PARLIAMENT OF KENYA

THE SENATE

THIRTEENTH PARLIAMENT – FOURTH SESSION

REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE CONSIDERATION OF THE REPORTS OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE 47 COUNTY EXECUTIVES FOR THE FINANCIAL YEAR 2023/2024

VOLUME I

CLERKS CHAMBERS'
PARLIAMENT BUILDINGS
NAIROBI

MARCH, 2025

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ACRONYMS/ABBREVIATIONS

BQs	- Bill of Quantities
CALC	- County Assets and Liabilities Committee
CARA	- County Allocation of Revenue Act
CECM	- County Executive Committee Member
CPSB	- County Public Service Board
CRF	- County Revenue Fund
EACC	- Ethics and Anti-Corruption Commission
ECDE	- Early Childhood Development Education
EGH	- Elder of the Order of the Golden Heart
ICT	- Information, Communication Technology
IFMIS	- Integrated Financial Management System
IGTRC	- Intergovernmental Relations Technical Committee
IPPD	- Integrated Payroll and Personnel Database
KRA	- Kenya Revenue Authority
KUSP	- Kenya Urban Support Project
LPOs	- Local Purchase Orders
LSOs	- Local Supply Orders
MCAs	- Members of County Assembly
MP	- Member of Parliament
NHIF	- National Hospital Insurance Fund

OAG	- Office of the Auditor General
PAYE	- Pay-As -You Earn
PFM	- Public Finance Management
PAA	- Public Audit Act
PPADA	- Public Procurement and Assets Disposal Act
PSASB	- Public Sector Accounting Standards Board
TNA	- Training Needs Assessment
TVET	- Technical and Vocational Education Training

INTRODUCTION

Mr. Speaker Sir,

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

Mr. Speaker Sir,

This report contains 47 County Executives reports for the financial year 2023/2024 that were considered and adopted by the Committee.

Mr. Speaker Sir,

The County Public Accounts Committee being a Select Committee, the Committee was constituted at the commencement of the Fourth Session in February, 2025 pursuant to Senate Standing Order 193(4) which requires Public Accounts Committee constituted immediately after a general election shall serve for a period of three sessions and that constituted thereafter shall serve for the remainder of that term of Parliament. Therefore, the committee commenced its sitting on February ,2025

EXECUTIVE SUMMARY

The Committee examined the reports of the Auditor-General on the financial statements for the 47 County Executives and identified various risks including: -

During the years under review, majority of the 47 County Executives considered under this report had challenges with submission of documents to the auditors for verification during the audit exercise. The Committee noted that County Executives did not avail relevant supporting documents to the Auditor-General during the audit exercise, with only some managing to provide them at a later date. The non-provision of documents therefore, left the entities unable to support expenditures of substantial amount of funds. Further, the county executives had weak record management systems thus casting doubts on the suitability and qualifications of staff in the county treasury and accounts departments.

The reports also revealed that County Executives were not able to apply proper accounting practices as stipulated by the Public Sector Accounting Standards Board. Financial statements presented for audit verification exhibited various weaknesses including failure to do regular reconciliations, variances between financial statements and IFMIS balances, payment details and trial balance among other inconsistencies. This resulted in inadequate reporting and presented an inaccurate position of the financial position of the county executives.

The reports further showed that a number of counties had weaknesses in executing their budgets. The County entities did not adhere to their approved budget ceilings set for programs, votes and sub-votes. Thus, there was over-utilization or under-utilization of appropriated funds. The Committee noted that the main cause for under-utilization of budgets was delay in exchequer releases from the National Treasury thereby hampering program implementation and budget execution. In some instances, funds were re-allocated to items that were not budgeted for without prior approval by the County Assembly.

The audit reports also revealed that the entities made payments outside the Integrated Financial Management Information System (IFMIS) platform, contrary to the Public Finance Management Act, 2012. The practice of processing transactions outside the IFMIS platform could be an avenue to bypass financial controls and can lead to misappropriation of funds.

The reports also revealed that the county entities abused the imprest process, from the request, approval, surrender and recovery. Imprests remained outstanding after their due dates of surrender, contrary to the provisions of Regulation 93 (5) of the Public Finance Management (County Governments) Regulation, 2015 which requires temporary imprest holders to account for or surrender imprests within seven days upon returning to their duty stations. Further, Management breached Regulations 93(6) by failing to recover the outstanding imprests from the salaries of the defaulters.

During the year under review, the Committee noted that majority of the entities interrogated had not properly updated their assets registers despite the Inter-Governmental Technical Relations Committee (IGTRC) having handed over their report, hence exposing county assets to risk of loss, waste and misuse. Further, a number of county executives had not updated their valuation Roll as required under Section 3 of the Valuation for Rating Act CAP 266. Thus, counties were not collecting optimal revenue based on the prevailing land market values.

The reports also revealed that a number of counties had weak internal control systems on own source revenue collection and accounting. This was evidenced by utilization of revenue at source, failure to bank revenue collected on time and failure to maintain separate financial statements for funds established by the counties. This exposed the county executives to revenue leakages and contributed to failure of most counties to meet own source revenue collection targets.

Regarding human resource issues, the Audit reports revealed the following:

i. that some County staff were earning less than a third of their basic pay;
ii. Some County Executives were still processing salaries and other benefits outside the Integrated Payroll and Personnel Database (IPPD); and
iii. A number of County Executives did not meet the threshold on ethnic inclusivity stipulated under Section 65(1) (e) of the County Governments Act, 2012.

The Committee further observed that County Executives did not take action on the issues raised in the report of the Auditor General for previous financial years. This therefore implied that a number of recommendations proposed by the OAG were not implemented thus some audit queries had recurred for several financial years and remained outstanding.

On internal controls, risk management and governance, the Committee noted that a number of county entities had not established Audit Committees contrary to Paragraph 167 of the PFM (County Government) Regulations, 2015. Further, the entities did not have Risk Management policies, Disaster Recovery Plan, ICT Policy and Business Continuity Plan to help prevent and mitigate against risks. This is contrary to Section 158(1) of the Public Finance Management (County Government)

Regulation 2015 which requires the County Government entities to develop risk management strategies which include fraud prevention mechanisms and a system of risk management and internal control that builds robust business operations.

In addition to the observations outlined in this executive summary, this report also contains specific observations and recommendations for specific audit queries in respective county Executives.

GENERAL OBSERVATIONS AND RECOMMENDATIONS

The Committee observed that the reports of the Auditor General considered had recurring audit issues across a number of county entities. Consequently, the Committee identified the following general observations and recommendations -

1. Lack of an updated Fixed Assets Register

Committee Observations

The Committee observed that a number of the county entities: -

a) had not updated their Fixed Assets Register;

b) had not adopted the report of the Inter-Governmental Relations Technical Committee on assets and liabilities inherited from the defunct local authorities. This has affected the correct statement of the assets and liabilities of the entities.

Committee Recommendations

The Committee recommends that the-

1) County entities should update and present their Fixed Assets Register in the format prescribed by the Public Sector Accounting Standards Board;
2) County entities should adopt and implement the report of the Inter-Governmental Technical Relations Committee (IGTRC) on assets and liabilities from defunct Local Authorities and provide a status update to the Office of the Auditor General within 90 days of adoption of this Report; and
3) Office of the Auditor General should progressively review and report on the matter in the subsequent Financial Years.

2. Delays in updating Property Valuation Roll

Committee Observation

The Committee noted that a number of County Executives had not updated their valuation roll as required under Section 3 of the Valuation for Rating Act CAP 266 thus leading to under-collection of rent and rates.

Committee Recommendation

The Committee recommends that the County executives should expedite updating of valuation roll in accordance with Section 3 of the Valuation for Rating Act CAP 266 so as to reflect current market values for optimal revenue collection and comply with the guidelines of the Public Sector Accounting Sector Boards of reporting in the FY 2023/2024.

3. ***Payment to the Council of Governors (COG)***

Committee Observation

The Committee noted that payments made to the Council of Governors from County Revenue Funds were irregular and unlawful since the Intergovernmental Relations Act specifies that funding for the COG shall be drawn from the Consolidated Fund.

Committee Recommendation

The Committee recommends that the irregular payments to the Council of Governors (COG) be stopped and further recommends the surcharge of any Governor, in their capacity as Chief Executive Officer, who continues to make the irregular contribution.

The EACC should oversee the recovery of all the public funds irregularly transferred to the Council of Governors (COG) by the Governor. This is in line with the Resolution of the Senate.

4. ***Delay and non-submission of documents***

Committee Observation

The Committee noted that the County entities did not submit or made late submissions of the relevant documents to the Auditor General during the audit exercise contrary to section 62 of the Public Audit Act, 2015.

Committee Recommendation

The Committee recommends that the County Chief Executive Officer (CEO) undertakes administrative action(s) against the responsible officer(s) who failed to provide documents to the auditors at the time of audit in accordance with section 156 of the Public Finance Management Act, 2012 and provide a status report to the Office of the Auditor General within sixty (60) days from the adoption of this report. Where such failure has led to a Disclaimer opinion, the Committee recommends the sanctions outlined in Section 62(2) of the Public Audit Act, 2015.

5. ***Pending bills***

Committee Observations

The Committee observed that the county entities had pending bills that had been outstanding for several years. Further, the entities continued to incur further bills without prioritizing payment of verified pending bills as a first charge in the subsequent financial year as required by law.

Committee Recommendations

The Committee therefore recommends that:

1) the County entities should prioritize payment of all verified pending bills as a first charge in the subsequent financial year;

2) the National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate so as to enable county entities settle their obligations on time; and
3) the county executives put in place measures to enhance own generated revenue in order to meet its revenue target and address revenue shortfalls that contribute to the challenge of pending bills.
4) Pending bills deemed ineligible should be forwarded to the Directorate of Criminal Investigation (DCI) to investigate and take proper legal action against those filing false claims.
5) County Executive to make a provision in its budget for contingency liability in respect of legal fees pursuant to regulation 25(2)(e) of the Public Finance Management (County Government) Regulations, 2015.
6) The National Treasury takes lead in a multi-agency approach to come up with legislative and procedural measures to deal with accumulation of pending bills in counties within 90 days of adoption of this Report.
7) County Governments to take note of judgement in a Kitale High Court Constitutional Petition E003 of 2023 that declared formation of pending bills verification committees unconstitutional and engage Office of the OAG and strengthen the internal audit functions.
8) All valid pending bills that have been reviewed by the OAG be paid and a payment plan be submitted to the county assemblies for approval and progress report on implementation sent to the Senate and the Office of the Controller of Budget.
9) The Committee will seek to reintroduce the Prompt Payment Bill with amendments aimed at ring-fencing a certain percentage of the equitable shareable revenue for pending bills and retain money at source to pay pending bills.

6. Non-Compliance with the Law on Fiscal Responsibility - Wage Bill

Committee Observation

The Committee observed that the wage bill for a number of County entities was above the threshold of 35% of total receipts contrary to Regulation 25 (1) (b) of the Public Finance Management (County Governments) Regulations, 2015.

The Committee further noted that high wage bill is a threat to the objects of devolution as provided for under Article 174(f) of the Constitution.

Committee Recommendations

The Committee recommends that-

1) the management should strictly adhere to the provision of paragraph 25(1)(b) of the PFM (county government) regulations, 2015 which stipulates that the county wage bill shall not exceed 35 per cent of the county total revenue;
2) the county executive puts in place measures to enhance own source revenue collection in order to address high wage bill gap; and
3) the management of the concerned entities should provide to the Auditor General a status report of measures put in place to contain the high wage bill within sixty (60) days of the adoption of this report.
4) Senate should consider reintroducing the fiscal responsibility index in revenue allocation to act as an incentive for counties that meet the PFM fiscal responsibility targets.

7. Outstanding imprests

Committee Observations

The Committee noted that the County entities had substantial amounts of outstanding imprest by the close of financial year contrary to Regulations 93(5) of the Public Finance Management (County Government) Regulations, 2015 which requires a holder of a temporary imprest to account for the imprest within seven days after returning to duty station.

Committee Recommendation

The Committee recommends that the Accounting Officer(s) recover the outstanding imprests with interest as per provisions Regulation 93 (6) of the Public Finance Management (County Governments) Regulation.

The Committee further recommends the sanction and surcharge of Accounting Officers who fail to recover outstanding imprests in line with Regulation 93(7) of the PFM (County Government) Regulations, 2015.

8. *Budget Control and performance*

Committee Observation

The Committee observed that; -

a) the county entities did not receive exchequer releases from the National Treasury on time.
b) the Committee noted that the county executives did not meet their own source revenue collection targets. This challenge hampered budget implementation in the affected county entities.
c) Most Counties fail to undertake public participation on supplementary budgets that exceed 10% of the budget contrary to Section 135 (7) of the PFM Act, 2012 and Regulation 39(9) of the PFM (County Government) Regulations, 2015.

Committee Recommendations

The Committee recommends that; -

1) The National Treasury should ensure timely release of funds to county governments in line with the cash disbursement schedules approved by the Senate.

2) the County Executive puts in place measures to enhance its own generated revenue in order to meet its revenue target and address revenue shortfalls.
3) County Assemblies to exercise their powers as outlined in Article 201 of the Constitution to ensure budgets are realistic and espouse people's aspirations.

9. Lack of ethnic diversity in staff establishment

Committee Observations

The Committee observed that; -

a) there was no ethnic diversity among employees of county executives as employees were mainly drawn from the dominant community in the county; and

b) due to the homogeneous ethnographic population in most counties, it may not be feasible for them to attain the threshold provided under Section 7(2) of the National Cohesion and Integration Act, 2008 which states that *no public establishment shall have more than one third of the staff from the same ethnic community.*

Committee Recommendations

The Committee recommends that-

1) the County Executives should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act on ethnic inclusivity.
2) The Standing Committee on NCEORI to explore legal amendments to ensure progressive compliance with section 65(1)(e) of County Government Act, 2012.

10. Non-compliance with the One Third Basic Salary Rule

Committee Observations

The Committee observed that some of the county staff were earning less than a third of their basic pay contrary to Section 19 (3) of the Employment Act 2007.

Committee Recommendations

The Committee therefore recommends that -

1) The county entities should configure their IPPD system such that it is able to lock out commitments beyond the accepted thresholds; and
2) The Auditor General should continue monitoring the issue in subsequent audit cycles.

11. Prior Year Issues

Committee Observation

The Committee observed that most County entities did not take action on issues raised in the Report of the Auditor General for previous financial years even where the reports has been considered by the Committee and a report tabled and adopted by the Senate.

Committee Recommendations

The Committee recommends that; -

1) the County entities should strictly comply with Section 53 of the Public Audit Act, 2015 by taking action on the issues raised by the Auditor General.

2) The Institute of Certified Public Accountants of Kenya (ICPAK) takes action(s) against professional accountants who prepare financial reports which do not comply with the Public Sector Accounting Standards as it amounts to gross negligence in the conduct of professional duties which constitutes a professional misconduct pursuant to Section 8 (a) and 30 of the Accountants Act CAP 531.

12. Failure to establish an Audit Committee

Committee Observation

The Committee observed that in a number of the entities considered, management had not established audit committees to provide oversight on the financial and other operations of their financial affairs as required under Section 167(1) of Public Finance Management (County Governments) Regulation, 2015.

Committee Recommendation

The Committee recommends that the county entities should expedite establishment of audit committees to enhance oversight over public resources and provide a status report to the Auditor General within sixty (60) days from the adoption of this report.

The Committee further recommends that the SRC should review the compensation framework for Audit Committee members since the low sitting allowances may not attract seasoned professionals to the county Audit Committees.

13. Lack of a Risk Management Policy Framework

Committee Observations

The committee noted that a number of county entities did not have a risk management policy framework in place. The committee further observed that lack of risk prevention mechanism may expose the entities to various form of risks.

Committee Recommendations

The Committee recommends that the Accounting Officer for all county entities should put in place a risk management policy and disaster recovery plan within sixty (60) days from the adoption of this report and submit the same to the Auditor General. The committee further recommends that the Auditor General to closely monitor the development, documentation and communication of these policies within the county entities in the subsequent audit cycles.

14. Payment of Salaries outside the IPPD

Committee Observation

The Committee noted that some Counties Executive were making payments of salaries for some of its employees outside the Integrated Personnel and Payroll Database (IPPD) System.

Committee Recommendations

The Committee recommends that;

1) County Entities should engage the State Department of Public Service to fast-track the issuance of personal numbers to enable Counties onboard all employees on the Integrated Personnel and Payroll Database (IPPD) System; and
2) the Auditor General to monitor the matter in subsequent audit cycle.

Legal Framework

Article 174 of the Constitution sets out the objects of devolution and gives power to the people for self-governance through participation of the people in the exercise of decisions affecting them and managing their own affairs and development. Key to this feature is ensuring equitable sharing of resources.

Article 201 of the Constitution outlines the principles of public finance management to be observed at both levels of government. These include openness, accountability, public participation, prudent and responsible financial management.

Office of the Auditor-General

The Office of the Auditor-General is established under Article 229 of the Constitution. Pursuant to Article 229(4) the Auditor General audits and reports in respect of each financial year the accounts of all county governments. The reports are then submitted to Parliament in accordance with Article 229(7). The reports, once tabled, stand committed to the County Public Accounts Committee for consideration.

Sittings of the Committee

At its meeting held on 4th March 2025, the Committee resolved to consider the reports of the Auditor General for the 47 County Executives and 47 County Assemblies. Taking into account the constitutional timeliness provided for in Article 229(8) and owing to limited time, the Committee invited some Governors and requested the rest to submit written management responses within 7 days from the date of receipt of a letter from the Clerk of the Senate. The Committee further requested the 47 County Assemblies to submit written management responses for consideration.

The sittings were primarily investigatory and the Committee received evidence from the Governors as the Chief Executive Officers of the County pursuant to Article 179 (4) of the Constitution.

However, despite being accorded an opportunity to be heard by the Committee on the issues raised by the Auditor-General in her report, the County Executives of Isiolo, Kiambu, Baringo, Marsabit, Nyamira and Kajiado elected not to exercise that right or submitted their responses outside the timelines. This led the Committee to conclude that the County Executives had no defence or mitigation against any allegation contained in the report of the Auditor-General. This being the case, the Committee agrees and adopts the entirety of the report of the Auditor-General. The Committee therefore requests the Senate to summon the six (6) Counties to explain failure to comply with the Committee's directive.

The Committee acknowledges the appearance of Nyamira before it; however, it has been noted that the County did not meet the minimum threshold required for the admission of documents and responses. Consequently, the Committee resolved to initiate a special inquiry into the governance and fiduciary arrangements within Nyamira County.

This inquiry comes in light of the ongoing challenges within the County Assembly, which is currently experiencing significant internal disarray. In this context, the Committee emphasizes the necessity for the Members of the County Assembly (MCAs) to be empowered to exercise their primary oversight responsibilities effectively.

The Committee will, therefore, work closely with relevant stakeholders to ensure that the necessary steps are taken to address these concerns and strengthen governance frameworks in the county.

Issues for Determination

The main issues for investigation and determination were the various audit queries contained in the report of the Auditor-General on the financial operations of the various counties for the financial year 2023/2024.

Guiding Principles

The main issues for investigation and determination were the various audit queries contained in the report of the Auditor-General on the financial operations of the various counties for the financial year 2023/2024. This report is issued pursuant to the requirements of Articles 96 (3) and 229(8) of the Constitution of Kenya. Where any breach of law has an attendant remedy, consequence or penalty in law, recommendations of this report do not preclude any liability that may arise as a result of any legal action within the breach of the prescribed law.

Follow Up for Each County Executive

Most of the issues raised by the Auditor-General in her report were not adequately addressed. The Senate therefore needs to ensure that the issues are addressed to ensure that public funds entrusted to the County Executives and the County Assemblies are sufficiently accounted for and that there is no loss due to impropriety.

The Senate also needs to ensure that the law is adhered to in the planning and expenditure of public funds and hold those who breach the law accountable for their unlawful actions.

Therefore, the Committee recommends follow up on the recommendations made in this report to ensure that all issues raised by the Auditor-General in her report are adequately addressed.

Therefore, the Committee recommends to the Senate to resolve that the Committee;

i. undertakes an inquiry into the issues raised by the Auditor-General to ensure that all the issues raised are adequately addressed;
ii. conducts visits and inspect all projects highlighted by the Auditor-General in her report to confirm the status and verify any information that may ensue to address the issues raised in the report; and
iii. follows up on the issues raised by the Auditor-General to ensure that all officers who may have taken part in the misappropriation of funds or any other breach of law are properly investigated and, where found culpable, prosecuted in a court of law.

The Committee further recommends that the relevant accounting officers shall within three months after Parliament has considered and made recommendations on the audit report take the relevant steps to implement the recommendations of parliament on the report of the Auditor-General and give explanations in writing to the Parliament on why the report has not been acted upon.

ACKNOWLEDGEMENTS

The Committee appreciates the Office of the Auditor General, The National Treasury, the Controller of Budget and the Ethics and Anti-Corruption Commission for the support they offered to the Committee especially in providing references on various issues under consideration.

The Committee wishes to acknowledge the support it received from the Office of the Speaker and the Clerk of the Senate during the consideration of the Auditor-General's Reports for county governments. The Committee further appreciates the cooperation it received from the Governors who appeared before the Committee.

Final appreciation goes to the distinguished and dedicated members of the Committee and the Secretariat who actively participated and facilitated the proceedings of the Committee meetings.

Mr. Speaker Sir,

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

Mr. Speaker Sir,

It is therefore my pleasant duty and privilege, on behalf of the County Public Accounts Committee to table this report and commend it to the House for debate and adoption pursuant to the provisions of the Senate Standing Order 223(6).

SIGNED: ……………………………………………………….

DATE: ……………………………………………………

SEN. MOSES OTIENO KAJWANG', CBS, MP

CHAIRPERSON

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SIGNED: ....

DATE: 26 March 2025 ....

<u>SEN. MOSES OTIENO KAJWANG', CBS, MP</u>

<u>CHAIRPERSON</u>

THE SENATE

THIRTEENTH PARLIAMENT - FOURTH SESSION

ADOPTION OF THE REPORT OF THE SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE ON THE CONSIDERATION OF THE REPORTS OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE 47 COUNTY EXECUTIVES AND 47 COUNTY ASSEMBLIES FOR THE FINANCIAL YEAR 2023/2024

Adopted by:

No.	Senator	Designation	Signature
1.	**Sen. Moses Otieno Kajwang', CBS, MP**	**Chairperson**	
2.	**Sen. Johnes Mwashushe Mwaruma, MP**	**Vice-Chairperson**	
3.	Sen. Fatuma Adan Dullo, CBS, MP	Member	
4.	Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP	Member	
5.	Sen. Okong'o Mogeni, CBS, SC, MP	Member	
6.	Sen. Enoch Kiio Wambua, CBS, MP	Member	
7.	Sen. Samson Kiprotich Cherarkey, MP	Member	
8.	Sen. Mwenda Gataya Mo Fire, CBS, MP	Member	
9.	Sen. Edwin Watenya Sifuna, CBS, MP	Member	

Date...