures.

Committee Observation

The Committee observed that:

1. the auditors were satisfied with the response of the Governor; and,
2. the Governor needs to submit a distribution list of the equipment.

Committee Recommendation

The Committee recommends that the County Government should submit the list of distribution of equipment to the office of the Auditor General since it was not provided. This should be included in the FY 2014/15 submissions.

CHAPTER SEVEN

KWALE COUNTY EXECUTIVE

The Committee invited the Governor of Kwale, Hon. Salim Mvurya, and he appeared before the Committee on Tuesday, 2nd August and Wednesday 21st September, 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. 7**

1.0 Procurement of Goods, Works and Services

1.1.1 Procurement of Garage Equipment

A review of the procurement records availed for audit indicated that the County Government during the year under review, paid for various garage equipment amounting to Kshs.1,365,000 as indicated below: -

Date	P. V. No.	Description	Amount (Kshs.)
4.6.2014	1872	Trolling Jack	115,000.00
4.6.2014	1872	Computerized diagnosing machine	680,0000.00
4.6.2014	1872	10 ton standing jack	144,000.00
4.6.2014	1872	Generator and compressor	210,000.00
4.6.2014	1872	High Pressure grease	162,000.00
3.4.2014	4212	Office chair without arm rest	54,000.00
			1,365,000.00

However, a review of the stores records made available did not give evidence of these items ever having been received in to the stores through the counter receipt voucher

(S13), taken on charge through bin cards (S3) as required and having been issued out officially through counter requisition and issue voucher (S11). Consequently, the items for which the expenditure of Kshs.1,365,000 relates to could not be accounted for. This expenditure therefore appears nugatory.

The Governor presented as follows:

1. That the County Government at its inception did not have a garage facility which was essential and prudent for any institution;
2. That the documents were subsequently availed to the auditors for verification

Committee Observation

The Committee observed that:

1. the documents were not availed in time for the Auditors' comment;
2. that the Auditors were not satisfied after verification of the submitted document.

Committee Recommendation

The Committee noted that the relevant documents were availed for verification to the Auditor, and the Auditor went further to physically verify the equipment. The issue therefore stands resolved.

1.1.2 Procurement of Survey Equipment

Information availed for audit review indicated that the County Government procured three G.P.S machines (Trimble Geoxh XT 6000) at a total cost of Kshs.3,795,000 for use by the survey department. However, no documents were availed for audit review to support how the supplier was identified, selected and awarded the tender. No requisition

from the user department was availed for audit review to confirm that in deed the user department requested for the equipment. In addition, information made 7 available indicates that the equipment was supplied without a critical software required to operationalize the same.

The Governor presented as follows:

1. That the county government at its inception was faced with serious human resource and capacity gaps; and,
2. That the documents were subsequently presented for verification.

Committee Observation

The Committee observed that:

1. the documents were not availed in time for the Auditors' comment;
2. Noted that the Auditors were not satisfied after verification of the submitted document;
3. Issued a disclaimer on the matter and directed the County Executive to submit relevant documents to the auditors within one week; and
4. Subsequently, the Auditor-General informed the Committee that the documents resubmitted for verification by the County Government such as the evaluation minutes, were handwritten which was irregular and therefore the Query still stands.

Committee Recommendation

The committee observed that documents were falsified, and recommend the DCI investigate with an aim to prosecute the officer/s responsible and that the persons involved be investigated, prosecuted and monies lost recovered from those found culpable.

1.1.3 Procurement of Farm Inputs

Information availed for audit review indicated that the County Government spent Kshs.38,478,000 on procurement of farm inputs as indicated below: -

PV. No.	Date	Amount (Ksh.)
104	31/12/2013	15,750,000.00
1021	18/03/2014	4,992,000.00
1256	03/04/2014	5,376,000.00
4126	05/04/2014	12,360,000.00
TOTAL		**38,478,000.00**

The procurement was in respect of 6000 bags of seeds, 6000 bags of Calcium Ammonium Nitrate (CAN) and 6000 bags of Diammonium Phosphate (DAP) fertilizers to be distributed to farmers within the County. However, no supporting documents were availed for audit review to show how the suppliers were identified, selected and awarded the tenders. Further, the farm inputs were to be supplied for free to the farmers but no clear documented policy for identifying the farmers was availed for audit review. In addition, the distribution list availed for audit review was not dated and failed to disclose all the details of the beneficiaries including ID numbers, land registration numbers and their signatures. The competitiveness, equity and fairness of the prices charged and benefits accruing therefore could not be confirmed.

The Governor presented as follows:

1. That the procurement of the farm input was done competitively as provided for in the public procurement laws; and,
2. That the identification of the beneficiaries who are farmers was done at the village level which the lowest decentralized unit within the County in line with the principle of devolution and public engagement.

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; and,
3. was subsequently informed that OAG was not able to confirm the procurement procedure because the county government did not use the correct procedure for procurement to identify the suppliers, and instead used a list of prequalification instead of open tender;
4. Verification from the farmers was not possible from the list of beneficiaries. Therefore the Query remains unresolved

Committee Recommendation

The committee recommends a reprimand for flouting the procurement laws.

1.1.4 Procurement of Repair Works from non-qualified supplier

Information availed for audit review indicated that the County Government undertook various repairs of County vehicles and machinery at a local farm at a cost of Kshs.1,739,720. However, a review of procurement records revealed that the firm was 8 not among those firms prequalified to undertake the repair works for the County Government. In addition, the inspection reports by the government agencies charged with the responsibility for works on public assets were not made available for audit verification. The procurement of these repair works is therefore against the Public Procurement and Disposals Act, 2005 and the relevant regulations. In the circumstances, it has not been possible to confirm in deed if the County Executive got value for money in the procurement process.

The Governor presented the repairs works were done by Hamisi Kassim Auto works which was pre-qualified firm of the County government.

Committee Observation

The Committee observed that:

1. *there is a discrepancy as to whether the repairs were done by Hamisi Kassim Auto Works or Hasim Kassim auto work;*
2. *that the Auditors were not satisfied after verification of the submitted documens of repair work; and*
3. *the Auditor General subsequently reported that additional documents submitted allowed them to verify the issue of Hamisi Kassim.*

1.1.5 Procurement of Goods, Works and Services by Imprest

A review of the imprest records maintained by the County Government, for the period under review, revealed that various officers were issued with imprest to undertake various procurement activities amounting to Kshs.1,543,900. No satisfactory explanation was provided for use of imprest in making these procurements contrary to the Public Procurement and Disposal Act, 2005 and Public Procurement and Disposal Regulations, 2006.

The Governor presented that in the financial year 2013/2014 the county government had serious shortage of skilled staff and the use of imprest was the most prudent way since the payment were made to labourers who were mainly youth.

Committee Observation

The Committee observed that the Auditors were satisfied after verification of the submitted document

1.1.6 Purchase of Computers

Information availed for audit review indicated that the County Government paid for supply of 33 laptops and 32 desktop computers for an amount of Kshs.6,760,000 as indicated below: -

PV NO.	Date	Goods supplied	Amount (Ksh.)
300	03/02/2014	32No. Laptop Computers	1,975,000.00
300	03/02/2014	32No. Computers	4,785,000.00
Total			**6,760,000.00**

However, a review of the relevant supporting documents attached to the payment voucher indicated that critical supporting records such as official counter receipt voucher (S13) and counter requisition and issue voucher (S11) as evidence for receipt of the items in store were not included. In addition, availed information indicated that the manufacturer's warranty for all the laptops and computers bought expired on 18 March, 2014 which was one month after the computers were delivered. The management did not provide for audit verification information on how the suppliers were identified, selected and awarded the tender. Further, no distribution list of the computers including acknowledgement of receipt of the same by users was availed for audit review. Consequently, the authenticity of this expenditure could not be ascertained as at the time of this audit.

The Governor presented as follows;

1. That the procured computers were all delivered to the County Government but Due to the technical nature of the goods, they had to be inspected by the Information, Communication and Technology (ICT) department to authenticate their quality and standard;
2. That Since S13 and S11 do not have provision for the additional details sought by the ICT department, an alternative form was designed to capture all necessary information;
3. That the computers noted in the Auditors report were supplied by two venders i.e. Ms. Lugala General Suppliers 33 Laptops for Finance Department, Irad office

suppliers 32 Desktops for the Department of Education and other accessories and 19 Desktops for the Department of Finance on various dates.

Committee Observation

The Committee observed that:

1. the County Government breached the public procurement and disposal act, 2005 by splitting tenders;
2. that the Auditors were not satisfied after verification of the submitted document.

Committee Recommendation

The Committee recommends that the DCI should investigate this matter further with a view to prosecuting those found to have flouted the law.

1.17 Purchase of Goods, Works and Services from non-prequalified suppliers

Audit review indicated that the County Executive sourced for goods and services worth Kshs.712,660 from suppliers who were not prequalified for the year 2013/2014 contrary to the provisions of Section 25(3) of the Public Procurement and Disposal Regulations, 2006, which requires that the procuring entity invite tenders from only the persons who have been prequalified.

The Governor presented as follows:

1. That the procurement referred to in this case was done during the transitional period before the county government pre-qualified its own list of suppliers;
2. That the executive used the list of pre-qualified suppliers of the defunct county council of Kwale for the period between June and December 2013 when the county tender board approved award for prequalification of suppliers for the county government; and

3. That the new list of suppliers was adopted by the tender board on 9th December, 2013.

Committee Observation

The Committee observed that the Auditors were not satisfied after verification of the submitted document.

Committee Recommendation

The Committee recommends that the Query remains unresolved, as the issues raised fall under general penalties covered under section 177 of the Public Procurement Act.

1.2 Payments to Council of Governors

Information availed for audit review indicated that during the period under review, the County Government paid a total amount of Kshs.6,100,880 to the Council of Governors vide PV.no. 18/03/2014 of Kshs.3,000,000 and PV no.1680 dated 25/5/14 of Kshs.3,100,880. This was part of the total support to the Council of Governors for the year under review of Kshs.7,500,880. This expenditure was incurred in contravention of Section 37 of the Intergovernmental Relations Act of 2012 on operational expenses in respect of the structures and institutions established in this Act which require that such operational expenses be provided for in the annual estimates of the revenue and expenditure of the National Government. It is not possible to confirm the regulation under which this payment was made.

The Governor presented as follows:

1. That the payment was done after approval to pay the same was granted by the County Executive Committee meeting held on 23rd April, 2014 and subsequently approved by the County Assembly in a Supplementary Budget; and

2. That the Council of Governor is a statutory body which is supposed to be funded by National Treasury but due to lack funding the National Government, the Council of Governors resolved that the 47 counties to contribute funds for day to day running of the activities of the Council of Government..

Committee Observation

The Committee observed that:

1. the Auditors were not satisfied after verification of the submitted document.
2. Noted that this query affects all counties.

Committee Recommendation

The Committee recommends that the county receive the necessary statutory funding noting that it was the National Government was to fund the Council.

1.3 Hire of Motor Vehicles

Documents made available for audit review indicated that the County Government incurred a total of Kshs.1,995,000 on hire of buses for transportation of the public to various locations during various activities officiated by the Governor during the period under review. However, the basis of these payments was not provided for audit review. Further, no documents were availed for audit review to show how the transporters were identified, selected and awarded the contract. The list/manifest of people transported during the various activities were not made available for audit review. Further, no comprehensive list of the expenditure of Kshs.1,995,000 was availed for audit verification.

The Governor presented as follows:

That the hire of buses on various dates was to transport participants to various functions which included:-

i. Participants to Cultural Fair competition at the County level from Wards.

ii. Participants to National Music festivals in Nairobi.

iii. Participants to County function in our effect to promote cohesion and integration following the pre-election conflicts.

That the buses were hired from Secondary schools within the County and quotations were raised as this was the most economical way to save on public resources compared to hire of private transport.

Committee Observation

The Committee observed that the Auditors were satisfied after verification of the submitted document.

2.0 Outstanding Imprest

A review of the imprest records availed for audit review indicated that the County Government had total outstanding imprest amounting to Kshs.19,591,744 as at 30 June 2014. However, scrutiny of the imprest records revealed that an officer with total outstanding imprest amounting to Kshs.13,350 was issued with additional imprest 11 before accounting for imprest issued to her earlier, contrary to the provisions of Section 152 of Public Finance Management Act, 2012, on prudent management of imprest and various regulations governing issuance and surrender of imprest. Further, information availed for audit review revealed that an officer who ceased working for the County Government had outstanding imprests amounting to Kshs.586,300 as at 30 June 2014. No satisfactory explanation was provided to why he was cleared before surrender or recovery of the outstanding amount.

The Governor presented as follows:

1. That they concurred with the Auditors on the matter;
2. That the outstanding Imprest was Ksh. 19,657,994 and has since been deducted from the affected staff salaries in the month of January and February;

3. That the double payment of Imprest to staff members was an error that had since been corrected; and,
4. That the Imprest of Ksh. 586,300 that was outstanding to an employee who was transferred had been surrendered.

Committee Observation

The Committee observed that:

1. the auditors were satisfied with the IPPD printout showing the said recoveries had been effected;
2. Noted that the Governor had not availed a schedule showing the duration of time it would take to clear the imprests; and,
3. Directed the Governor to submit the schedules to the auditors within one week.The Auditor General subsequently reported to the Committee that the County government submitted documentation and the schedule which was verified. Kshs. 6 million was recovered from the payroll and 13 million in vouchers.

Committee took issue that 13,426,834 was recovered through vouchers and observed that the authenticity of the vouchers produced after the time of audit, cannot be ascertained.

3.0 Emergency Fund

The audit of the County Government financial records again revealed that the County Government had set aside Kshs.23,000,000 as Emergency Fund during the period under review in line with Section 110 of the Public Finance Management Act 2012. However, the Fund is yet to be established by the County Executive Committee and approved by the County Assembly as required by the law.

The Governor presented as follows:

4. That the County concurred with the auditors that the County had not established an emergency Fund Bill for submission to the County Assembly as at the date of Audit; and
5. That the County Government in consultation with the Kenya Law Reform Commission had subsequently developed the Bill and submitted to the County Assembly for approval; and,
6. That the Bill was awaiting passage by the Assembly.

Committee Observation

The Committee observed that:

3. *the matter was out of the County Executive control as the Assembly operated independently; and,*
4. *Urged the Governor to engage the Assembly with an aim of fast tracking the Bill.*

Committee Recommendation

The Committee having considered and deliberated on the audit query recommends the Senate clear the audit query and recommends the issue be addressed during the audit report of the County Assembly of Kwale.

4.0 Cash and Bank Balances

4.1 Bursary Payments

Records availed for audit review indicate that the County Government disbursed a total of Kshs.100,249,373 as bursary to various beneficiaries during the year under review. However, no Education and Bursary Act for the county forming the basis of the bursary scheme and spelling out the beneficiaries' evaluation criteria was availed for audit review. In addition, the payment details provided in support of the bursary disbursements amounted to Kshs.95,965,860 resulting in unexplained and unreconciled difference of

Kshs.4,283,513. Consequently, the authenticity of these payments could not be confirmed.

The Governor presented as follows:

1. That the County Government issued scholarships to needy students based on an approved Policy guideline by the County Assembly;
2. That the County later developed a Scholarship Fund Act which was approved by the County Assembly;
3. That in the financial year under review the county Government allocated bursary to needy students within the county amounting to Ksh 100,249,373;
4. That under the new Act, ward bursary fund committees identified the needy students and submitted an approved list to the county head offices department of Education that processed Bankers cheques; and,
5. That this had eliminated the loss of cheques as there was more accountability in the system.

Committee Observation

The Committee observed that:

3. the enactment of the Act was done after the audit period;
4. that the auditors had not verified the list of beneficiaries;
5. Issued a disclaimer on the query and directed the auditors to verify the documentation by the 28th September, 2016.

The Auditor General subsequently reported that they could only verify with the schools for Kshs. 6 million out of the 100 million from the documents presented during the meeting with the Governor and the Committee on the 21st September, 2016. No other documentation was availed.

Committee Recommendation

The Committee therefore recommends that since as at the time of report writing the issue was not complete, it should be completed by the time of the 2014/15 Audit report.

5.0 Human Resources

5.1 Casual Wages

Records availed for audit review indicated that the County Government budgeted Kshs.5,946,240 in respect of casuals wages. However, a total of Kshs.12,458,894.30 was incurred by 31 March, 2014 out of which Kshs.9,029,181.30 was spent on casuals through the muster roll, while the balance of Kshs.3,429,713 was spent through use of imprest contrary to the provisions of Section 74 of the County Government Act no.17 of 2012. No documents were availed for audit review in support of authority for reallocation of the expenditure to cover increased casual wages.

The Governor presented as follows:

1. That the payment amounting to Ksh 3,429,713.00 relates to Casual labourers hired by the Health Centre Committees under the Health Sector Support Fund that was paid direct to the Health facilities from the Ministry of Health before the transfers were channeled through the County Revenue Fund; and,
2. That the facility Committees at the Ward level would hire on adhoc basis to assist in cleaning at health facilities within the County before they were formally absorbed.

Committee Observation

The Committee observed that:

1. the auditors had verified the supplementary budget and were satisfied but were concerned that the money had been paid through imprests; and,

2. the Auditor General subsequently reported that there was no evidence that casuals are not being paid using imprest.

Committee Recommendation

Public Audit Act was flouted and directed that the practice be stopped forthwith and workers put on the payroll. Since the County Government has failed to meet the timeline set by the committee, the Committee recommends that the Governor and the responsible officers be prosecuted for failing to provide information under the Public Audit Act.

CHAPTER EIGHT

KISUMU COUNTY EXECUTIVE

The Committee invited the Governor of Kisumu, Hon. Jack Ranguma, and he appeared before the Committee on Tuesday, 6th September, Thursday 6th October and Tuesday11th October, 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 **Appendix 8**

3.1.1. Failure to Release Funds to a Referral Hospital

The National Treasury through a press release dated Friday 6 September 2013 stated that pursuant to County Allocation of Revenue Act, 2013, Kshs.395,636,481 had been allocated to Kisumu Jaramogi Oginga Odinga Teaching & Referral Hospital. The amount was factored in the Hospital's 2013/14 budget for both development and recurrent expenditures. The County Government however, only released Kshs.129,556,429 to the hospital, leaving a balance of Kshs.266,080,052 which to date, and without any explanation, has not been released. In their response, the management stated that this amount will be factored in the next budget. It was therefore not clear why it was misallocated and used by the County Executive on unexplained transactions. In the circumstance, it is clear that the county Government misallocated without authority funds meant for the development of the hospital and in contravention of Section 43 of Public Finance Management Act, 2012.

Submissions Received from the Governor

1. That section 43 of PFM Act 2012 prohibits reallocation of funds especially those relating to development.
2. That there was no reallocation done on the funds meant for Jaramogi Oginga Odinga Teaching and Referral Hospital. The Kshs.395, 636,481 meant for

hospital released by the National Treasury in piecemeal and to date has not been disbursed in full by the National Treasury.

3. The County Treasury transferred to the health facility the Kshs 129,556,429 received during the financial year 2013/2014. The last two disbursements from the National Treasury were received by the County on 3rd July, 2014 and 9th July, 2014 i.e. Kshs 228,902,560 and 180,681,546 respectively. By the time these two disbursements were received, the financial year had closed on 30th June, 2014 hence the amount could only be transferred in the year 2014/2015. This was subsequently done where an amount of Kshs 79,127,296 was transferred to the health facility in October, 2014. Thus the total amount transferred was Kshs 208,683,725 out of the Kshs 395,636,481. The balance of Kshs 186,954,756 is part of the amount still due from the National Treasury of Kshs 377,120, 838

Committee Observation

The Committee observed that:

1. the responses were received late by the audit office;
2. the county government had not provided proper documentation to the Audit office in time; and
3. Proposed surcharging the Governor for the cost of bringing a delegation to Nairobi with inadequate preparation of responses. This amounts to wasteful expenditure of public resources.

At a later hearing with the Cabinet Secretary, Treasury the Committee raised the issue and the Cabinet Secretary availed documents to the Committee that clarified that the Kshs.186,954,756 was a conditional grant, and Kshs.377,120,838 was a regular disbursement.

Committee Recommendations

1. The Committee noted that the Auditor reported that Kshs. 186,954,756 has not been released to date, and directs that the money be paid to the County revenue account by June 2017;
2. Directs the Auditor assess the amount to be surcharged for bringing the delegation with inadequate preparation, and if it remains unpaid, the wasteful expenditure be included in the subsequent Audit Report as an Audit Query; and
3. Cautioned the County Government on late submission of documents to the auditors contrary to the Public Audit Act.

3.1.2. Cash Transfers to Various National Ministries Headquarter

During the year, the County Government transferred Kshs. 418,689,044 to various National Ministry Headquarters and Ksh.627, 315,224 was retained by Treasury at the end of the financial year 30 June 2014 all totalling to Kshs.1, 046,004,268. The management responded that the National Treasury had given a demand note of Kshs. 858,383,650 against recovery of Kshs 1, 046,004,268, thus an overpayment by Kshs.187, 620,618. The Management explained that the transfers were in respect of Salaries and other emoluments paid to devolved staff by various ministries between July 2013 and December 2013.

However, no joint reconciliation was carried out to confirm the actual amount which ought to have been transferred since the personal files of the devolved staff, particularly health, had not been forwarded to Kisumu County Government from the respective parent Ministries. Further, the miscellaneous receipt generated and issued by the National Government was not availed for audit verification.

Submissions Received from the Governor

The Governor presented as follows-

1. The County Government of Kisumu was billed Kshs.858, 383,650 in respect of salaries paid by the National Government for the devolved staff for the period July-December 2013. The salaries for devolved staff related to Kisumu was actually Kshs 488,202,342. Out of this, the County Government managed to reimburse Kshs.418, 689,044 to the relevant National Government Ministries during the financial year 2013/2014. However when the National Treasury went ahead and recovered at source Kshs 446,633,679. This action resulted into erroneous retention of Kshs 377,120,838 out of which Kshs 186,954,756 related to Level 5 hospital (JOOTRH) and the remaining Kshs 190, 166,082 related to development programmes.
2. The National Treasury has acknowledged this vide their letter of ref AG: 3/171/1r/ (79) of 11th September, 2015. The County Government continue to pursue the case with the National Treasury.
3. The refunds by the County were wired through CBK to the respective ministries' bank accounts and acknowledged by the National Treasury. The files of devolved staff have since been transferred to the County Government.

Committee Observations

The Committee observed that:

1. the documents were not availed in time for the Auditors' comment;
2. the issue of cash transfers to the national government is a challenge facing most of the counties particularly the counties that inherited large number of staffers from the national government e.g medical practitioners; and,

Committee Recommendation

The Committee cautioned the County Government on late submission of documents to the auditors contrary to the Public Audit Act.

3.2 NON-CURRENT ASSETS

3.2.1. Procurement of Tractors

During the year under audit, the County Government procured eight (8) Tractors (New Holland) and accessories from CMC motors group Ltd at a total cost of Kshs. 50,044,000 vide LPO No.01531 dated 21 February 2014. The tractors were purchased under Government Contract Agreement for the supply of Government vehicles. However, the supply of five (5) tractors (New Holland T.D 80 4WD -Turkey) was done at Kshs 4,698,000 each which exceeds the recommended price of Kshs.4,408,000 resulting to overpayment of Ksh.1,450,000 for five (5) tractors.

Further, the Management purchased from the same firm plough, Paddy rice reaper, thresher and rotavator costing Ksh.9, 270,000 without tendering process since the items were not included in the supply circular from the Ministry of Public Works.

The minutes of the County Tender committee approving the procurement were also not made available for audit verification.

Submissions Received from the Governor

The Governor submitted as follows-

1. The tractors were purchased from CMC (Group) under Government Contract Agreement for the supply of government vehicles and other machinery up to the end of February/March 2014 respectively.
2. The tractors were recorded in the assets register but the Logbook could not be availed to the audit team since they were still under process, however, they are now available. The minutes of the Tender committee approving the procurement is available. The Ploughs and rotavators were the ones compatible with the model of tractors.

Committee Observations

The Committee observed that the Auditors were not satisfied after verification of the submitted documents.

Committee Recommendations

1. Noted that the Auditor General subsequently informed the Committee that the choice of CMC as the sole supplier of tractors was an issue, but that the tractors were purchased within the pricing threshold set by the circular authored by the Ministry of Lands & Physical Planning. The Committee further recommended investigation by EACC to clear up the issue overpayment of Kshs.4,408,000;
2. With regard to Accessories/implements, the type of Tractors purchased did not have require ploughs that were only available from CMC. The existing contract was for tractors and not implements, implements should have been subjected to a competitive bidding process which was not done therefore procurement laws were contravened. Also the circular listing the prices of accessories was not included; and
3. Investigative agencies to prosecute and recover monies as determined by the investigation.

3.2.2. Procurement of Motor vehicles

The County Government through direct procurement method incurred expenditure of Kshs. 26,075,622 on the procurement of two Motor Vehicles for the Governor: a Toyota Land cruiser VX 200 from Toyota Kenya at Kshs.16, 364,352 and Mercedes Benz E250 from DT Dobie Kenya at Kshs. 9,711,270. The management in its response indicated that the purchase of the vehicles was done using a Government contract agreement which was not availed for audit verification.

Further, the County through direct procurement purchased forty (40) motor vehicles costing Kshs. 181,228,280 from one supplier as shown below:

Vehicle Type	Number	Payee	Unit Price	Amount
Volkswagen Crafter	1	CMC Motors Ltd	6,495,000	6,495,000

Eicher Tipper Model	5	CMC Motors Ltd	5,716,600	33,156,280
Suzuki Vitara	14	CMC Motors Ltd	3,995,000	55,930,000
Ford Everest	3	CMC Motors Ltd	5,353,000	16,059,000
Volkswagen	2	CMC Motors Ltd	5,750,000	11,500,00
Ford Everest	13	CMC Motors Ltd	5,353,000	69,589,000
Total	**40**			**181,229,280**

i. The forty vehicles were procured through direct method (single sourcing) in order to avoid competition as the procurement method used did not fulfill any of the two conditions set Act in section 74 (2) (b) of Public Procurement and Disposal Act, 2005.

ii. The management responded that the purchase of the vehicles was done using Government contract agreement which however was not made available for verification. Consequently, the County Government may have acquired the vehicles at uneconomical and exorbitant prices.

Submissions Received from the Governor

The committee presented as follows-

1. The County Government used the results of the prequalification procedure of the Ministry of Lands, Housing and Urban Development, and Supplies Branch.
2. The budgetary allocation for motor vehicles during the financial year 2013/2014 & 2014/2015 was Kshs. 272,000,000 (two hundred and seventy million shillings only) which was to take care of thirteen Executive Members, thirteen Chief Officers, eight health facilities, and environmental management services. The implementation took place in the FY 2014/2015. At the time of acquisition, the

County was urgently in need of these vehicles in order to facilitate the operations and service delivery.

3. The County Government could not access the whole of its budgetary allocation since it could only draw up to 50% of the total budget as per the CRA directive on the budget ceilings. As such the county was unable to procure and pay for the 40 vehicles within the 30 days government allowed credit period. The only option was therefore to approach the various dealers: CMC, Toyota (K), RMA, amongst others to accept specially agreed credit terms. It was only CMC Motors which provided the most favourable terms of credit as per their letter herein attached. Comparatively, CMC had the highest number of varieties of motor vehicles approved by supplies Branch as per the CGK specifications at relatively lower prices and after sales service as well as the regional network base.
4. Toyota Kenya and DT Dobie are the sole suppliers of Toyota and Mercedes Benz brand of vehicles which was recommended for use by the Governor given the terrain, performance and stability. The purchase of these vehicles was done through Government Contract Agreement which already existed with these firms. The purchase of the two vehicles was done after application/request by user was approved by the County Tender Committee.

Committee Observations

The Committee observed that:

1. the motor vehicles purchased have a higher cc rating than those recommended in the government supplies unit lists;
2. the Auditors were not satisfied after verification of the submitted documents;

Committee Recommendations

1. **Noted that the maximum cc cap for a government vehicle is 3000 cc, Governors vehicle was 4461;**

2. **Procurement officer must be warned to desist from procuring vehicles that exceed the cc allocation per guidelines from the Ministry of Lands Housing an Urban Development and Supplies branch; and,**
3. **The circular that exists applies only to the National Government, another circular should be issued by the Treasury reminding the County Government to prepare circulars/documentation on the purchase of vehicles;**

3.2.3 Rehabilitation of Kisumu Moi Stadium

1. The County Government during the year awarded contracts with total cost of Kshs. 8,438,616 to several firms for the rehabilitation works which includes construction of dressing room, fencing, parking building, painting and cleanings at Moi Stadium Kisumu.
2. Prior to this expenditure, the stadium had been renovated by the Ministry of Sports at a cost of Kshs. 56,212,484.20 in respect of re-construction of perimeter wall and installation of flood lights. It was therefore not clear why the County Government had to spend on renovation of the stadium which had just been done by the Ministry of Sports of the National Government.
3. It could not be confirmed whether procured works were done through a competitive process as procurement documents including, tender opening minutes, evaluation minutes were not availed for audit review.
4. The County granted a County Executive Member an imprest of Kshs.500,000 for the painting, renovation, cleaning and other works in the stadium. The imprest was not fully and properly accounted for.
5. The bill of quantities, progress reports, inspection and acceptance certificates for the work done were not made available for audit verification.

6. It was observed that the expenditure had not been budgeted for in the year 2013/2014 and no authority for budget revision from the County Assembly was made available for audit verification.

Submissions Received from the Governor

The Governor presented as follows-

1. That the expenditure was not budgeted for in the FY 2013/2014 but due to the exigency of the repairs required at the Stadium, it was necessary that funds be sourced from existing votes of repairs and maintenance in the department of Youth, Sports and Culture.
2. FIFA identified Moi stadium Kisumu to hold CECAFA football matches on conditions that certain renovations and constructions were done within timelines. This was an urgent program which prompted the County to set aside some funds to cater for this emergency. The procurement for these works was done through prequalified firms and due process of opening, evaluation and tender award was done. The stadium is always available for sports activities and not closed as stated in Audit report.
3. The Imprest of Kshs.500, 000 issued to Jenipher Kere, the Executive Committee member for Education, Youth, Culture and Social services was meant for the clean up the stadium to make the environment tidy and clean in preparation of CECAFA matches. Previously the entire stadium was bushy, the painted areas had faded off and some broken, the entire stadium was full of litter and debris and this imprest was intended to be used for immediate spruce up to enable the stadium meet international standards for such games. The documents supporting the utilization of this imprest have since been availed.

Committee Observations

The Committee observed that:

1. the matter is pending before the courts;
2. the County Government spent huge amounts of money on a national government function which also the ministry of sports spent monies on;
3. the Auditors were not satisfied after verification of the submitted documents;

Committee Recommendation

The auditor verified there was value for money, and since the matter is before the court, the issue be closed.

3.2.4. Payments for goods not delivered

The County Government paid a supplier Kshs. 1,036,460 for the supply and installation of deep freezers and solar panels at various market centers. Audit verification revealed that the deep freezers and solar panels had not been installed at the time of audit as stated in final payment certificate. The markets include Riat, Ogenya, Ahero, Nyamware and Pap Onditi.

Submissions Received from the Governor

The Governor presented as follows-

1. That the contract document provided for installation of 10 Panels and 10 Deep freezers in various markets within Kisumu County. However there were changes made in the installation points due to various reasons as stated below:

- Deep freezers intended for Ogenya Market was installed at Ogenya Primary School near the beach because of security reasons.
- Deep freezers for Singida/Ahero market was installed at Ombaka Primary Schoold because of security reasons
- Deep freezers for Nyamware market/beach was installed at the designated place in Nyamware Beach.

- Deep freezer for Pap Onditi was installed at Kusa Beach, because Pap Onditi has no beach.
- A freezer was installed at Paga Beach, Kobudho Beach in Seme and two (2) freezers were installed at Jubilee Market in the city.

2. All the acquired panels and Deep freezers were installed and the services of the same rendered as opposed to what is reported in the audit report and commissioning report

Committee Observation

The Committee observed that:

1. the necessary documents were not availed to the Auditors during the audit;
2. the deep freezers were not in areas initially designated, and the auditors were not informed of the relocation of the deep freezers; and,
3. Further that the Auditors were satisfied after verification of the submitted documents.

Committee Recommendation

The Committee recommends that the deep freezers continue be used for the purpose recommended to promote fish conservation and the sale of fish by the fish mongers.

3.2.5. Supply of Marram for Gravelling

A supplier was paid Kshs.2,970,000 for the supply of Marram for gravelling Sondu-Kusa road. The supplier was not prequalified for supply of marram and no quotations were raised for the same. Further, the inspection and acceptance certificates for receipt of the marram were also not availed for audit verification. It was therefore not possible to confirm that the marram was delivered in accordance with the orders issued.

Submissions Received from the Governor

The Governor presented as follows-

1. The supply for marram for Sondu-Kusa Road was procured through quotations and M/s Mooschid Co. Ltd was evaluated the lowest bidder. The supplier delivered the marram and the gravelling of the road was done by the County machinery supervised by the staff in the department of Roads and Public works. The supplier was prequalified by the Kisumu East District in the FY 2013/2014 as the County Governments was still processing their list of prequalified suppliers (Annex VII (a). The murram was actually received and used on the road as can be evidenced from inspection and acceptance report.

Committee Observations

The Committee observed that:

1. the the necessary documents were not availed to the Auditors during the audit; and,
2. the Auditors were not satisfied after verification of the submitted documents.

Committee Recommendation

Further to the clarification by the Auditor General, that to date inspection and acceptance certificate had not been availed, officer in charge CEC Works should be surcharged the Kshs. 2,970,000 prosecuted, and the money recovered.

3.2.6. Procurement of Land and Camp Site

During the financial year under review, the County Government procured land and camp structures from M/s. Sinohydro Corporation at a cost of Kshs. 12,500,000. The land LR No. SOUTH/NYAKACH/KOGUTA WEST/5124 was valued by ministry of Land and measures 3.129 hectares. There were however no minutes and resolutions to support the purpose of the purchase of the land and other structures standing on it. The purpose for which the Land was bought was not disclosed.

Submissions Received from the Governor

The Governor presented as follows-

1. The department of Education (user) had made a formal request on the need to acquire land and Building from Synohydro Corporation to be used as a technical institution. The County Executive Committee considered and approved the purchase, valuation and negotiations were done, the Tender Committee passed it and a purchase agreement entered into with Synohydro Corporation.
2. The valuation report conducted by the District Valuer placed the value of the said property at more than 20 million. Only Kshs.12, 500,000 as opposed to the amount recommended in the valuation report was used to acquire the property and it was within the budget. This facility is intended to be used as a Polytechnic. The County Government is providing budgetary allocation for the rehabilitation of the facility to put it to immediate use as a polytechnic.

Committee Observations

The Committee observed that:

1. That the necessary documents were not availed to the Auditors in during the audit;
2. the land was purchased from a state agency however, the title documents were not availed for verification; and,
3. Further that the Auditors were not satisfied after verification of the submitted documents.

Committee Recommendation

The land has not been converted to a polytechnic to date, matter should be subjected to further investigation by the Auditor General in the form of a Special Audit to determine the status of the land sale, and what is preventing the County Government from developing the land; The Auditor General is directed to submit the Special Audit report to the Senate by May 31, 2017

3.2.7 Projects Implementation and Status

i. During the year under review, the County Government entered into contracts with various contractors to undertake various projects and incurred expenditure totaling Ksh 81,000,194, accounting for only 2% of total budgeted expenditure of ksh 4,426,120,010.

ii. The County Government through public notice in a daily paper dated 22nd December, 2014 listed projects which had not commenced within a period of six months from the date of award and had been cancelled.

iii. Physical verification exercise in February, 2015 revealed that numerous projects had not started despite the fact that by the time of this audit, it was eight months into the financial year.

iv. The delay in completion of projects and the large number of stalled projects indicates that the capacity of the contractors appointed by the County Government appear doubtful.

Submissions Received from the Governor

The Governor presented as follows-

1. It is true the County spent 2% of the total expenditure on development. This was due to the following factors:
   (i) The development fund for 2013/2014 was only received in the second quarter of the financial year 2013/2014 and the tendering processes completed in the third quarter and the actual works began effectively in the fourth quarter. Only a few works had been completed and certified for payment by the close of the financial year and majority of contractors completed the works and submitted their certificates for payment in the financial year 2014/2015.
   (ii) During the period under audit the County was also faced with the challenge of personnel incapacity caused by high turnover of supply chain officers.
   (iii) The IFMIS was only opened to capture development expenditure in the second quarter of the year i.e. November, 2013.

(iv) Poor internet connectivity during the month of June, 2014 occasioned a number of payments to delay until early July and since the County's system of Accounting is IPSAS Cash Basis, then these expenditures are reported in 2014/2015 when payment is actually effected.

(v) The delay in completion of the projects as a result of the incapacity of the local contractors led to cancellation of the contracts. The county terminated the contracts of the firms that had not commenced after six months after realizing that the contractors having financial and technical challenges leading to slow pace in mobilization and starting of the works. The County re-advertised the cancelled contracts where awards were given to competent contractors who completed the works and payments made in 2014/2015.

Committee Observation

The Committee observed that the Auditors were not satisfied after verification of the submitted documents

Committee Recommendation

1. **Auditor General reported continued low absorption of development budget. Unnecessary pile up of pending bills and liabilities means the county is vulnerable to a barrage of creditors claiming payment. This is an issue that is bound to rollover to the new administration in the Counties;**
2. **Directs the Auditor General to prepare a special audit on budgetary allocation (fy 2013 – 2016) and give a recommendation. This Special Audit to be submitted to the Senate by May 1, 2017; and,**
3. **The Senate Standing Committee on Finance Commerce and Budget prepare a comprehensive report on the status of pending bills**

3.3 CURRENT LIABILITY

3.3.1. Loan, Overdraft Facility and Related Charges

Analysis of the availed bank statements, Cash book and other correspondences revealed that in the month of August 2013 of the 2013/2014 financial year, the County Government, took a bank loan from M/s. Family Bank-Kisumu of Kshs. 13,032,474. This loan was to finance the transport and accommodation of the members of the County Assembly who were going on safari to Uganda, Europe and Nairobi on diverse dates as shown below;

Date	**Payee**	**Description**	**Amount**	**Purpose**
21/08/2013	Not disclosed	Cash withdrawal	2,000,0000	Various payees
22/08/2013	Not disclosed	Cash withdrawal	9,899,974	MCAs to Uganda and others to Europe
13/09/2013	Not disclosed	Cash withdrawal	1,132,500	Clerk and Majority leader to Netherlands
		Total	**13,032,474**	

The following anomalies were noted:

i. The County Government incurred negotiation fees and debit interests arising from loan and overdraft facilities at its Family Bank-Kisumu Branch A/c No 025000025445 of Kshs. 1,097,100.

ii. Cash withdrawal of Kshs. 13,032,474 was not entered or processed through the cash book IFMIS system during the year under review contrary to section 147(d) of the Public Finance Management Act, 2012.

iii. The authority from the National Treasury or County Assembly authorizing the acquisition of the bank loan was not availed for audit verification.

iv. Cash withdrawals were not processed imprests to be accounted for after travel.

Submission Received from the Governor

1. It is true the County Government obtained an overdraft facility of Kshs.13, 032,474 from Family Bank to meet its immediate travel costs for MCAs and Members of the County Executive who were travelling on various official trips outside the county.
2. The figure of Kshs.2, 000,000 which is indicated in the report as the purpose not disclosed was used to meet travel costs for Executive Committee Member for Water and Energy who travelled to the USA on official function, Air ticket and accommodation for Executive Committee Member for Agriculture, Fisheries and Livestock and the Chief Officer for Agriculture, Fisheries and Livestock who travelled to Israel for an Agricultural Education tour. The remaining amount was used to cater for operational expenditure.
3. The difference of Ksh.11, 032,474 was used in the manner indicated in the report at the County Assembly.

The approval for the overdraft was done by the CEC County Treasury and it was necessary because the County Budget had not been approved by the Controller of Budget and these expenditures could not be postponed and therefore overdraft became a necessary recourse. The payments were done through imprest warrants which were subsequently surrendered.

Committee Observations

The Committee observed that:

1. the auditors did not see the authority by the County Assembly or a guarantee by the National Government and hence the matter remained unresolved; and,
2. Directed the Governor to submit the Hansard of the Assembly to prove authorization by the Assembly within one day.

Committee Recommendations

Further to subsequent clarification from the Auditor that the management had provided the Hansard report indicating authority by the assembly members on foreign travel, there was no indication of the source of funds. The management further explained the necessity of the overdraft due to the urgency of the trip.

The Committee recommends that proper financial management practices be instituted and adhered to in order to prevent such anomalies in the future.

3.4 EXPENDITURE REVIEW

3.4.1. Procurement of Drugs

The County Government procured pharmaceutical and non-pharmaceutical drugs from M/s. Port Florence Hospital at Kshs.26, 916,894. However, Management indicates it was through open tender whose documentations were not availed for audit verification. M/s. Elm pharmacy Kshs. 1,783,650, M/s. Pressure Point Systems supplied chemicals for Kshs.2,638,500, Laborex Kenya Limited Ksh 401,117, Jochem Supplies Ksh1,230,700.00, Wasmig Ventures, Posun Ksh.967,750.00 Investments Ksh. 921,250.00 and M/s. Dns Ltd Kshs.797,400. These suppliers though were prequalified, but the quotations and subsequent processing documents were also not availed for audit verification. Further, the inspection and acceptance certificates and stores records for receipt of the drugs were also not availed for audit verification.

The Governor presented as follows:

1. That the procurement of drugs from Port Florence Hospital was through open tender;
2. That the procurement of non-pharmaceuticals for the City health facilities was done from prequalified firms like ELM Pharmacy, Laborex Kenya Ltd, Jochem Supplies, Wasmig Ventures and Posun Investment and that the firms were

prequalified as general suppliers for Non-pharmaceutical and Laboratory equipment.

Committee Observations

The Committee observed that the auditors had verified the procurement documents but could not confirm if the drugs were received.

Committee Recommendations

The Auditor subsequently informed the Committee that the management provided all the necessary documents to support procurement of drugs, and that physical verification of stores records for the receipt and issue of drugs had been done. The issue stands resolved

3.4.2. Procurement of Consultancy Services

i. The County Government incurred a total expenditure of Kshs. 8,664,400, the payments made to various consultants: M/s. Add property consultants Kshs. 6,650,000, M/s. Rodi Orege & Co advocates Kshs.198, 500 and John Opiyo Kshs. 493,500. The payments were made for valuation of assets, legal services and review of financial systems respectively.

ii. The County Government of Kisumu procured and paid Haddock & Associates Kshs.7, 034,688 for advertisement done by Kenya under a new horizon Chinese edition and it was not clear what type of the edition and the targeted clientele. The County may not have received value for money in the advertisement done in a new horizon Chinese edition.

iii. The County Government made a payment of Kshs.1, 508,000 to Cosmopolitan Media Ltd in respect of payment for County cover story, County feature and investment in the Governor magazine.

iv. The County awarded consultancy contract to M/S Visionary Leadership and Managements Ltd for Kshs.2, 800,000 to offer recruitment and selection services of new employees for Kisumu County Assembly. We were unable to establish

whether the firm was contracted/sourced competitively sourced since the subject file was not availed for audit examinations despite payment of Kshs 1,299,200.

In all the foregoing procurement of consultancy services, rrecords produced however revealed that these consultants were procured directly, contrary to section 76 of Public Procurement & Disposal Act, 2005. In addition, no opening, evaluation, and award minutes and payment vouchers were produced for audit.

Under the circumstances, the process was not competitive, contrary to section 2 of PPD Act 2005 and therefore there was no economic efficiency and evidence of who was paid.

The Governor presented as follows:

1. That M/s Add Property Consultants was contracted to carry out valuation of assets for the defunct Municipal Council of Kisumu on 1st July, 2012. This was in pursuant to a National Government Circular to all defunct local authorities to carryout valuation of asset by 28th February, 2013. Their services were procured through open tendering process and were to take place for the duration of a year. The firm completed its work when the County Government had assumed office and its report which was needed by the Transition Authority in accounting for the County assets inherited from defunct local authorities was adopted;
2. That Rodi, Orege and Company Advocates were hired by the County Government of Kisumu at a cost of KShs. 198,500. The County at the time had not yet employed a County Attorney as is required by the Law. The firm of Rodi, Orege and Company Advocates was prequalified by both the County Council of Kisumu and Municipal Council of Kisumu both of which were absorbed by the County Government of Kisumu. The firm continued to render legal services to avoid the risk of loss of cases that were ongoing as a matter of prudence until fresh prequalification were done;
3. That John Opiyo was contracted to review the financial systems of the County Government of Kisumu in order to come up with the best system that the County Treasury could employ to facilitate the management of funds flow between the

various departments of the County Government. The contract was awarded through quotation and was not single-sourced ;

4. That the County Government, upon introduction by Kenya Investment Authority, procured the services of Haddock & Associates to help market Kisumu County in Europe, America and China as an Investment destination. The objective was to ensure more investors came to Kisumu;
5. That a number of county governments in Kenya subscribed to the monthly publication called The Governor magazine. This publication serialized features and issues especially developmental ones that happen in each and every county. The magazine was published on a monthly basis by Cosmopolitan Media Ltd which was contracted by the Council of Governors to carry out topical issues on county governments and make them public. It is in this regard that the County Government of Kisumu paid Cosmopolitan Media Ltd Kshs.1, 508,000 to bring out issues that go on in Kisumu County; and,
6. That M/s Visionary Leadership and Management Ltd was procured by the County Assembly to carry out staff recruitment.

Committee Observations

The Committee Observed that:

1. the Governor had admitted that the County had single sourced;
2. the auditors had not seen all the procurement documents;

Committee Recommendation:

Further to subsequent clarification from the Auditor General, that the Committee did not tender contrary to Public Procurement and Disposal Act. The Senate notes 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.

3.4.3 Preparation of Financial Statements for five Defunct Local Authorities

i. In the year under review, the management paid Retco Management Consultant Kshs.1, 440,000 for the preparation of financial statements for five (5) defunct local authorities. Management did not explain how the firm was identified and the amount paid determined. Further the staff of the defunct Local Authorities who could as well prepare the financial statements were absorbed by the County Government. There were no clear and proper terms of reference and the financial statements as prepared are subject to our audit queries are amendments which the consultancy and management have not responded to in the last eight months.

ii. The consultant prepared the financial statements for ten (10) months period ending 30 April 2013 as opposed to eight (8) months period ending 28 February 2013 as required by Ministry of Local Government Circular Ref. MLG/1333/TY/52 dated 18 February 2013 which dissolved all Local Authorities with effect from 28 February 2013 and transferred their services to the devolved Governments with effect from 4 March 2013

The Governor presented as follows:

1. That the consultancy firm was procured by the county through quotations to prepare the financial statements of the defunct 5 local authorities for the eight months ending 28th February, 2013 and to further prepare the county's consolidated financial statements for the four months ending 30th June, 2013;
2. That the staffs within the County were deployed to various departments therefore necessitating the hiring of the Consultants to beat the deadline set by Transition Authority, former Local Government Ministry and the National Treasury.

Committee Observations

The Committee observed that the auditors had verified the documents submitted by the Governor but had not seen the final report;

3.4.4. **Payments to the Council of Governors**

In the year under review the County Government paid Kshs.9,504,018 to the Council of Governors. The Council of Governors was created under the Inter- Governmental Relations Act 2012 Section 19. The expenditures of the council as provided by Sec 37 of the Act shall be provided through annual estimates of the Revenue and Expenditure of the National Government. Consequently, the propriety of the transfers to council of Governors could not be determined.

The Governor presented as follows

1. That all Counties in Kenya remit subscription to the Council for purposes of administration and operational costs at the Council's offices;
2. That the subscription is paid on a quarterly basis to the Council and this amount paid constituted payments in arrears which had accumulated over time because of irregular cash flows to the Counties; and,
3. That this particular payment in question was in support to the secretariat and Intergovernmental Relations together with Devolution Conference.

Committee observations

The Committee observed that that the law was flouted in making the payments

3.4.5. **Procurement of Tour and Travel Services**

Examination of the County Executive expenditure records revealed that the County Government incurred a total of Kshs. 3,005,530 being payments made to: M/s. Elusco Tours & Travels Co. Kshs. 2,634,650, M/s. Business & Leisure Travel Kshs. 139,565, M/s. Tonyway Travels Kshs. 69,600 and M/s. Uniglobe Northline Travel Kshs. 161,715.

Though the management asserts that these firms were prequalified, no evidence was provided for audit verification and it is not clear what official duties the officers were travelling to go and do. In the circumstances, it was not possible to confirm whether full value for money spent was received.

The Governor presented as follows:

1. That the tours and travel firms in question were prequalified by the County Government of Kisumu to provide ticketing services to its members of staff in the FY 2013/2014;
2. That all Local Service Orders were raised for these services and all payments were supported with LSOs and Invoices indicating the officers travelling on official duties within the country; and,
3. That ELSUCO Tours and Travels were given the bulk of the orders because they were willing to offer credit facilities to the county for the period of 30 days unlike the other tour firms.

Committee Observations

The Committee observed that:

The Auditor General informed the Committee that documentation for international travel was provided however for domestic travel only memos were provided. The list of beneficiaries of travel was also availed.

3.4.6. Procurement of Fuel

During the year under review, the County Government Procured fuel totaling to Kshs. 26,766,348 in the year under review from M/s. Berlin equipment Kshs. 24,766,348 and National Oil of Kenya for Kshs. 7,400,000. From verification, it was noted that M/s. Berlin Equipment does not own pump station or fuel storage facilities. Though the County Government indicated that pre-qualification from Kisumu East District, no attachment to support the prequalification was made available. Further, the fuel register

was not properly maintained work tickets for various vehicles had numerous mistakes, there was no reconciliation of fuel purchases against recorded official travels and consumption of fuel. Also, the actual fuel drawn was not the same as the fuel paid for since the fuel statements issued from the supplier indicated more fuel drawn than what was shown in the work tickets, raising concerns on the accuracy of the work tickets. The county government could therefore not account for the fuel paid for.

The Governor presented as follows

1. That during the transition period, County Governments were allowed to use the list of prequalified suppliers and contractors from any National Government entities;
2. That Berlin Equipment which supplied fuel to the County Government of Kisumu before the county engaged the National Oil of Kenya was prequalified at the Kisumu East District to supply fuel to the Government vehicles and that is how it got into the county's system as supplier of fuel;
3. That the County Government had since switched to using smart cards provided by the National Oil to fuel all its vehicles;
4. That fuel issues are recorded in the registers and work tickets, and statements of consumption are normally obtained from the fuel dealer for accountability; and,
5. That Improvement on the best record keeping and documentation was being undertaken.

Committee Observations

The Committee observed that:

1. the auditors had verified that the situation had improved since the time of audit; and
2. Resolved to allow the Governor to submit any other mitigating documents within two days to the auditors.

Committee recommendations

The Auditor subsequently reported that work tickets remained an issue where they had been tampered/interfered with;

Persons responsible for falsifying work tickets be Specified, prosecuted and the money recovered. *(OAG to supply the names drivers to be included in the report)*

3.4.7. Goods not Taken on Charge

The County Government did not record all receipts to stores ledger for purchases of goods amounting to Kshs. 31,278,047. Receipts and issues from stores were not supported by Form S. 11, S. 12 and S.3 card hence the County Government may have paid for goods not delivered.

The Governor presented as follows:

1. That the County Government stores had been using 4 Quire counter book registers as store ledgers to record the receipt and issuance of items with space allotted for user name and signature;
2. That requests from the user departments were being done through formal letters of requests or requisition forms which are approved before any issuance was done;
3. That the Forms S11 and S12 and S3 card were being used by Central Government to take goods on charge and the County Government of Kisumu was in the process of domesticating these documents for use in the stores by the time the Audit; and,
4. That these had since been acquired from the Government Printer and the stores taken on charge are being recorded in these forms and card.

Committee Observations

The Committee observed that:

1. records had been provided to the auditors but insisted that the County Government should have used the S11, S12 and S3; and,
2. Directed the County Government to submit relevant documentation within two days.

Committee recommendations:

Counter books have now been put in place and the Committee compels the County Government to automate record keeping in line with the present system.

3.4.8. Payment to a Court Award

The County government paid M/s. Gulf Fabricators Ltd Kshs. 13,067,928 being court award on a case M/s. Gulf Fabricators Vs Municipal Council of Kisumu. The payment was wrongly recorded in the Cash book as civil work and infrastructure. The file did not have the background of the case, evidence of defense and ruling. It is not clear why the payment was made without considering the option of appeal against the court award. There was no legal opinion sought and provided by a lawyer indicating that the county government would not win in case of an appeal.

In the circumstance, it was apparent that the funds were misallocated and the non-disclosure of the nature of the case may be construed to mean that the County Government may have paid for a service not rendered.

The Governor presented as follows:

1. That this payment was made out of a vote for the pending bills which was appropriated by the County Assembly at Kshs.54,000,000 for recurrent pending commitments;
2. That the debt due to Gulf Fabricators formed part of these pending bills;
3. That the recording of this payment as civil works was a clerical error as this purely was a civil case issue and has since been re-coded to correct the error;
4. That through the letter of the firm of Onyango, Olel & Ingwachi & Co. Advocates there was an instruction to stay the execution of this case and negotiate for an amicable out of court settlement given that the judgement arose out of an illegal distress carried out by the officers of the defunct Municipal Council of Kisumu;

5. That appealing the judgement could have led to unnecessary additional costs to the County Government of Kisumu;
6. That the CEC who had made the payment had since been dismissed.

Committee Observations

The Committee observed that the auditors had seen the court orders and verified them

Committee Recommendations

1. **Auditor General reported that the County paid before the resolution of the committee handling assets and liabilities;**
2. **The County Government should have sought a legal opinion, it appears that lawyer conspired with the creditor to defraud the county government through a quasi-legal process. County Government paid under duress and the advocates should be sued for mis representation;The committee recommends that the issue should be investigated by the EACC to determine the voracity of the issue to settle this issue which was an issue during the tenure of Transition Authority; and,**
3. **The Advocates to be investigated to determine whether they should be sued for professional negligence.**

3.4.9 Hire of Excavator

The County Government hired an excavator from Ministry of infrastructure and transport and paid Kshs 1,917,600 for road works within the County. The following were noted:

i. The payment voucher was not properly supported with relevant documents.
ii. No miscellaneous receipt for revenue generated by the Ministry was availed for audit verification.
iii. There were no inspection and acceptance certificates on delivery of services contrary to section 17 of Public Procurement & Disposal Regulations 2006.

iv. Work plan and work tickets for operations were not made available for audit verification.

Consequently, it was not possible to confirm whether the services were rendered.

The Governor presented as follows:

1. The procurement of this service was done to excavate silt at River Nyamasaria and open its course and the dykes which were causing a back flow and flooding the riparian home;
2. That It was an emergency which called for immediate attention to avoid catastrophes to the people living along the river banks;
3. That the money was paid to the Public Works Department as it is the only government department which had the capacity required to do the work at that time and it was also a government to government arrangement; and,
4. That the amount in question was meant for Hire of Excavator, fuel, operators' allowances and contingencies.

Committee Observations

The Committee observed that:

the Auditor General clarified that the relevant documents were provided and verified, in the form of the miscellaneous receipts of Kshs 1,917,600 from the Ministry of Transport and Infrastructure.

3.4.10 Payment for the Governor's Accommodation, Rent, Car Hire and Related Services

The County Government paid Kshs.20, 910,169 to Royal City Hotel for the Governor's full board accommodation, rent, car hire and other hotel services. The expenses are detailed as follows:

➢ Full board accommodation	Kshs. 4,063,259
➢ Car hire & fuel expenses	Kshs. 5,552,912
➢ Other hotel expenses	Kshs. 678,181
➢ Unsupported Payment paid to the Hotel	Kshs. 9,213,315
➢ Rented house in April 2013	Kshs. 540,000
➢ Rented house at United Millers in July 2013	Kshs. 862,500
Total	**Kshs. 20,910,169**

The following anomalies were noted:

i. A house was rented for the Governor where Kshs.540, 000 rent for the months of April, May and June 2013 was paid but tenancy agreement was cancelled and management explained that the payment was refunded. However, no tenancy agreement and evidence of refund was availed for audit review. The Governor's accommodation expenses totaling Kshs.3, 511,135 between April and June, 2013 represent double payment for accommodation since there was no evidence of refund of Kshs.540, 000.

ii. The Governor with effect from 9th July, 2013 moved into a rented premises where the County Government paid a monthly rent of Kshs.250, 000. However, the County Government was billed and paid full accommodation at the hotel between 9th July, 2013 and 1st August, 2013 of Kshs.552, 124 resulting to double accommodation in the period.

iii. The hotel beside full board accommodation, also hired out one (1) car for daily operations for the Governor at the rate of Kshs.25, 000 per day excluding value added tax (VAT) and fuel expenses. The total expenditure for the car hire and fuel expenses totaled to Kshs.5,552,913 for the period May to September 2013. However, there was no contract agreement and it was not clear how the hotel was identified and awarded the contract. Further, it was not clear why the County Government hired car services and incurred fuel expenses yet the Governor was assigned three (3) motor vehicles

transferred from the defunct Local Authorities whose work tickets indicate were being used by the Governor.

iv. Payment vouchers totaling Kshs.9, 213,315 paid to the hotel where the Governor was being accommodated were not made available for audit verification. Consequently we could not confirm the propriety of the payments.

It was not possible to ascertain why the Governor could not occupy the official residence of the former mayor of the now defunct Municipal Council of Kisumu so as to save on the costs now being incurred for his hotel accommodation and tenancy charges on rented premises.

Governor's Response

The Governor presented as follows:

1. That the amount indicated by the Auditors of Kshs. 20,910,169 as paid to Royal City Hotel is not as per our analysis in the G-Pay andtheir analysis showed that the correct amount was Kshs.12, 262,347;
2. That the overstatement of Kshs.7, 234,269 was due to double counting of payment vouchers which is consolidated in the G-Pay as indicated below:

PV Ref No.	Invoiced Amount	Consolidated G-Pay Amount	Double Counted Amount
1199-920	2,021,905		2,021,905
1199-906	259,260		259,260
1199-909	983,440	3,780,808	983,440
1199-908	220,400		220,400
1199-908	295,800		295,800
1065-138	2,387,939		2,387,939
1065-682	1,065,525	3,969,409	1,065,525

1065	106,198		
1065	409,747		
Total	7,750,214		7,234,269

1. That the Governor only stayed in the hotel for a period of two months upon swearing in at a cost of Kshs.415, 024.80 as the County Government was looking for a suitable house to accommodate him;
2. That it was also necessary to accommodate him because of the security risks involved in commuting to and from his rural home while performing his functions as the governor;
3. That there were no missing vouchers as indicted in the audit report as the analysis of the alleged missing vouchers were a repetition which had been explained in the above analysis; and,
4. That the amount of Ksh. 540,000 in respect of rent for April, May and June 2013 was refunded.

Committee Observations

The Committee observed that:

1. the auditors had reconciled the figures and the actual amount should have been Ksh. 415,024.80;
2. Observed that the response and the supporting documentation was not adequate; and,
3. Directed that adequate documentation be submitted to the auditors within two days for verification.

Committee Recommendations

Auditor reported that evidence was provided, only challenge was the issue of accommodation and the amount of 5,552,912. This issue remains outstanding since the hiring figures were overrated and therefore a surcharge should be ensued.

3.4.11 Unsupported Payments

Examination of payments totaling Kshs.121, 194,088 to various suppliers however, the payments were made without proper supporting documentations and delivery of goods and services could not be confirmed. Further, the payment schedules were not attached to vouchers and in some cases were not supported with the budgets and therefore it was difficult to confirm if the payments were made to the right payees and how the funds were utilized. We were unable to vouch the said expenditure and whether it was a proper charge on the County funds.

The Governor presented as follows;

1. That there were no unsupported payments; The listed payment voucher details were occasioned by inherent duplication error in the system during conversion of the PDF cashbook to Excel cashbook;
2. That a case in point is the payment to Rallytec Motors Ltd for kshs 162,685.5, payment voucher no. 4023 of 3/5/2014 in respect of motor vehicle maintenance expenses. This was repeated twenty times but was just one transaction; and,
3. That the data had since been cleaned and reconciled.

Committees Observation

The committee observed that:

1. the auditors were not satisfied with the response of the Governor;
2. Noted that some annexures were missing from the submitted documents; and,
3. Issued a disclaimer on the matter and directed the auditors to verify further documentation on the query.

Committee Recommendations

The submitted for special Audit and determine the legality of those funds and after investigation responsible persons prosecuted and recovery of public funds gotten from them.

3.4.12 Payment of Subsistence Allowances

The County granted officers imprests totaling to Kshs.6, 372,352 in respect of subsistence allowances but upon surrender no supporting documents were attached. Further, the County did not maintain an imprest register to record the same. The amounts of money being held in imprest represent services denied to the public and there is a high risk that the funds were not utilized for the intended official purposes. Propriety of the imprests could not therefore be confirmed.

The Governor presented as follows:

1. That the figure of Kshs.6, 372,352 as Imprest/per diem allowances has since been surrendered as the bulk of the money was relating to accommodation expenses for the members of County Assembly;
2. That, subsequently, the County maintained an imprest register in the IFMIS which provided details of all the imprests issued and surrenders made; and,
3. That the system generated report was printed monthly and copies forwarded to all the accounting officers.

Committee Observation

The Committee observed that:

1. the auditors had confirmed that the County had subsequently maintained a register;
2. Further noted that the auditors were not satisfied with the queried 6,372,352 as supporting documents had not been availed;

Committee Recommendations

The Committee recommends that investigations be carried out with a view to surcharge and recover the funds from the responsible person .

3.4.13 Double Payments

The County made double payments to five officers totaling to Kshs.171, 500 for attending IPPD Training at Kenya School of Government. The officers were paid full per diem by the County whereas full board accommodation was also paid by the Directorate of Public Service leading to double payment.

The Governor presented that the payment of Kshs.171, 500 to the staff who went for an IPPD training in Nairobi was out of pocket based on the quarter-per diem guidelines and not double payment and was paid in line with the CBA under which these officers were serving.

Committee Observation

The Committee observed that the auditors had verified the submitted documents and were satisfied with the Governors response.

3.5 REVENUE RECORDS

3.5.1. County Revenue

A. National government

The County Government received total revenue of Kshs. 4,550,936,547 from the National government in the year under review against a budgeted amount of Ksh4, 866,678,745 representing 94% performance. However Kshs. 627,315,224 was retained by Treasury at the end of the financial year 30 June, 2014.The Management explained that the retention was in respect of Salaries and other emoluments paid to devolved staff by various ministries from between July, 2013 to December, 2013. However, no joint reconciliation was carried out to confirm the actual amount which ought to have been

transferred since the personal files of the devolved staff, particularly health, had not been forwarded to Kisumu County Government from the respective parent Ministries.

B. Local Source revenue

The County Government realized total local revenue collections of Kshs. 526,479,919 against revised budgeted local revenue of Ksh. 1, 800, 739,231 from sub-Counties and the City of Kisumu. This represent 29% performance and no explanation was provided for the underperformance.

The Governor presented as follows:

1. That the County Government of Kisumu had budgeted to collect Kshs.3, 417,121,255 from the local sources of revenue inclusive of LATF which ceased with the coming of the county governments of which Kshs.2.5 billion was anticipated to come from the property rates which had accumulated to the tune of Kshs.3.5 billion as at that time;
2. That the county government started to implement the collection process, but some difficulties were encountered in the sense that most of the plots were registered in the rates records with more than one name as the owner and the figures were found to be inaccurate after closer scrutiny
3. That the County of Kisumu had subseqently embarked on an exercise to clean the rates register in order to have accurate figures and names of property owners so that collection can be improved from what it had been;
4. That the county government had set up an effective e-revenue collection system and gadgets that would enabled it to streamline the revenue collection processes; and,
5. That a new valuation roll is being prepared.

Committee Observations

The Committee observed that:

1. the National Government had not submitted a reconciliation of the rates owned and further noted that money owned by National Government was a crosscutting issue and would be handled at a global level;
2. Noted that the Governor had explained the shortfall in revenue collection; and,
3. Urged the Governor to continue seeking innovative methods of increasing revenue.

Committee Recommendations

The Auditor reported that the Revenue collected is low, and the County lacks an integrated revenue collection system.The Committee therefore recommends that the revenue collection system be enhanced to cover the city as a whole and appropriate recording be done to ensure that revenue targets are met.

3.5.2. Under- banking – (Consider jointly with 3.5.3)

The County Government of Kisumu collected its revenue totaling to Kshs. 526,235,506 and banked Kshs.492, 479,919 leading to under banking of Kshs.33, 755,587 contrary to section 109(2) of the Public Finance Management Act, 2012. The amount not banked was explained by the management to have been spent directly but the County Government did not avail any documents in support of the expenditures made directly. It was not possible to ascertain/confirm whether the amount of Kshs. 33,755,587 not banked was properly utilized and accounted for.

The Governor presented as follows:

1. That the amount of under banking related to the amounts which were spent at source during the period that the County estimates had not been approved by the Controller of Budget;
2. That Ksh.31,596,706 was eventually refunded and banked on the basis of fully supported payment vouchers; and,
3. That the spending at source was informed by the very necessary operations especially at the city and other urban centers within the county where waste

management, environmental cleanliness and utility bills payments could not be postponed.

3.5.3 Unprocessed Payments Vouchers (IOUs)

Cash survey carried on 12th July, 2014 revealed that County employees borrowed cash from the chief cashier totalling Kshs.31, 155,527 on diverse dates. An amount totalling Kshs.26, 930,499 was spent at source as IOUs contrary to the financial regulations and the balance of Kshs.4, 224, 758 has not been refunded or could not be accounted for. In the absence of payment vouchers clearly supporting the IOUs, it was not possible to determine the authenticity of payments made.

The Governor presented as follows:

1. That the figure of IOUs of Kshs.31, 155,527 as reported in the audit query was not accurate;
2. That these were not IOUs but part of the internal borrowings that were refunded totalling Kshs.26, 930,499 taken to meet the necessary expenditures on diverse dates when the Controller of Budget had not approved funds release to the County of Kisumu; and,
3. That the figure of Kshs.4,224,758 was a subject of a court case where theft occurred at the revenue office.

Committee Observations

The Committee observed that the auditors confirmed that the law had been broken by using funds before banking;

Committee Recommendations

The Committee recommends that since the matter is still pending in court, then the person responsible should be apprehended and the monies recovered from the individual.

3.5.4 Non-Remittance of Revenues Collected by Devolved Functions to County Revenue Fund Account

Comprehensive Revenue from devolved functions by the County has not been achieved as at 30th June, 2014, the following are among the devolved functions:

A. Health Sector

Devolved health facilities' revenue collections amounted to Kshs 279,676,506 during the year under review. However, the same were used at source and not transferred into the County Revenue Fund Account contrary to the section 109(2) of the Public Financial Management Act, 2012.

The Governor presented as follows:

1. That the revenue totalling Kshs.279, 676,506 collected from the health facilities were used at source as before health function was devolved, these facilities were operating FIF accounts approved by the National Government;
2. That the function of health was formerly transferred to the counties in December, 2013 and effective January, 2014. As such all the collections before that transfer of the function for the six months were not availed to the counties;
3. That the accounts of all the health facilities were eventually closed before the end of the financial year and monies therein transferred to the County Revenue Fund Account;
4. That the County Government did not receive revenue from most of the devolved ministries in the FY 2013/2014;

5. That this was attributed to transitional challenges in the County Governments in which some ministries were still remitting revenue to the National Treasury contrary to the provisions of law.

B. Agriculture, Livestock, Fisheries and Veterinary

I. Agricultural Mechanization Services component

i. The Agricultural Mechanization Services realized revenue collections from December, 2013 to June, 2014 totaling Kshs.1, 292,838 on the hire of 8 tractors purchased by the County Government during the year. However, the tractor ploughs an acre at the rate of Kshs.1, 500 payable by the hirer but the amount receipted is Kshs.250 and the rest goes to fuel and tractor operators. We were unable to match the receipts and expenditure because the related expenditure for fuel and tractor operators were not made available for audit verification.

ii. The amount of Kshs.1,292,838 was collected but only Kshs 732,000 was transferred into the County Revenue Fund Account by 14th May, 2014, while the bank balance of Kshs.466,606 had not been accounted for.

II. Veterinary Livestock, Fisheries

i. Veterinary during the year collected Ksh 1,288,472, however only Ksh 918,000 was transferred into the County Revenue Fund Account to on 15th May, 2014 with a bank balance of Kshs.370, 472 not yet deposited or accounted for.

ii. Fisheries had not transferred Kshs.180, 340 to County Revenue Fund Account.

iii. As at 30 June 2014 the Maseno Agricultural Training had not transferred to County Revenue Fund Kshs 691,146 and the same could not be accounted for.

In the absence of detailed revenue collections from all devolved functions, it was not possible to ascertain the amount collected during the year under review.

The Governor presented as follows:

1. That the revenue collection from Agriculture, Livestock and Fisheries i.e. AMS and ATC during the period under audit went to the National Treasury since receipt books used in the collections were issued by the District Treasury formerly under the National Treasury;
2. That this subsequently changed when the County printed its own receipt books for collection of revenue from devolved functions;
3. That the County Treasury opened a collection account for this department where revenue collected therein were banked on a monthly basis to the County Revenue Fund Account; That the rate charged by the County government of Kisumu for the hire tractors was lower compared to the market rates;
4. That this was meant to encourage farming so as to enhance food security which is one of the key pillars in the manifesto of the County Government of Kisumu;
5. That the county intend to revise the rates through a new finance bill once the programme takes off effectively in the food growing areas.

Committee Observations

The Committee observed that:

1. the auditors, on the matters under health and agriculture function, were not satisfied as the law had been broken;
2. Noted that no proper explanation had been submitted on the matter of hire of tractors; and,
3. Resolved that the auditors to verify relevant documentation and pronounce themselves on the specific laws broken taking into consideration transitional provisions at the time of audit within one week;
4. Further resolved that the auditor's report to the Committee on the position of the money not receipted in the tractor programme and the policy backing the programme within two days.

Committee Recommendations

The Committee recommends that investigations be carried out with a view of prosecution and recovery of the funds from the persons involved.

3.5.5 Cash Loss through Theft

During the year under review, thieves broke into City of Kisumu offices on 15th March, 2014 and stole Kshs 3,021,984 (Cash Kshs.2,349,105 and Cheques Kshs.672,879) .The management hired Deloitte and Touché audit firm to carry out investigation on the circumstance surrounding the theft of cash and make necessary recommendations for action. The management did not provide tender documents to ascertain, how the firm was identified and awarded the contract together with agreed contract price despite incurring hotel expenses of Kshs.280, 000. Loss of County Government's much needed resource in unclear circumstances is a demonstration of lack of controls on the same. Consequently we could not determine whether the government got value for money spent on hiring the firm.

The Governor presented as follows:

1. That the County Government of Kisumu lost cash and cheques totalling Kshs. 3,021,984 (Cash Kshs.2, 349,105 and Cheques Kshs.672, 879) due to break in at the County's cash office at Town hall;
2. That this could be attributed to other factors other than controls which had been in that office for a long time;
3. That due to the urgency of the matter the management sourced for a forensic audit services from a reputable firm to give them appropriate recommendations on the circumstances surrounding the theft and the necessary controls;
4. That the matter was investigated by Deloitte and Touche Audit firm but the case was still in court and the County was awaiting the outcome of the case before further action could be taken on those found to be culpable; and,
5. That the difference of Kshs. 3,159,176 which appears as cash shortage was taken up for investigation to establish what caused the shortfall in banking.

Committee Observations

The Committee observed that:

1. the auditors were not satisfied as the method of procuring the Delloite and Touch was not explained;
2. Noted that the engagement of the Delloitte and Touche was a breach of the law and was not value for money;

Committee Recommendations

The Committee recommends that the County Government having breached the law, the committee recommends the person involved is surcharged and the money recovered from them with the prevailing central bank rates as at the point the money was disbursed.

The case in court should be pursued by the County Government.

3.6 HUMAN RESOURCE MANAGEMENT AND PAYROLL

3.6.1. Payment to the County Executive Committee Members

i. An audit review of the payroll revealed that the County Executive Committee Members on 10th June, 2013 were all placed at the maximum salary point of the salary scale band. The salary scale attached to their posts starts from Kshs. 225,000 to a maximum of Kshs.300, 000 and the SRC indicated that they would enter at the minimum point. However, their letters of appointment stated that the entry point is Kshs.300,000 which is contrary to Salaries and Remuneration Commission circular and Kenya Gazette vide Vol.CXV-No.33 dated 1st March, 2013 leading to overpayment of Ksh shs.1,350,000 in overpayment of salary

ii. The County Government paid the maximum salary for the months of June and July, 2013, however in the month of August, 2013, the payment to the executive reverted back to the minimum of Kshs.225, 000 per month. The County Government introduced an extraneous allowance of Kshs.60, 000 per executive

member per month for the nine (9) executive members, translating to Kshs.540, 000 per month to cover the shortfall of their pay. However, authority to pay the extraneous allowance from SRC was not availed for audit verification leading to overpayment of Ksh shs.4,320,000 in overpayment of extraneous allowance

iii. The County Secretary also received extraneous allowance of Kshs.60, 000 per month with effect from October, 2013 to March, 2014 totalling Kshs.360, 000.

The extraneous allowances were processed and paid using the payment vouchers and not through the payroll as is the normal practice. The County Government incurred a total expenditure of Kshs.1, 350,000 and Kshs. 6,480,000 respectively in of overpayment of salary and extraneous allowance.

The Governor presented as follows:

i. As indicated by the report, the decision to place the executive committee members at a maximum ceiling was agreed upon by the Cabinet upon the understanding that most of the Executive Members were drawn from the private practice and were indeed earning more than what was prescribed as minimum and maximum ceiling points by the Salaries and Remuneration Commission Circular.

As an interim measure of Retention during the transition period, the County Government paid the maximum salary for June and July while awaiting further guidance from the salaries and Remuneration commission on the subject.

ii. The County Government paid Executive Members Extraneous allowance basing on National Government Circular on harmonization of allowances applicable to job group T dated 10th April, 2007 as Salary and Remuneration had not issued guidelines to that effect.

iii. As Civil Servant deployed to the County by the Transition Authority, the County Secretary was entitled to the Executives extraneous allowances since his job group is pegged at T and thus in line with the circular on harmonization of allowances applicable to job group T dated 10th April, 2007 in the absence of Salaries and Remuneration guidelines on the same.

iv. The overpayments had since been recovered in full.

Committee Observations

The Committee observed that the auditors were not satisfied with the response of the Governor as the County secretary's overpayments had not been recovered

Committee Recommendations

The Committee recommends that the money be recovered from the responsible officer with the prevailing central bank rate as at the point of disbursement by 1st May, 2017.

3.6.2. Recruitment of Employees

The County recruited twenty three (23) new members of staff during the financial year 2013/2014. However, there were no advertisements for the posts. Further, the appointments were done before the County Public Service Board came into existence (Appointed on 28th November, 2013).

In addition, there was no evidence of the creation of the offices by the County Public Service Board and no budgetary provisions were made for the recruitment.

The recruitment contravenes section 66 of the County Government Act. No.17 of 2012 and hence additional financial burden to the County Government which compromises on delivery of other essential services.

The Governor presented as follows:

1. That the recruitment of the twenty three (23) was guided by guidelines issued by the Transition Authority, SRC and Public Service Commission, through a Consultative meeting held with the Governors;
2. That they were personal officers to the Governor;
3. That the appointments were to be regularized by the County Public Service Board after its formation; and,

4. That the regularization of the appointments had been done by the County Public Service Board after undergoing the required suitability tests.

Committee Observations

The Committee observed that the auditors were satisfied with the response and submitted documents;

3.6.3 Absorption of contracted staff under Economic Stimulus Programme (ESP)

i. The County payroll for the month of April, May and June, 2014 revealed that ESP health workers had not been absorbed into the County's payroll as at 30th June, 2014 as per Cabinet Secretary for Health Letter Ref.No. MOH/ADM/1/1/130/VOL.I/ (52) dated 24th January, 2014. According to the letter addressed to the Governor of Kisumu, the County was expected to process the absorption of ESP health workers since the staff were performing devolved functions.

ii. Examination of County's compensation of employees revealed that Kisumu County spent Kshs 38,133,424 to pay for casual employees against budget provision for payment of casual labour under headquarters of Kshs 2,760,000 leading to excess expenditure of Kshs 35,373,474

The Governor presented as follows:

1. That the absorption of health workers who were under the Economic Stimulus Programme became tricky for the County Government due to the terms of engagement which had not been finalized;
2. That the staff had demanded that they be absorbed on the same grade as their colleagues who are already in employment yet the grades and terms under which they were devolved to the counties was different;

3. That what they were being paid under ESP was awaiting review and approval of the County Public Service Board for absorption; and,
4. That the ESP nurses had all undergone suitability tests and absorbed.

Committee Observation

The Committee observed that the auditors were satisfied with the response of the Governor;

3.6.4. Payment of Allowance to Executive Members

The County Government made payments of Kshs.360, 000 on 16th July, 2013 to each executive member in respect of allowance for attending human resource committee for 30 days. The total payment to ten (10) executive members translates to Kshs.3, 600,000. Although management has indicated that the payment was for the accommodation and settlement when the CECs took up their new responsibilities, no approval from Salaries and Remuneration Commission was availed for audit verification.

The Governor presented

1. That the figure of Kshs.3, 600,000 paid to Executive Committee Members was an amount in total paid to each Executive Member at Kshs.360, 000 each to cater for their accommodation and settlement when they took up their new responsibilities;
2. That most of them had come from outside Kisumu County when they got appointments and as such it was resolved in a cabinet meeting that they be given some allowance to cater for their immediate upkeep as they settled down to work; and,
3. That the amount was calculated based on their approved per diem allowances by the Human Resource Manual and spread for a period of one month.

Committee Observations

The Committee observed that:

1. the auditors were not satisfied with the response of the Governor;
2. Noted that the response of the Governor did not respond to the matter of money been paid for a human resource Committee meeting but instead to a settlement allowance;
3. Noted that the payment to the CECs was irregular and not supported and should be recovered if no proper explanation was submitted

Committee Recommendation

The Committee recommends that the money be recovered from the responsible officer with the prevailing central bank rate as at the point of disbursement by 1st May, 2017.

3.6.5. Payment of Accommodation & Extraneous Allowances to Acting Chief Officers

The Acting Chief Officers in the month of October, 2013 were paid accommodation and extraneous allowances totaling Kshs.2, 120,000. No authority from Salaries and Remuneration Commission authorizing the payments was availed for audit verification. The payments were made contrary to Public Service Human Resource Manual section F sub section F. 2. on allowances which states that an officer travelling on duty is required to stay overnight away from permanent station and make his own arrangements for boarding and lodging. The propriety of the allowances could therefore not be confirmed.

The Governor presented as follows:

1. That the payments cited as extraneous allowance to the County staff did not wholly constitute extraneous allowance;
2. That the county Executive Committee Members who were included in this list were paid extraneous allowance up to the end of the financial 2013/2014 and these payments were stopped thereafter and recoveries for the same commenced;
3. That the other category of staff were those who work for the Governor and the Deputy Governor and these staff were sometimes forced to work beyond the

normal working hours due to the nature of their work, hence the payment of the extraneous allowance to them to compensate their extra time;

4. That the stated officers highlighted in the annex qualified for the extraneous and accommodation allowance of one month as they were transferred to the County from the National Government through their respective Ministries and the Transition Authority;
5. That the Officers who were paid extraneous allowances worked over and above the normal working hours during the transition period and manual pertaining to this allowance had not been put in place.

Committee Observations

The Committee observed that:

1. the auditors were satisfied with the response of the Governor

3.6.6. Payments of Extra House and Commuter Allowances

During the year, the County Government paid top up of house and commuter allowances totaling Kshs.2, 916,000 to Chief Officers deployed in the County for performing the duties of higher posts pending advertisement of the post. The officers were paid house allowance, and other remunerative allowances assigned to the higher posts contrary to Human Resource Manual and Code of Regulations. The top up of house allowance and commuter allowance were paid without authority from Salaries and Remuneration Commission and the County Government lost Kshs.2, 916,000 in the irregular payments.

The Governor presented as follows:

1. That the County Government of Kisumu took quite some time to employ substantive chief officers and directors in the various departments within the county;
2. That there were staff who were appointed to act in these positions as recruitment process was awaited;

3. That the cabinet resolved that these officers be paid top up allowance equivalent to positions they were nominated to act and hence the payment of the top up allowance;
4. That this had however been stopped since substantive officers had been recruited to take over these positions; and,
5. That there was no loss as the staff nominated to act in these positions had to be rewarded for the additional responsibility bestowed upon them commensurate with the office and title.

Committee Observations

The Committee observed that:

1. the auditors were not satisfied with the response of the Governor;
2. Noted that the law had been broken in paying the allowances

Committee Recommendations

The Committee recommends that the money be recovered from the responsible officer with the prevailing central bank rate as at the point of disbursement by 1st May, 2017

3.6.7 Payments of Salaries Arrears

The County payroll summary for the month of April, May, and June 2014 revealed that Kshs 50,072,310 was paid as salaries arrears which comprised of Kshs.906,814, Kshs.2,825,240 and Kshs.46,340,256 in respect of April, May and June 2014 respectively. The Management did not provide detail breakdown and the purpose and the period to which the salary arrears relate.

There is a risk that unauthorized arrears could be paid leading to loss of Government revenue.

The Governor presented as follows:

1. That the salary arrears paid were in respect to the Collective Bargaining Agreement (CBA) of 2012 given to staff of former local authorities;
2. That the agreement was reached in November, 2012 but was backdated effective July, 2012; and,
3. That it had to be paid as one of the liabilities inherited by the County government within the shortest time possible to avoid penalties.

Committee Observations

The Committee observed that:

1. the auditors were not satisfied as the Transition Authority had not validated the liabilities;
2. Noted that the CBA was a legal document deposited at the Industrial court and failure by the County to pay would have led to litigation against the County

3.6.8 Payment of Top - Up Allowances

The County paid Kshs.2, 570,500 to officers seconded from various Government departments as top up allowances contrary to Sections E and J of the Civil Service Code of Regulations and Section F of the County Public Service Human Resource Manual. The County Government of Kisumu did not seek authority from Salaries and Remunerations Commission (SRC) leading to total loss of Kshs.2, 570,500.

The Governor withdrew his written response on this query and requested for time to adequately respond to the query. This was after his admission that the response could not adequately address the query.