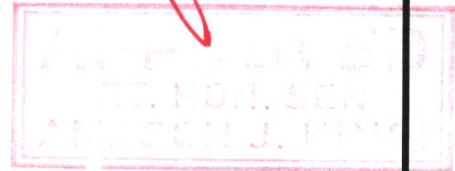


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THIRTEENTH PARLIAMENT - FOURTH SESSION

THE SENATE

**Rt. Hon. Speaker**  
You may approve for tabling.  
J. M. Nyegenye, C.B.S.,  
Clerk of the senate/secretary, PSC  
Date: 05/11/25

STANDING COMMITTEE ON FINANCE AND BUDGET

REPORT ON THE PUBLIC AUDIT (AMENDMENT) BILL, 2024  
(NATIONAL ASSEMBLY BILLS NO. 4 OF 2024)

Clerk's Chambers,  
Parliament Buildings,  
NAIROBI.

Clerk  
This is forwarded and recommended  
for approval for tabling  
05/11/2025

OCTOBER 2025

|             |             |
|-------------|-------------|
| DATE        | 11.11.25    |
| APPROVED BY | Chairperson |
| NAME        | T. KIARIE   |





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## LIST OF ABBREVIATIONS/ACRONYMS

|       |   |                                                   |
|-------|---|---------------------------------------------------|
| CAF   | - | County Assembly Forum                             |
| CRA   | - | Commission on Revenue Allocation                  |
| ICPAK | - | Institute of Certified Public Accounting of Kenya |
| OAG   | - | Office of the Auditor General                     |
| PFM   | - | Public Finance Management                         |
| TI-K  | - | Transparency International- Kenya                 |

## **PREFACE**

### **ESTABLISHMENT AND MANDATE OF THE COMMITTEE**

Article 124 (1) of the Constitution of Kenya provides that each House of Parliament may establish committees and shall make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its committees.

Parliamentary committees consider policy issues, scrutinize the workings and expenditures of the National and County Governments, and examine proposals for legislation. The end result of any process in Committees is a report, which is tabled in the House for consideration.

The Senate Standing Committee on Finance and Budget is established under section 8(1) of the Public Finance Management (PFM) Act, Cap 412A and standing order 228 of the Senate Standing Orders and is mandated to-

- a) investigate, inquire into, and report on all matters relating to coordination, control, and monitoring of the county budgets and examine -
  - (i) the Budget Policy Statement presented to the Senate;
  - (ii) the report on the budget allocated to constitutional Commissions and independent offices;
  - (iii) the Division of Revenue Bill, the County Allocation of Revenue Bill, the County Governments Additional Allocations Bill, and the cash disbursement schedules for county governments;
  - (iv) all matters related to resolutions and Bills for appropriations, the share of national revenue amongst the counties, matters concerning the national budget, including public finance and monetary policies and public debt, planning, and development policy; and
- 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.

## MEMBERSHIP OF THE COMMITTEE

The Standing Committee on Finance and Budget was constituted by the Senate of the Thirteenth (13<sup>th</sup>) Parliament on Thursday, 13<sup>th</sup> October, 2022 during the First Session. The Committee was later reconstituted on Wednesday, 12<sup>th</sup> February, 2025, during the Fourth Session. The Committee as currently constituted is comprised of the following Members-

- |                                                  |   |                         |
|--------------------------------------------------|---|-------------------------|
| 1) <b>Sen. (Capt.) Ali Ibrahim Roba, EGH, MP</b> | - | <b>Chairperson</b>      |
| 2) <b>Sen. Maureen Tabitha Mutinda, MP</b>       | - | <b>Vice-Chairperson</b> |
| 3) Sen. (Dr.) Boni Khalwale, CBS, MP             | - | Member                  |
| 4) Sen. Mohamed Faki Mwinyihaji, CBS, MP         | - | Member                  |
| 5) Sen. Richard Momoima Onyonka, MP              | - | Member                  |
| 6) Sen. Shakila Abdalla Mohamed, MP              | - | Member                  |
| 7) Sen. Eddy Gicheru Oketch, MP                  | - | Member                  |
| 8) Sen. Mariam Sheikh Omar, MP                   | - | Member                  |
| 9) Sen. Esther Okenyuri, MP                      | - | Member                  |



## CHAIRPERSON'S FOREWORD

The Public Audit (Amendment) Bill (National Assembly Bills No. 4 of 2024) was published vide Kenya Gazette Supplement No. 28 of 2<sup>nd</sup> February, 2024, and passed by the National Assembly with amendments on 11<sup>th</sup> March, 2025, and thereafter forwarded to the Senate for concurrence. The Bill was read a First Time in the Senate on 20<sup>th</sup> March, 2025.

Thereafter, pursuant to standing order 145 of the Senate Standing Orders, the Bill was committed to the Standing Committee on Finance and Budget for consideration.

The primary objective of the Bill is to amend the Public Audit Act, 2015, to strengthen the legal and institutional framework for the Office of the Auditor-General (OAG). The amendments aim to enhance the efficiency, autonomy, and accountability of the Auditor-General in executing constitutional audit mandates under Article 229 of the Constitution.

In accordance with standing order 145(5) of the Senate Standing Orders, the Committee proceeded to conduct public participation on the Bill. In this regard, the Committee published an advertisement in the Daily Nation and Standard Newspapers, on 19<sup>th</sup> April, 2025, inviting members of the public to submit written memoranda to the Committee on the Bill.

The Committee received written submissions from the following stakeholders-

- a) The National Treasury and Economic Planning;
- b) The Commission on Revenue Allocation (CRA);
- c) The Institute of Certified Public Accounting of Kenya (ICPAK);
- d) County Assembly Forum (CAF); and
- e) Transparency International- Kenya.

The Committee also held consultative meetings with the Auditor General and the National Treasury and Economic Planning.

The Committee, having considered the Bill and analysed stakeholders' submissions, made the following observations. That-

- a) the Bill seeks to enhance the institutional, administrative and financial independence of the Office of the Auditor-General (OAG). The amendments collectively aim to align the Act with the provisions of Article 229 of the Constitution and evolving public finance practices. In this respect therefore, the Bill seeks to align the provisions of the Act with the judgment of the court in *Transparency International vs Attorney-General (Interested Parties: Auditor-General & AFRICOG) HCP No. 388 of 2016*.
- b) the Bill seeks to clarify the roles of the Senior Deputy Auditor-General in conformity with Article 229 of the Constitution. In this respect, the Bill amends section 16 of the Act to provide that the Senior Deputy-Auditor General shall be the principal assistant and deputize the Auditor-General's functions except the powers under the Constitution.
- c) the amendments enhance the human resource management framework within the OAG by empowering the Auditor-General to recruit, promote, and discipline staff in consultation with the Salaries and Remuneration Commission. This autonomy supports institutional independence while ensuring adherence to constitutional values such as fairness, merit, and inclusivity.
- d) the Bill promotes good governance and institutional sustainability by establishing clear succession arrangements and transition procedures in the event of a vacancy in the Office of the Auditor-General. The inclusion of a notice period before the end of tenure provides adequate time for recruitment and transition, preventing disruption of operations.

The Committee, having considered the Bill and analysed stakeholder's submissions, recommends that the Senate approves the Bill with the proposed amendments annexed as *Annex 1*.

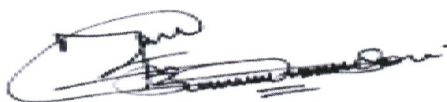
### **Acknowledgement**

The Committee appreciates all the stakeholders who submitted written memoranda or appeared before the Committee to present their comments on the Bill.

The Committee appreciates the support extended by the offices of the Speaker and the Clerk of the Senate while undertaking this important assignment.

I take this opportunity to commend the Members of the Committee for their devotion and commitment to duty, which made the consideration of the Public Audit (Amendment) Bill (National Assembly Bills No. 4 of 2024), successful.

It is now my pleasant duty, pursuant to standing order 148(1) of the Senate Standing Orders to present the Report of the Standing Committee on Finance and Budget on the Public Audit (Amendment) Bill, 2024 (National Assembly Bills No. 4 of 2024)



**SIGNATURE: ..... DATE: ..3<sup>rd</sup> November, 2025.**

**SEN. (CAPT.) ALI IBRAHIM ROBA, EGH, MP,**

**CHAIRPERSON,**

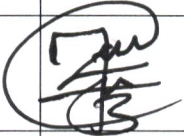
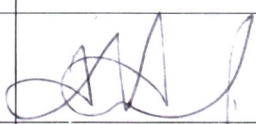
**STANDING COMMITTEE ON FINANCE AND BUDGET**



**ADOPTION OF THE REPORT OF THE PUBLIC AUDIT (AMENDMENT)  
BILL (NATIONAL ASSEMBLY BILLS NO.4 OF 2024)**

---

**We, the undersigned Members of the Senate Standing Committee on Finance and Budget, do hereby append our signatures to adopt this Report-**

|    | <b>Name</b>                                  | <b>Designation</b>      | <b>Signature</b>                                                                      |
|----|----------------------------------------------|-------------------------|---------------------------------------------------------------------------------------|
| 1. | <b>Sen. Capt. Ali Ibrahim Roba, EGH, MP</b>  | <b>Chairperson</b>      |    |
| 2. | <b>Sen. Maureen Tabitha Mutinda, MP</b>      | <b>Vice-Chairperson</b> |    |
| 3. | <b>Sen. (Dr.) Boni Khalwale, CBS, MP</b>     | <b>Member</b>           |                                                                                       |
| 4. | <b>Sen. Mohamed Faki Mwinyihaji, CBS, MP</b> | <b>Member</b>           |    |
| 5. | <b>Sen. Richard Momoima Onyonka, MP</b>      | <b>Member</b>           |                                                                                       |
| 6. | <b>Sen. Shakila Abdalla Mohamed, MP</b>      | <b>Member</b>           |                                                                                       |
| 7. | <b>Sen. Eddy Gicheru Oketch, MP</b>          | <b>Member</b>           |                                                                                       |
| 8. | <b>Sen. Mariam Sheikh Omar, MP</b>           | <b>Member</b>           |  |
| 9. | <b>Sen. Esther Okenyuri, MP</b>              | <b>Member</b>           |  |

## **CHAPTER ONE**

### **OVERVIEW OF THE PUBLIC AUDIT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO.4 OF 2024)**

#### **1.0 Introduction of the Bill**

1. The Public Audit (Amendment) Bill (National Assembly Bills No. 4 of 2024) was published vide Kenya Gazette Supplement No. 28 of 2<sup>nd</sup> February, 2024, and passed by the National Assembly with amendments on 11<sup>th</sup> March, 2025.
2. The Bill was read a First Time in the Senate on 20<sup>th</sup> March, 2025. Thereafter, pursuant to standing order 145 of the Senate Standing Orders, the Bill was committed to the Standing Committee on Finance and Budget for consideration.

#### **1.1 Purpose of the Bill**

3. The Bill seeks to amend the Public Audit Act, 2015, to strengthen the legal and institutional framework for the Office of the Auditor-General (OAG). The amendments aim to enhance the efficiency, autonomy, and accountability of the Auditor-General in executing constitutional audit mandates under Article 229 of the Constitution.
4. The proposed amendments aim to align the Public Audit Act with the Constitution of Kenya, 2010 particularly Articles 229 and 253 on the independence, composition, and functions of the Office of the Auditor-General.

#### **1.2 Contents of the Bill**

5. Clause 2 – amends the definition section of the principal Act to align various terms with constitutional requirements and the proposed amendments.
6. Clause 3- amends section 4 of the Principal Act to clarify the composition of the Office of the Auditor-General by designating the Auditor-General as the accounting officer of the Office, supported by staff appointed by the Auditor-General.
7. Clause 4- amends section 5 to require that a person appointed as Auditor-General must be a practicing member in good standing of a professional body of accountants recognized under the Accountants Act, ensuring adherence to high professional and ethical standards in the execution of the Office’s mandate.

8. Clause 5- amends section 7(1) of the Public Audit Act, 2015 by inserting a new paragraph requiring the Auditor-General to satisfy himself or herself that public resources have been applied or used in an economic, efficient, effective, transparent, and sustainable manner.
9. Clause 6- repeals section 8 of the Act by introducing a new provision outlining the administrative powers and functions of the Auditor-General including recruitment, staff establishment and remuneration structures.
10. Clause 7- introduces new sections 8A and 8B to the Public Audit Act, 2015, establishing the Public Service Human Resource Audit Directorate within the Office of the Auditor-General headed by an officer competitively recruited and appointed by the Auditor-General with responsibility for conducting and preparing audits on human resource management across the public service.
11. Clause 8- amends section 9(1)(g) of the Act by replacing the term “telephone access” with “communication connectivity.”
12. Clause 9- amends section 11 of the Act to clarify the circumstances under which the position of the Auditor-General becomes vacant. It provides that the office shall fall vacant upon expiry of the term, death, resignation in writing to the President, or removal under Article 251 or Chapter Six of the Constitution. Additionally, it introduces a new requirement for the Auditor-General to notify the appointing authority at least three months before the expiry of the term, ensuring timely succession planning. The amendment also specifies that any appointment to the position upon expiry of the term shall be made strictly as such.
13. Clause 10- repeals section 12 of the Act.
14. Clause 11- repeals and replaces section 14 to require the Auditor-General to develop an appropriate organizational structure for efficient delivery of the Office’s mandate, with the option to seek advice from the Audit Advisory Board.
15. Clause 12- amends section 15 of the Act to provide that the Senior Deputy Auditor-General shall be competitively recruited by the Auditor-General.
16. Clause 13- amends section 16(1) of the Act to clarify that the Senior Deputy Auditor-General shall serve as the principal assistant to the Auditor-General and



deputize in executing the Auditor-General's functions, except for powers expressly reserved under the Constitution.

17. Clause 14- amends section 17 to empower the Auditor-General to recruit staff necessary for the effective discharge of the Office's mandate, in consultation with the Salaries and Remuneration Commission. It further requires that recruitment processes observe affirmative action and comply with the national values and principles under Articles 10 and 232 of the Constitution.
18. Clause 15- repeals section 18 of the Act.
19. Clause 16- deletes section 19(3) of the Act.
20. Clause 17- amends section 20 to enhance financial accountability and oversight. It requires that reports submitted to the Cabinet Secretary for Finance also be copied to the National Assembly. Additionally, where the allocated expenditures are deemed insufficient, the Auditor-General must submit a special report to the Speakers of the National Assembly and Senate for consideration by the relevant committees.
21. Clause 18- amends section 21 to broaden the Auditor-General's oversight scope by extending audit powers to any entity or person receiving or funded from public funds, not just public bodies. It also clarifies that where information is withheld by a private entity or individual, the Auditor-General may seek a court order to obtain it.
22. Clause 19- amends section 23 to require that any appointments or engagements made by the Auditor-General be conducted competitively.
23. Clause 20- amends section 24 to replace the phrase "professional assistance and consultancy" with "use of experts," reflecting a broader scope of technical support available to the Auditor-General. It further provides that such engagements must aim to ensure economy, efficiency, and effectiveness in managing public resources.
24. Clause 21- repeals and replaces section 25 to establish a reconstituted Audit Advisory Board as an unincorporated body. The Board will comprise the Auditor-General (Chairperson), the Attorney-General (or nominee), and nominees from the Institute of Certified Public Accountants of Kenya, the Institute of Human Resource Management, and the Institute of Internal Auditors of Kenya. The Senior Deputy

Auditor-General will serve as Secretary. The amendment prescribes qualifications for nominees, emphasizes affirmative action, and provides for co-option of additional members when necessary.

25. Clause 22- repeals and replaces section 26 of the Act to outline the procedures and quorum for meetings of the Audit Advisory Board. It provides that the quorum shall consist of at least three members, the Chairperson shall convene and preside over meetings, and that vacancies among members shall not invalidate the Board's proceedings.
26. Clause 23- amends section 27 of the Act to clarify that the Audit Advisory Board, subject to Section 10 and with the Auditor-General's approval, shall provide advisory services on budget plans and estimates, human resource management, strategic planning, and any other matters referred by the Auditor-General.
27. Clause 24- amends section 31 to establish clear audit process steps, requiring the Auditor-General to notify accounting officers before audits, hold entry meetings to define the audit scope, and issue reports to Parliament and relevant County Assemblies. Accounting officers must respond within 14 days, detailing remedial actions, and failure to adequately address audit findings may lead to disciplinary action in line with their appointment terms or applicable laws and regulations.
28. Clause 25- repeals section 32.
29. Clause 26- amends section 33 of the Act to require that reports from internal auditors, once reviewed and adopted by an entity's Audit Committee, be submitted by the accounting officer to the Auditor-General.
30. Clause 27- amends section 34 of the Act to replace the term "periodic" with "special" in both the marginal note and the main text.
31. Clause 28- amends section 35 of the principal Act to broaden its scope by replacing "public entities" with "entities funded and receiving public funds.
32. Clause 29- amends section 36 of the principal Act to broaden the Auditor-General's mandate, replacing "public money" with "public resources" to cover all government-managed assets and clarifying that audits may examine a range of matters "among others." Additionally, the audit timeframe is made flexible,



allowing audits to be conducted “at any time” rather than being restricted to a six-month period.

33. Clause 30- amends section 37 (Forensic Audits) to empower the Auditor-General to conduct forensic or investigative audits, either on their own initiative or upon request, to detect fraud, corruption, financial improprieties, or misuse of public resources.
34. Clause 31- amends section 38 to include “economically, efficiently and” after “lawfully and in”.
35. Clause 32- inserts new section 38A to introduce citizen accountability audits, allowing the Auditor-General to ensure public participation in the audit process, either on request or on their own initiative, in line with constitutional provisions, section 38B to provide for compliance audits to verify that public entities adhere to relevant laws, regulations, and policies in managing resources and section 38C to allow the Auditor-General to carry out any other audit deemed necessary to effectively fulfil their mandate.
36. Clause 33- amends section 39 to require the Auditor-General to present audit reports to Parliament or relevant County Assemblies, with audited entities submitting reports on how recommendations have been addressed within one month and six months after consideration.
37. Clause 34 repeals section 40 of the Act.
38. Clause 35 amends section 41 to replace the word “assets” with “rental income.”
39. Clause 36 repeals section 42 of the Act.
40. Clause 37 amends section 41 by inserting new subsection 41A to establish the Public Audit Fund, administered under the Public Finance Management Act, 2012, to support audit activities.
41. Clause 38 amends section 44 to correct cross-references within the Act.
42. Clause 39 amends section 45 to require publication of audit reports within seven days of submission to Parliament or relevant assemblies.
43. Clause 40 amends section 46 to replace “accounts” with “financial statements” and “annual” with “audit.”

44. Clause 41 amends section 48 to cover entities “entrusted with public resources” rather than only funds from public funds.
45. Clause 42 amends section 49 to clarify reporting timelines and public disclosure requirements: Auditor-General to publish reports within seven days, and Parliament or County Assemblies to discuss and issue recommendations within three months.
46. Clause 43 repeals section 50 of the Act.
47. Clause 44 repeals section 51.
48. Clause 45 amends section 54 to require preparation of a report rather than just inclusion in an audit report.
49. Clause 46 amends section 58 by replacing “officer” with “staff” and “auditee” with “audited entity.”
50. Clause 47 amends section 59(1) of the Act to provide that Staff with an interest in an audited entity must disclose it in writing and recuse themselves from related audits.
51. Clause 48 amends section 61 to replace “officer” with “staff.”
52. Clause 49 amends section 64 on Powers to Engage Other Agencies to allow collaboration with enforcement, investigative, and regulatory agencies in cases of fraud or corruption, including recommending debarment from procurement.
53. Clause 50 amends section 67 on Disallowable Expenditure and Uncollected Revenue to require reporting of unauthorized payments, deficiencies, losses, or uncollected sums to Parliament and relevant assemblies.
54. Clause 51 amends section 68 to replace “Cabinet Secretary responsible for finance” with “Auditor-General” as the responsible reporting authority.
55. Clause 52 amends section 72 to include a reference to compliance with section 6 of the Access to Information Act, 2016 at the beginning of the sentence.

### **1.3 Expected impact of the legislation**

56. The Bill is expected to enhance the independence and accountability of the Office of the Auditor-General by granting it greater control over its finances, staffing, and organizational structure. This autonomy will minimize external interference and strengthen the Auditor-General’s capacity to provide impartial and credible oversight on the use of public funds.

57. The proposed amendments will promote efficiency and professionalism within the Office by streamlining administrative functions, clarifying roles, and establishing merit-based recruitment processes. These measures will ensure that the Office operates with improved coordination, timely delivery of audits, and adherence to high standards of integrity and competence.
58. The introduction of provisions that promote transparency and citizen engagement, including the publication of audit reports and the conduct of citizen accountability audits, is expected to foster greater public trust in audit processes.
59. The legislation will also contribute to stronger governance and fiscal discipline across all levels of government. By reinforcing oversight mechanisms, expanding the scope of audits, and emphasizing compliance with laws and regulations, the Bill will help curb wastage, ensure prudent use of public resources, and ultimately improve service delivery to citizens.



## CHAPTER TWO

### SUBMISSIONS BY STAKEHOLDERS ON THE BILL

#### 2.1 Introduction

60. The Committee invited stakeholders pursuant to Article 118 and standing order 145 of the Senate Standing Orders to submit their views on the Bills. An advertisement was placed in Daily Nation and Standard Newspapers on 19<sup>th</sup> April, 2025 (*Annex 4-the public advertisement*). In this respect, the Committee received submissions from-

- a) The National Treasury and Economic Planning;
- b) The Commission on Revenue Allocation;
- c) The Institute of Certified Public Accounting of Kenya (ICPAK);
- d) Office of Auditor General (AOG);
- e) County Assembly Forum (CAF); and
- f) Transparency International- Kenya.

#### 2.2 Submissions by the National Treasury and Economic Planning

61. The National Treasury appeared before the Committee and expressed full support for the Bill. They stated that a task force they developed was responsible for creating the proposed amendments and that the changes will ensure the audit process is both effective and time bound.

#### 2.3 Submissions by the Commission on Revenue Allocation

62. CRA submitted as follows;

- a) CRA submitted that they support the proposed amendments of the Bill, however they opposed provisions on clause 31, which sought to establish a fund by inserting it into section 41 of the Public Audit Act.
- b) The Commission argued that this proposal would contradict Article 249 (3) of the Constitution which mandates that Parliament shall allocate sufficient funds to enable each commission and independent office to perform their functions, and that the budget for each shall be a separate vote.



## **2.4 Submissions by the Institute of Certified Public Accounting of Kenya**

63. ICPAK submitted as follows;

- a) On the amendment of section 8 of the Act, Institute observed that the Bill provided instances under which the position of the Auditor General would become vacant but failed to outline transition requirements or interim measures pending recruitment. They recommended that the Deputy Auditor General should automatically act as Auditor General until a substantive appointment was made, to ensure seamless transition and safeguard independence from the Public Service Commission.
- b) Further, that the functions of the Auditor General are limited to administrative roles and proposed inclusion of additional responsibilities such as approving audit fees, managing revenues, custodianship of assets, engaging with stakeholders and development partners, and preparing annual accountability reports to the President and Parliament as required by article 254 of the Constitution.
- c) The Institute noted that the Bill introduces the position of Deputy Auditor General without specifying the required qualifications. They proposed that he\she should hold qualifications equivalent to those of the Auditor General, be a citizen of Kenya, possess a degree in accounting, finance, or economics, meet Chapter Six requirements of the Constitution, and be a practicing member of ICPAK to ensure effective succession.
- d) The Institute pointed out that the Bill has no provision for retirement security for the Auditor General. They recommended insertion of a new section to grant retired holders of the office a pension, lump sum payment, official vehicle, fuel allowance, comprehensive medical cover, personal staff, security, diplomatic passports, vehicle maintenance, and VIP airport access. There justification was that the office carries significant risks and is not covered under existing pension schemes.
- e) The Institute proposed that the Bill should specify a definite number of deputies to prevent creation of unnecessary positions.

- f) On the establishment and composition of the Audit Advisory Board, the Institute opposed parliamentary representatives into the board, arguing it would compromise independence since Parliament, Senate, and NG-CDF were among the offices audited by the Auditor General. They recommended replacing them with two nominees from ICPAK and one from the Institute of Human Resource Management.
- g) Concerning the functions of the Audit Advisory Board, the Institute recommended inclusion of strategic planning as a core function to guide budgeting and human resource management.
- h) On the requirement of the internal audit reports adopted by Audit Committees to be submitted to the Auditor General, the Institute supported the provision, noting that it strengthens internal audit functions across government.
- i) On the amendment of section 23 of the Principal Act, regarding outsourced audit firms, the Institute recommended that selection be done competitively in accordance with procurement laws to enhance transparency.
- j) On the amendment of section 38, the Institute recommended correction of the proposed phrase so that it read: “lawfully and in an economical, efficient and effective way.”

## **2.5 Submission by the Office of the Auditor-General (OAG).**

64. OAG appeared before the Committee and submitted as follows;

- a) The Office of the Auditor-General stated that the Bill is necessary to align the Public Audit Act with constitutional imperatives, but stressed that its core objective is to fortify the office's functional and financial independence.
- b) Regarding financial autonomy, the OAG strongly supported clause 37, which establishes the Public Audit Fund, and welcomed provisions allowing the Auditor-General to request additional funding directly from Parliament. However, the Office proposed an amendment to Section 20(2) to mandate that the Auditor-General submit budget estimates directly to the National Assembly, arguing that review by the Cabinet Secretary for Finance unduly hampered its financial independence.

- c) OAG opposed clause 7, which proposed the establishment of a specific Directorate of Public Service Human Resource Audit. The OAG argued that this was overly prescriptive and created a rigid structure, as the audit of human resources was already covered under its existing constitutional mandate.
- d) The OAG opposed clauses 10 and 11, which provides for the position of a Senior Deputy Auditor-General. They submitted that legislating for two levels of deputies risks creating conflict and duplication of roles, recommending that the structure should only provide for one Deputy Auditor-General.
- e) The OAG requested the deletion of Clause 18(3), which would have required the Auditor-General to apply to the courts to obtain information from a private entity or person. The Office reasoned that this provision would unduly impede its constitutional mandate for unrestricted and unfettered access to all necessary information.
- f) The Office requested the deletion of Clauses 22 and 23, which sought to re-establish the Audit Advisory Board. The OAG put forward that the Board had previously been declared unconstitutional by the High Court for violating the OAG's functional independence.
- g) On the Audit Process Timelines, Clause 24 of Section 31, the OAG proposed reducing the deadline for an Accounting Officer to submit a response on remedial actions regarding an audit report from fourteen days to seven days. The Office also proposed a new requirement for an exit meeting at the conclusion of an audit to provide management with timely observations.
- h) To enhance efficiency, the OAG proposed a new subsection to section 47 of the Principal Act, which would mandate that financial statements and supporting information be submitted to the Auditor-General in electronic form. The Office noted that this would improve efficiency and timeliness given its utilization of an audit management system.
- i) The OAG supported Clause 9 on the appointment of the Auditor-General, which introduced a three-month notification period for the end of tenure. It



also requested the repeal of Section 70 of the Principal Act, noting that the High Court had declared it unconstitutional and superfluous as the Constitution already prevails over all other laws.

- j) The Office of the Auditor-General submitted that clause 18(3) of the Bill, which seeks to delete section 21(3) of the Act and substitute it with a new provision allowing the Auditor-General to apply to the courts to obtain information from private entities or persons be deleted. OAG argued that the proposed provision would infringe on the constitutional mandate and independence of the Auditor-General by introducing unnecessary restrictions on access to information and documents. The OAG emphasized that the Data Protection Act already exempts such data processing where required by law, making the proposed amendment both redundant and unconstitutional.
- k) On clause 49, which seeks to amend section 64 of the Act to outline the powers of the Auditor-General in engaging other agencies, the OAG reported that it had taken into account the Committee's concerns regarding possible timelines for collaboration. The Office assured that it would consult relevant agencies within their mandates and provide feedback on any necessary amendments to their instruments before the Committee concludes its consideration of the Bill.
- l) Further, OAG proposed an amendment to section 20(2) of the Act concerning the budget estimates and financial planning of the Auditor-General. The current law requires the Office to submit its budget estimates to the Cabinet Secretary for Finance by 30<sup>th</sup> March each year for review and onward submission to the National Assembly under Article 221 of the Constitution. The OAG noted that this process has undermined their financial autonomy, affecting their ability to independently determine the scope, timing, and execution of audits, and contributing to Kenya's low global ranking in audit independence among Supreme Audit Institutions.
- m) To enhance their financial independence, the OAG proposed to repeal section 20(2) and replace it with a new provision requiring the Auditor-General to:



- i) submit the Office's budget estimates and proposed appropriations directly to the National Assembly by 30<sup>th</sup> April each financial year;
- ii) provide a copy of the same to the Cabinet Secretary for Finance.

The new subsection further requires the Cabinet Secretary to submit any comments to the National Assembly by 15<sup>th</sup> May, ensuring transparency and preserving the Auditor-General's independence.

- iii) Finally, the OAG clarified that the implementation of these proposed amendments would not result in additional public expenditure, other than funds already appropriated by Parliament to the Office of the Auditor-General.

## **2.6 Submission by the County Assembly Forum (CAF).**

65. CAF submitted as follows;

- a) CAF submitted that the amendments strengthen the independence, governance structures, and financial autonomy of the Office of the Auditor-General. They supported the provisions aligning the Public Audit Act with constitutional requirements and judicial pronouncements.
- b) CAF further supported provisions empowering the Auditor-General to determine the organizational structure, hire staff, and manage remuneration in consultation with the Salaries and Remuneration Commission. They also welcomed the establishment of the Public Audit Fund as a key step toward ensuring financial independence and operational efficiency.
- c) On the restructuring of the Audit Advisory Board and the replacement of the Senior Deputy Auditor-General with a competitively recruited Deputy Auditor-General, CAF stated that the provisions clarified governance and promoted efficiency within the Office of the Auditor-General.
- d) CAF also acknowledged the importance of broadening the mandate of the Auditor-General to include compliance and forensic audits, noting that this expansion strengthened oversight and accountability, particularly at the county level. They further welcomed the introduction of citizen accountability audits, seeing it as a step toward enhancing public participation in audit processes.

- e) However, CAF observed that the provision on citizen accountability audits lacks clear mechanisms for implementation, risking tokenism in public participation. They also raised concerns about weak safeguards and insufficient oversight structures for the Public Audit Fund, which could create avenues for mismanagement.
- f) CAF pointed out that the Bill's definition of public resources was overly broad, including intangible assets and state-compensated time without operational clarity, which could complicate audit execution and enforcement. They also highlighted vague provisions on inter-agency collaboration that risked overlaps of mandates and jurisdictional disputes.
- g) They further noted ambiguity in disciplinary measures for non-compliance with audit findings, warning that the lack of specificity weakened enforcement. In addition, they argued that the reporting timelines set in the Bill were unrealistic, especially for counties with limited capacity, which could delay corrective action.
- h) CAF also raised concerns about the repeal of key provisions in the principal Act, such as sections 32, 50, and 51, without adequate replacements, observing that this risked undermining important processes in audit follow-ups and implementation tracking.
- i) They cautioned that the vague use of national security as grounds for withholding audit reports could be misused to limit public access and transparency.
- j) Lastly, CAF pointed out the weak provisions on conflict of interest, stating that inadequate disclosure requirements and weak sanctions would fail to deter unethical conduct.
- k) To address these shortcomings, CAF recommended that the Senate provide clear guidelines for citizen accountability audits, strengthen oversight of the Public Audit Fund, refine the definition of public resources, and establish protocols for effective inter-agency collaboration.

- l) They also urged the inclusion of stronger provisions on conflict of interest with meaningful penalties to ensure integrity and accountability within the Office of the Auditor-General.

## **2.7 Submission by the Transparency International-Kenya (TI-KENYA).**

66. TI- KENYA submitted the following;

- a) TI-Kenya opposed the proposal to establish the Audit Advisory Board, arguing that it would introduce unnecessary bureaucracy, duplicate existing oversight functions, waste public resources, and undermine the constitutional independence of the Office of the Auditor-General.
- b) TI-Kenya opposed the amendment of section 27 on the proposed role of the Audit Advisory Board in advising on budget planning and human resource matters stating that it would interfere with internal operations of the Office of the Auditor-General and compromise its independence.
- c) On the amendment of section 31, TI-Kenya opposed the removal of key stages of the audit process contained in the original Act. They stated that making the audit process dependent on cooperation from audited entities could delay or obstruct audits and weaken accountability.
- d) TI-Kenya opposed the amendment of section 32 stating that the proposal to restrict the publication of audit reports would violate article 35 of the Constitution on the right of access to information and undermine transparency in the management of public funds.
- e) On the amendment of section 36, TI-Kenya supported the inclusion of the terms “among others” and the replacement of “public money” with “public resources,” noting that it expands the scope of performance audits to cover all public assets and improved accountability.
- f) They proposed a clear framework to guide citizen-initiated audits and allow such audits to inform formal audits conducted by the Office of the Auditor-General.



- g) On the establishment of the Public Audit Fund, TI-Kenya supported the proposal and recommended that all public entities be required to allocate at least two percent of their annual budgets to audit services, with funds remitted to the Public Audit Fund at the start of each financial year to enhance the financial independence of the Auditor-General.
- h) TI-Kenya opposed the amendment of section 50 and proposed original provision to be retained, stating that removing the provision would prevent audit reports from being submitted to Parliament and county assemblies as required by Article 229(7) of the Constitution, thereby weakening constitutional oversight.
- i) On the amendment of section 51, TI-Kenya proposed that the original provision be retained as the deletion would erode accountability by removing mechanisms that enable Parliament to follow up on audit findings and ensure corrective action.
- j) TI-Kenya supported the amendment of section 64, noting that allowing the Office of the Auditor-General to collaborate with institutions such as the Ethics and Anti-Corruption Commission (EACC), the Office of the Director of Public Prosecutions (ODPP), the National Police Service, and other oversight agencies would strengthen enforcement of audit findings and promote action against corruption.
- k) TI-Kenya noted that section 70 of the Public Audit Act should be reviewed and deleted because it is redundant, as the Constitution already prevails over all other laws, making the provision unnecessary.

## CHAPTER THREE

### OBSERVATIONS AND RECOMMENDATIONS

#### 3.1 Observations

67. The Committee, having considered the Bill and submissions from stakeholders, made the following observations:

- a) The Bill seeks to enhance the institutional, administrative and financial independence of the Office of the Auditor-General (OAG). The amendments collectively aim to align the Act with the provisions of Article 229 of the Constitution and evolving public finance practices. In this respect therefore, the Bill seeks to align the provisions of the Act with the judgment of the court in *Transparency International vs Attorney-General (Interested Parties: Auditor-General & AFRICOG) HCP No. 388 of 2016* in which the court found that “*looking at the principle function of the Audit Advisory Board, it leaves no doubt that it is required to advise the Auditor General on how to discharge his mandate under the Constitution. This is an interference with his institutional and individual independence. This, without a doubt, alters the constitutional architecture of the independent office of the Auditor General and the principles of independence contemplated by the Constitution. It also violates Article 249(2) (b) which states that he is independent and not subject to direction or control of any person or authority. There can be no doubt the function of the Audit Advisory Board to advice the Auditor General in the performance of his functions under the constitution violates Constitutional values and principles of independence of the Auditor General in Articles 229 and 249(2)*”.
- b) The Bill promotes good governance and institutional sustainability by establishing clear succession arrangements and transition procedures in the event of a vacancy in the Office of the Auditor-General. The inclusion of a notice period before the end of tenure provides adequate time for recruitment and transition, preventing disruption of operations.

- c) The Bill seeks to clarify the roles of the Senior Deputy Auditor-General in conformity with Article 229 of the Constitution. In this respect, the Bill amends section 16 of the Act to provide that the Senior Deputy-Auditor General shall be the principal assistant and deputize the Auditor-General's functions except the powers under the Constitution. This amendment is cognizant of the fact that the need to provide for continuity in operations where a vacancy arises in the Office of the Auditor-General. Indeed, the court in *Transparency International vs Attorney-General (Interested Parties: Auditor-General & AFRICOG) HCP No. 388 of 2016* held, inter alia" that ".....the Auditor General cannot act alone. He must have senior people in his office to assist in the performance of his work. He cannot be all over doing everything including supervising staff. That is why Article 252 (1)(c) allows him to recruit his staff. As long as the person works under the direction of the Auditor-General and discharges duties assigned to him/her by the Auditor general, I see nothing unconstitutional about this position. Holding otherwise would reduce the Auditor General's office to a one man's office which may not attract qualified professionals thus limit its capability to function in the discharge of its constitutional mandate as the watchdog over public finance and administration".
- d) The amendments enhance the human resource management framework within the OAG by empowering the Auditor-General to recruit, promote, and discipline staff in consultation with the Salaries and Remuneration Commission. This autonomy supports institutional independence while ensuring adherence to constitutional values such as fairness, merit, and inclusivity.
- e) The Bill contains a provision proposing the establishment of the Public Service Human Resource Audit Directorate in the office of the Auditor-General to conduct and prepare audits on human resource management in the public service. However, the Committee notes that-



- (i) the audits carried out by the Auditor General include opinions on legal compliance, financial performance, and human resource management; and
  - (ii) establishing offices or directorates in the Office of the Auditor-General in law is too prescriptive and would undermine growth and adaptation to emerging trends.
- f) The Bill introduces provisions aimed at ensuring economy, efficiency, and effectiveness in the use of public resources, both within the OAG and in entities being audited. By emphasizing value-for-money audits, the Bill reinforces fiscal discipline and prudent resource management across government institutions.
- g) The Bill strengthens the definition and scope of public funds and public resources to include not only monetary assets but also land, buildings, human resources, and intangible assets. This broad definition ensures that all assets and resources entrusted to public entities are subject to audit and accountability, consistent with Article 229 of the Constitution.
- h) The Bill expands the types and scope of audits the Auditor-General may conduct. These include financial, compliance, forensic, performance, and citizen accountability audits. The inclusion of citizen accountability audits promotes public participation and transparency in line with Articles 10 and 201 of the Constitution.
- i) The Bill provides clarity on the audit process by requiring accounting officers to take remedial actions on audit reports. This is expected to improve responsiveness, reduce audit backlogs, and enhance follow-up on audit findings.

### 3.2 Recommendations

68. Having considered the Bill and submissions from the stakeholders, the Committee recommends that the Senate approves the Bill with the following amendments:

- (a) Deletion of clause 7 establishing Public Service Human Resource Audit Directorate and introduction of a new paragraph to include Human Resource audit as a type of audit to be carried out by the Auditor-General
- (b) Amendment of clauses 12 and 13 to provide for deputy auditor general as the principal administrative assistant to the Auditor-General whose role shall be to assist the Auditor general carry out the administrative functions of the office except any function assigned to the Auditor general under Article 229 of the Constitution.
- (c) Deletion of clause 21 and replacing with a new clause 21 whose effect will be to repeal section 25 of the Act which establishes an Audit Advisory Board that had been declared unconstitutional.
- (d) Deletion of clauses 22 and 23 and replacing with new clauses 22 and 23 whose effect is the repeal of sections 26 and 27 of the Act which make reference to meetings, procedure and functions of the Audit Advisory Board.
- (e) Amendment of clause 24 to clarify the audit process steps in regard to the exit meeting between the auditor and the substantive head of the entity being audited to discuss issues raised in the management letter.
- (f) Amendment of clause 31 of the Bill by inserting the words “economical, efficient” immediately after the words “lawfully and in an”
- (g) the Bill be amended by inserting the following new clauses–
  - i. amendment of section 47(1) of the Act to require accounting officers submit financial statements two months following the end of each financial year.
  - ii. amendment of section 47(3) of the Act to provide for use of technology to enhance efficiency in meeting statutory timelines.
  - iii. amendment of section 38 to provide that the Auditor-General may-

- (i) carry out periodic citizen accountability audits upon request, or at her or his own initiative to ensure public contribution or participation in the audit process pursuant to Articles 10 and 201 of the Constitution.
- (ii) conduct compliance audits to examine whether a public entity has complied with relevant laws, regulations and policies in the management of public resources.
- (iii) conduct human resource audits in the public service.
- (iv) conduct any other audit that he or she may deem necessary for better carrying out of his or her functions under the Act.



## **Appendices**

1. Committee Stage Amendments
2. Minutes of the Committee
3. Submissions from stakeholders
4. Public Advert

**Annex**

**1-**

**Committee Stage**

**Amendments**

4<sup>th</sup> November, 2025

The Clerk of the Senate,  
Parliament Buildings,  
NAIROBI.

**COMMITTEE STAGE AMENDMENTS TO THE PUBLIC AUDIT  
(AMENDMENT) BILL, NATIONAL ASSEMBLY BILLS NO. 4 OF 2024**

---

NOTICE is given that Sen. Ali Ibrahim Roba, Chairperson, Committee on Finance and Budget, intends to move the following amendments to the Public Audit (Amendment) Bill, National Assembly Bills No.4 of 2024, at the Committee Stage-

**CLAUSE 7**

**THAT** the Bill be amended by deleting clause 7.

**CLAUSE 12**

**THAT** clause 12 of the Bill be amended by deleting the word “Senior” appearing immediately after the words “there shall be” in the proposed new subsection 15(1).

**CLAUSE 13**

**THAT** clause 13 of the Bill be amended in paragraph (a) in the proposed new subsection 16(1) by deleting the word “Senior” appearing immediately before the words “Deputy Auditor-General”.

**CLAUSE 21**

**THAT** the Bill be amended by deleting clause 21 and substituting therefor with the following new clause—

Repeal of section 25 of  
Cap. 412B

**21.** Section 25 of the principal Act is  
repealed.

**CLAUSE 22**

**THAT** the Bill be amended by deleting clause 22 and substituting therefor with the following new clause—

Repeal of section 26 of  
Cap. 412B

**21.** Section 26 of the principal Act is  
repealed.



**CLAUSE 23**

**THAT** the Bill be amended by deleting clause 23 and substituting therefor with the following new clause—

Repeal of section 27 of  
Cap. 412B

**21.** Section 27 of the principal Act is  
repealed.

**CLAUSE 24**

**THAT** clause 24 of the Bill be amended in the proposed new section 31 by inserting the following new paragraph immediately after paragraph (b) appearing in subsection (1)—

(ba) at the end of an audit process on a public entity, there shall be an exit meeting between the officers of the office of the Auditor-General and the accounting officer of the respective entity to deliberate on an issue raised in the audit report.

**CLAUSE 31**

**THAT** the Bill be amended by deleting clause 31 and substituting therefor the following new clause—

Amendment of  
section 38 of Cap.  
412B.

**31.** Section 38 of the principal Act is amended by deleting the words “lawfully and in an effective way” appearing immediately after the words “were done” and substituting therefor the words “lawful, economic, effective and efficient manner”

**CLAUSE 32**

**THAT** the Bill be amended by deleting clause 32 and substituting therefor the following new clause—

Insertion of new  
sections in Cap.  
412B.

**32.** The principal Act is amended by inserting the following new sections immediately after section 38—

Citizen  
accountability  
audits.

**38A.** The Auditor-General may conduct out periodic citizen accountability audits upon request, or at her or his own initiative to ensure public contribution or participation in the audit process pursuant to Article 10 and 201 of the Constitution.

Compliance  
audits.

**38B.** The Auditor-General may conduct compliance audits to examine whether a public entity has complied with relevant laws, regulations and policies in the management of public resources.

Human  
resource  
audits.

**38C.** The Auditor-General may conduct human resource audits in the public service.

Any other  
audit

**38D.** The Auditor-General may conduct any other audit that he or she may deem necessary for better carrying out of his or her functions under the Act.

## NEW CLAUSES

**THAT** the Bill be amended by inserting the following new clause immediately after clause 40—

Amendment of section 47  
of Cap. 412B.

**40A.** section 47 of the principal Act is amended—

(a) in subsection (1) by deleting the word “three” appearing immediately after the words “Auditor-General within” and substituting therefor the word “two”; and

(b) by inserting the following new subsection immediately after subsection (1)—

(1A) An accounting officer shall submit the financial statements under subsection (1) in both hard copy and electronic form.



Sen. Ali Ibrahim Roba,  
*Chairperson,*  
*Committee on Finance and Budget.*

**Annex**

**1-**

**Committee Stage**

**Amendments**

4<sup>th</sup> November, 2025

The Clerk of the Senate,  
Parliament Buildings,  
NAIROBI.

**COMMITTEE STAGE AMENDMENTS TO THE PUBLIC AUDIT  
(AMENDMENT) BILL, NATIONAL ASSEMBLY BILLS NO. 4 OF 2024**

NOTICE is given that Sen. Ali Ibrahim Roba, Chairperson, Committee on Finance and Budget, intends to move the following amendments to the Public Audit (Amendment) Bill, National Assembly Bills No.4 of 2024, at the Committee Stage-

**CLAUSE 7**

**THAT** the Bill be amended by deleting clause 7.

**CLAUSE 12**

**THAT** clause 12 of the Bill be amended by deleting the word "Senior" appearing immediately after the words "there shall be" in the proposed new subsection 15(1).

**CLAUSE 13**

**THAT** clause 13 of the Bill be amended in paragraph (a) in the proposed new subsection 16(1) by deleting the word "Senior" appearing immediately before the words "Deputy Auditor-General".

**CLAUSE 21**

**THAT** the Bill be amended by deleting clause 21 and substituting therefor with the following new clause—

Repeal of section 25 of  
Cap. 412B

**21.** Section 25 of the principal Act is  
repealed.

**CLAUSE 22**

**THAT** the Bill be amended by deleting clause 22 and substituting therefor with the following new clause—

Repeal of section 26 of  
Cap. 412B

**21.** Section 26 of the principal Act is  
repealed.



**CLAUSE 23**

**THAT** the Bill be amended by deleting clause 23 and substituting therefor with the following new clause—

Repeal of section 27 of  
Cap. 412B

**21.** Section 27 of the principal Act is  
repealed.

**CLAUSE 24**

**THAT** clause 24 of the Bill be amended in the proposed new section 31 by inserting the following new paragraph immediately after paragraph (b) appearing in subsection (1)—

(ba) at the end of an audit process on a public entity, there shall be an exit meeting between the officers of the office of the Auditor-General and the accounting officer of the respective entity to deliberate on an issue raised in the audit report.

**CLAUSE 31**

**THAT** the Bill be amended by deleting clause 31 and substituting therefor the following new clause—

Amendment of  
section 38 of Cap.  
412B.

**31.** Section 38 of the principal Act is amended by deleting the words “lawfully and in an effective way” appearing immediately after the words “were done” and substituting therefor the words “lawful, economic, effective and efficient manner”

**CLAUSE 32**

**THAT** the Bill be amended by deleting clause 32 and substituting therefor the following new clause—

Insertion of new  
sections in Cap.  
412B.

**32.** The principal Act is amended by inserting the following new sections immediately after section 38—

**38A.** Citizen  
accountability  
audits.

The Auditor-General may conduct out periodic citizen accountability audits upon request, or at her or his own initiative to ensure public contribution or participation in the audit process pursuant to Article 10 and 201 of the Constitution.

**38B.** Compliance  
audits.

The Auditor-General may conduct compliance audits to examine whether a public entity has complied with relevant laws, regulations and policies in the management of public resources.

Human  
resource  
audits.

**38C.** The Auditor-General may conduct human resource audits in the public service.

Any other  
audit

**38D.** The Auditor-General may conduct any other audit that he or she may deem necessary for better carrying out of his or her functions under the Act.

## NEW CLAUSES

**THAT** the Bill be amended by inserting the following new clause immediately after clause 40—

Amendment of section 47  
of Cap. 412B.

**40A.** section 47 of the principal Act is amended—

- (a) in subsection (1) by deleting the word “three” appearing immediately after the words “Auditor-General within” and substituting therefor the word “two”; and
- (b) by inserting the following new subsection immediately after subsection (1)—
  - (1A) An accounting officer shall submit the financial statements under subsection (1) in both hard copy and electronic form.



Sen. Ali Ibrahim Roba,  
*Chairperson,*  
*Committee on Finance and Budget.*

# **Annex 2- Minutes of the Committee**



**MINUTES OF THE TWO HUNDRED AND SEVENTEENTH (217<sup>TH</sup>) MEETING  
OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET  
HELD ON THURSDAY, 29<sup>TH</sup> MAY, 2025 IN COUNTY HALL, GROUND FLOOR  
BOARDROOM, PARLIAMENT BUILDINGS AT 9.00 A.M.**

**PRESENT**

- |                                           |   |                         |
|-------------------------------------------|---|-------------------------|
| 1. Sen. (Capt.) Ali Ibrahim Roba, EGH, MP | - | <b>Chairperson</b>      |
| 2. Sen. Maureen Tabitha Mutinda, MP       | - | <b>Vice-Chairperson</b> |
| 3. Sen. (Dr.) Boni Khalwale, CBS, MP      | - | Member                  |
| 4. Sen. Mohamed Faki Mwinyihaji, CBS, MP  | - | Member                  |
| 5. Sen. Richard Momoima Onyonka, MP       | - | Member                  |
| 6. Sen. Eddy Oketch Gicheru, MP           | - | Member                  |
| 7. Sen. Mariam Sheikh Omar, MP            | - | Member                  |

**ABSENT WITH APOLOGY**

- |                                     |   |        |
|-------------------------------------|---|--------|
| 1. Sen. Esther Okenyuri, MP         | - | Member |
| 2. Sen. Shakila Abdalla Mohamed, MP | - | Member |

**SECRETARIAT**

- |                            |   |                  |
|----------------------------|---|------------------|
| 1. Mr. Christopher Gitonga | - | Clerk Assistant  |
| 2. Ms. Beverlyne Chivadika | - | Clerk Assistant  |
| 3. Ms. Lucy Radoli         | - | Legal Counsel    |
| 4. Mr. Kiminza Kioko       | - | Fiscal Analyst   |
| 5. Mr. Constant Wamayuyi   | - | Researcher       |
| 6. Mr. Godana Mamo         | - | Sergeant-At-Arms |
| 7. Ms. Rose Ometere        | - | Audio Officer    |
| 8. Ms. Gloria Anyango      | - | Intern           |

**IN ATTENDANCE:**

**OFFICE OF THE AUDITOR-GENERAL**

- |                              |   |                                         |
|------------------------------|---|-----------------------------------------|
| 1. FCPA. Nancy Gathungu, CBS | - | Auditor-General                         |
| 2. FCPA. Sylvester Kiini     | - | Deputy AG                               |
| 3. Ms. Vivian Nyambura       | - | Director, Legal Services                |
| 4. Ms. Beatrice Omari        | - | Director Communications                 |
| 5. Mr. Joshua Omutuku        | - | Director, Legislative Relations offices |



- |                       |                                           |
|-----------------------|-------------------------------------------|
| 6. Mr. Paul Kagwanja  | - Deputy Director, LRO                    |
| 7. Ms. Pauline Wawira | - Deputy Director Audit, Executive Office |
| 8. Mr. Mark Gachanja  | - Principal Auditor                       |

#### **MIN/SEN/SCF&B/1261/2025**

#### **PRELIMINARIES**

The Chairperson called the meeting to order at 9:30 a.m. This was followed by a word of prayer, and round of introduction.

#### **MIN/SEN/SCF&B/1262/2025**

#### **ADOPTION OF THE AGENDA**

The agenda was adopted after being proposed by Sen. Mohamed Faki Mwinyihaji, CBS, MP, and seconded by a Sen. Mariam Sheikh Omar, MP, listed below-

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of minutes of 213<sup>th</sup>, 214<sup>th</sup>, and 216<sup>th</sup> Sittings;
4. Matters arising from the minutes of the previous sitting;
5. Briefing on the Public Audit (Amendment) Bill, 2024 (National Assembly Bills No. 4 of 2024)-*Committee Paper No.130A*;
6. Meeting with the Auditor-General to deliberate on the Public Audit (Amendment) Bill, 2024 (National Assembly Bills No. 4 of 2024)-*Committee Paper No.130A*;
7. Meeting with the Public Procurement Regulatory Authority to deliberate on the Public Procurement and Asset Disposal (Amendment) Bill, 2024 (National Assembly Bills No. 48 Of 2024)-*Committee Paper No.137A*;
8. Consideration of matrix of stakeholders' submissions on the County Wards (Equitable Development Bill, 2024 (Senate Bills No. 20 of 2024)- *Committee Paper No.136A*;
9. Any other Business; and
10. Adjournment and Date of the Next Meeting.

#### **MIN/SEN/SCF&B/1263/2025**

#### **CONFIRMATION OF MINUTES**

- a) The Minutes of the Two Hundred and Sixteenth(216<sup>th</sup>) meeting held on Tuesday, 27<sup>th</sup> May, 2025 at 9:00 a.m. were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Mariam Sheikh Omar, MP, and seconded by Sen. Richard Momoima Onyonka, MP.
- b) The Minutes of the Two Hundred and Fourteenth (214<sup>th</sup>) meeting held on Monday, 19<sup>th</sup> May, 2025 at 2:00 p.m. were confirmed as a true record of the proceedings of the Committee having been proposed by Mohamed Faki Mwinyihaji, CBS, MP, and seconded by Sen. Richard Momoima Onyonka, MP.
- c) The Minutes of the Two Hundred and Thirteenth (213<sup>th</sup>) meeting held on Monday, 19<sup>th</sup> May, 2025 at 9:00 a.m. were confirmed as a true record of the proceedings of

the Committee having been proposed by Mohamed Faki Mwinyihaji, CBS, MP, and seconded by Sen. Richard Momoima Onyonka, MP.

**MIN/SEN/SCF&B/1264/2025**

**THE PUBLIC AUDIT (AMENDMENT) BILL,  
2024 (NATIONAL ASSEMBLY BILLS NO. 4 OF  
2024) COMMITTEE PAPER NO.130A**

The Committee was briefed on the provisions of the Public Audit (Amendment) Bill, 2024 (National Assembly Bills No. 4 of 2024). The Committee noted that-

- a) the Bill ought to be amended to require the Auditor-General to submit the budget estimates to Parliament in addition to Cabinet Secretary.
- b) in reporting, the Auditor-General should include the laws violated by an entity and the penalties/ sanctions that apply thereof.
- c) Provision that requires the Auditor-General to make an application to a court to obtain information from a private entity or person would derail or delay audit process. Committee recommended its deletion.

**MIN/SEN/SCF&B/1265/2025**

**MEETING WITH THE AUDITOR-  
GENERAL TO DELIBERATE ON THE  
PUBLIC AUDIT (AMENDMENT) BILL,  
2024 (NATIONAL ASSEMBLY BILLS NO. 4  
OF 2024)- COMMITTEE PAPER NO.130A**

Upon invitation, the Committee the Auditor-General submitted as follows regarding the Public Audit (Amendment) Bill, 2024 (National Assembly Bills No. 4 of 2024)-

- a) The Bill is a response to the High Court's decision on 16<sup>th</sup> February, 2018 in Petition No.388 of 2016, which declared various sections of the Public Audit Act, 2015 unconstitutional as they infringed on the independence of the Auditor-General.
- b) The sections declared unconstitutional by the High Court were sections 4(2), 8, 12, 17 (1), 18, 27, 40(1), 40(3), 42 and 70.
- c) A multi-Agency Team comprising of the Office of the Auditor-General, the Executive Office of the President, the National Treasury and the Office of the Attorney General and Department of Justice was constituted to review the Act and make the necessary recommendations to align the Public Audit Act, 2015 to the Constitution. This led to the introduction of the amendment Bill.
- d) The Office concurred with the proposed amendments in the Bill to clause 1 - 5; clause 6(1)(a-f) and 6(1)(h-i); clause 9-11; clause 14-18; clause 20; and clause 25 - 52.
- e) The Office supported clause 9 on the appointment of the Auditor-General. The clause cures the legal lacuna that currently exists between an outgoing Auditor-General and an incoming Auditor-General at end of tenure that was witnessed between 2019 and 2020.



- f) The three months notification timeline shall ensure timely filling of a vacant position of the Auditor-General at the end of tenure and also ensure seamless transition.
- g) Section 20(2) of the Act stipulates that the annual budget estimates of OAG shall be submitted to the Cabinet Secretary for Finance for review. This means that the budget of OAG is subject to review by the National Treasury which affects the financial independence of the Office.
- h) The Office continues to experience budgetary constraints, this conduct of audits on request, including insufficient funds to carry out additional oversight on behalf of Parliament.
- i) The National Assembly's Budget and Appropriation Committee, in its report on the Budget Policy Statement for FY 2023/2024 dated 15<sup>th</sup> March, 2023, recommended that, the National Treasury facilitates the Office of the Auditor-General to have a single line budget to enhance the efficiency in responding to emerging audit needs. This has not yet been implemented.
- j) Similarly, the National Assembly's Public Accounts Committee, in its report to the House on Examination of the Audit Reports of the Auditor-General for the FY 2019/2020, recommended that the annual budget allocation to the Office of the Auditor-General should not be less than one half per cent (0.5%) of all the revenue collected by the national government each year calculated based on the most recent audited accounts of revenue received, as approved by the National Assembly.
- k) The Auditor-General noted that the Bill received at the Senate from the National Assembly contained several amendments, some of which are not aligned to the Constitution and the provisions on independence of the Office. These included-
  - i. Public Service Human Resource Audit Directorate**
  - l) Clause 7 seeks to establish a Directorate of Public Service Human Resource Audit, for conducting and preparing audits on human resource in the public service.
  - m) The proposed Directorate is for a type of audit which is already addressed under Article 229(4), 229(5) and 229(6) of the Constitution. The Office of the Auditor-General, in undertaking compliance, financial and effectiveness audit reports and gives assurance on the Human Resource element which is not only resourced under budgetary provisions authorized by Parliament but also guided by various legislations whose compliance must be confirmed.
  - n) Section 8 allows the Auditor-General to develop an organisational structure and staffing establishment for the Office. Further, anchoring corporate structure in law implies that there is likely to be no growth or evolution in the public service and public finance management architecture and the Office of the Auditor General would therefore remain with a stagnant or rigid/fixed structure thereby, negatively affecting efficiency and effectiveness in operations.
  - o) The human resource audit should be included as a type of audits under clause 27.

**ii. Recruitment and Responsibilities of the Senior Deputy Auditor-General**

- p) Clauses 12 and 13 on appointment of Senior Deputy Auditor-General and developed an organizational structure, is very prescriptive.
- q) The position of Senior Deputy Auditor-General as provided for in the Act, erroneously provided for this position to be the Accounting Officer of the Office. However, clause 2 of the Bill now defines an Accounting Officer and aligns the same to the provisions of section 2 of the Public Finance Management Act which provides that the Auditor-General is the Accounting Officer of the Office.
- r) The proposal to have two levels of Deputies; Senior Deputy Auditor General and Deputy Auditor General implies a senior and junior deputy position creates conflict, confusion and potential duplication of roles and responsibilities. The Office requires only one deputy to the Auditor-General.

**iii. Establishment and Composition of the Audit Advisory Board**

- s) The proposed Clauses 21, 22 and Clause 23 of the Bill that seeks to establish the Board and its functions thereof were already declared unconstitutional in the High Court in Petition No. 388 of 2016.
- t) The Auditor-General proposed that amendments deletion of clauses 7,12,13,21,22 and 23. The deletion of these clause also affects the following other clauses-
  - i. clause 6- the proposed section 8(2).
  - ii. clause 11 - the proposed section 14(2).

**Additional Amendments Proposed by the Office of the Auditor-General**

- u) To further improve our processes and ensure that audits are carried out within constitutional timelines, the Auditor-General proposed amendments to sections 31 on the audit process steps-
  - i. Clause 24 of the Bill be amended to provide that section 31(1)(b) of the Act to read as follows; *‘At the commencement of an audit of a state Organ or public entity, an entry meeting shall be held to establish a common formal understanding of the roles of the Auditor-General and the Accounting Officer and any additional terms of the engagement and reporting responsibilities by the Accounting Officer and the Auditor-General.*
  - ii. In line with judgement on the timelines and in order for the Office to remain efficient and effective in the audit process, clause 24 of the Bill that seeks to amend section 31(2) of the Act should be amended to read that: *an Accounting Officer shall within seven days from receipt of any audit report, submit a response to the Auditor-General including remedial actions undertaken to address the audit findings.*
  - iii. For completeness of the audit process, clause 24 be amended by inserting a new section 31 (c) to read: *at the conclusion of the audit, an exit meeting shall be held, and the Auditor-General shall provide the substantive head of*



*that entity, if different from the Accounting Officer and, the Chairperson of the governing body, where applicable, timely observations arising from the audit that are significant in the management letter.*

- iv. In light of the judgment of the High Court in HCJR No. E082 of 2023, the Office proposed that the provisions of section 47(1) of the Act on the time limit for submission of accounts be amended by deleting the timeline “within three months” that financial statements shall be submitted to the Auditor-General after the end of the fiscal year to which the accounts relate.
- v. Section 47(3) of the Act be amended by introducing a new sub-section (3) to read: *The financial statements shall in addition be submitted to the Auditor-General in electronic form. The Auditor-General, shall determine the manner in which the financial statements and supporting information shall be submitted electronically.*

#### **Other Proposals that have not been affected in the Bill**

- v) Section 70 of the Act on supremacy of the Act should be repealed since the High Court declared the provision unconstitutional. The Court held that the powers and functions of the Auditor-General are provided for in the Constitution and not by the Act.

Following deliberations, the Committee -

- a) Recommended that in its reporting, the Office of the Auditor-General (OAG) should state the laws violated by an entity, as well as the penalties that apply. The AG informed the meeting that the Office is benchmarking with Uganda on the aforementioned recommendation.
- b) Noted that the Public Finance Management (Amendment) (No.2) Bill, 2024 (National Assembly Bill No. 26 of 2024) that is before the Committee proposed reduction of the time for submission of financial accounts by public entities to the Office of the Auditor-General from 3 months to 2 months.
- c) The proposed timeline by OAG to section 31(2), that requires Accounting Officer to submit a response to the Auditor-General including remedial actions undertaken to address the audit findings within seven days from receipt of any audit report, is insufficient.

Following deliberations, the Committee resolved that the Office of the Auditor-General should prepare and submit to the Committee-

- a) a report of the multi-agency team that was constituted to review the Public Audit Act, 2015 to provide recommendations to align it with the Constitution following Judgement in High Court Petition No.388 of 2016 on or before Friday, 30<sup>th</sup> May, 2025.

- b) the proposed additional amendments on the Bill on or before, Tuesday, 3<sup>rd</sup> June, 2025, particularly-
- i. clause 18(3) that requires the Auditor-General to apply to courts where information required is from private or person following the Court Ruling relating to the Independence and operations of the Office of the Auditor General;
  - ii. possible timelines for clause 49 where the Auditor-General refers matter to the Public Procurement Administrative Review Board and recommends debarment from future public procurement and asset disposal of an entity.
  - iii. possible amendments to ensure the Office would be submitting its budget estimates directly to Parliament.
- c) Committee may re-invite Auditor-General to another meeting once public participation on the Bill is finalized to deliberate on the final recommendations to the Bill.

**MIN/SEN/SCF&B/1266/2025**

**ANY OTHER BUSINESS**

The Chairperson informed the meeting that a second breakfast meeting with all Senators was scheduled to deliberate on the Fourth Basis for sharing national revenue among counties on Tuesday, 3<sup>rd</sup> June, 2025 from 7:00 a.m.

**MIN/SEN/SCF&B/1267/2025**

**ADJOURNMENT AND DATE OF NEXT MEETING**

The meeting adjourned at 12:20 p.m. Next meeting shall be by notice.

SIGNATURE: ...



DATE: 5<sup>TH</sup> JUNE, 2025

**SEN. (CAPT.) ALI IBRAHIM ROBA, EGH, MP**

**(CHAIRPERSON)**



**MINUTES OF THE TWO HUNDRED AND THIRTY-FIFTH (235<sup>TH</sup>) MEETING  
OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET  
HELD ON THURSDAY, 7<sup>TH</sup> AUGUST, 2025 IN COUNTY HALL, GROUND  
FLOOR BOARDROOM, PARLIAMENT BUILDINGS AT 9.00 A.M.**

**PRESENT**

- |                                           |   |                         |
|-------------------------------------------|---|-------------------------|
| 1. Sen. (Capt.) Ali Ibrahim Roba, EGH, MP | - | <b>Chairperson</b>      |
| 2. Sen. Maureen Tabitha Mutinda, MP       | - | <b>Vice-Chairperson</b> |
| 3. Sen. (Dr.) Boni Khalwale, CBS, MP      | - | Member                  |
| 4. Sen. Mohamed Faki Mwinyihaji, CBS, MP  | - | Member                  |
| 5. Sen. Eddy Oketch Gicheru, MP           | - | Member                  |
| 6. Sen. Mariam Sheikh Omar, MP            | - | Member                  |

**ABSENT WITH APOLOGY**

- |                                     |   |        |
|-------------------------------------|---|--------|
| 7. Sen. Richard Momoima Onyonka, MP | - | Member |
| 8. Sen. Shakila Abdalla Mohamed, MP | - | Member |
| 9. Sen. Esther Okenyuri, MP         | - | Member |

**SECRETARIAT**

- |                            |   |                 |
|----------------------------|---|-----------------|
| 1. Mr. Christopher Gitonga | - | Clerk Assistant |
| 2. Ms. Beverlyne Chivadika | - | Clerk Assistant |
| 3. Ms. Lucy Radoli         | - | Legal Counsel   |
| 4. Mr. Constant Wamayuyi   | - | Researcher      |
| 5. Ms. Hamun Mohamed       | - | Researcher      |
| 6. Ms. Rose Ometere        | - | Audio Officer   |

**MIN/SEN/SCF&B/1362/2025**

**PRELIMINARIES**

The Chairperson called the meeting to order at 9:28 a.m. This was followed by a word of prayer.

**MIN/SEN/SCF&B/1363/2025**

**ADOPTION OF THE AGENDA**

The agenda was adopted with amendments having being proposed by Sen. Maureen Tabitha Mutinda, MP, and seconded by Sen. Mohamed Faki Mwinyihaji, CBS, MP, as listed below-

1. Prayer;



2. Introduction;
3. Adoption of the Agenda;
4. Confirmation of Minutes of 233<sup>rd</sup> and 234<sup>th</sup> sittings;
5. Matters arising from the minutes of the previous sittings;
6. Consideration of stakeholders' submissions on the Public Audit (Amendment) Bill (National Assembly Bills No. 4 of 2024)-*Committee Paper No.130B*;
7. Consideration and adoption of Committee Workplan July- December, 2025-*Committee Paper No.146*;
8. Any other Business; and
9. Adjournment and Date of the Next Meeting.

**MIN/SEN/SCF&B/1364/2025**

**CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS**

- a) The Minutes of the Two Hundred and Thirty-Fourth (234<sup>th</sup>) meeting held on Tuesday, 5<sup>th</sup> August, 2025 at 9:00 a.m. were confirmed as a true record of the proceedings of the committee having been proposed by Sen. Mohamed Faki Mwinyihaji, CBS, MP, and seconded by Sen. Maureen Tabitha Mutinda, MP.
- b) The Minutes of the Two Hundred and Thirty-Third (233<sup>rd</sup>) meeting held on Thursday, 31<sup>st</sup> July, 2025 at 9:00 a.m. were confirmed as a true record of the proceedings of the committee having been proposed by Sen. Mariam Sheikh Omar, MP, and seconded by Sen. Maureen Tabitha Mutinda, MP.

**MIN/SEN/SCF&B/1365/2025**

**CONSIDERATION OF STAKEHOLDERS' SUBMISSIONS ON THE PUBLIC AUDIT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 4 OF 2024)-*COMMITTEE PAPER NO.130B***

1. The Committee considered views on the Public Audit (Amendment) Bill (National Assembly Bills No. 4 of 2024) received from-
  - a) The Office of the Auditor-General (OAG);
  - b) The Commission on Revenue Allocation (CRA);
  - c) County Assemblies Forum (CAF);
  - d) Institute of Certified Public Accountants Kenya (ICPAK); and
  - e) Transparency International Kenya (TIK).
2. The Committee deliberated on the submissions and resolved on the following-
  - a) Deletion of Clause 7 of the Bill that proposes insertion of new section 8A to establish Public Service Human Resource Audit Directorate. However, include HR Audits under types of audits that may be undertaken under clause 32 of the Bill. This is because this is a type of audit under Article 229(4), (5) and (6) of the Constitution.
  - b) Clause 12 and 13 of the Bill amending section 15 and 16 of the Act, providing for the position of Senior Deputy Auditor-General as principal assistant to

the Auditor-General be deleted. However, provide for the Office of the Deputy-Auditor-General. This is because-

- clause 2 of the Bill defines the accounting officer.
  - having two levels of deputies: Senior Deputy and Deputy Auditor-General may create conflict.
  - the nature of the office only requires one Deputy.
- c) Clause 12 and 13 be amended by inserting qualifications for appointment as the Deputy Auditor-General, the qualifications should be similar to those of the Auditor-General specified in Article 229(2).
- d) The Committee also canvassed on the implications of deleting section 12, which currently requires Presidential appointment of an acting Auditor General, and how this affects the deputy's ability to perform constitutional functions under Article 229 of the Constitution when the Auditor General position is vacant. The Committee noted providing for appointment of an Acting Auditor General is not in line with the Constitution which requires Auditor General to be approved by the National Assembly. Thus, the section should be deleted.
- e) Deletion of the clause 22 and 23 that seeks to establish the Audit Advisory Board and its functions. This is because creation of the Board was declared unconstitutional in High Court Petition No. 388 of 2016.
- f) Clause 24 that seeks to amend section 31 of the Act-
- should provide that an accounting officer shall within 14 days from receipt of an audit report submit responses and remedial measures undertaken to address audit findings.
  - be amended by inserting a new paragraph to provide that at the conclusion of the audit an exit meeting shall be held and the OAG shall provide the substantive head of the entity if different from the accounting officer and the chairperson of the governing body where applicable timely observations arising from the audit that are significant in the management letter.
- g) Clause 31 of the Bill amending section 38 of the Act be amended by inserting the words "economical, efficient" immediately after the words "lawfully and in an" for proper flow of tenses to read "lawfully and in an economical, efficient and effective way"
3. The Committee resolved that the following new clauses be inserted in the Bill-
- a) Amendment of section 47(1) of the Act to provide for submission of financial statements within 2 months after the end of financial year;
  - b) Amendment of section 47(3) to include the use of technology to enhance efficiency in meeting statutory deadlines;
  - c) Repealing section 70 of the Act. The section states that the Act shall prevail in case of any inconsistencies between the Act and any other legislation relating to powers and functions of OAG. However, following the Court judgement, it was held that the powers of OAG are given by the Constitution and not the Act.



4. The Committee noted the request for amendment of the Bill to provide that the annual budget allocation to the OAG should not be less than one half percent (0.5%) of all the revenue collected by the national government each year calculated based on the most recent audited accounts as approved by the National Assembly and that that the National Treasury should facilitate the OAG to have a single-line budget to enhance efficiency. The Committee noted that such a legislative proposal would in future hinder operations of the office since the budget of the office should be based on expenditure needs.

Following deliberations, the Committee resolved to propose approval of the Bill subject to the above proposed amendments.

**MIN/SEN/SCF&B/1366/2025**

**ADJOURNMENT AND DATE OF NEXT MEETING**

The meeting adjourned at 11:02 a.m. Next meeting shall be by notice.

SIGNATURE: ...

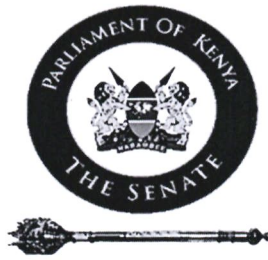


DATE: 23<sup>RD</sup> SEPTEMBER, 2025

**SEN.(CAPT.) ALI IBRAHIM ROBA, EGH, MP**

**(CHAIRPERSON)**





**MINUTES OF THE TWO HUNDRED AND FORTY-THIRD (243<sup>RD</sup>) MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON WEDNESDAY, 22<sup>ND</sup> OCTOBER, 2025 IN PINE CONFERENCE ROOM, LAKE NAIVASHA RESORT, NAKURU COUNTY 10.00 A.M.**

**PRESENT**

|                                           |   |                         |
|-------------------------------------------|---|-------------------------|
| 1. Sen. (Capt.) Ali Ibrahim Roba, EGH, MP | - | <b>Chairperson</b>      |
| 2. Sen. Maureen Tabitha Mutinda, MP       | - | <b>Vice-Chairperson</b> |
| 3. Sen. Mohamed Faki Mwinyihaji, CBS, MP  | - | Member                  |
| 4. Sen. Richard Momoima Onyonka, MP       | - | Member                  |
| 5. Sen. Mariam Sheikh Omar, MP            | - | Member                  |
| 6. Sen. Esther Okenyuri, MP               | - | Member                  |

**ABSENT WITH APOLOGY**

|                                      |   |        |
|--------------------------------------|---|--------|
| 7. Sen. (Dr.) Boni Khalwale, CBS, MP | - | Member |
| 8. Sen. Shakila Abdalla Mohamed, MP  | - | Member |
| 9. Sen. Eddy Oketch Gicheru, MP      | - | Member |

**SECRETARIAT**

|                            |   |                  |
|----------------------------|---|------------------|
| 1. Mr. Christopher Gitonga | - | Clerk Assistant  |
| 2. Ms. Beverlyne Chivadika | - | Clerk Assistant  |
| 3. Ms. Lucy Radoli         | - | Legal Counsel    |
| 4. Mr. Mitchell Otoro      | - | Legal Counsel    |
| 5. Mr. Kioko Kiminza       | - | Fiscal Analyst   |
| 6. Mr. Constant Wamayuyi   | - | Researcher       |
| 7. Mr. Godana Mamo         | - | Sergeant-At-Arms |
| 8. Ms. Caroline Mukami     | - | Secretary        |
| 9. Ms. Rose Ometere        | - | Audio Officer    |

**MIN/SEN/SCF&B/1407/2025**

**PRELIMINARIES**

The Chairperson called the meeting to order at 10:05 a.m. This was followed by a word of prayer and introductions.

**MIN/SEN/SCF&B/1408/2025**

**ADOPTION OF THE AGENDA**

The agenda was adopted having been proposed by Sen. Esther Okenyuri, MP, and seconded by Sen. Richard Momoima Onyonka, MP, which is consideration and adoption of the Committee's report on the Public Audit (Amendment) Bill (National Assembly Bills No.4 of 2024).

**MIN/SEN/SCF&B/1409/2025**

**CONSIDERATION OF THE REPORT ON THE  
PUBLIC AUDIT (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILLS NO.4 OF 2024)**

- a) The Committee considered the draft report on the Public Audit (Amendment) Bill (National Assembly Bills No.4 of 2024). The report outlined overview of the Bill, stakeholders' submissions on the Bill, Committee observations and recommendations.
- b) The Committee deliberated on the clause 7 of the Bill that provides for establishment of a Directorate in the Office of the Auditor-General to be known as Public Service Human Resources Audit Directorate, responsible for conducting and preparing audits on the human resource in the public service. The Committee resolved that provision be deleted because-
  - i. the audits carried out by the Auditor General include opinions on legal compliance, financial performance, and human resource management; and
  - ii. establishing offices or directorates in the Office of the Auditor-General in law is too prescriptive and would undermine growth and adaptation to emerging trends.
- c) The Committee recommended the introduction of a new paragraph in the Bill to include Human Resource audit as a type of audit to be carried out by the Auditor-General.
- d) The Committee also deliberated on clauses 12 and 13 of the Bill that provides for the position of Senior Deputy Auditor-General, who will be the principal assistant to the Auditor-General. Following deliberations, the Committee recommended amendment of clauses 12 and 13 to provide for deputy auditor general shall be the principal administrative assistant to the Auditor-General whose role shall be to assist the Auditor General in carrying out the administrative functions of the office except any function assigned to the Auditor General under Article 229 of the Constitution.

**MIN/SEN/SCF&B/1410/2025**

**ADOPTION OF THE REPORT ON THE  
PUBLIC AUDIT (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILLS NO.4 OF 2024)**

Having considered the Bill, stakeholders' submission, the Committee unanimously adopted the report on the Public Audit (Amendment) Bill (National Assembly Bills No.4 of 2024) having been proposed by Sen. Esther Okenyuri, MP, and seconded by Sen. Richard Momoima Onyonka, MP, recommending that the Senate approves the Bill with the following amendments-

- a) Deletion of clause 7 establishing Public Service Human Resource Audit Directorate and introduction of a new paragraph to include Human Resource audit as a type of audit to be carried out by the Auditor-General.
- b) Amendment of clauses 12 and 13 that provide for Deputy Auditor-General as the principal administrative assistant to the Auditor-General whose role shall be to assist the



Auditor general canary out the administrative functions of the office except any function assigned to the Auditor general under Article 229 of the Constitution.

- c) Deletion of clause 21 and replacing with a new clause 21 whose effect will be to repeal section 25 of the Act which establishes an Audit Advisory Board and had been declared unconstitutional.
- d) Deletion of clauses 22 and 23 and replacing with new clauses 22 and 23 whose effect is the repeal of sections 26 and 27 of the Act which make reference to meetings, procedure and functions of the Audit Advisory Board.
- e) Amendment of clause 24 to clarify the audit process steps in regard to the exit meeting between the auditor and the substantive head of the entity being audited to discuss issues raised in the management letter.
- f) Amendment of clause 31 of the Bill by inserting the words “economical, efficient” immediately after the words “lawfully and in an”.
- g) the Bill be amended by inserting the following new clauses-
  - i. amendment of section 47(1) of the Act to require accounting officers submit financial statements following the end of each financial year.
  - ii. amendment of section 47(3) of the Act to provide for use of technology to enhance efficiency in meeting statutory timelines.
- h) amendment of section 38 to provide that the Auditor-General may-
  - i. carry out periodic citizen accountability audits upon request, or at her or his own initiative to ensure public contribution or participation in the audit process pursuant to Article 10 and 201 of the Constitution.
  - ii. conduct compliance audits to examine whether a public entity has complied with relevant laws, regulations and policies in the management of public resources.
  - iii. conduct human resource audits in the public service.
  - iv. conduct any other audit that he or she may deem necessary for better carrying out of his or her functions under the Act.

**MIN/SEN/SCF&B/1411/2025**    **ADJOURNMENT AND DATE OF NEXT MEETING**

The meeting adjourned at 1:05 p.m. Next meeting to be held on Wednesday, 22<sup>nd</sup> October, 2025 at 2:00 p.m.

SIGNATURE: ...  ... DATE: 3<sup>rd</sup> NOVEMBER 2025

**SEN. (CAPT.) ALI IBRAHIM ROBA, EGH, MP**  
**(CHAIRPERSON)**



# **Annex 3- Submissions from stakeholders**



**REPUBLIC OF KENYA**  
**THE NATIONAL TREASURY AND ECONOMIC PLANNING**

Telegraphic Address: 22921  
Finance – Nairobi  
FAX NO. 310833  
Telephone: 2252299  
When Replying, Please Quote:

THE NATIONAL TREASURY  
P O BOX 30007 - 00100  
NAIROBI  
KENYA

**Ref: AG.1/10 VOL.4 (35)**

**Date: 30<sup>th</sup> July 2025**

**Mr. J. M. Nyegenye, CBS**  
Clerk of the Senate  
Parliament Buildings  
**NAIROBI**

Dear *clerk*

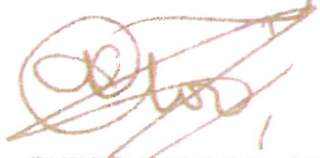
**INVITATION TO SUBMIT VIEWS ON THE PUBLIC AUDIT (AMENDMENT) BILL,  
2024 (NATIONAL ASSEMBLY BILLS NO. 4 OF 2024) REFERRED TO THE  
STANDING COMMITTEE ON FINANCE AND BUDGET**

---

Reference is made to your letter Ref: SEN/DSEC/F&B/2025/042(a) dated 23<sup>rd</sup> April 2025 on the above subject matter.

The National Treasury (Director Accounting Services) chaired the Task Force responsible for developing the Public Audit (Amendment) Bill, 2024 and therefore we support the proposed amendments, which will ensure the audit process is both effective and time-bound.

Yours

*Sincerely*  
  
**DR. CHRIS KIPTOO, CBS**  
**PRINCIPAL SECRETARY/THE NATIONAL TREASURY**





**SUMMARY OF THE AMENDMENTS ON THE PUBLIC AUDIT ACT NO. 34 OF 2015**

|    | <b>Amendment</b>                                               | <b>Explanation</b>                                                                                                                                                                          |
|----|----------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | <b>Amendment of Section 2 of No. 34 of 2015</b>                | The Public Audit Act, 2015 (hereinafter referred to as the "principal Act") is amended in Section 2 paragraph (a), in the definition of the words                                           |
| 2. | <b>Amendment of Section 4 of No. 34 of 2015</b>                | Section 4 of the principal Act is amended by deleting sub section (2) and substituting with a new one.                                                                                      |
| 3. | <b>Amendment of Section 5 of No. 34 of 2015</b>                | Section 5 of the principal Act is amended by deleting the expression (1); and paragraph (e) and substituting it with a new one                                                              |
| 4. | <b>Amendment of Section 7 of No. 34 of 2015</b>                | Section 7 of the principal Act is amended in sub section (1) by inserting a new paragraph.                                                                                                  |
| 5. | <b>Repeal and substitution of Section 8 of No. 34 of 2015</b>  | The principal Act is amended by repealing Section 8 of the Act on administrative functions of the Auditor General.                                                                          |
| 6. | <b>Amendment of Section 9 of No. 34 of 2015</b>                | Section 9 of the principal Act is amended in sub section (1) by deleting the words "telephone access" in paragraph (g) and substituting therefor the words "communication connectivity".    |
| 7. | <b>Amendment of Section 11 of No. 34 of 2015</b>               | Section 11 of the principal Act is amended by substituting the sub section on the position of the Auditor-General becoming vacant.                                                          |
| 8. | <b>Repeal and substitution of Section 14 of No. 34 of 2015</b> | The principal Act is amended by repealing Section 14 and substituting a new Section on Organizational structure.                                                                            |
| 9. | <b>Amendment of Section 15. of No. 34 of 2015</b>              | Section 15 of the principal Act is amended by deleting sub section (1) and the creation of the Deputy Auditor General position who shall be competitively recruited by the Auditor-General. |

|     | <b>Amendment</b>                                               | <b>Explanation</b>                                                                                                                                                                                                                     |
|-----|----------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10. | <b>Amendment of Section 16 of No. 34 of 2015</b>               | Section 16 of the principal Act is amended in sub section (1) by deleting the opening statement and substituting with the statement that the Deputy Auditor-General shall be the principal assistant to the Auditor General.           |
| 11. | <b>Amendment of Section 17 of No. 34 of 2015</b>               | Section 17 of the principal Act is amended by deleting subsection (1) substituting it with new subsection (1) that states that the Auditor-General may recruit staff as may be necessary for proper discharge of his or her functions. |
| 12. | <b>Amendment of Section 19 of No. 34 of 2015</b>               | Section 19 of the principal Act is amended by deleting subsection (3).                                                                                                                                                                 |
| 13. | <b>Amendment of Section 20 of No. 34 of 2015</b>               | Section 20 of the principal Act is amended in subsection (2), by inserting the words "with a copy to the National Assembly" immediately after the word "finance"; and by adding a new subsection immediately after subsection (3)      |
| 14. | <b>Amendment of Section 21 of No. 34 of 2015</b>               | Section 21 of the principal Act is amended in subsection (1), by deleting the word "body's" and substituting therefore the word "entity"                                                                                               |
| 15. | <b>Amendment of Section 24 of No. 34 of 2015</b>               | Section 24 of the principal Act is amended in the marginal note, by deleting the words "professional assistance and consultancy" and substituting therefore the words "Use of experts"                                                 |
| 16. | <b>Repeal and substitution of Section 25 of No. 34 of 2015</b> | The principal Act is amended by repealing Section 25 and substituting therefor the following new Section on the establishment and composition of the Audit Advisory Board.                                                             |
| 17. | <b>Repeal and substitution of Section 26 of No. 34 of 2015</b> | The principal Act is amended by repealing Section 26 and substituting therefore the new Section on meetings and the procedure of the Audit Advisory Board.                                                                             |
| 18. | <b>Repeal and substitution of Section 27 of No. 34 of 2015</b> | The principal Act is amended by repealing Section 27 and substituting therefore the new Section on the functions of the Audit Advisory Board.                                                                                          |
| 19. | <b>Repeal and substitution of Section 31 of No. 34 of 2015</b> | The principal Act is amended by repealing Section 31 and substituting therefore a new Section on Audit process steps.                                                                                                                  |



|     | <b>Amendment</b>                                                                                     | <b>Explanation</b>                                                                                                                                                                                                                                                                                                       |
|-----|------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 20. | <b>Repeal of Section 32 of No. 34 of 2015</b>                                                        | The principal Act is amended by repealing Section 32.                                                                                                                                                                                                                                                                    |
| 21. | <b>Amendment of Section 33 of No.34 of 2015</b>                                                      | Section 33 of the principal Act is amended by deleting subsection (1) and substituting therefore by a new subsection on the reports by an internal auditor deliberated and adopted by an Audit Committee of an entity.                                                                                                   |
| 22. | <b>Amendment of Section 34 of No. 34 of 2015</b><br><b>Amendment of Section 35 of No. 34 of 2015</b> | Section 34 of the principal Act is amended in the marginal note, by deleting the word "periodic" and substituting therefore the word "special".<br>Section 35 of the principal Act is amended by deleting the words "public entities" and substituting therefore the words "entities funded and receiving public funds". |
| 23. | <b>Amendment of Section 36 of No. 34 of 2015</b>                                                     | Section 36 of the principal Act is amended in subsection (1) by inserting the words "among others" immediately after the word "examine"; and by deleting the words "public money" and substituting "public resources" and by deleting the words "within six months" and substituting therefore the words "at any time".  |
| 24. | <b>Repeal and substitution of Section 37 of No.34 of 2015</b>                                        | The principal Act is amended by repealing Section 37 and substituting therefore the new Section on Forensic Audits.                                                                                                                                                                                                      |
| 25. | <b>Amendment Section 38 and Insertion of new Sections in No. 34 of 2015</b>                          | Section 38 of the principal Act is amended by inserting the words "economically, efficiently and" immediately after the word "lawfully and insertion of new Section on periodic Citizen accountability audits..                                                                                                          |
| 26. | <b>Amendment of Section 39 of No. 34 of 2015</b>                                                     | Section 39 of the principal Act is amended by inserting new subsections immediately after subsection (3).                                                                                                                                                                                                                |
| 27. | <b>Amendment of Section 41 and Insertion of a new Section in No. 34 of 2015</b>                      | Section 41 of the principal Act is amended in subsection (1) by deleting the word "assets" in paragraph (b) and substituting therefore the words "rental income" and the establishment of Public Audit Fund.                                                                                                             |
| 28. | <b>Amendment of Section 44 of No. 34 of 2015</b>                                                     | Section 44 of the principal Act is amended in subsection (1) by deleting the expression "Section 41" and substituting therefore the expression "Section 43".                                                                                                                                                             |



|     | Amendment                                        | Explanation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-----|--------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 29. | <b>Amendment of Section 45 of No. 34 of 2015</b> | Section 45 of the principal Act is amended by deleting subsection (3) and substituting therefor the following new subsection - (3) Within seven days upon submitting the report to Parliament, the Auditor-General shall publish and publicize the report on the official website or public spaces.                                                                                                                                                                                                         |
| 30. | <b>Amendment of Section 46 of No. 34 of 2015</b> | Section 46 of the principal Act is amended by deleting the word "accounts" and it with the words "financial statements" and by deleting the word "annual" and substituting it with the word "audit".                                                                                                                                                                                                                                                                                                        |
| 31. | <b>Amendment of Section 48 of No. 34 of 2015</b> | Section 48 of the principal Act is amended in subsection (2) by deleting the words "from the public funds" and substituting i with the words "or entrusted with public resources".                                                                                                                                                                                                                                                                                                                          |
| 32. | <b>Amendment of Section 49 of No. 34 of 2015</b> | Section 49 of the principal Act is amended by deleting subsection (3) and substituting with new subsection- (3) which states that. within seven days of submitting the report, the Auditor-General shall publish and publicize the report on the official website or other public spaces and subsection- (4) Within three months following the expiry of the seven days referred to under subsection (2), Parliament or the relevant county assembly shall discuss and issue recommendations on the report. |
| 33. | <b>Repeal of Section 50 of No. 34 of 2015</b>    | The principal Act is amended by repealing Section 50 of No. 34 of 2015                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 34. | <b>Repeal of Section 51 of No.34 of 2015</b>     | The principal Act is amended by repealing Section 51 of No. 34 of 2015                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 35. | <b>Amendment of Section 54 of No. 34 of 2015</b> | Section 54 of the principal Act is amended by deleting the words "in his audit report" and substituting it with the words "prepare a report".                                                                                                                                                                                                                                                                                                                                                               |
| 36. | <b>Amendment of Section 58 of No. 34 of 2015</b> | Section 58 of the principal Act is amended in subsection (1), by deleting the word "officer" and substituting with the word "staff"; and in subsection (2) by deleting the words "an officer" and substituting with "a staff"; and (ii) by deleting the words "auditee" and substituting with "audited entity".                                                                                                                                                                                             |

|     | <b>Amendment</b>                                               | <b>Explanation</b>                                                                                                                                                                    |
|-----|----------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 37. | <b>Amendment of Section 59 of No. 34 of 2015</b>               | Section 59 of the principal Act is amended on interest on a staff of the office of the Auditor General.                                                                               |
| 38. | <b>Amendment of Section 61 of No. 34 of 2015</b>               | Section 61 of the principal Act is amended in subsection (1) by deleting the word "officer" wherever it appears and substituting therefor the word "staff".                           |
| 39. | <b>Repeal and substitution of No. 34 of 2015</b>               | The principal Act is amended by repealing Section 64 on the Powers to engage other agencies.                                                                                          |
| 40. | <b>Repeal and substitution of Section 67 of No. 34 of 2015</b> | The principal Act is amended by repealing Section 67 on disallowable expenditure and uncollected revenue.                                                                             |
| 41. | <b>Amendment of Section 68 of No. 34 of 2015</b>               | Section 68 of the principal Act is amended by deleting the words "Cabinet Secretary responsible for matters relating to finance" and substituting it with the words "Auditor-General" |
| 42. | <b>Amendment of Section 72 of No. 34 of 2015</b>               | Section 72 of the principal Act is amended by inserting the words "subject too Section 6 of the Access to Information Act, 2016" at the beginning of the sentence.                    |



# REPUBLIC OF KENYA

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NAIROBI

Ref: OAG/CONF/75 / (84)

30 May, 2025

Mr. Jeremiah M. Nyegenye, CBS  
Clerk to the Senate  
Parliament Building  
P.O Box 41842-00100  
NAIROBI

Dear

*Nyegenye*

**THE PUBLIC AUDIT (AMENDMENT) BILL, 2024 (NATIONAL ASSEMBLY BILLS NO.4 OF 2024)**

The subject above refers.

The Office of the Auditor-General (OAG) is an Independent Office established by Article 229 of the Constitution of Kenya. The Office is charged with the primary oversight role of ensuring accountability in the use of public resources within the three arms of government (the Legislature, the Judiciary and the Executive), the County Governments, as well as the Constitutional Commissions and Independent Offices.

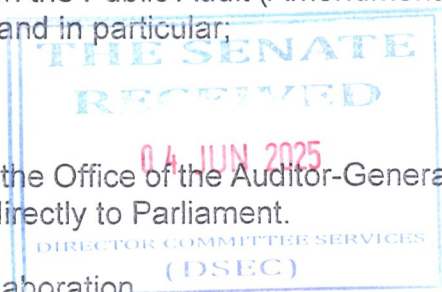
Further to our appearance before the Standing Committee on Finance and Budget on 29 May, 2025, kindly find enclosed the following documents;

1. Report of the Multi-Agency Team that was constituted to review the Public Audit Act, Cap.412B and make necessary recommendations to align the Act with the Constitution, in line with the Judgement in High Court Petition No.388 of 2016.
2. The proposed additional amendments on the Public Audit (Amendment) Bill, 2024 (National Assembly Bills No.4 of 2024) and in particular;
  - i. Clause 18(3)
  - ii. Possible timelines for Clause 49
  - iii. Possible amendments to ensure the Office of the Auditor-General would be submitting its budget estimates directly to Parliament.

I thank you for your continued support and collaboration.

Yours

*Sincerely*  
*[Signature]*  
FCPA Nancy Gathungu, CBS  
AUDITOR-GENERAL



*(2) DDSEC (BL)*  
*Kindly deal*  
*[Signature]*  
*04/06/2025*





*Enhancing Accountability*

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**PRESENTATION TO THE SENATE STANDING COMMITTEE ON FINANCE  
AND BUDGET ON SUBMISSION OF VIEWS ON THE PUBLIC AUDIT  
(AMENDMENT) BILL, 2025 (NATIONAL ASSEMBLY BILL NO. 4 OF 2024)**

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**29 May, 2025**

**The Chairperson, Senate Finance and Budget Committee – Sen. Roba Ali Ibrahim, MP**

**Honourable Members of the Committee**

**A. Appreciation**

1. I thank the Standing Committee on Finance and Budget of the Senate for according me this opportunity to present my views on the Public Audit (Amendment Bill), 2024 (National Assembly Bill No. 4 of 2024). This Bill directly impacts the mandate and functioning of the Auditor-General. Therefore, it is an opportunity to ensure that the Constitutional provisions that guide the mandate and functioning of the Auditor-General are clearly articulated in the Public Audit Act.
2. This engagement demonstrates Parliament's commitment to upholding international conventions. The United Nations, in the 66th and 69th Sessions of the General Assembly for 2011 and 2014 respectively passed two Resolutions (Resolution A/66/209 and A/66/228) which encouraged Member States to consider the independence and capacity building of Supreme Audit Institutions in accordance with their national development plans and environmental contexts. Member States were encouraged to apply the independence principles set out in the international standards of auditing for Supreme Audit Institutions. These principles were universally agreed by Supreme Audit Institutions all over the world and have been adopted by the United Nations.
3. Indeed, one of the principles espoused in the standards is the existence of an appropriate and effective constitutional/statutory/legal framework. The legislative framework should spell out, in detail, the extent of the Supreme Audit Institution mandate, independence and operating environment.

**B. Mandate of the Office**

**Honourable Chair**

**Honourable Members**

4. Article 229 of the Constitution of Kenya establishes the Office of the Auditor-General as an independent Constitutional Office. Article 248(3) and 249(1) declares the independence of the Office. My Office is mandated by Article 226(3), Article 229(4) and Article 229(5) of the Constitution, to audit the accounts of the National and County Governments, National Assembly and County Assemblies, all Funds and authorities of National and County Governments, accounts of all Courts,

public debt and all institutions, programmes or projects funded by public funds. Article 229(6) further mandates the Auditor-General to confirm whether or not public money has been applied lawfully and in an effective way. In addition, Article 229(7) requires the Auditor-General to submit audit reports to Parliament or the relevant county assembly.

5. Article 252 of the Constitution also empowers the Office to:
  - conduct investigations on own initiative or complaint by a member of the public
  - carry out conciliation, mediation and negotiation
6. We are also required by Article 254:
  - To submit a report to the President and to Parliament on our performance annually;
  - To report on a particular issue to the President, the National Assembly or the Senate as requested; and
  - To publish and publicise every report
7. As an Office, we are also required by Article 226(4) to subject ourselves to external scrutiny through Parliament who appoint our external auditor.
8. The Public Audit Act, 2015 and the Public Finance Management Act, 2012 also provide additional roles, mandates and functions which include among others:
  - to provide assurance on the effectiveness of internal controls, risk management and overall governance in national and county governments
  - to provide assurance on collection of revenue and acquisition and use of assets and liabilities by government
  - submit a report, within 30 days, to the Cabinet Secretary and County Executive member for finance with regard to a request relating to stoppage of funds to a county government (Section 96(3)(b) of the Public Finance Management Act, 2012).
9. We fulfil our roles and mandates by conducting various types of audits which include:
  - i. Financial Audits
  - ii. Compliance Audits
  - iii. Performance/ Value-for-Money audits
  - iv. Forensic Audits
  - v. Systems Assurance/ Information Systems Audits



- vi. Public Debt Audits
- vii. Citizen Accountability Audits
- viii. Public Private Partnerships Audit
- ix. Emerging audits relating to public resources

10. In addition to oversight, the audits also focus on broader good governance aims that go beyond traditional auditing. These include:

- hindsight - horizontal and systemic view of how government is performing
- insight - how policies affect outcomes in the present
- foresight – how policies can translate into better lives in the future

### C. Background to the Public Audit (Amendment) Bill, 2024

Honorable Chair

Honorable Members

11. The Public Audit (Amendment) Bill 2024 is a culmination of a long and widely engaging process that followed the High Court's decision on 16 February 2018 in ***Petition No.388 of 2016***, which declared various sections of the **Public Audit Act, 2015 (the Act)** unconstitutional as they infringed on the independence of the Auditor-General. The sections declared unconstitutional by the High Court were Sections **4(2), 8, 12, 17 (1), 18, 27, 40(1), 40(3), 42 and 70 of the Public Audit Act, 2015**. These sections ~~were~~ an impediment on the Auditor-General's independence.

12. The High Court based its decision to annul the cited provisions on the following grounds;

- i. Annulled Section 4(2) that defines the Auditor-General as '**statutory head**' since Article 229 (1) has already created a 'Constitutional Office of the Auditor-General.
- ii. Annulled Section 8 for limiting the independence of the Auditor-General through reference to Article 234 (5) on the delegated powers of the Public Service Commission (PSC).
- iii. Annulled Section 12 for creating the position of '**Acting Auditor-General**' a position that is not contemplated by the constitution and that in which the holder would discharge the constitutional mandate of the Auditor-General. Further, the Court held there is no constitutional provision for the Public Service Commission (PSC) to appoint an '**Acting Auditor-General**';

- iv. Annulled Section 17(1) that subjects the recruitment of staff by the Auditor-General to Article 235 (5) (on delegated powers from the Public Service Commission) of the Constitution. This section was in violation of Article 252(1)(c) that grants the Auditor-General the powers to recruit the staff of the Office;
  - v. Annulled Section 18 on secondment of officers from other State Organs or public entities on the need to safeguard the independence of the Office of the Auditor-General by not seconding staff of the Auditor-General to work for the audit clients as this would create a conflict of interest.
  - vi. Annulled Section 27 on the functions of the Audit Advisory Board as unconstitutional based on Article 249(2)(b) which grants the Auditor-General functional Independence.
  - vii. Annulled Section 40(1) and 40(3) on limitation of scope in the audit of national security organs that use public resources as it is a breach of Article 229(4)(h):
  - viii. Annulled Section 42 that inhibits the Auditor-General from questioning government policy as it was in breach of Article 229 (4) (h) on scope and independence;
  - ix. Annulled Section 70 that states that the Act shall prevail in case of inconsistency with any other Act, as unnecessary and superfluous.
13. Ensuing therefrom, a multi-Agency Team comprising of the Office of the Auditor-General, the Executive Office of the President, The National Treasury and the Office of the Attorney General and Department of Justice was constituted to review the Act and make the necessary recommendations to align the Public Audit Act, 2015 to the Constitution. The Team reviewed the **Public Audit Act, 2015**, with the purpose of addressing the issues that were declared unconstitutional. The Bill was gazetted on 16 February, 2024 and tabled in Parliament on 29 February, 2024. It underwent the First reading and was committed to the Departmental Committee on Finance and National Planning for consideration and reporting back to the House and we presented our views on the Bill on 30 April, 2024. The Bill was thereafter tabled on 6 March, 2025 for its Second Reading before the 13<sup>th</sup> Parliament for deliberation and adoption.



14. On 20 March, 2025, the Public Audit (Amendment) Bill, No. 4 of 2024 was tabled before Senate for First Reading and the same was committed to the Standing Committee on Finance and Budget for consideration.

15. The Bill is, therefore, crucial in fortifying the independence and autonomy of the Office of the Auditor-General that is aligned to the Constitutional imperatives of independence, transparency and accountability. The Amendments also state the mandate of the Office with clarity where there is ambiguity. The amendments are also expected to remedy other gaps identified in the course of implementing the Act over the last nine (9) years, with a view to enhancing the overall responsiveness of the legislation to the audit function and the evolving nature of public service.

#### **D. Proposed Amendments to the Public Audit Act, 2015**

**Honorable Chair**

**Honorable Members**

16. Allow me to give my submissions on the proposed amendments to the Public Audit Act, 2015. I am pleased to note that the Bill recognizes the importance of independence as a pre-requisite to the proper functioning and effective delivery of the mandate and functions of the Auditor-General.

17. Indeed, the 2022 Kenya Public Expenditure and Financial Accountability Assessment (PEFA) Report indicated that the External Audit (OAG) component had an overall score of D+. This was generally due to the Supreme Audit Institution (SAI) Independence indicator scoring very low at D. The results indicated that despite enjoying administrative independence, the Office has no financial independence since its budget is subject to review by The National Treasury prior to submission to the National Assembly. OAG's budget execution is also controlled by The National Treasury. This ultimately affects efficient service delivery.

18. These results resonate with the **Supreme Audit Institutions Independence Index: 2021 Global Synthesis Report by the World Bank** which ranked the Office of the Auditor-General of Kenya as part of Group C Supreme Audit Institutions with just a substantial level of independence meaning that we are on our way to being independent, although unfortunately not yet fully there. We are



also, ranked lower in comparison with the audit offices of the Republic of Uganda and the Republic of South Africa, which are ranked as not only having a very high level of independence, but also fully able to exercise their independence. Our lower ranking is attributed to lack of financial autonomy, where we do not have guaranteed recourse in the event of inadequate budgetary allocations.

19. The results also resonate with the **2024 World Justice Project<sup>1</sup> (WJP) Rule of Law Index** which ranks the Office in position **85 out of 142** countries with a score of **0.45** with respect to sufficient independence and the ability to exercise effective checks and oversight of the Government.

20. Some of the proposed amendments also align to the independence principles espoused in the International Organization of Supreme Audit Institutions (INTOSAI) Framework for Professional Pronouncements (standards). INTOSAI comprises the Auditors-General of the United Nations member states and affiliated organs like the World Bank and the European Court of Auditors. Specifically, the INTOSAI and the United Nations have adopted the Lima Declaration of 1977 and the 2007 Mexico Declaration on independence. The Lima Declaration calls for independent government auditing, and this independence should be anchored in legislation. The Declaration further recognizes that SAIs should have functional and organizational independence required to carry out their mandate.

21. Similarly, the Mexico Declaration calls for the following core principles on SAI Independence-

- The existence of an appropriate and effective constitutional/statutory/legal framework
- The independence of SAI Heads including security of tenure and legal immunity in the normal discharge of their duties
- A sufficiently broad mandate and full discretion, in the discharge of SAI functions
- Unrestricted access to information
- The rights and obligations to report on work done

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<sup>1</sup> World Justice Index was established in 2006 as a presidential initiative of the American Bar Association (ABA), and with the initial support of 21 other strategic partners. In 2009, the World Justice Project transitioned into an independent non-profit organization. It seeks create knowledge, build awareness, and stimulate action to advance the rule of law worldwide.

- The freedom to decide the content and timing of audit reports and to publish and disseminate them
- The existence of effective follow-up mechanisms on SAI recommendations
- Financial and managerial/administrative autonomy and the availability of appropriate human, material and monetary resources

#### **Honorable Chair**

#### **Honorable Members**

22. I, therefore, submit that the Office of the Auditor-General supports the proposed amendments in the following clauses:

- Clause 1 – 5;
- Clause 6(1)(a-f) and 6(1)(h-i);
- Clause 9 – 11;
- Clause 14 – 18;
- Clause 20; and
- Clause 25 – 52.

23. In particular, the Office welcomes the proposed amendments to Section 11 of the Act through Clause 9 on the appointment of the Auditor-General. The Clause cures the legal lacuna that currently exists between an outgoing Auditor-General and an incoming Auditor-General at end of tenure. This is based on the experiences between 2019 and 2020 that created a vacuum in the Office and led to delayed reporting to Parliament. The three months notification timeline shall ensure timely filling of a vacant position of the Auditor-General at the end of tenure and also ensure that there is no vacuum in the Office and that no two Auditors-General are in Office at any given time thereby ensuring seamless transition.

24. We also welcome the strengthening of the financial independence of the Office by amending Sections 20 and 41 of the Act through Clauses 17 and 37. The Clauses propose that the Auditor-General can request for additional funding directly from Parliament. In addition, Clause 37 proposes the establishment of the Public Audit Fund to provide for operational independence of the Office. This aligns to Article 249(3) of the Constitution which requires Parliament to allocate adequate funds to



enable each Constitutional Commission and Independent Office to perform its functions.

25. Currently, the Public Audit Act, 2015 under Section 41, provides for the source of funds of the Office of the Auditor-General to include monies appropriated by Parliament for the purposes of the Office, audit fees as well as monies from other sources including donations, all of which are required to be disclosed to Parliament. However, Section 20(2) of the Public Audit Act 2015, stipulates that the annual budget estimates of OAG shall be submitted to the Cabinet Secretary for Finance for review. This means that the budget of OAG is subject to interference by The National Treasury which affects the financial independence of the Office. Despite these provisions, the Office continues to experience budgetary constraints on availability of appropriated resources to plan and conduct audits on request, including insufficient funds to carry out additional oversight on behalf of Parliament.

26. The National Assembly's Budget and Appropriation Committee, in its report on the Budget Policy Statement for FY 2023/2024 dated 15 March, 2023, recommended that, The National Treasury facilitates the Office of the Auditor-General to have a **single line budget** to enhance our efficiency in responding to emerging audit needs. This has not yet been implemented . We request the Committee to facilitate implementation of this resolution and that it is also included in the Public Audit Amendment Bill, 2024.

27. In addition, the National Assembly's Public Accounts Committee has also similarly made recommendations on the allocation of funds to the Office of the Auditor-General. The Committee in its report to the House on Examination of the Audit Reports of the Auditor-General for the financial year 2019/2020, recommended that the annual budget allocation to the Office of the Auditor-General should not be **less than one half per cent (0.5%) of all the revenue collected** by the national government each year calculated based on the most recent audited accounts of revenue received, as approved by the National Assembly. These recommendations were adopted by the National Assembly on 9 June, 2022.

28. We request that the resolutions be incorporated in the proposed Public Audit (Amendment) Bill, 2024. This will also ensure that the Office of the Auditor -General is empowered to prepare our budget independently, without having to compete for resources under the sectoral funding limits, and present the budget direct to



Parliament to enhance our independence. The Public Audit Fund will ensure that oversight operations are conducted continuously to enhance accountability and timely reporting to Parliament. Indeed, this will unlock the remaining parameters for independence of the Office and support all other reforms that have taken place.

**Honorable Chair**

**Honorable Members**

29. We, however, note that the Bill received at the Senate from the National Assembly contained several further amendments, some of which are not aligned to the Constitution and the provisions on independence of the Office. I do therefore wish to raise my strong reservations in particular, to the following proposed amendments currently contained in the Bill:

30. I shall outline them with my proposed amendments as follows:

**(i) Public Service Human Resource Audit Directorate**

31. **Clause 7** proposes to amend the Act, by inserting a new section 8A, that seeks to establish a **Directorate of Public Service Human Resource Audit**, which Directorate shall be responsible for conducting and preparing audits on human resource in the public service.

32. The specific Directorate proposed in the Bill is for a type of audit which is already addressed under Article 229(4), 229(5) and 229(6) of the Constitution. The Office of the Auditor-General, in undertaking compliance, financial and effectiveness audits reports and gives assurance on the Human Resource element which is not only resourced under budgetary provisions authorized by Parliament but also guided by various legislations whose compliance must be confirmed. The resources expended on human resources in public sector are part of the accounts mandated to be audited under Article 249(4) and to be confirmed for lawfulness and effectiveness under Article 229(6).

33. Indeed, **Section 8 of the Public Audit Act, 2015** allows the Auditor-General to develop an organisational structure and staffing establishment for the Office. In addition, corporate governance and corporate hygiene require flexibility of

organizations including Constitutional Commissions and Independent Offices in determining the strategy, and the supporting and operating structure of the organizations to deliver on its constitutional mandate. Anchoring corporate structure in law implies that there is likely to be no growth or evolution in the public service and public finance management architecture and the Office of the Auditor-General would therefore remain with a stagnant or rigid/fixed structure thereby, negatively affecting efficiency and effectiveness in operations.

34. Cognizant of the emerging risks in this area, it is my proposal that Human Resource Audit be included in the **types of audits** under clause 27 that provides at Section 38A of the **Public Audit (Amendment) Bill, 2024**, the types of audits that my Office undertakes. It would be prescriptive for the Bill to establish a specific Directorate to handle Human Resource audits only.

**Honorable Chair**

**Honorable Members**

**(ii) Recruitment and Responsibilities of the Senior Deputy Auditor-General**

35. **Clauses 12 and 13**, propose to amend Sections 15 and 16 of the Act, to provide for the position of a **Senior Deputy Auditor-General who shall be the principal assistant to the Auditor-General**. It is my submission that in line with the provisions of Section 8 of the **Public Audit Act, 2015**, that allows the Auditor-General to develop an organizational structure, legislating this structure would be too prescriptive.

36. The position of Senior Deputy Auditor-General as provided for in the current Act, erroneously provided for this position to be the Accounting Officer of the Office. However, in light of the provisions of **Clause 2**, of the Bill, that now defines an Accounting Officer and aligns the same to the provisions of **Section 2 of the Public Finance Management Act, 2012 (No. 18 of 2012)**, the Auditor-General is the Accounting Officer of the Office and it would therefore, be too prescriptive to provide in statute for a position that ought to be in the organizational structure for the proper management of the resources allocated to the Office.



37. In addition, the proposal to have two levels of Deputies i.e., Senior Deputy Auditor General and Deputy Auditor General implies a senior and junior deputy position which does not only lack corporate hygiene but also creates conflict, confusion and potential duplication of roles and responsibilities. The Office requires only one deputy to the Auditor-General with specified duties that do not encroach on the objects and authority of the Auditor-General as enshrined in the Constitution.
38. All other structures and positions are determined internally to ensure efficient and effective service delivery and can be created or restructured as needed in response to changing environment and requirements for public sector audits, as per **Article 249(2)**.
39. In comparison, the Office of the Controller of Budget, in its organizational structure, makes provision for only one Deputy Controller of Budget as provided for in Section 6 of the **Controller of Budget Act, 2016**. We, therefore, propose that, the Section only provides for **Deputy Auditor General**.

**Honorable Chair**

**Honorable Members**

**(iii) Establishment and Composition of the Audit Advisory Board**

40. **Clause 21** of the Bill, repeals Section 25 of the Act and substitutes it with a new Section 25(1)(d) &(e) that establishes an Audit Advisory. It seeks to substitute the membership of the Audit Advisory Board, to include nominees of the Institute of Human Resource Management; and the Institute of Internal Auditors Kenya.
41. **Clause 22** seeks to provide for meetings and procedures of the Audit Advisory Board. **Clause 23** seeks to amend Section 27 to include “strategic planning” as one other function of the Audit Advisory Board. The Strategic Planning of the Office touches on its core mandate, which is to audit and report to the legislature.
42. To this end I submit that the proposed **Clause , 22** and **Clause 23** of the Bill that seeks to establish the Audit Advisory Board and its functions thereof were already declared unconstitutional by the High Court. The High Court in **Petition No. 388 of 2016**, held with regard to the Audit Advisory Board that ....

*.....the function of the **Audit Advisory Board to advice the Auditor General in the performance of his functions under the Constitution** violates*



*Constitutional values and principles of independence of the Auditor General in Articles 229 and 249(2). The independence of Commissions and independent offices including that of employing their own staff is guaranteed by the Constitution. They are required to act **independent of control or direction of any person or authority**.*

43. The Office of the Auditor-General established as an Independent Office, is a body corporate with perpetual succession. The Bill as proposed and currently amended prescribes an unclear and “confusing” and unconstitutional corporate structure by proposing to create an administrative structure above the Auditor-General i.e., the Audit Advisory Board, already declared unconstitutional. The proposed amendment offends Article 249(2) of the Constitution. This constitutional provision has further been enabled under section 8 of the **Public Audit Act, 2015** that allows the Auditor-General to determine the organization structure needed to deliver the mandate under Article 229 and Articles 249(1) and 252 of the Constitution. It also offends Article 249(2) which states that the commissions and the holders of independent offices are subject only to the Constitution and the law; and are independent and not subject to direction or control by any person or authority.

44. I do therefore, request that the highlighted amendments, as proposed in **clauses, 7,12,13,21,22 and 23** of the Supplementary Order Paper, dated Thursday, 6 March, 2025, and now contained in the National Assembly Bill No. 4 of 2024, (**Public Audit (Amendment) Bill 2024**) submitted to Senate for consideration be **expunged**, in order to safeguard the independence of the Office as envisaged in the judgement of the Courts in **High Court Petition No. 388 of 2016**, as the purpose of the **Public Audit (Amendment) Bill, 2024** is to improve efficiency and effectiveness in the discharge of the Auditor-General’s roles and responsibilities. The deletion of these clause also affects the following other clauses:

- **Clause 6** – the proposed **Section 8(2)** where the Auditor-General may seek advice of the Audit Advisory Board should be deleted.
- **Clause 11** - the proposed **Section 14(2)** where the Auditor-General may seek advice of the Audit Advisory Board should be deleted

## E. Additional Amendments Proposed by the Office

Honorable Chair

Honorable Members

45. Towards the end of last year (2024), the High Court in Nairobi in **HCJR No. E082 of 2023, Republic Vs. Hesbon Mole Ongwae & Others**, made a DECLARATION that constitutional and statutory timelines as spelt out in the **Constitution** and **Public Audit Act, 2015** are mandatory and must be complied with. To this end The Senate and the Office have made concerted efforts to ensure that we both undertake our constitutional functions within the timelines given under the Constitution and the law.
46. Therefore, in order to further improve our processes and ensure that audits are carried out within constitutional timelines, I am proposing amendments to the following Sections of the Act:

### (i) Audit Process Steps

47. **Clause 24 of the Bill**, amends section 31 of the Act, by repealing it and substituting it with a new section 31 on the Audit Process. Section 31(1)(b) of the Bill, provides that at the beginning of an audit of a State Organ or public entity, *an entry meeting shall be held to deliberate on the **scope of audit** between the Auditor-General and the accounting officer*; Section 30 of the Act has provided that the Auditor-General shall **determine the scope and extent of the examination** or inspection of accounts and any other documents or information, which he considers necessary in carrying out his or her responsibilities and functions as specified under the Act.
48. Although the proposed amendment entrenches transparency and accountability in the audit process, I do submit that in allowing Section 31 (1)(b) of the Bill, to remain as is, shall amount to infringement of the statutory and constitutional mandate that allows the Auditor-General to remain independent and not subject to direction or control by other person or authority. We propose that the section be amended and read as follows;

*31(1)(b) At the commencement of an audit of a state Organ or public entity, an entry meeting shall be held to establish a common formal understanding of the*



*roles of the Auditor-General and the Accounting Officer and any additional terms of the engagement and reporting responsibilities by the Accounting Officer and the Auditor-General*

49. **Clause 24** of the Bill, further substitutes section 31(2), which reads *that an Accounting Officer **shall within fourteen days** from receipt of any audit report submit a response to the Auditor-General including remedial actions undertaken to address the audit findings.* In keeping with the judgement on the timelines and in order for the Office to remain efficient and effective in the audit process, I wish to propose an amendment to Section 31(2) of the Bill to read:

*(2) that an Accounting Officer **shall within seven days** from receipt of any audit report, submit a response to the Auditor-General including remedial actions undertaken to address the audit findings.*

50. This amendment shall assist the Office advance the audit timeline and at the same time, still offers Accounting Officers adequate time to respond to any residual issues raised at the end of audit.

51. For completeness of the audit process, I further wish to propose an amendment to (clause 24) Section 31 of the Bill, by inserting a new section 31(c) to read:

*31(c ) at the conclusion of the audit, an exit meeting shall be held, and the Auditor-General shall provide the substantive head of that entity, if different from the Accounting Officer and, the Chairperson of the governing body, where applicable, timely observations arising from the audit that are significant in the management letter.*

## **(ii) Timelines for Submission of accounts**

52. Section 47(1) of the Act, provides that the financial statements required under the Constitution, the Public Finance Management Act, 2012 and any other legislation shall be submitted to the Auditor-General **within three months after the end the fiscal year** to which the accounts relate. In light of the judgment of the High Court in *HCJR No. E082 of 2023, Republic Vs. Hesbon Mole Ongwae & Others*, that constitutional and statutory timelines as spelt out in the **Constitution and Public Audit Act, 2015** are mandatory and must be complied with. I therefore propose



that the provisions of section 47(1) be amended and the words "**within three months**" be deleted.

53. I further propose an amendment to section 47(3) of the **Public Audit Act, 2015** to include the use of technology to enhance efficiency in meeting the statutory timelines, by introducing a new sub-section (3) to read:

*3) The financial statements shall in addition be submitted to the Auditor-General in electronic form. The Auditor-General, shall determine the manner in which the financial statements and supporting information shall be submitted electronically.*

54. This is therefore, to implore that this amendment, highlighted herein above, be included in order to enhance the time within which an Auditor-General shall be able to undertake the audits. The Office uses an audit management system and receipt of financial statements electronically shall improve on efficiency and timelines in the discharge of our mandate and reporting to Parliament and County Assemblies.

**Honorable Chair**

**Honorable Members**

**(iii) Other Proposals that have not been effected in the Bill**

55. Section 70 of the Public Audit Act, 2015 states that the Act shall prevail in case of any inconsistency between the Act and any other legislation relating to the functions and powers of the Auditor-General. However, the Court held that the powers and functions of the Auditor-General are provided for in the Constitution and not by the Act. They are constitutional functions and not statutory.

56. I do however, note that section 70 of the Public Audit Act, 2015 is yet to be repealed. We, do therefore, submit that in keeping with the declaration of unconstitutionality by the High Court, section 70 of the Public Audit Act, 2015 be repealed to the extent of its unconstitutionality.

## F. Conclusion

Honorable Chair

Honorable Members

57. As I conclude, I submit that my Office supports the proposed amendments to the extent where they strengthen the functional, operational and financial independence of the Office of the Auditor-General, as well as the efficiency and effectiveness in the discharge of the Auditor-General's duties with regard to oversight as well as enhancing the financial independence of the Office.

58. **The proposed amendments will ensure that** the Public Audit Act, 2015;

- a) is aligned to the Constitution,
- b) safeguards the independence of the Auditor-General and the Office, with respect to governance, staff establishment and funding.
- c) establish a Public Audit Fund to be funded from appropriated provisions of the Office of the Auditor-General, within the fiscal framework limits.
- d) cures the lacuna in law between an outgoing Auditor-General and an incoming Auditor-General at end of tenure.
- e) expressly provides for the different types of audits including Citizen Accountability Audits, Social Accountability Audit, Compliance audits and any other emerging audit related to the lawful use and effective management of public resources, which the Auditor-General may undertake for enhancing transparency within the provisions of Article 229(4), Article 229(5) and 229(6) of the Constitution and which may be of interest to Parliament.
- f) enhance the sections of ethical standards and other offences for Officers serving under the Office of the Auditor-General, among many others.
- g) improve communication and reporting between the Office of the Auditor-General, Public Sector entities and Parliament and County Assemblies.

59. Consequently, we request this Committee and the Senate to:

- a. retain Clauses 1 – 5; 6(1)(a-f) and 6(1)(h-i); 9 – 11; 14 – 18; 20; and 25 – 52.
- b. Delete Clause 6 (proposed Section 8(2)), clause 7, Clause 11 (proposed Section 14(2)), clause 12, 13 and 21 - 23

- c. Amend Clause 24 (Section 31 (1)(b)) and 31(2)) and introduce new subsection 31(c)
- d. Introduce a new subsection in Section 47 (Section 47(3))
- e. Repeal Section 70 of the Act

60. The enactment of these amendments shall not occasion additional expenditure of public funds save for funds already appropriated by Parliament to the Office of the Auditor-General.

61. I thank you for this opportunity and the support accorded to the Office to enable service to public sector entities, Parliament, County Assemblies and the people of Kenya.

  
FCPA Nancy Gathungu, CBS  
AUDITOR-GENERAL

29 May, 2025



# REPUBLIC OF KENYA

**URGENT**

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Website: www.oagkenya.go.ke



OFFICE OF THE AUDITOR-GENERAL

25 APR 2025

Enhancing Accountability

HEADQUARTERS  
Anniversary Towers  
Monrovia Street  
P.O Box 30084-00100  
NAIROBI

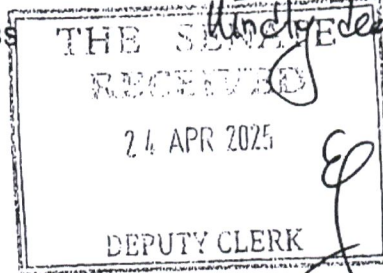
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(DSEC)  
OAG/CONF/9/VOL.III/(78)

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DG

23 April, 2025

Mr. Jeremiah M. Nyegenye, CBS  
The Clerk, Senate  
Parliament Building  
P.O. Box 41842-00100  
NAIROBI



Dear

*Nyegenye*

## THE PUBLIC AUDIT (AMENDMENT) BILL, 2024 - FURTHER PROPOSED AMENDMENTS

The Office of the Auditor-General (OAG) is an Independent Office established by Article 229 of the Constitution of Kenya. The Office is charged with the primary oversight role of ensuring accountability in the use of public resources within the three arms of government (the Legislature, the Judiciary and the Executive), County Governments, as well as the Constitutional Commissions and Independent Offices.

On 11 March, 2025, I wrote the Clerk of the National Assembly, highlighting my reservations to some proposed amendments to the **Public Audit (Amendment) Bill, No.4 of 2024**, during its Second Reading on 6 March, 2025, at the National Assembly.

The proposed amendments were tabled under the **Supplementary Standing Order** dated Thursday, 6 March, 2025 in the floor of the Thirteenth Parliament (Fourth Session) for deliberation and adoption.

On 20 March, 2025, the **Public Audit (Amendment) Bill, No. 4 of 2024** was tabled before Senate for First Reading and the same was ordered to be tabled before the Finance and National Planning Committee, of Senate. The Bill as received from the National Assembly contained several amendments some of which are not aligned to the Constitutional provisions on independence of the Office.

I wish to raise my strong reservations, to the following proposed amendments, in particular:

1. **Clause 6**, seeks to establish a **Directorate of Public Service Human Resource Audit**, which Directorate shall be responsible for conducting and preparing audits on human resource in the public service.

*Mr. Gitonga  
You are dealing  
AB  
25/04/25*





OFFICE OF THE AUDITOR-GENERAL

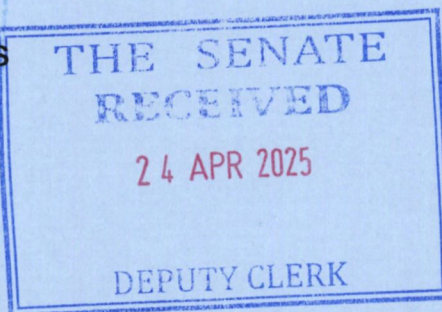
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25 APR 2025

23 April, 2025

Mr. Jeremiah M. Nyegenye, CBS  
The Clerk, Senate  
Parliament Building  
P.O. Box 41842-00100  
NAIROBI



Dear

*Nyegenye*

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I wish to raise my strong reservations, to the following proposed amendments, in particular:

1. **Clause 6**, seeks to establish a **Directorate of Public Service Human Resource Audit**, which Directorate shall be responsible for conducting and preparing audits on human resource in the public service.



The specific Directorate proposed in the Bill is for a type of audit which is already addressed under Article 229(4) and 229(5) of Constitution. The Office of the Auditor-General in undertaking its compliance and financial audits, reports and give assurance on the Human Resource element which is not only resourced under budgetary provisions authorized by Parliament but also guided by various legislations whose compliance must be confirmed. Cognizant of the emerging risks in this area, it is my proposal that Human Resource Audit be included in the **types of audits** under clause 27 that provides at Section 38A of the **Public Audit (Amendment) Bill, 2024**, the types of audits that my Office undertakes. It would be prescriptive for the Bill to establish a specific Directorate to handle Human Resource audits only. Indeed, the **Public Audit Act, 2015** at **section 8** allows the Auditor-General to develop an organisational structure and staffing establishment for the Office.

2. Corporate governance and corporate hygiene require flexibility of organizations including Constitutional Commissions and Independent Offices in determining the strategy, and the supporting and operating structure of the organization to deliver the mandate. Anchoring corporate structure in the law implies that there is likely to be no growth or evolution in the public service and public finance management architecture and the Office of the Auditor-General would therefore remain with a stagnant or rigid/fixed structure thereby negatively affecting effectiveness in operations.
3. **Clause 10 and 11**, seeks to provide for the position of a **Senior Deputy Auditor-General**. It is my submission that in line with the provisions of Section 8 of the **Public Audit Act, 2015**, that allows the Auditor-General to develop an organizational structure, legislating this structure would be too prescriptive.

The position of Senior Deputy Auditor-General as provided for in the current Act, provided for this person to be the accounting officer of the Office. However, in light of the provisions of **Clause 2**, of the Bill, that now defines an accounting officer and aligns the same to the provisions of **section 2 of the Public Finance Management Act, 2012 (No. 18 of 2012)**, the Auditor-General is the accounting officer of the Office and it would therefore, be too prescriptive to provide in statute for a position that ought to be in the organizational structure.

The proposal to have two levels of Deputies i.e., Senior Deputy Auditor-General and Deputy Auditor-General implies a senior and junior deputy position which lacks corporate hygiene and creates potential conflict and duplication of roles and responsibilities. The Office requires only one deputy to the Auditor-General with limited duties that do not encroach on the objects and authority of the Auditor-General as enshrined in the Constitution.



All other structures and positions are determined internally to ensure efficient and effective service delivery and can be created or restructured as needed in response to changing environment and requirements for public sector audits.

In comparison, the Office of the Controller of Budget, in its organizational structure, makes provision for only one Deputy Controller of Budget as provided for in Section 6 of the **Controller of Budget Act, 2016**.

4. The Office of the Auditor-General established as an Independent Office, is a body corporate with perpetual succession. The Bill as proposed and currently amended prescribes a “confusing” and unconstitutional corporate structure by proposing to create an administrative structure above the Auditor-General i.e., the Audit Advisory Board, already declared unconstitutional.
5. **Clause 17** on the Audit Advisory Board, seeks to amend Section 25 of the **Public Audit Act, 2015**, and seeks to substitute the membership of the Audit Advisory Board. **Clause 19** seeks to amend section 27 to include “strategic planning” as one other function of the Audit Advisory Board. The Strategic Planning of the Office touches on its core mandate, which is audit. The High Court in **Petition No. 388 of 2016**, held with regard to the Audit Advisory Board that ....

*The independence of Commissions and independent offices including that of employing their own staff is guaranteed by the Constitution. They are required to act **independent of control or direction of any person or authority**.*

To this end I submit that the proposed **Clause 17** and **Clause 19** of the Bill that seeks to establish the Audit Advisory Board and its functions thereof were already declared unconstitutional by the High Court. This judgement is the purpose the **Public Audit Act, 2015** is currently, under amendment, in order to align it with the Constitution and amend the Act to improve efficiency in the discharge of the Auditor-General's duties.

The proposed amendment further offends Article 249(2) of the Constitution which gives the power to the Auditor-General to recruit staff. This constitutional provision has further been enabled under section 8 of the **Public Audit Act, 2015** that allows the Auditor-General to determine the organization structure needed to deliver the mandate under Article 229 and Article 249(1) and 252 of the constitution.

6. Last year in 2024, the High Court in Nairobi in **HCJR No. E082 of 2023, Republic Vs. Hesbon Mole Ongwae & Others**, made a DECLARATION that constitutional and statutory timelines as spelt out in the **Constitution** and **Public Audit Act, 2015** are mandatory and must be complied with.

To this end my Office and the Senate have made concerted efforts to ensure that we both undertake our constitutional functions within the timelines given under the law. In order to further improve our processes and ensure that audits are carried out within the constitutional timelines, I am proposing a further amendment to **section 47** of the **Public Audit Act, 2015**, by introducing a new sub section (3) to read:

- (3) *The financial statements shall in addition be submitted to the Auditor-General in electronic form. The Auditor-General, shall determine the manner in which the financial statements and supporting information shall be submitted electronically.*

This is therefore, to implore that this amendment, highlighted herein above, be included in order to enhance the time within which I shall be able to undertake the audits. The Office uses an audit management system and receipt of financial statements electronically shall improve on efficiency in the discharge of our mandate.

Further I request that the highlighted amendments, as proposed in the Supplementary Order Paper, dated Thursday, 6 March, 2025, and now contained in the National Assembly Bills No. 4 of 2024, (**Public Audit (Amendment) Bill, 2024**) submitted to Senate for processing be **expunged**, in order to safeguard the independence of the Office as envisaged in the judgement of the Courts in **High Court Petition No. 388 of 2016**, as the initial purpose of the **Public Audit (Amendment) Bill, 2024** is to improve efficiency and effectiveness in the discharge of the Auditor-General's roles and responsibilities.

I thank the Senate for continued support and collaboration.

Yours

*Sincerely*

  
FCPA Nancy Gathungu, CBS  
AUDITOR-GENERAL

Copy to: **Mr. Samuel Njoroge, CBS**  
The Clerk, the National Assembly  
P. O. Box 41842 – 00100  
NAIROBI



**Further Submissions to the Senate Standing Committee on Finance and Budget on Views on the Public Audit (Amendment) Bill, 2025(National Assembly Bill No. 4 of 2024)**

**30 May, 2025**



**The Chairperson, Senate Finance and Budget Committee – Sen. Roba Ali Ibrahim, MP**

**Honourable Members of the Committee**

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1. The Office makes reference to its submissions before the Senate Standing Committee on Finance and Budget on 29 May, 2025, and the discussions held, and seeks additional amendments to the following Clauses of the Public Audit (Amendment) Bill, 2025;
2. **Clause 18(3)**, of the Bill, that seeks to delete section 21(3) of the Act and substitute the same with the following proposed subsection-

*(3) where the information required is from a private entity or person, the Auditor-General may apply to the courts to obtain such information.*

I submit that the proposed clause 18(3) be deleted. This is because the proposed provision impedes on the constitutional functions, duties and powers of the Office of the Auditor-General, that provide for unrestricted and unfettered access to information and documents. The processing of personal data, is exempted under the provisions the Data Protection Act, where the requirement is under any written law. Retaining the section as proposed will therefore be superfluous and impede with the independence of the Office.

3. **Clause 49** of the Bill, seeks to amend section 64 of the Act and outlines the powers of the Auditor-General to engage with other agencies. We have taken under advisement the concerns raised by the Committee, on possible timelines and shall consult the other agencies in line with their respective mandates and revert on the need to amend their respective instruments, before the process is concluded by the Committee.
4. In addition, we propose an amendment to section 20(2) of the Act, which makes provision for Budget estimates and plans of the Office of the Auditor-General. The current section 20(2) provides that –

*The budget estimates of revenue and expenditure shall be submitted to the Cabinet secretary for finance not later than the 30<sup>th</sup> March each year for review and submission to the National Assembly in accordance with Article 221 of the Constitution, and the National Assembly shall, pursuant to Article 249(3) of the Constitution, allocate adequate funds to the Office of the Auditor-General.*

6. Our lack of financial autonomy has continuously hampered our ability to efficiently and effectively deliver on our mandate in accordance with the requirements of the Constitution. It has also hampered on our independence to determine the scope and timing of the audit execution which has led to the low ranking of the Office of

the Auditor-General of Kenya with regard to independence, as compared to other Supreme Audit Institutions Als.

To enhance our financial autonomy, we propose that section 20(2) of the principal Act be repealed and substituted with the following new section-

*20(2) The Auditor-General shall, not later than the 30<sup>th</sup> April in each financial year:*

*(a) submit to the National Assembly the budget estimates for the Office of the Auditor-General, including proposed appropriations; and*

*(b) provide the Cabinet Secretary in charge of Finance with a copy of those documents.*

*(3) The Cabinet Secretary shall submit to the National Assembly not later than the 15<sup>th</sup> May in each financial year any comments on the budgets proposed by the Auditor-General.*

7. The enactment of these amendments shall not occasion additional expenditure of public funds save for funds already appropriated by Parliament to the Office of the Auditor-General.
8. I thank you for this opportunity and the support accorded to the Office to enable service to public sector entities, Parliament, County Assemblies and the people of Kenya.

  
FCPA Nancy Gathungu, CBS  
AUDITOR-GENERAL

30 May, 2025



**REPORT OF THE TASK FORCE ON REVIEW OF THE PUBLIC AUDIT ACT, 2015**

**ON NATIONAL DEVELOPMENT IMPLEMENTATION AND COMMUNICATION  
CABINET COMMITTEE (NDICCC) DIRECTIVES RELATING TO:**

**THE CABINET MEMORANDUM ON THE PUBLIC AUDIT (AMENDMENT) BILL,  
2022**

**14<sup>TH</sup> SEPTEMBER, 2022**



## **1. Introduction**

At its 7<sup>th</sup> Meeting held on 30<sup>th</sup> June, 2022, the National Development Implementation Technical Committee (NDITC) communicated to the Principal Secretary, National Treasury the directive of the National Development Implementation and Communication Cabinet Committee (NDICCC), that the Public Audit (Amendment) Bill, 2022 be reviewed with respect to the following issues: -

- (a) Measures for supervision and conduct of the Auditor-General, especially in regard to publishing audit queries before such queries are harmonized with accounting officers; and,
- (b) Re-examining the audit processes and the process of communicating anomalies by the Auditor-General to the public.

Accordingly, and for the purpose of expediting action as directed, the Task Force for Reviewing the Public Audit Act, 2015 upon receiving the instructions, re-convened in August 2022, to respond to the concerns raised.

## **2. Methodology for Reviewing the Public Audit (Amendment) Bill, 2022**

In order to address the issues raised by NDICCC as indicated above, the Task Force premised its review on various legal

instruments, auditing standards and the global audit practices and guidelines, as shown here below: -

- (i) The Constitution of Kenya;
- (ii) The Public Audit Act, 2015;
- (iii) The High Court Petition No. 388 of 2016 on the Public Audit Act, 2015, and the Judgement delivered in respect thereof on 16<sup>th</sup> February, 2018;
- (iv) The Public Finance Management Act, 2012;
- (v) The International Standards of Supreme Audit Institutions; and,
- (vi) The International Leading Practices and Guidelines on Audit.

### **3. Analysis of the Issues**

The Task Force analysed the issues in seriatim, as indicated in the following matrix: -

## Analysis of the Issues Raised

| S/No. | Issues Raised by NDICCC                                           | Legal Position                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Comment (s)/Remark (s)                                                                                                                                                                                                                                                                                                                                                                 |
|-------|-------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.    | Supervision of the Auditor-General                                | The Office of the Auditor-General is established under Article 229(1) of the Constitution as an Independent Office. Article 249(2) grants Constitutional Commissions and Independent Offices independence and are subject only to the Constitution and the law. The Commissions and Independent Offices shall not be directed or controlled by any person or authority. This was affirmed in Petition No. 388 of 2016, where the High Court held that the independence of the Auditor-General must be adhered to. | The Task Force is of the view that the proposal to supervise the Auditor-General is unconstitutional. However, for accountability purposes, Article 254(1) obligates the Auditor-General to submit an annual report to the President and Parliament. Further to the above, Article 254(2) requires the Auditor-General to prepare any report requested by the President or Parliament. |
| 2.    | Conduct of the Auditor-General in the Performance of Public Audit | The conduct of the Auditor-General in the performance of public audit is guided by Part VII of the Public Audit Act, 2015, which deals with the code of conduct and ethics in the discharge of his/her duties. Further, Section 29 of the same Act also requires the Auditor-General to apply the applicable international standards, principles and practices in the audits.                                                                                                                                     | Accordingly, the Public Audit Act, 2015 has sufficient inbuilt safeguards against the misuse of office.                                                                                                                                                                                                                                                                                |
| 3.    | Audit Process                                                     | The audit process is extensively covered under the proposed Section 31 of the Public Audit (Amendment) Bill, 2022. The Section provides for: -                                                                                                                                                                                                                                                                                                                                                                    | The audit process has been addressed under clause 20 of the Bill which amends Section 31 of the Act.                                                                                                                                                                                                                                                                                   |



|    |                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |  |
|----|-----------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
|    |                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <p>(a) Notification to the Accounting Officer of the commencement of audit;</p> <p>(b) Entry meeting between the Auditor-General and the Accounting Officer to deliberate on the scope and timelines for the audit;</p> <p>(c) Issuance of a management letter to the Accounting Officer highlighting any audit issues, and providing an opportunity for the Accounting Officer to respond on any audit findings within fourteen days; and</p> <p>(d) Exit meeting between the Accounting Officer and the Auditor-General to discuss the audit findings before the report is finalized.</p> |  |
| 4. | Communication of anomalies by the Auditor-General to the public | <p>The current Section 45 as read with Section 39 of the Act addresses this issue. Therefore, we propose that Clause 31 of the Bill amending the Act be deleted. These provisions require that: -</p> <p>(a) Parliament or the relevant County Assembly publicizes the audit report within seven days of receipt, and</p> <p>(b) The Auditor-General publicizes the audit report within fourteen days after the expiry of seven days upon submission to Parliament or the relevant County Assembly.</p> | <p>The current wording of Section 45 of the Act should be retained. This calls for deletion of Clause 31 of the Bill amending Section 45 (3).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                           |  |

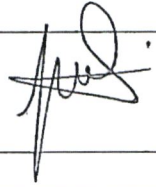
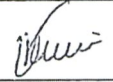
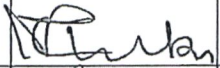
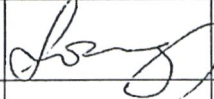
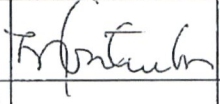
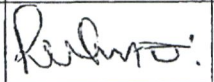
#### **4. Outcome of the Review and Recommendation**

Arising from the review as can be seen in the matrix, the Task Force revised various clauses of the Public Audit (Amendment) Bill, 2022 along the applicable recommendations of NDICCC. Subsequently, the Task Force came up with a revised version of the Bill. This Bill together with the relevant supporting documents are packaged in the attachment as follows: -

- (i) The Original Public Audit (Amendment) Bill, 2022;
- (ii) The Annotated Public Audit (Amendment) Bill, 2022, showing the specific clauses that were amended;
- (iii) The Revised Clean Copy of Public Audit (Amendment) Bill, 2022 (The Recommended Bill); and
- (iv) The Revised Explanatory Memorandum for the Public Audit (Amendment) Bill, 2022.

The Revised Bill is submitted and recommended for further consideration.

## MEMBERS OF THE TASKFORCE

| Name                                                                     | Designation                                               | Signature                                                                             | Date       |
|--------------------------------------------------------------------------|-----------------------------------------------------------|---------------------------------------------------------------------------------------|------------|
| <b><u>The National Treasury</u></b>                                      |                                                           |                                                                                       |            |
| Mr. Bernard Ndungu                                                       | Director General, Accounting Services & Quality Assurance |                                                                                       |            |
| Mr. Geoffrey Malombe                                                     | Senior Deputy Accountant-General                          |                                                                                       |            |
| Mr. Jonah Wala                                                           | Ag. Director, Accounting Services                         |    | 24/10/2022 |
| Mrs. Jane Michemi                                                        | Ag. Internal Auditor-General                              |                                                                                       |            |
| <b><u>Office of the Attorney General &amp; Department of Justice</u></b> |                                                           |                                                                                       |            |
| Mr. Fredrick Mwachi                                                      | Deputy Chief Parliamentary Counsel                        |   | 24/10/2022 |
| <b><u>Office of the Auditor-General</u></b>                              |                                                           |                                                                                       |            |
| Mrs. Joyce Mbaabu                                                        | Deputy Auditor-General                                    |   | 24/10/22   |
| Mr. Stanley Mwangi                                                       | Deputy Auditor-General                                    |   | 24/10/22   |
| Mr. Benson Kariuki                                                       | Director of Audit                                         |   | 24/10/22   |
| Ms. Milcah Ondiek                                                        | Legal Unit                                                |  | 24/10/22   |
| <b><u>Executive Office of the President</u></b>                          |                                                           |                                                                                       |            |
| Mr. Anthony Gatumbu                                                      | Advisor, Fiscal Devolution                                |   | 24/10/22   |
| Mr. William Karari                                                       | Secretary, Economic Productive and Extractives Sector     |                                                                                       |            |
| Mr. Evans Rioba                                                          | Principal Economist                                       |   | 24/10/22   |



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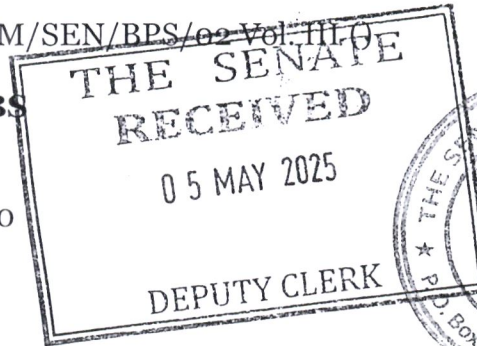
Prism Towers, 28<sup>th</sup> Floor  
3rd Ngong Avenue  
P.O. Box 1310 – 00200  
NAIROBI

## COMMISSION ON REVENUE ALLOCATION

OUR REF: CRA/ADM/SEN/BPS/02 Vol III (C)

DATE: 2<sup>nd</sup> May 2025

**J. M. Nyegenye, CBS**  
Clerk of the Senate  
Parliament Buildings  
P.O. Box 41842-00100  
**NAIROBI**



Dear Mr. Nyegenye

**RE: INVITATION TO A MEETING TO SUBMIT VIEWS ON THE PUBLIC  
AUDIT AMENDMENT BILL 2024**

The Commission acknowledges receipt of your letter reference number Ref. SEN/DSEC/F&B/2025/042(c) dated 23rd April, 2025 inviting the Commission to a meeting to submit views on the Public Audit Amendment Bill 2024.

The Commission has reviewed the Bill and wishes to state that they support the proposed amendments except Clause 31 of the proposed amendments that establishes a Fund by inserting the fund in Section 41 of the Public Audit Act.

The proposal would contradict Article 249 (3) that expressly states that Parliament shall allocate adequate funds to enable each commission and independent office to perform its functions and the budget of each commission and independent office shall be a separate vote. This is not a Fund.

Thank you for your continued cooperation.

Yours sincerely

*CPA. Roble Nuno*  
CPA. Roble Nuno  
**Ag. COMMISSION SECRETARY/CEO**



① DSEC  
DLS

② DSEC (Bh)  
Kindly deal  
06/05/2025

Kindly deal ③ Mr. Gitong'  
1/06/2025  
06/05/2025



ICPAK DRAFT SUBMISSION  
ON  
THE DRAFT PUBLIC AUDIT (AMENDMENT) BILL, 2024

MAY 2025



## 1.0 INTRODUCTION

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The Institute of Certified Public Accountants of Kenya (ICPAK) is a statutory body of accountants established under the Accountants Act of 1978, and as repealed under the Accountants Act Number 15 of 2008, mandated to develop and regulate the Accountancy Profession in Kenya. It is also a member of the International Federation of Accountants (IFAC), the global umbrella body for the accountancy profession and Pan Africa Federation of Accountants (PAFA), the continental body of Accountants.

### POINTS OF DISCUSSION AND CONCERNS:

From the draft Bill, the Institute points out the following thematic areas for discussion and consensus:

1. **Audit Advisory Board:** There is need for discussion on the role of the envisaged Advisory Board and its impact on the operation and independence of the Office of the Auditor General. This is not a new phenomenon in Kenya. For instance, the Office of the Director of the Public Prosecutions Act 2013 establishes an advisory Board to perform functions related to recruitment and appointment of members of staff of the Office, promotions, and discipline.
2. **The operationalization of the fund:** the Bill is silent when it comes to operationalization of the fund, provide clear guidelines on how the fund will operate.
3. **Deputy Auditor General:** Recruitment of the Deputy Auditor General qualifications to be at par with those of the Auditor General. This is essential for succession planning and transition in case of a vacancy. It will be appropriate to include a provision that the applicant should be a practicing member of the Institute of the Certified Public Accountants of Kenya (ICPAK) with a background in Audit.
4. **Nexus between Internal Audit and External Audit:** There is a need for clarity on the extent to which the external audit will rely on internal audit work and the role of the audit committee.
5. **Post-retirement Benefits:** The Bill should provide retirement benefits for the Auditor General. Currently, there is no provision for retirement benefits and security of the holders of the Auditor General upon end of term. These offices require such terms and benefits because of exposure to risks while in the course of duty. The holders of independent offices (Auditor General and Controller of Budget) are not covered under any pension schemes in the country. The existing schemes provide for civil servants, teachers, national police, correctional services, judges, parliamentarians, retired Deputies/Vice Presidents, Retired Presidents, and dependents.



## 2.0 SUMMARY OF ICPAK THE DRAFT PUBLIC AUDIT (AMENDMENT) BILL, 2024

| #  | PROVISION IN THE DRAFT BILL                                                  | ISSUE OF CONCERN                                                                                                                                                                                                                                                                                                                                                                                      | RECOMMENDATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | JUSTIFICATION                                                                                                                                                                                                                                                              |
|----|------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | Clause 8 of Amendment Section 11                                             | <p>The Bill under Clause 8 stipulates instances under which the Position of the Auditor General shall become vacant. It however fails to categorically state transition requirements and interim measures pending recruitment to fill the position.</p> <p>The Principal Act mandates the PSC to recommend the most senior officer to the president to be designated as acting as Auditor General</p> | <p>Given Clause 10 of the draft Bill, amend Section 12 of the Principal Act by inserting the following new section,</p> <p>12. Acting Auditor-General</p> <p>(1) Where— (a) the office of the Auditor-General becomes vacant.</p> <p>(b) the Auditor-General has been suspended in accordance with the Constitution.</p> <p>(c) the appointment of a person as Auditor-General is pending; or</p> <p>(d) the Auditor-General is for any reason unable to perform the function of his or her office, then until a person is appointed to and has assumed the functions of that office in accordance with section 11, or until the Auditor-General has resumed the performance of those functions, the President shall appoint and designate the Deputy Auditor General as the acting Auditor-General.</p> | <p>To provide seamless transition.</p> <p>In addition, the Public Service Commission is an entity that is audited by the Auditor General as such granting it with powers to recommend an Acting Auditor General will likely interfere with the independence of Office.</p> |
| 2. | Functions and powers of the Auditor-General<br>Clause 8 (1) Amending section | <p>Amendment of the Auditor – General's functions</p> <p>The functions should go beyond administrative responsibilities</p>                                                                                                                                                                                                                                                                           | <p>Include additional functions as follows:</p> <p>a) approve charging of reasonable audit fee, receive and manage revenues, custodian of all assets, seek partnership with stakeholders, development partners,</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <p>In recognition of the office holder as an accounting officer and overall head of the entity.</p>                                                                                                                                                                        |

| #  | PROVISION IN THE DRAFT BILL           | ISSUE OF CONCERN                                                                              | RECOMMENDATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | JUSTIFICATION                                                                                                                                                                                                                                              |
|----|---------------------------------------|-----------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    | 11                                    |                                                                                               | manage and account for public funds.<br><br>b) Prepare and submit an annual report on state of accountability of public resources to the President and Parliament                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | In compliance with Article 254 of the Constitution which stipulates that As soon as practicable after the end of each financial year, each commission, and each holder of an independent office, shall submit a report to the President and to Parliament. |
| 3. | Clause Amendment Section 15<br>10: of | The Bill introduces Deputy Auditor General but does not specify the qualification of the same | The Bill should specify the qualification of such a bearer of office given that incase of vacancy in Auditor General's Office he or she to take over.<br><br>Amend by inserting the following new section:<br><br>A person shall be qualified for appointment as the Deputy Auditor-General if such person—<br><br>a) is a citizen of Kenya.<br>b) holds qualifications as that of the holder of the Office of Auditor General specified in Article 229(2) of the Constitution.<br>c) holds a degree in finance, accounting or economics from a university recognized in Kenya and demonstrates a verifiable and logical progression in the attainment of his | To have someone equally capable to manage transition.                                                                                                                                                                                                      |



| #  | PROVISION IN THE DRAFT BILL | ISSUE OF CONCERN                                                                                                  | RECOMMENDATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | JUSTIFICATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----|-----------------------------|-------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    |                             |                                                                                                                   | <p>or her educational qualifications.</p> <p>d) meets the requirements of Chapter Six of the Constitution; and</p> <p>e) is a practicing member of good standing of a professional body of accountants recognised by law.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 4. | <b>New Section</b>          | There is no provision for retirement benefits and security of the holders of the Auditor General upon end of term | <p>Insert a new section immediately after section 11 —</p> <p><b>11A.</b> A retired Auditor-General shall, during his lifetime, be entitled to—</p> <p>(a) a monthly pension equal to seventy per cent of the monthly salary of the entitled person's last monthly salary while in office.</p> <p>(b) a lump sum payment on retirement calculated as a sum equal to one year's salary paid for each term served in office.</p> <p>(c) one four-wheel drive vehicle of an engine capacity not exceeding 3000 cc which shall be replaceable once every four years.</p> <p>(d) a fuel allowance equal to fifteen per cent of the current monthly salary of the office holder.</p> <p>(e) full medical and hospital cover, providing for local and overseas treatment, with a reputable insurance company for the entitled person and the entitled person's spouse.</p> <p>(f) the additional benefits set out as follows—</p> <p>i. one driver.</p> <p>ii. one personal assistant.</p> | <p>To provide retirement benefits for the retired Auditor General.</p> <p>These offices require such terms and benefits because of exposure to risks while in the course of duty.</p> <p>The holders of independent offices (Auditor General and Controller of Budget) are not covered under any pension schemes in the country. The existing schemes provide for civil servants, teachers, national police, correctional services, judges, parliamentarians, retired Deputies/Vice Presidents, Retired</p> |



| #  | PROVISION IN THE DRAFT BILL                     | ISSUE OF CONCERN                                                                                                                                                                                                                | RECOMMENDATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | JUSTIFICATION                                                                                                                                                                                                                                                        |
|----|-------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    |                                                 |                                                                                                                                                                                                                                 | <ul style="list-style-type: none"> <li>iii. one housekeeper.</li> <li>iv. one senior support staff.</li> <li>v. one gardener.</li> <li>vi. one cleaner.</li> </ul> <p>(g) two-armed security guards who shall be provided on request by the entitled person.</p> <p>(h) diplomatic passports for the entitled person and his spouse.</p> <p>(i) maintenance expenses for the vehicles provided pursuant to this Act.</p> <p>(j) access to the V.I.P. lounge at all airports within Kenya.</p> | Presidents and dependents                                                                                                                                                                                                                                            |
| 5. | Clause 15 Amending section 21                   | Recruitment of Deputy Auditor General                                                                                                                                                                                           | The section should state definite number of Deputy Auditor Generals                                                                                                                                                                                                                                                                                                                                                                                                                           | If left open, office holder may create unnecessarily many positions for reward                                                                                                                                                                                       |
| 6. | Clause 17: Repeal of substitution of section 25 | Introduction of the Chairperson of the budget and appropriation committee of the National Assembly or his or her nominee and two representatives from the National Parliament and Senate in charges of public finance and audit | <p>Amend by removing the Chairperson of the Budget and Appropriation Committee of the National Assembly or his or her nominee and two representatives from Parliament and Senate and replace with</p> <p><i>d. two nominees from the Institute of Certified Public Accountants of Kenya</i></p> <p><i>e.a nominee from the Institute of Human Resource Management (IHRM) Kenya to advise the board on HR matters</i></p>                                                                      | Among the public offices that the AG audits is the, Attorney General, Parliament, Senate and NG-CDF which are led by the same member in the committees suggested, them being at advisory level will interfere with the independence of the Auditor General's office. |

| #   | PROVISION IN THE DRAFT BILL                        | ISSUE OF CONCERN                                                                                                                                       | RECOMMENDATION                                                                                                                                        | JUSTIFICATION                                                                                                         |
|-----|----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|
| 7.  | Clause 19 repealing and substitution of section 27 | Functions of Audit Advisory Board (AAB) under Section 27(1)                                                                                            | A Strategic Planning function to be considered as an additional function to the Advisory Board.                                                       | Budgeting and human resource management & development functions should be contained and derived from a Strategic Plan |
| 8.  | Clause 22 amendment of section 33                  | Reports that have been deliberated and adopted by the Audit Committee of an entity shall be submitted by the Accounting Officer to the Auditor General | The Institute supports this proposal and provision. This will go a long way in strengthening the internal audit function at all levels of government. | It reinforces the work of Heads of Internal Audit functions                                                           |
| 9.  | Section 23 of Principal Act                        | Method for Selection of outsourced audit firms                                                                                                         | The Section need to include competitive selection of outsourced audit firms as per procurement laws                                                   | This will provide transparency in the selection process.                                                              |
| 10. | Clause 28 insertion of new section                 | In Section 38; to be inserted words "economically, efficiently and" immediately after the word "lawfully and in".                                      | The insertion should instead be "economical, efficient" immediately after the words "lawfully and in an"                                              | To have a proper flow of tenses that is to read; "Lawfully and in an economical, efficient and effective way"         |

REPUBLIC OF KENYA



## COUNTY ASSEMBLIES FORUM (CAF)

Flamingo Towers, 5th Floor Wing B, Mara Road, Upper Hill P.o Box 73552- 00200 Nairobi Kenya Tel: 0701 046 933  
Email: communication@countyassembliesforum.org www.countyassembliesforum.org

### MEMORANDUM TO THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE PUBLIC AUDIT (AMENDMENT) BILL, 2024

TO: Mr. Jeremiah Nyegenye, CBS, Clerk of the Senate, Parliament of  
Kenya.

FROM: The County Assemblies  
Forum.

DATE: 25<sup>TH</sup> APRIL, 2025



### 6.1.1 Introduction

6.1.2 The County Assemblies Forum (CAF), as the coordinating body for the 47 County Assemblies in Kenya, plays a pivotal role in advocating for strong legislative oversight, transparency, and accountability in the use of public resources at the county level. In this regard, CAF welcomes and supports legislative proposals that strengthen public financial management and oversight institutions, particularly the Office of the Auditor-General.

6.1.3 CAF has reviewed the the bill, which seeks to amend the Public Audit Act, 2015 in line with recent judicial pronouncements and the need to enhance institutional efficiency. While the Bill makes commendable strides toward reinforcing the constitutional mandate of the Auditor-General, it also presents certain shortcomings that warrant the attention of the Senate.

6.1.4 This memorandum provides an overview of the key highlights of the Bill, identifies its notable flaws, presents CAF's position, and offers recommendations for strengthening the Bill to ensure a more transparent and effective public audit system in Kenya.

### 2.1.Key Highlights of the Public Audit (Amendment) Bill, 2024

2.1.1 CAF notes the following positive and progressive provisions in the Bill:

2.1.2 Constitutional Alignment: The Bill responds to a High Court ruling by amending provisions of the Public Audit Act, 2015 that were declared unconstitutional, ensuring alignment with the Constitution.

2.1.3 Strengthening the Office of the Auditor-General: The Bill empowers the Auditor-General to independently establish an organizational structure, hire and promote staff, and determine remuneration in consultation with the Salaries and Remuneration Commission.

2.1.4 Institutional Clarification and Modernization: The Bill introduces a competitively recruited Deputy Auditor-General, replacing the Senior Deputy Auditor-General, and provides clear provisions on vacancies in the Office of the Auditor-General.

2.1.5 Audit Advisory Board Reforms: It redefines the role, structure, and function of the Audit Advisory Board, strengthening its advisory capacity on budget, human resources, and governance matters.

2.1.6 Introduction of Citizen Accountability Audits: The Bill creates room for public participation in audit processes through citizen accountability audits.

2.1.7 Creation of the Public Audit Fund: Establishment of a dedicated fund to facilitate audit operations is a significant step toward financial independence and operational efficiency of the Auditor-General.

2.1.8 Enhanced Audit Mechanisms: The Bill broadens the audit scope to include compliance and forensic audits and enhances reporting requirements and timelines for audited entities.

2.1.9 Public Access and Collaboration: It strengthens public access to audit reports (subject to national security considerations) and enables collaboration between the Auditor-General and investigative/regulatory agencies in cases of fraud and corruption.

### 3.1 Key Flaws Identified in the Bill

3.1.1 While the amendments are laudable, CAF has identified areas of concern that may weaken the Bill's intended outcomes:

3.2.1 Lack of Clarity on Citizen Accountability Audits. The Bill introduces these audits without specifying implementation mechanisms, risking inconsistency and tokenism in public participation.

3.3.1 Weak Oversight of the Public Audit Fund. The Bill does not provide sufficient safeguards or oversight structures for the Fund, potentially creating avenues for mismanagement or inefficiency.

3.4.1 Overbroad Definition of Public Resources. Including intangible assets and state-compensated time without operational clarity may complicate audit execution and enforcement.

3.5.1 Vague Provisions on Collaboration with Other Agencies. The lack of defined frameworks for inter-agency cooperation may lead to overlap of mandates and



jurisdictional disputes.

- 3.6.1 **Ambiguity in Disciplinary Measures.** While the Bill mandates consequences for non-compliance with audit findings, it lacks specificity on the nature and severity of disciplinary actions, weakening enforcement.
- 3.7.1 **Unrealistic Reporting Timelines.** The Bill sets timeframes for reporting that may not be practical, especially for counties with limited capacity, risking delays in corrective actions.
- 3.8.1 **Repeal of Key Provisions Without Substantive Replacements.** The repeal of sections 32, 50, and 51 of the principal Act without adequate alternatives may erode key processes in audit follow-ups and implementation tracking.
- 3.9.1 **Restrictions on Public Access.** While transparency is encouraged, the vague inclusion of national security as a basis to withhold reports could be misused to curtail openness.
- 3.10.1 **Inadequate Provisions on Conflict of Interest.** The provisions on disclosure of interest are weak, and sanctions for non-disclosure are insufficient to deter unethical conduct.

#### **4.1. CAF's Position on the Public Audit (Amendment) Bill, 2024**

- 4.1.1 The County Assemblies Forum fully supports the objective of the Public Audit (Amendment) Bill, 2024, particularly in efforts to enhance the independence, functionality, and constitutional conformity of the Office of the Auditor-General. CAF position on the bill is as follows:
- 4.1.2 **Promotion of Accountability at the County Level.** The expanded mandate of the Auditor-General, including compliance and forensic audits, supports County Assemblies' oversight role in enforcing accountability among County Executives.
- 4.1.3 **Public Participation in Audit Processes.** The introduction of citizen accountability audits is a positive step toward deepening democratic participation in governance at the local level.
- 4.1.4 **Financial Independence of the Auditor-General.** Establishing the Public



Audit Fund will enhance the timeliness and quality of audits, including those for county governments, thereby promoting fiscal discipline.

4.1.5 **Enhanced Oversight Tools.** Requiring audited entities to report on implementation of audit recommendations and the publication of audit findings will assist County Assemblies in tracking progress on audit queries.

4.1.6 **Clarified Governance Structures.** The restructuring of the Audit Advisory Board and introduction of the Deputy Auditor-General ensure better internal governance, benefiting audit operations at both national and county levels.

## **5.1 Recommendations by CAF to the Senate Finance Committee**

5.1.1 To improve the Bill and enhance its effectiveness, CAF recommends the following;

5.1.2 **Provide Clear Guidelines for Citizen Accountability Audits.** Develop a framework for meaningful public participation in audits, including guidelines for stakeholder engagement, timelines, and feedback mechanisms.

5.1.3 **Strengthen Oversight of the Public Audit Fund.** Introduce provisions mandating regular reporting on the utilization of the Fund, subject to parliamentary oversight, including County Assemblies for county-level audits.

5.1.4 **Refine the Definition of Public Resources.** Clearly delineate categories of public resources, especially intangible assets, to ensure consistency and practicality in audit execution.

5.1.5 **Specify Protocols for Inter-Agency Collaboration.** Establish protocols, thresholds, and reporting standards for collaboration between the Auditor-General and enforcement agencies to avoid duplication of roles or legal conflicts.

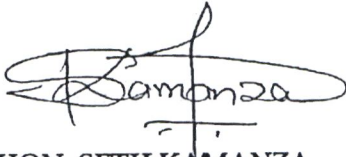
5.1.6 **Include Robust Provisions on Conflict of Interest.** Strengthen requirements for staff disclosure of interest and introduce meaningful penalties for non-compliance to uphold integrity within the Office of the Auditor-General.

## 6.1 Conclusion

6.1.5 CAF appreciates the Senate's continued commitment to strengthening public accountability institutions. As the principal oversight arm at the county level, County Assemblies rely significantly on the audit reports from the Office of the Auditor-General. The proposed amendments, if well-refined, will not only align the Public Audit Act with the Constitution but also provide a solid foundation for stronger fiscal governance in both national and county governments.

6.1.6 We urge the Committee to consider the issues raised in this memorandum and incorporate our recommendations in the final version of the Public Audit (Amendment) Bill, 2024.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Seth Kamanza', with a stylized flourish at the end.

HON. SETH KAMANZA,

CHAIRPERSON, LEGAL AFFAIRS SUB-COMMITTEE



TRANSPARENCY  
INTERNATIONAL  
KENYA

## COMMENTS ON THE DRAFT PUBLIC AUDIT (AMENDMENT) BILL, 2024

### Organization

Transparency International - Kenya (TI-Kenya) is a not-for-profit organization founded in 1999 in Kenya with the aim of developing a transparent and corruption free society through good governance and social justice initiatives. TI-Kenya is one of the autonomous chapters of the global Transparency International movement that are all bound by a common vision of a corruption-free world. The vision of TI-Kenya is a corruption-free society while its mission is to champion the fight against corruption by promoting integrity, transparency and accountability in both public and private spheres.

### Introduction

The Public Audit (Amendment) Bill, 2024 proposes a series of amendments to The Public Audit Act No. 34 of 2015 to give effect to the decision of the High Court in the case of Transparency International v Attorney General & Auditor General (1st Interested Party), Africa Centre for Open Governance (AFRICOG) (2nd Interested Party), Petition No. 388 of 2016, where the court established that Sections 4(2), 8, 12, 17 (1), 18, 27, 40, 42, and 70 of the Public Audit Act 2015 are unconstitutional. Additionally, it addresses the concerns by the National Assembly over the provision relating to the recruitment of the Auditor General, where it was observed that the Act creates an undesirable vacuum between an existing holder of the office and an incoming one.

TI-Kenya acknowledges and commends the efforts of the National Assembly in integrating some of the recommendations from our Petition No. 388 of 2016. We particularly appreciate the introduction of new sections after Section 32, emphasizing Citizen Accountability Audits, which ensures active participation of ordinary citizens in audit processes. Furthermore, we endorse the proposed amendments that aim to establish the Office of the Auditor General as an independent entity, as envisioned by the constitution. However, there remain recommendations stemming from the High Court's decision in Petition No. 388 of 2016 that have yet to be incorporated into the Bill. We strongly advocate for their inclusion to comprehensively rectify all deficiencies in the current Act.

In adherence to the constitutional imperative for public involvement and participation, we have formulated a set of recommendations in accordance with Article 118 of the Constitution of Kenya 2010. These recommendations align with Article 229, which outlines the establishment and functions of the Office of the Auditor General. Our recommendations are as follows:





TRANSPARENCY  
INTERNATIONAL  
KENYA

COMMENTS ON THE DRAFT PROVISIONS

PROPOSED AMENDMENTS TO THE BILL

| Section | Provision of the Amendment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Proposed Amendment/Recommendation                        | Justification/Rationale for Recommendation                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|---------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 21      | <p>The Principal Act is amended by repealing Section 25 and substituting therefore the following new section:</p> <p>25 (1) There is established an unincorporated board to be known as the Audit Advisory Board which shall comprise of –</p> <ul style="list-style-type: none"> <li>(e) The Auditor-General who shall be the Chairperson;</li> <li>(e) The Attorney General or a person nominated by him or her;</li> <li>(e) A nominee of the Institute of Certified Public Accountants of Kenya;</li> <li>(e) The Chairperson</li> </ul> | <p>This amendment should be rejected in its entirety</p> | <p>We reject the amendment of this provision in its entirety. This is because the introduction of the Audit Advisory Board presents an unnecessary structure that will result in increased bureaucracy in the Office of the Auditor General and would contribute to the wastage of public resources and risk duplication of functions.</p> <p>This amendment, if successful, could also result in the weakening of the Office of the Auditor General which is supposed to be an independent office.</p> |



# TRANSPARENCY INTERNATIONAL KENYA

|    |                                                                                                                                                                                                                                                                             |                                                          |                                                                                                                                                                                                                                                                                                              |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    | <p>of the Budget and Appropriation Committee of the National Assembly or his or her nominee;</p> <p>(e) Two representatives from Parliament, one from the National Assembly and one from the Senate, from Committees in charge of public finance and audit.</p>             |                                                          |                                                                                                                                                                                                                                                                                                              |
| 23 | <p>The Principal Act is amended by repealing Section 27 of the Act and substituting therefore the following section:</p> <p>7. Subject to Section 10 of this Act and upon approval by the Auditor – General the Audit Advisory Board shall generally be responsible for</p> | <p>This amendment should be rejected in its entirety</p> | <p>Any attempt at having the Audit Advisory Board handle the affairs at the Office of the Auditor General would weaken the independence of the office of the Auditor General.</p> <p>Furthermore, we have already rejected the formation of the Audit Advisory Board in Section 21 of the Amendment Act.</p> |



# TRANSPARENCY INTERNATIONAL KENYA

|    |                                                                                                                                                                                                                                                                                                                                      |                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                   |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    | <p>providing advisory on-</p> <p>(c) budget plans and estimates;</p> <p>) human resource management and development; and</p> <p>) any other matter that might be referred to the Board by the Auditor General.</p>                                                                                                                   |                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                   |
| 24 | <p>The Principal Act is amended by repealing section 31 of the Act and substituting it therefore with the following section.</p> <p>31 (1) The audit process shall be as follows:</p> <p>a) For all audits or investigations, the Auditor General shall inform the accounting officer of an entity to be audited or investigated</p> | <p>Amendment should be rejected and the original provisions in the Act retained</p> | <p>The proposed amendments skip out critical audit steps provided for in the principal Act that should be retained.</p> <p>Furthermore, the process provided in Clause 31 (b) will result in the handicap of the process of the audits and investigations by the Office of the Auditor General if at all the audit process will be made heavily dependent on the cooperation of the auditees.</p> |





# TRANSPARENCY INTERNATIONAL KENYA

|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                    |                                                                                                                                                                          |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    | <p>before commencement of the audit;</p> <p>b) at the beginning of an audit of a State Organ or public entity, an entry meeting shall be held to deliberate on the scope of audit between the Auditor General and accounting officer; and</p> <p>c) the Auditor-General shall prepare and issue a report to Parliament and the relevant County Assembly.</p> <p>(2) The Accounting Officer shall within fourteen (14) days from receipt of any audit report submit a response to the Auditor – General including remedial actions undertaken to address audit findings.</p> |                                                    |                                                                                                                                                                          |
| 25 | The principal Act is amended by repealing Section 32                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | This amendment should be rejected and the original | The provision not to publicize the reports will curtail the right to Access to information by the public as espoused under Article 35 of the Constitution of Kenya 2010. |



# TRANSPARENCY INTERNATIONAL KENYA

|    |                                                                                                                                                                                                                                                                                                                                                                                                         | provisions in the principal Act be maintained .                                             |                                                                                                                                                                                                                                      |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 29 | <p>Section 36 of the Principal Act is amended;</p> <p>a) in subsection (1)</p> <p>i. by inserting the words "among others" immediately after the words "examine"; and</p> <p>ii. by deleting the words public money and substitute therefore the words "public resources"</p> <p>b) in subsection (2) by deleting the words 'within six months' and substituting therefore the words ' at any time'</p> | This amendment is welcomed.                                                                 | <p>The inclusion of the word "among others" expands the scope of the performance audit envisioned to be undertaken by the Auditor General. The amendment expands the scope of the audit to encompass aspects of public resources</p> |
| 32 | Provision on Citizen Accountability Audits                                                                                                                                                                                                                                                                                                                                                              | This amendment is welcome. We propose the following additions immediately after clause 38A; | This amendment will serve to further strengthen the mechanisms of Citizen Accountability Audits through the development of clear frameworks on Citizen Accountability Audits                                                         |



# TRANSPARENCY INTERNATIONAL KENYA

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|  |  | <p>38B. The Office of the Auditor General shall provide for a clear Citizen Accountability Audit framework that shall guide citizen initiated audits.</p> <p>38C. Citizen Initiated Audits submitted to the Office of the Auditor General may be used to inform subsequent audits by the Office of the Auditor General and/or validated and adopted as part of the formal audits by the Office of the Auditor General.</p> <p>38D. The office of the Auditor General shall provide for an elaborate framework for</p> |  |
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## TRANSPARENCY INTERNATIONAL KENYA

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|----|---------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    |                                       | the<br>implementatio<br>n of the Citizen<br>Accountability<br>Audits.                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                        |
| 37 | Establishment of<br>Public Audit Fund | <p>This amendment is welcome. We propose the following additions immediately after Clause 41 A (2);</p> <p>41A (3) Every Public entity subject to public audit shall assign two percent of its annual budget to audit services.</p> <p>41A (4) The budget set aside by every public entity shall be channeled to the Public Audit Fund at the beginning of every financial year.</p> | <p>This amendment seeks to enhance the funding of the Office of the Auditor-General by requiring all public entities subject to audit to allocate a percentage of their budgets toward the establishment of the Public Audit Fund.</p> |



# TRANSPARENCY INTERNATIONAL KENYA

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| 43 | The principal Act is amended by repealing section 50                                                                                                                                                                                                                                                                                                                                                                         | The amendment should be rejected and the original provision in the principal Act retained | Article 229(7) of the Constitution shall be submitted to Parliament and the relevant county Assemblies, and therefore by repealing section 50, it would be denying parliament from exercising its constitutional mandate |
| 44 | The principal Act is amended by repealing section 51                                                                                                                                                                                                                                                                                                                                                                         | The amendment should be rejected and the original provision in the principal Act retained | Article 229(7) of the Constitution shall be submitted to Parliament and the relevant county Assemblies, and therefore by repealing section 50, it would be denying parliament from exercising its constitutional mandate |
| 49 | The Principal Act is amended by repealing Section 64 and substituting therefore the following new section: 64(1) Where the Auditor-General establishes that any person, supplier, company or audited entity has been involved in fraud or corrupt practice, the Auditor – General may collaborate with other investigative, enforcement, regulatory and oversight agencies including the National Police Service, Ethics and | This amendment is welcomed.                                                               | The section will promote collaboration between independent offices and support in addressing corruption related cases.                                                                                                   |



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|  | Anti-Corruption Commission, Office of the Director of Public Prosecution and Public Procurement Administrative Review Board and the National Treasury for their action. |  |  |
|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|

**Other sections of the Public Audit Act 2015 not covered in the Bill.**

| Section | Provision of the Act                                                                                                                                                                     | Proposed Amendment/Recommendation | Justification/Rationale for Recommendation                                                                                                                                              |
|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 70      | The section provides that: "This Act shall prevail in case of any inconsistency between this Act and any other legislation relating to the functions and powers of the Auditor-General." | This section should be repealed.  | The Constitution of Kenya which establishes the office of the Auditor General and outlines its functions, is the supreme law and therefore this section is unnecessary and superfluous. |





# TRANSPARENCY INTERNATIONAL KENYA

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# Annex 4- Public Advert

Politics Former CS received by a handful of close allies and family members and Jubilee official Kioni

# Matiang'i returns to Kenya amid presidential bid talk

Former powerful minister returns home from the United States after almost a year

BY MERCY SIMIYU

Former Interior Cabinet Secretary Fred Matiang'i returned to Kenya on Thursday night amid speculation about a possible presidential bid in the 2027 General Elections.

Dr Matiang'i arrived at the Jomo Kenyatta International Airport (JKIA) at 11:40 pm on Thursday, April 17, aboard a Qatar Airways flight from Washington, DC.

The former CS, who served in President Uhuru Kenyatta's regime, was received by a handful of close allies and family members, including Jubilee Party Secretary General Jeremiah Kariuki, Kisii Senator Richard Onyionka and nominated Senator Gloria Orwoba.

While he did not speak to the media at the airport, his return after an extended stay in the



United States has ignited fresh political chatter. For over a year, Dr Matiang'i maintained a rela-

tively low profile abroad, avoiding the limelight and making few public statements. His sudden re-

turn to Kenya after leaving the DCI headquarters in 2023. FILE PHOTO

appearance, just over two years to the election, has fueled conversations about his political future.

Dr Matiang'i, who rose through the ranks under Kenyatta, earned praise for his tough stance on public service delivery and security.

Dr Matiang'i could emerge as a key challenger in a race expected to attract heavyweights such as President William Ruto, opposition leader Raila Odinga (if he chooses to run), and other political figures.

Jubilee Party has already thrown its weight behind Dr Matiang'i, with Secretary General Kioni confirming the party's intentions to support Matiang'i's 2027 presidential bid.

"It's all systems go," Jubilee posted on its official social media platforms.

During a recent delegates meeting held on April 6 in Keumbu, Kisii County, Kioni reiterated that the former Interior CS had been cleared to fly the party's flag.

"When we say Matiang'i, we mean leadership that understands service. He chaired key government committees and ensured delivery of crucial national programs. He is not a stranger to responsibility," he said.

Mr Kioni contrasted Matiang'i's past track record with that of current leaders, accusing some of

"When we say Matiang'i, we mean leadership that understands service..."

Jubilee party in endorsing the candidature of Matiang'i

”

prioritising politics over governance.

"Even before 2017, Ruto had already started politicking. He barely had time for the office. But Matiang'i understands governance. He's focused, firm, and proven."

On April 6, Mr Kioni confirmed that Dr Matiang'i has been given the green light to fly the party's flag in the 2027 presidential race.

"I have heard people coming here preaching unity, but they are the ones spreading disunity because they've been sent here to divide the community. They may claim Matiang'i is facing charges, but whatever number they give him, that's their problem. Even if they put him in jail, we will still choose him," Mr Kioni said.

mesimiyu@ke.nationmedia.com

## Mishra suspended from board

BY MERCY SIMIYU

President William Ruto has suspended Mr Swarup Mishra as Kenya BioVax Institute Board member as investigations into illegal kidney transplants get underway.

The suspension comes six months after Mr Mishra's appointment to the board. Mr Mishra lost the Kesses parliamentary seat to Mr Julius Ruto in the 2022 General Election.

In a statement released yesterday, the President said Mr Mishra's suspension would remain in place as investigations into allegations of unethical activities at Medihealth and Fertility Centre in Eldoret continue.

The hospital was founded by Mr Mishra.

Dr Ruto said his administration is committed to fighting corruption, including upholding integrity in healthcare, public safety and justice.

The development comes after the *Daily Nation* broke the story of the trade in human organs at the hospital.

It started with the Kenya Blood Transfusion and Transplant Services (KBTTS) revealing "suspicious activity of trafficking" linked to Medihealth.

The KBTTS reviewed 372 kidney transplants at Medihealth Hospital since 2018, raising a red flag over the repeated use of the same ext-of-kin names, involvement



Mr Swarup Mishra.

of foreign doctors and the presence of donors from Azerbaijan, Kazakhstan, Pakistan and other countries.

Health Cabinet Secretary Aden Duale suspended two top ministry officials on Wednesday and ordered a halt to kidney transplants at Medihealth.

### Istanbul Declaration

Those suspended are Dr Maurice Wakwabubi, the acting Chief Executive of the Kenya Tissue and Transplant Authority and Dr Evelyn Chege, who led the team that investigated Medihealth in December 2023.

An independent committee has been formed to audit kidney transplants at the hospital in the last five years.

The scandal has attracted international attention, with reports

showing that recipients from the UK, Israel, Japan and other countries paid up to \$200,000 for organs.

The Embassy of Israel in Nairobi has condemned organ trafficking and pledged to support the investigations.

"Israel is a signatory to the Istanbul Declaration on Organ Trafficking and Transplant Tourism and stands firmly behind its principles. We strongly deplore all forms of organ trafficking and other illegal practices that endanger the lives and dignity of donors and recipients," the embassy said.

The Israeli government added that illegal acts would be thoroughly investigated and appropriately addressed by the relevant authorities.

"Israeli law enforcement agencies remain vigilant in combating organ trafficking in the country and in cooperation with international partners. These crimes are taken with the utmost seriousness, and appropriate legal measures are consistently pursued against those involved," read the statement.

"We believe and hope that such illegal acts will be thoroughly investigated and appropriately addressed by the relevant authorities. The Embassy of Israel remains available to cooperate and provide any assistance necessary in clarifying facts or supporting efforts to combat organ trafficking."

REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT | FOURTH SESSION  
THE SENATE

### INVITATION FOR SUBMISSION OF MEMORANDA

The Division of Revenue Bill, 2025 (National Assembly Bills No. 10 of 2025)  
The Public Audit (Amendment) Bill, 2024 (National Assembly Bills No. 4 of 2024)

The Division of Revenue Bill, 2025 (National Assembly Bills No.10 of 2025) and the Public Audit (Amendment) Bill, 2024 (National Assembly Bills No.4 of 2024) were read a First Time in the Senate on Wednesday, 16<sup>th</sup> April, 2025 and Thursday, 20<sup>th</sup> March, 2025 respectively. Thereafter, the Bills stood committed to the Standing Committee on Finance and Budget for consideration. The Committee is required, under standing order 145(5) of the Senate Standing Orders, to facilitate public participation on the Bills and to take into account the views and recommendations of the public when the Committee makes its report on the Bills to the Senate.

The Division of Revenue Bill, 2025 (National Assembly Bills No.10 of 2025) provides for equitable division of revenue raised nationally between the national and county governments in Financial Year 2025/2026. The proposed shareable revenue is Ksh.2,835,040,979,609 to be allocated as follows-

- the National Government to be allocated Ksh. 2,419,382,005,336;
- the County Governments to be allocated Ksh. 405,069,420,197; and
- the Equalization Fund to be allocated Ksh. 10,589,554,076.

The Public Audit (Amendment) Bill, 2024 (National Assembly Bills No.4 of 2024) seeks to amend the Public Audit Act Cap. 412B, to clarify on the administrative powers of the Auditor-General and provide for the powers of the Auditor-General with respect to initiating and undertaking forensic audits. The Bill further seeks to provide for the establishment of a Public Audit Fund, to clarify the steps involved in the process of auditing a public entity and to provide for actions to be taken by accounting officers on the recommendations made by the Auditor-General after debate and consideration of audit reports by Parliament or a County Assembly.

In accordance with the provisions of Article 118(1)(b) of the Constitution and standing order 145(5) of the Senate Standing Orders, the Standing Committee on Finance and Budget now invites interested members of the public to submit any representations that they may have on the Bills by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P.O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to [clerk.senate@parliament.go.ke](mailto:clerk.senate@parliament.go.ke) and copied to [financebudgetcomm.senate@parliament.go.ke](mailto:financebudgetcomm.senate@parliament.go.ke) to be received on or before **Tuesday, 29<sup>th</sup> April, 2025 at 5.00 p.m.**

The Bills and the digests that summarize the contents and context of the Bills may be accessed on the Parliament website at <http://www.parliament.go.ke/the-senate/house-business/bills>.

J. M. NYEGENYE, CBS,  
CLERK OF THE SENATE.