THE SENATE

TWELFTH PARLIAMENT (SECOND SESSION)

THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS

FIDUCIARY RISK REPORT: ISSUES RAISED BY THE AUDITOR GENERAL ON PUBLIC FINANCIAL MANAGEMENT BY THE COUNTY GOVERNMENTS FOR FINANCIAL YEARS 2012/13 – 2015/16

Clerks Chambers'
Parliament Buildings
*NAIROBI***November, 2018**

Table of Contents

ABBREVIATIONS AND ACRONYMS

AIE	- Authority to Incur Expenditure
CBS	- Chief of the Order of the Burning Spear
CEC	- County Executive Committee
CIDP	-County Integrated Development Plans
CPSB	- County Public Service Boards
ECDE	-Early Childhood Development and Education
EGH	- Elder of the Order of the Golden Heart
ESP	- Economic Stimulus Program
VAT	- Value Added Tax
ICT	-Communications Technology
IPPD	-Integrated Personnel Payroll Data
IPSAS	-International Public Sector Accounting Standards
KRA	- Kenya Revenue Authority
MCAs	-Members of County Assemblies
PBO	- Parliamentary Budget Office
PFMA	- Public Finance management Act
PPDA	-Public Procurement and Disposal Act
SO	-Standing Orders
SRC	-Salaries and Remuneration Commission

PREFACE

Mandate of the Committee

Mr. Speaker Sir,

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

The Senate Sessional Committee on County Public Accounts and Investments is established pursuant to Standing Order 214 of the Senate Standing Orders and is mandated:-

a) Pursuant to Article 96(3) of the Constitution, to exercise oversight over national revenue allocated to the county governments,

b) Pursuant to Article 229(7) and (8) of the Constitution, to examine the reports of the Auditor-General on the annual accounts of the county governments,

c) To examine special reports, if any, of the Auditor-General on county government funds,

d) To examine the reports, if any, of the Auditor-General on the county public investments, and

e) To exercise oversight over county public accounts and investments

Mr. Speaker Sir,

The Auditor General reports on the county governments audit queries do not mention the level of implementation of the previous years' audit recommendations. In accordance with the International Public Sector Accounting Standards (Cash Basis) requirements that a report on follow-up of previous year's audit recommendations, the report should highlight the extent of addressing some of the challenges identified. The audit recommendations may include challenges that could be addressed by recruitment of experience staff and capacity building by provision of relevant training, strengthening implementation of PFM reforms etc. this index may help in comparing whether counties are machining improvements in financial management or worsening over time and the overall performance in terms of implementing audit recommendations. This will provide a proxy measure to monitor the impact of the audit recommendations measured by the implementation level of the recommendation as either fully, partial or not implemented and hence increase value for money.

Mr. Speaker Sir,

Ordinarily, the National Treasury in consultation with the Public Sector Accounting Standards Board issues templates to guide the county governments in their financial statements and reporting which are in accordance with the Cash Basis of Accounting Method under the International Public Sector Accounting Standards (IPSAS). The guidelines and standards are intended to enhance quality of financial reports and improve compliance with internal controls within public sector. The financial statements includes the following—

a) A statement of receipts and payments - financial performance;
b) A statement of financial assets
c) Statement of cash flow
d) County own source revenue financial position;
e) A statement of changes in net assets;
f) A statement of accounting policies and notes to the financial statements; and
g) A statement of performance including entity's statements on processes and systems audit against predetermined objectives.

Mr. Speaker Sir,

Accounting Officers are required to prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the

Public Sector Accounting Standards Board in accordance with the Public Finance Management Act, 2012.

The accounting officers are required to abide by the laid down formats of reporting which the Auditor General use to assess the financial statements presented. In this regard, the accounting officers should institute strict measures to ensure that their ministries/ departments put in place proper record keeping systems and adherence to the Public Sector Accounting Standards Board in accordance with the Public Finance Management Act, 2012 and ensure strict adherence to Section 149 of the PFM Act; finally, an officer must be held personally responsible and be duly surcharged for all the unsupported expenditure.

The management has the responsibility for the preparation and presentation of fair financial statements and for internal controls to ensure that financial statements are fair with full disclosures and free from fraud and errors.

Mr. Speaker Sir,

The objectives of this report is to ensure that the management framework for financial reporting and audit responsibility is in place and that financial management is being processed in compliance with relevant legislations, policies and guidelines within the devolved units – the county governments. It also assesses the extent to which a framework in place and meets the set requirements and functions as intended.

The overall objective of all these legal provisions is to ensure public finance is geared towards promotion of fairness, openness and transparent use and utilisation of public funds within the county government and public sector as a whole. In particular, the public procurement and Asset disposal Act entails acquisition of goods and services in a manner that enhance access, competition and fairness and results in value for money for overall benefits to the citizens.

Mr. Speaker Sir,

The following framework has been used to analyze the Audit reports

(a) **Adherence to the legal framework:-** Public Financial Management in Kenya if Guided by Chapter twelve of the Constitution and other pieces of legislation which guide the budget process right from Preparation to execution and accounting for the resources both at the National and at the county level. The analysis will evaluate to what extend accountability of resources adheres to the legal framework.

(b) **Adherence to the standards by the form and format of audit reports of counties:-** The audit reports of counties are expected to follow the set standards by the Auditor general and which are expected to be uniform across all counties. The evaluation will be on how many counties are following this format

(c) **Fiduciary Risk: -** This will be an assessment on the level of misapplication and misappropriation of resources.

EXECUTIVE SUMMARY

The County Public Accounts and Audit Committee (CPAIC) are a creation of the constitution of Kenya (Article 124(1). As part of the parliamentary committee formed pursuant to the standing order 214 of the senate, the CPAIC mandate is to: exercise oversight over national revenue allocated to the counties; examine the reports of the auditor general on the annual accounts of the county government; examine special reports, if any, of the Auditor-General on county government funds; examine reports, if any, of the Auditor-General on county public investment and to exercise oversight over county public accounts and investments.

The committee examined the 47 counties and identified a fiduciary risk with regard to the allocated funds from the national government.

During the financial years 2013/2014, 2014/2015 and 2015/2016, the following risks were identified. This report used the following framework to analyze the Audit reports; Adherence to the legal framework, Adherence to the standards by the form and format of audit reports of counties, and Fiduciary Risk.

The major findings from the analysis captured the following issues:

1. ***Flagrant Noncompliance and Adherence to Relevant Laws:*** Counties are flouting various pieces of legislation on public finance management and other laws such as the Public Procurement and Asset Disposal Act, the Public Finance Management (County Governments) Regulations, 2015, the County Governments Acts, various circulars from statutory bodies such as Salaries and Remuneration Commission, the defunct transition Authority, the Income Tax Act among other with respect to various facets in relation to set down procedures and regulations.
2. ***Pending Bills:*** During the period under review, FY 2013/14 to FY 2015/16, a number of County Governments did not settle bills amounting to Kshs 62.8 billion in FY 2013/14, Kshs 108.9 billion in FY 2014/15 and Kshs 74.9 billion in 2015/16. The pending bills are either due to creditors/suppliers, unremitted third party

deductions- Staff related arrears or outstanding loans. The Pending Bills are rolled and spill over to successive financial year, in other words, they are instead carried forward to succeeding financial years.

3. ***Irregular Procurement of Goods and Services;*** This may be as a result of single sourcing, disregard of procurement rules and regulations, flouting laid down procedures and acting in disregard of processing procurement in compliance with relevant legislations, policies and guidelines within devolved units.

4. ***Under Reporting/Collection of County Revenue:***The committee noted county revenues collected was banked in other bank accounts other than the designated revenue collection account – County Revenue Fund (CRF).Underreporting / collection of revenues related to revenue collected but not submitted to the County Revenue Fund, revenue collected and utilized at source or revenue differentials that could not be accounted.

5. ***Irregularities in Compensation to Employees:***The common irregular payments relate to irregular sitting allowances, payment in excess of Salaries and Remuneration Commission (SRC) recommended monthly sitting allowances, irregular plenary sitting allowances overpayment by use of committee rates as opposed to plenary session rates.

6. ***Incomplete & Non-Utilized Projects:***This shows total disregard of completion timelines and yet contract agreements should have clauses with respect to liquidation damages for non-completion of contracts. This denies the citizens service delivery and value for money.

7. ***Weak Internal Control Environment:***Some of the missing policies relate to the following; Information Communications Technology (ICT) Policy, Human

Resource Management Policy, Operational Financial Management Policy, Approved Staff Establishment Policy, Risk Management Policy.

8. ***Lack of Assets and Liabilities Register***: Many counties have no updated registers for the immoveable assets and liabilities inherited from defunct local authorities and those acquired during the first two years of devolution are lacking across many counties.

9. ***Persistent Weak Human Resource Management:***The audit report reveals that during the first years of devolution, counties recruited staff without following due recruitment procedures and in absence of policy to determine optimal staffing levels.

10. ***Nugatory Public Participation Payments:***Counties paid substantial amounts as allowances to citizens and civil society members during public participation exercises which contravene the Salaries and Remuneration Commission (SRC) circular that public participation in a forum is a civic responsibility of each and every citizen and should not attract any compensation.

11. ***Weak Budgetary Control and Performance:***Counties are not spending according to their approved line/ item allocations since funds were reallocated to purposes for which they were not budgeted for without any indications of prior approval. Also funds earmarked for development expenditures during the financial year are reallocated and used under operational accounts resulting into shifting development budgets to recurrent costs. In addition, there are numerous cases of under collection of local revenue where most counties miss their revenue targets by huge margins.

12. ***Poor Book Keeping:***There is continued poor record keeping and failure to adhere to laid down financial and procurement procedures. This may be as a result of

capacity and competency challenges at the devolved units. The low uptake of automation was also widespread across many counties during these initial years of devolution.

13. ***Failure to establish Internal Audit Committees:***As the end of the FY 2015/16 all county governments had not established internal Audit Committees to oversee the financial operations, adequacy and effectiveness of internal control systems, risk management and likely causes of weaknesses observed and recommend remedial measures. This is contrary to the requirements of section 167 of the PFM Act 2012, (County Governments) Regulations.

14. ***Slight Improvement in Financial Operations and Management:*****For** the Auditor General to carry out the audit function successfully, various documentations are required for reviews, verification, ascertain and checking the completeness of the records presented for assessment. On the basis of the records then the Auditor General is able to make an opinion with respect to records presented. The opinions with respect to financial statements are either Unqualified, qualified, adverse or disclaimer.

Trend in County Audit Opinions

	County Audit Opinions					
		Unqualified	Qualified	Adverse	Disclaimer	
Year	Category	No.	No.	No.	No.	Total
2015/16	County Executive	0	13	12	22	**47**
2014/15	CA/CE Combined	0	5	17	25	**47**
2013/14	CA/CE Combined	0	3	5	39	**47**

15. ***Outstanding Imprest***: Audit report reveals that county government's record imprest on payment schedules instead of issuing the holders with imprest warrants

for proper accountability. Further, it is revealed across most counties that officers are issued with additional imprest while holding the previous ones and the imprest register do not show dates when the imprest is being issued, when they are due for surrender or the designations and personal of numbers the imprest holders.

ACKNOWLEDGMENT

The Senate Sessional Committee on County Public Accounts and Investment thanks the Offices of the Speaker and the Clerk of the Senate, the Parliamentary Budget Office (PBO) for the unwavering support received as it discharged its mandate by reviewing and analysing the Auditor General's Report on the County Governments and the secretariat for their support during the preparation of the fiduciary risk report on issues raised by the auditor general on public financial management by the county governments for financial years 2012/13 – 2015/16.

The Committee acknowledges with gratitude the commitment of its members who keenly participated and gave their inputs during the preparation of the report.

Mr. Speaker Sir,

It is now my pleasant duty, pursuant to Standing Order 214, to present the Report of the Senate Sessional Committee on County Public Accounts and Investment on the fiduciary risk on issues raised by the auditor general on public financial management by the county governments for financial years 2012/13 – 2015/16.

Signed………………………………… Date…………………………………………

SEN. MOSES KAJWANG' MP

CHAIRPERSON

1.0 INTRODUCTION

1. **Mr. Speaker, Sir,**The 2010 Constitution established two levels of government that are distinct and interdependent. This set two levels of governance in relation to political representation at the lower level through County Assemblies and the national political representation through bicameral Parliament comprising of the National Assembly and the Senate. It also set the financial devolution at the two levels of governments at the county level and national level.

2. Further to ensure that county governments are not starved of funds to carry out functions and powers assigned to them under schedule 4 of the Constitution, Article 202 guarantees that national government makes fiscal transfers to the counties of at least 15% of the nationally raised revenue every financial year.

3. The Constitution under Article 174 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 share of national and local resources. It also confers to facilitate devolution of state organs and their functions and services. In so doing, the Constitution under Article 201 outlines the principles of public finance management to be observed at both levels of government and these includes the following; openness, and accountability, public participation, prudent and responsible financial management. Further to enforce this accountability, the constitution sets various institutions at the national and county levels to ensure promotion of accountability, and openness for prudent and responsible financial management.

4. The accountability institutions include oversight of the executive at the county level exercised by the county assemblies, national institutions of parliament (national

assembly and the senate) through various legislative processes and legislations. Again, independent offices of the auditor general, the controller of budget and other constitutional commissions enforce accountability and responsible public financial management. The National Government has made fiscal transfers to the county governments amounting to over Kshs 1,372 billion (Kshs 1.4 trillion) over the last five years comprising of both equitable share of nationally raised revenue and conditional grants. However it has been argued that there is little impact on development across the country. The piecemeal progress in some counties is not commensurate to the substantial resources transferred to the counties. This has been attributed to poor planning, misappropriation of funds and lack of capacity at the county level.

5. Over the years it has been observed that each financial year the Auditor General raises a number of audit queries on the county financial management practices. The queries relate to financial expenditures in monetary terms and others are non-monetary. This report reviews the audit queries raised by the Auditor General on the county governments Public Finance Management over the first three years of devolution and attempts to construct a county propriety index using the analysis of these reports from a fiduciary risk level.

Objectives of the Report and Scope

6. The Auditor General reports on the county governments audit queries do not mention the level of implementation of the previous years' audit recommendations. In accordance with the International Public Sector Accounting Standards (Cash Basis) requirements that a report on follow-up of previous year's audit recommendations, the report should highlight the extent of addressing some of the challenges identified. The audit recommendations may include challenges that could be addressed by recruitment of experience staff and capacity building by provision of relevant training, strengthening implementation of PFM reforms etc.

this index may help in comparing whether counties are machining improvements in financial management or worsening over time and the overall performance in terms of implementing audit recommendations. This will provide a proxy measure to monitor the impact of the audit recommendations measured by the implementation level of the recommendation as either fully, partial or not implemented and hence increase value for money.

7. Ordinarily, the National Treasury in consultation with the Public Sector Accounting Standards Board issues templates to guide the county governments in their financial statements and reporting which are in accordance with the Cash Basis of Accounting Method under the International Public Sector Accounting Standards (IPSAS). The guidelines and standards are intended to enhance quality of financial reports and improve compliance with internal controls within public sector. The financial statements includes the following—

   a) A statement of receipts and payments - financial performance;
   b) A statement of financial assets
   c) Statement of cash flow
   d) County own source revenue financial position;
   e) A statement of changes in net assets;
   f) A statement of accounting policies and notes to the financial statements;
   g) A statement of performance including entity's statements on processes and systems audit against predetermined objectives.

8. Accounting Officers are required to prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Public Sector Accounting Standards Board in accordance with the Public Finance Management Act, 2012.

9. The accounting officers are required to abide by the laid down formats of reporting which the Auditor General use to assess the financial statements presented. In this regard, the accounting officers should institute strict measures to ensure that their ministries/ departments put in place proper record keeping systems and adherence to the Public Sector Accounting Standards Board in accordance with the Public Finance Management Act, 2012 and ensure strict adherence to Section 149 of the PFM Act; finally, an officer must be held personally responsible and be duly surcharged for all the unsupported expenditure.

10. The management has the responsibility for the preparation and presentation of fair financial statements and for internal controls to ensure that financial statements are fair with full disclosures and free from fraud and errors.

11. Theobjectives of this report is to ensure that the management framework for financial reporting and audit responsibility is in place and that financial management is being processed in compliance with relevant legislations, policies and guidelines within the devolved units – the county governments. It also assesses the extent to which a framework in place and meets the set requirements and functions as intended.

12. The overall objective of all these legal provisions is to ensure public finance is geared towards promotion of fairness, openness and transparent use and utilisation of public funds within the county government and public sector as a whole. In particular, the public procurement and Asset disposal Act entails acquisition of goods and services in a manner that enhance access, competition and fairness and results in value for money for overall benefits to the citizens.

Methodology

11. The following framework has been used to analyze the Audit reports

(a) **Adherence to the legal framework:-**Public Financial Management in Kenya if Guided by Chapter twelve of the Constitution and other pieces of legislation which guide the budget process right from Preparation to execution and accounting for the resources both at the National and at the county level. The analysis will evaluate to what extend accountability of resources adheres to the legal framework.This report relies on audit queries raised by the Auditor General. The queries are quantified in monetary terms where applicable and others may be non-monetary queries such as adherence to laws, poor book keeping records, fairness and completeness of the records presented for audit assessment.

(b) **Adherence to the standards by the form and format of audit reports of counties: -** The audit reports of counties are expected to follow the set standards by the Auditor general and which are expected to be uniform across all counties. The evaluation will be on how many counties are following this format

(c) **Fiduciary Risk: -** This will be an assessment on the level of misapplication and misappropriation of resources.This relates to the likelihood that funds are not used for the intended purpose, do not achieve value for money and are not properly accounted for. According the 2010 Constitution Article 201 ((d) and (e) public money shall be used in prudent and responsible way.

a. Adherence to Legal Framework

12. The 2010 Constitution ushered in new public financial management architecture in Kenya. Importantly it devolved fiscal powers enabling the county level to take responsibility of its public financial management. However it visibly left the authority of standardization and accountability systems with the National Government. Hence the establishment Chapter 12 of the constitution provides the

umbrella legal provisions to be adhered by both the National and the County level government. The table below gives the key provisions in the Constitution that counties were expected to adhere to in their Public Financial Management

Key category	Article In The constitution	Other PFM Laws	Compliance based on Audit reports
Principles of Public Finance:- Responsible and prudence in use of public resources	Article 201	PFM Act 2012	Not Complied as Most counties have audit queries on prudence in use of public resources
Equitable sharing of resources of National Resources	Articles 202, 203 & 204		Complied at the national level meeting the basic minimum of at least 15% of nationally raised resources
Consultation in matters public finance concerning Counties	Article 205		Complied there are public hearings held on budget proposals and legislation related to the budget,
Public Fund Accounts: The County Revenue Fund and the Contingency Funds	Articles 207 & 208	PFM Act 2012	Complied as there exists County Revenue Fund.
Revenue raising powers and Public Debt	Articles 209, 210, 211, 212, 213 &214	PFM Act 2012	Complied
Budget Approval and Execution	Articles 225 &227	PFM Act 2012	Partially complied no stoppage of funds flow effected despite mutual breach in use of public resources
Accounting for Public Funds: Audit Reports and in year reports	Article 226	PFM act 2012, The Public Audit Act 2015: Audit process and types of audits	Partially complied
Institutions of Public Finance	Articles	Enabling	Complied

and their responsibilities	225,228,229, 230 and 231	legislations for institutions	

(b) Adherence to the Standards by the Form and Format of Audit Reports of Counties

13. The format of reporting and consistency from the various county audit teams seems to vary slightly from one audit report to the other. For example pending bills, are common not only to the county governments but also across business community. In some cases there is no mention of pending bills such that it leaves room for speculation that either the county entity did not present the same for audit or they never had any outstanding pending bills.

14. In this regard, the Auditor General report should be constant in reporting issues of concern and expressly give their views on matters that may materially be worth to pursue. It should also give the management responses to previous Audit queries and therefore follow up on unsatisfactory queries as per international public sector accounting standards.

15. On the part of Budget Execution and reporting, the Audit General report is weak as it only points out the nominal value of exchequer releases against the county approved budget estimates without reporting on own source revenue, the programme based budgeting, variances in actual development expenditures and the achievement rate of the previous year's budget. The report is weak on budget implementation. It should also report on balances carried forward from previous financial years and projects roll-overs during the previous years. This information would strengthen the oversight functions and ease tracking of budget implementation before new projects are started.

Assessment of Financial Statement

16. The Office of the Auditor General forwards Reports on the financial operations of the County Governments for specific financial years to the Senate pursuant to the provisions of Article 229(7). The reports, once tabled, stand committed to the Sessional Committee on County Public Accounts and Investments.

17. From the Audit Reports, counties should institutionalise their internal guidelines and policies on various aspects in their operations. All in all, the assessment of the extent of compliance helps in risk identification, management and assessment in the counties that relate to the impact of perceived and actual noncompliance with legislations and policies.

2.0 THEANALYSISAND FINDINGS

18. Fiduciary risk is defined as the extent to which public resources are misapplied. It means the lack of achievement of value for money when public resources are applied. It is indeed the risk that funds are not used for the intended purpose, do not achieve value for money and are not properly accounted for. According the 2010 Constitution Article 201 ((d) and (e) public money shall be used in prudent and responsible way. Thus financial managementshall be responsible and fiscal reporting shall be clear. All agencies in the public sector are required to adhere to the provisions of the constitution on prudence and accountability.

19. The Auditor General is mandated by the Constitution to Audit and report in respect to each financial year on the accounts of the National and County governments including all Independent Offices and Constitutional Commissions and other public institutions. In this regard all entities that receive funds from the exchequer and those entities required by legislation to submit financial statements to the Auditor General must do so within three months after the end of the financial year.

20. The Auditor General is then required to audit these accounts and report to Parliament - National Assembly/ Senate in the case of national institutions and to the county assembly within six months. A review of the 2012/13, 2013/14 and 2014/15 reports of the Auditor General indicates that substantial resources were misappropriated and at the same time counties entered into commitments where there were either no budget allocations or the allocations were inadequate and therefore the level of fiduciary risk was high. The table below is analysis on the magnitude of the fiduciary risk.

Table 1: Fiduciary Risk Assessment 2012/13 - 2015/16

Fiduciary Risk Assessment 2012/13 - 2015/16			
	2013/14	2014/15	15/16

Under Expenditure	5	38	27
Pending Bills	22	40	34
Unsupported expenditure	41	35	43
Excess Expenditure	17	36	10
Outstanding Imprests	34	24	29
Irregular Payments	42	36	26
Unaccounted expenditure/expenses	35	-	28
Under reporting of revenue	24	38	40
Uncompleted/stalled projects	3	18	28
Others	-	44	32

Source: Auditor General Reports extracts by PBO

2.1 Pending Bills

21. The Auditor General reports indicate that fiduciary risk at the counties is high in most counties where it ranges between 50% to 80%. For example on pending bills in 2014/15 it was reported that out of 47 counties 40 of them reported that there are pending bills. The presence of pending bills is an indicator of fiscal indiscipline where the budget is not the basis of commitments in the course of the year. In addition it is important to note that these are only those pending bills that are captured in the financial statement. There is a possibility that the quantum of pending bills could be much higher than is reported. The Public Financial Management Act and the procurement law provides that no commitment and no tender should be issued without adequate budgetary allocations. Thus a rise in pending bills is also an indication the relevant laws are not being followed.

22. Pending Bills for FY 2013/14 were worth 62.8 billion of which, Nairobi county had the largest pending bills worth Kshs. 58. billion, followed by Nakuru at 1.3 billion and Machakos at Kshs. 712.9 million. In addition and as demonstrated below, most of the counties incur pending bills which usually disrupt budget activities at the beginning of the following years since it is the first charge at the beginning of the financial year. However it is observed that the schedules which give rise to these pending bills do not include invoices, fee notes and delivery notes which makes it difficult to ascertain the authenticity of the pending bills across most of these

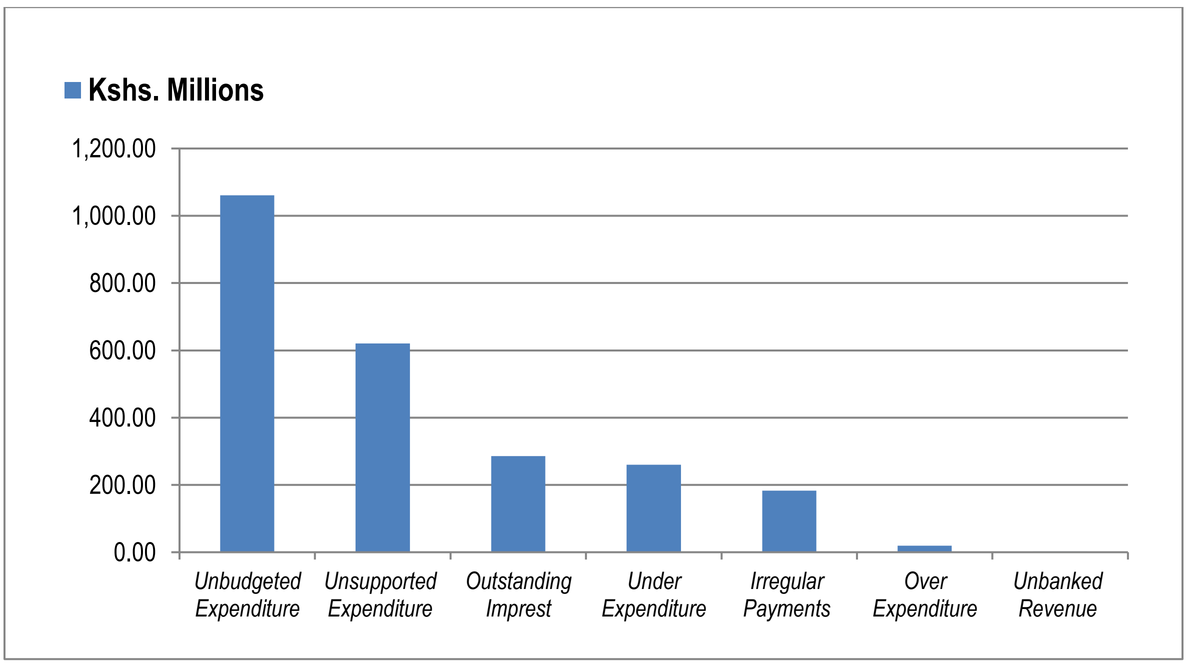
counties. For instance, at the end of the financial year 2014/15, The Nairobi City County had a total of Pending bills amounting to Kshs 78,905,504,184 whose completeness, accuracy and validity could not be confirmed.

2.2Lack of Expenditure Control

23. Lack of Expenditure Control has been regularly flagged out by the Auditor General as fiduciary risks. The highest fiduciary audit query is main recorded in the category of unbudgeted expenditure and in unsupported expenditure

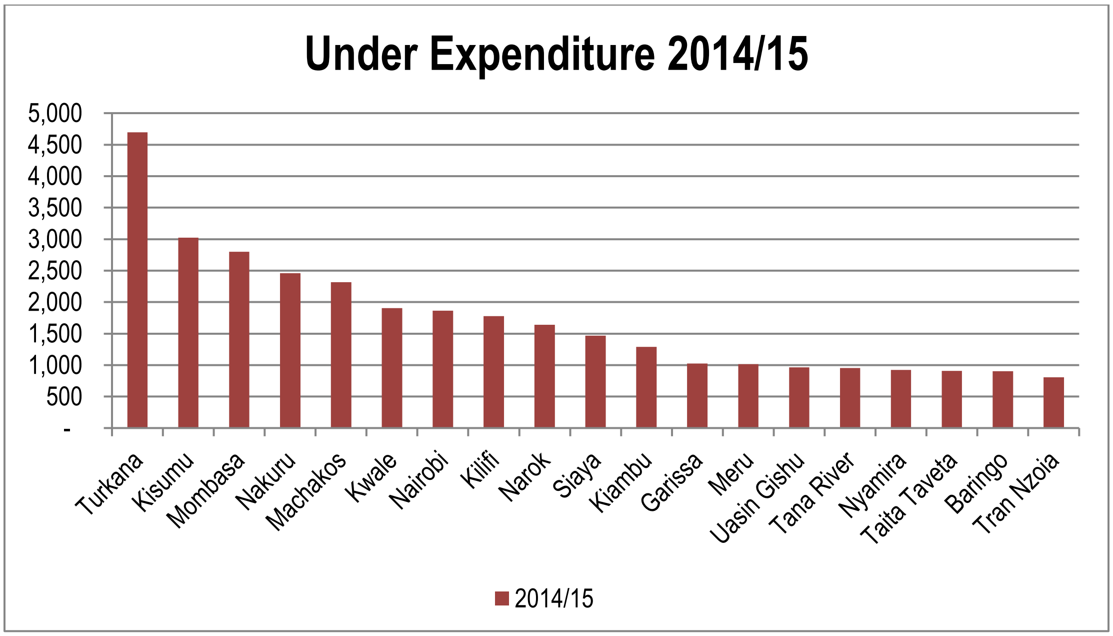
24. . The Figure 1. below shows the magnitude of the risks outlined by the Auditor General in relation to the First Quarter of County Government's existence (March – June 2013). Annex 1 gives the details of audit issues identified by the Auditor General in 2013/14 for each county.

Figure 1. 2012/13 Key Audit issues



2.2 Under Expenditure

25. In most counties, recorded low spending of their annual budgets for County Government for both recurrent expenditure and for development expenditures. In most cases, Expenditure incurred on development during the years were extremely low which indicates low absorption rates. The absorption rate of for development expenditure indicates that few development projects were undertaken during the period under review. No explanation has been made confirming the under absorption of funds



2.3 Unsupported expenditures

26. The County Governments Incurred expenditures on various votes such as imprests, foreign travel, conferences among others which were not properly supported. This could thus be termed as nugatory expenditures. The propriety of these expenditures could not be confirmed.

27. Counties record keeping is poor and may be source of huge unsupported expenditures. During the financial year 2014/15 total unsupported expenditures

stood at Kshs 16.89 billion. This is a huge jump from Kshs 6.58 billion reported in the previous financial year 2013/14.

Unsupported Expenditure

	Unsupported Expenditure			
		2013/14	**2014/15**	**2015/16**
1	Nyeri	243.34	2,822	-
2	Kakamega	445.95	1,727	215.47
3	Kajiado	114.83	1,454	1,646.35
4	Siaya	114.72	1,319	392.32
5	Marsabit	-	1,233	1.23
6	Meru	95.12	1,079	3,702.19
7	Muranga	37.50	1,074	156.91
8	Kilifi	295.12	1,073	3200.77
9	Nyandarua	717.44	833	66.86
10	Tana River	250.16	725	1,505.69

28. At the close of financial year 2014/15 Nyeri county government's unsupported expenditures was Kshs 2.82 billion having grown from Kshs 243.34 million recorded previously during financial year 2013/14. However in 2015/16 it reports zero. According to Auditor general other counties that recorded huge unsupported expenditures previously are Kakamega, Kajiado, Siaya and Mandera with unsupported expenditures of Kshs 1.73 billion, Kshs 1.45 billion, Ksjhs 1.32 billion and Kshs 1.23 billion respectively during financial year 2014/15.

29. It is worth noting that Kakamega records on this category seem to worsen as there is no improvement in record keeping. Unsupported expenditures may be an indication of funds spent but no proper documentation and may be fraud, or even money spent on other programs but not initial items and therefore accounting for them is difficulty. Therefore to ascertain their validity and propriety may be doubtful.

2.4 Unaccounted Expenses

30. Unaccounted expenses are expenses that cannot be accounted for, or goods were delivered but not recorded upon receipt and mounted to 1.3 billion. For example of Kisumu county that did not record all receipts in store ledgers for purchase of goods totaling 31.3 million or that county employees were allowed to borrow cash from the chief cashier totaling 31.2 million, 26.9 million was held in unprocessed payment vouchers and 4.2 million could not be accounted for. Other instances, this included funds provided for but nothing was done which is the case for Nyandarua where 60 million was given to the county for construction of county offices but were not utilized for the intended purpose. One good that stood out was the purchase and utilization of fuel supplies and counties like Trans Nzoia fuel worth 4.9 million could not be accounted for, Nyamira could not account for fuel worth 38.1 million, Siaya – 26.7 million. This is because of lack of record keeping.

2.5 Under Reporting / Collection of Revenues

31. Underreporting / collection of revenues related to revenue collected but not submitted to the County Revenue Fund, revenue collected and utilized at source or revenue differentials that could not be accounted.

32. In 2014/15 the local revenue under collection stood at Kshs 17.9 billion. This is a huge jump from Kshs 1.66 billion recorded in 2013/14. The notable counties with huge uncollected revenue are Mombasa with under reporting of Kshs 2.49 billion, Nairobi with under reporting of Kshs 1.91 billion, Narok with 1.7 billion and Kiambu with uncollected revenue of Kshs 1.1 billion.

	Revenue Under Collection			
		2013/14	**2014/15**	**2015/16**
1	Mombasa	1,077.98	2,490	146.09
2	Nairobi	96.15	1,906	6.60
3	Narok	-	1,734	1,100.33
4	Kiambu	9.31	1,241	893.32
5	Marsabit	-	1,101	17.96

6	Wajir	-	1,012	-
7	Kisii	5.14	838	311.62
8	Kisumu	33.76	715	1,197.27
9	Nyeri	19.61	694	660.1
10	Kirinyaga	13.74	687	109.62

33. Counties with high potential for revenue collection are reporting huge disparities. The PFM Act and regulations under section 61 provides for receivers of Revenue designated by the CEC Finance and responsible for the collection, accounting for the revenue. Section 62 of the PFM Act Regulations also provides for the receiver of revenue to authorize in accordance with section 158 of the PFM Act to authorize public officers to be collectors of revenue for the county government. Counties seem not to apply this provision and hence the low revenue collection. This perhaps explains the reason behind lower revenue collections compared to defunct local authorities. It could also be a case of revenue leakage and low automation.

34. Even though the National Treasury has developed a national policy on enhancing county Government revenue collection, most counties are still using manual recording, no modernization of their revenue systems and use of third party receivers of revenue. Other counties have several bank accounts that have not been submitted to the Auditor general for audit. The partial disclosure of revenue accounts could perhaps explain the lower revenue collection across most counties.

35. During the FY 2013/14, a total of Kshs 1.7 billion could not be accounted for and reflected possibility of resource misappropriation or loss. For counties like Migori this involved theft, use of inaccurate cash books and for failure to receive cash withdrawals, and the non-reflection of such collected revenues. should have been spent funds worth 111.7 million in TharakaNithi. Non reporting of revenues was a cross cutting matter for all counties and reflected lack of adherence to revenue collection guidelines such as collection and retention of revenues by counties in hospitals and the arbitrary waiver of taxes (cess) by Mombasa county. This indicates an avenue for leaking of county revenues (TharakaNithi could simply not account for a further Kshs. 27.188 million) that should be sealed to consistent revenue collection year on.

36. It is observed across all counties that there is under collection of revenue. Several counties are also reported to generating less revenue than what the defunct local authorities used to collect due to weak revenue bases, absence of internal audits,

poorly trained personnel, manual revenue collection systems and reluctance by some county revenue officers to embrace change.

37. Most County revenue sections prepared revenue reports detailing the revenue received by the County governments or on their behalf from the sub-counties, hospitals and other entities under the Counties. During the audit exercise some variances were noted between revenue reports prepared by the County Revenue Sections and revenue records maintained at the Sub -County level.

38. In some counties, for instance in Nyandarua, the County Government had not designated in writing, persons to be responsible for collecting, receiving and accounting for such revenue. This could partially be blamed for low land rates collection. It was also noted that some revenue collectors were engaged on casual basis. This posed a danger of the collector disappearing with the collected revenue or misappropriating due to absence of accountability mechanism including recovery of lost cash from their salaries. Failure by the County Executive Committee member for finance to adhere to the laws on revenue enhancement and accountability may result to breach of Section 157 of PFM Act, 2012.

2.6 Unbudgeted Expenditure

39. Unbudgeted expenditure involved expenditures incurred but not as reflected under the Respective County Appropriation Act for a given financial year or supplementary budgets, which is a gross contravention of the PFM Act 2012 and the Constitution. For FY 2013/14 this was worth 3.6 billion. For example; Nakuru County was allocated 390.3 million for the Rift Valley General Hospital but were used to finance other hospitals thus affecting services at the level 5 hospital. Meru county on the other hand incurred expenditure worth 589.3 million over and above the annual county budget without passing a supplementary budget, Nyeri county on the other hand reallocated 740.5 million to recurrent expenditure without following the laid down procedures therefore resulting in a development ratio of 28% for development expenditure against requirements of PFM 2012 of 30% minimum. This reflected the lack of adherence of fiscal rules and procedures at the county

level and would require a dual response of training coupled worth application of a fiscal compliance factor in determining resource allocation every financial year.

2.7 Uncompleted and Stalled Projects

40. At the end of the financial year 2014/15 the uncompleted and stalled projects was worth Kshs 2.31 billion. This was an increase in uncompleted projects where projects are started during the financial year and are not completed at the close of the year or where some are spillovers from previous financial years. It holds public funds and denies citizens benefits of service delivery from such projects. It also has the potential to escalate the total project costs as contractors may vary the costs of such projects as a result of delays. Additionally, projects are not on schedule and associated with uncompleted projects are pending bills. It may also lead to litigations against defaulting county governments with a possibility of further delays on project execution. This ties public funds and delays service delivery and associated benefits and social impacts if such projects are completed on time.

Summary of Uncompleted and Stalled Projects in FY 2013/14 and FY 2014/15 in Kshs in Millions

		Uncompleted and stalled projects	
		2013/14	**2014/15**
1	Kwale	-	1,168
2	Kilifi	-	392
3	Lamu	-	378
4	Nairobi	-	115
5	Kericho	-	44
6	Busia	293.64	32
7	Kakamega	-	27
8	UasinGishu	-	26
9	Bomet	-	20
10	Laikipia	-	18

41. If unchecked, this trend has the potential to swell over the years especially where there is change of county administration from one governor to another. Each county assembly need to prioratise the projects that have started and are uncomplete and

ensure they are in their respective County Integrated Development Plans (CIDP) and consequently in the subsequent annual development plans to avert cases of widespread uncompleted projects. The transition from one county administration should be well managed so that it does not impede completion of already started projects.

42. County executive need to take stock of such projects and carry out project appraisal with the objective of ensuring that estimates of such projects are included in the County Integrated Development Plans with total costs, estimated completion time and operationalized. Taskforce to oversee their operationalization would ease the works and be able to come up with project lists and estimated costs.

43. The total amount of resources locked up in stalled projects could not be absolutely ascertained as some audit reports managed to value the projects while others gave the particular projects affected. All in all it is approximated that over 387.2 million is locked up in non performing projects at the county level. This implies that 387.2 million worth of projects will not have the timely impact as required and there is the possibility of substandard work when the job is completed and the possibility of irregular contractual payments. This indicates the existing public expenditure inefficiencies at the county level of government during the year 2013/14. Even though this was the second year only since inception of country governments and county systems and were still being set, the amount of time and resources that are likely to be wanted unless this projects are completed on time could be costly. This based on the fact that most affected projects are meant to have social impact at the country level such as healthcare, education etc.

44. According to the Auditor General, most counties are starting projects which they don’t complete. This arises out of lack of exchequer, poor planning and

misprioritization of projects. This does not give value for money and therefore leads to wastages of the limited resources.

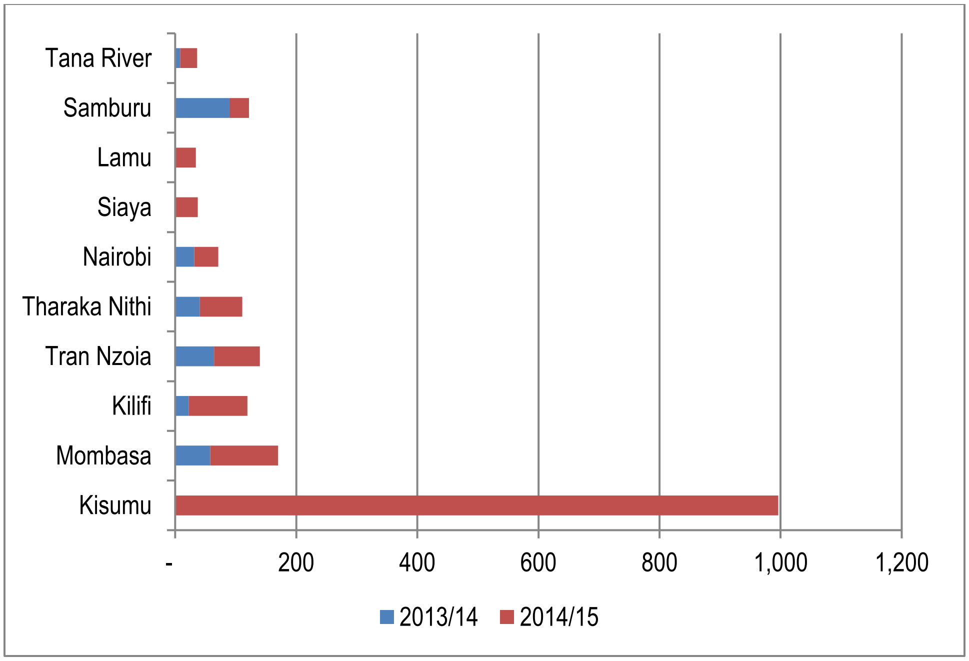
45. Additionally, there are a number of cases where projects are approved but by the end of financial year, the projects have not commenced. This cast doubt on why project planning and scheduling.

46. In other instances, there is completion of projects or even equipping with requisite facilities but the projects are not utilized or operationalized indicating a clear wastage of public funds. Other causes for non-operationalization may be due to lack of public participation before the project is implemented, that leads to lack of ownership of such projects contrary to section 115 (1) of the County Government Act that demands public participation in the County planning process.

47. The Government Financial Regulations and procedures section 5.2.1 provides that no expenditure shall be incurred where budget has not been provided for.

2.8 Outstanding Imprest

48. The PFM Act and the regulations provide the manner in which the imprest is to be surrendered and the timelines of doing so. As at the close of financial year 2014/15 unsurrendered imprests held by county officials was worth Kshs 1.65 billion. This was an increase from Kshs 927.45 million held previously by the end of financial year 2013/14. This shows it almost doubled from the previous year increasing the risk of such funds. It also demonstrates that there is laxity in surrendering imprest held. The accounting officers and AIE holders should strictly enforce the laid down procedures and ensure compliance.



49. At the close of financial year 2014/15 Kisumu county had total of unsurrendered imprest of Kshs 996 million. Mombasa County had unsurrenred imprest of Kshs 112 million. It is worth noting that Mombasa county unsurredered imprest stood at Kshs 57.98 million by the close of financial year 2013/14. This demonstrates the wanton disregard of the PFM Act regulations and other legislations

50. Outstanding imprest inconsistencies involved the non-remittance of imprest advanced to officers by audit date. Audit reports indicated that approximately 927.5 million of county audit resources were locked up in individual staff accounts. In Garissa for example, outstanding imprest worth 46.4 billion had been held for 10 months after closure of the financial year, in Machakos 46.96 million had not been surrendered and imprest recording was not done properly. Even though the issue of concern was cross cutting, other notable counties of included; Samburu - 89.6 million, Trans-Nzoia- 64.2 million, where one officer was holding 54 imprests worth 6.2 million, and Vihiga - 56.99 million. In general this reflects low accountability of county resources as a result of poor/inefficient financial control mechanisms that can not only track expenditure but guarantee its repayment.

51. Audit report reveals that county government's record imprest on payment schedules instead of issuing the holders with imprest warrants for proper accountability. Further it is revealed across most counties that officers are issued with additional imprest while holding the previous ones and the imprest register do not show dates when the imprest is being issued is due for surrender or the designations and personal numbers of the imprest holders.

52. County government therefore do not adhere to the provisions of section 152 of the Public Finance Management Act of 2012 on issuance and surrender of imprest and also section 5 of the Government Financial Regulations and Procedures which requires every officer holding imprest to account for or surrender imprest within 48 hours (7 days as per the new regulations)

2.9 Irregular Payments

53. These are payments that arise as a result of Expenditures incurred without following the due procedures put in place. Irregular payments are a category that deserve special attention as they pertained to lack of adherence to procurement procedures under the Public Procurement and Disposal Act (PPDA).

54. During the financial year 2014/15 this category of irregular payments was worth Kshs 11.45 billion. In FY 2014/15 Garissa county government irregular payments was approximately Kshs 3.37 billion having grown from Kshs 44 million recorded in FY 2013/14. In other words, Garissa increased irregularities in payment and this is likely to lead to loss of public funds. It also disregards laid down public procedures in various laws including the public procurement and disposal Act, the PFM Act, among other legislations. This may lead to fraud and misappropriation of public funds.

	Summary of Irregular Payments in FY 2013/14 and FY 2014/2015 in Kshs in millions		
		2013/14	**2014/15**
1	Garissa	44.00	3,367
2	Mandera	141.53	2,071
3	Muranga	74.89	1,016
4	Kakamega	511.28	815
5	West Pokot	7.14	487
6	Tana River	110.46	420
7	Meru	93.47	292
8	Turkana	51.48	282
9	Vihiga	53.03	243
10	Makueni	62.60	239

55. Mandera county government's irregular payments in 2014/15 was worth Kshs 2.07 billion while that of Muranga County government was worthy Kshs 1.02 billion having grown from Kshs 144.89 million and Kshs 74.89 million respectively recorded during the financial year 2013/14. The huge growth in irregular payments if unchecked has the potential to lead to huge loss of public funds and corruption as well as fraudulent payments with disregard to co-corporate governance and ethical standards within the county governments and in the wider public sector service.

56. During the financial year 2013/14 irregular payments were worth 4.6 billion, approximately.Notable cases included; Nairobi County (252.9 million), Kisii (465.2 million) that procured 37.7 million curtains and shears through split procurement and 10.1 million tender awarded to non-prequalified suppliers etc, Kakamega (511.3 million)where tenders for expenditures worth 112.5 million for road maintenance and 372.6 million for education support program disregarded procurement regulations, Kisumu (243.7 million) where 20.9 million was incurred for the governors full board accommodation, car hire, and other hotel services, and took a loan 13 million to pay for a safari for county assembly members thus incurring interest worth 1.1 million, or Migori - 360 million, Nyandarua - 841.9 million, that incurred 658 million without procurement plans leading to

substandard work, Siaya - 254.7 million, where sums worth 167.9 was incurred without carrying out tender advertisement or the constitution of a technical or financial committee or even the awarding of a tender to a contractor who did not bid according to tender minutes. These cases represent lack of adherence to laid down procurement requirements, and could be an indication of corruption/graft avenues. They should therefore be investigated and prosecution be carried out on case by case basis.

2.10 Handing over of Assets and Liabilities from Defunct Local Authorities

57. Many county governments provided and others did not provide Annexures to the financial statements to reflect that the County Governments had acquired assets in the period under review as at 30 June 2014. This runs to colossal sums. However, detailed schedules and asset register were not availed for audit review. Further, it's not clear and the managements have not explained how the handing over process of the defunct local authorities' assets was handled including the handing over report of the assets and liabilities to the County Government. Consequently, the validity and completeness of the assets

58. In addition, cases abound of Incomplete and or no Fixed Assets Register:Many counties lack of fixed assets registers at both the county assemblies and county executives and thus may lead to loss of property and other moveable assets and office equipment. As custodians of the inventory the accounting officers should keep record of inventories. Lack of an updated fixed assets register to record all assets and no register for parcels of land owned by the county governments.

59. Although some County Governments, for instance Bungoma had opened a fixed assets register to record assets, the register was not updated with the additional purchase of land, buildings, furniture and equipment. Further, no motor vehicle

details e.g. date of acquisition, invoice and payment voucher number were indicated in the asset register.

2.11 Non Deduction of Withholding Tax and other Tax Obligations

60. During the period under review, various projects such as building construction, roads and other works were implemented. It was observed that part payments were made to the contractors for the works done as at 30 June, 2014. However, withholding tax was not deducted from the merchants in form of Withholding Tax and the contractors were paid the full amounts. The undeducted tax from the contractors represents losses of revenue by the County Governments.

61. The Audit reports reveal also other tax Amounts relate to Tax recoveries together with associated fines and penalties by Kenya Revenue Authority (KRA). Failure by County Government to collect taxes and remit these to KRA in a timely manner is contrary to see 158(2) (a) of the PFM Act, 2012.

62. Taxes were due fridge benefit in form of cards and therefore County Government end up paying taxes for staff. These penalties and fines have no value for money and could have been avoided expenditure if they paid their tax dues in time. County Governments are breaching laws and management should be diligent.

2.12 Irregular Procurement of Services

63. A number of counties do not comply with the Public Procurement and Disposal Act of 2005 or (Public Procurement and Disposal Act of 2015) when procuring goods and services. In a number of cases counties do procure goods and services through direct procurement and they do not explain the rational for the same. In other instances there are no procurement records such as quotations to show how they arrive how such goods and services are procured.

64. It is noted that most counties overspent on compensation of employees and other grants and transfers. It is also noted that most counties underspent on the use of goods and services and acquisition of assets. It is noted across many counties that the over expenditure was not regularized through supplementary expenditure. Under spending on the other hand implies services are not being rendered to the residents.

65. It is also noted that in most cases of irregular procurement of goods and services, there was no procurement plan prepared for this works and all materials and services were procured directly without regard to procurement procedures provided by the Public Procurement and Disposal Act, 2005 and Regulations.

66. Furthermore, the awarding of contracts in single sourcing in most cases are not subjected to a competitive bidding which may result to Price setting and success fees which cannot be confirmed as competitively determined in the absence of competitive bidding. This against section 28(1) of the Public Private Partnerships Act No 15 of 2013.

2.13 Lack of Land and Other Properties Ownership Documents

67. During the period under review many counties acquired various parcels of land of varying values. However, the title documents to prove ownership of the lands, details of the size and the location of the land were not available for audit verification. In addition, there was no documentary evidence to confirm that the tender for purchase of such pieces of land was advertised as required by the Public Procurement and Disposal Act, 2005 Regulations. Further, no land valuation report was provided for audit review and as such, it was not clear as to how the land was identified and the purchase price determined

68. Most county governments had parcels of land inherited from the defunct local authorities. In some defunct local authorities, records of land held were not available. The County Governments did not maintain fixed assets registers making it hard to trace the assets. Most pieces of land did not have title deeds and only the values for the defunct Local Authorities. However, values indicated were unrealistic and mostly in view of the Auditor general undervalued. Land values for the most defunct local authorities were not availed to Auditors for review.

2.14 Human Resource Management

69. The Audit queries raised touch on various aspect of human resource management within the counties. Some of these include the following;

70. ***Excessive* Wage Bill:** Compensation to employee costs for some counties during the period 2013/2014, and 2014/15 against total budget expenditure were in excess of half the recurrent budget. For instance in The compensation to employee cost represents 59.77% of total expenditure, an indication that the wage bill is huge compared to other expenditure

71. ***Un-Procedural Engagement and Payment of Casuals***: some County Governments paid casual wages during the period under review. However, no provision for employment of casuals was made in their budgets. The basis of the rates of payments used was not known since different rates were used to pay same category of casual workers. Further, there was no documentary evidence to support the involvement of respective County Public Service Boards in the identification and engagement of the casuals as required by the County Government Act 2012. The propriety of such payments could not be ascertained besides there being no such budgetary provisions.

    i) Most of the casuals were employed by the defunct Local Authorities with some having served for as many as seventeen years. No contract letters were availed to support their engagement. In addition, policy documents / guidelines were not provided to support the subsequent engagement and payment to the casual workers by the County governments during the yeas under review. In other instances, the schedules supporting the payments had not been signed by the casuals. In addition, Human Resource department at the County headquarters did not have any details about the casuals.

ii) ***Incomplete Staff Head Count Audit:*** Transition Authority letter Ref TA/7/3/Vol. 1/67 dated 24 July 2013, directed the County Governments to carry out staff audit through head count to confirm job placement and needs assessment for proper management of the human resources aspect of each of the County. Across many counties the status of the process was not established since no reports were to confirm that there was proper matching between the payroll and the human resource records to identify the optimal organization structure and job placement for the Country.

Further, confirmation of the existing casuals through head count had not been done by the County Public Service Boards (CPSB) so that the plight aggrieved staff can be addressed to avoid future costly litigation in relation to the workers who have exceeded the limits of three (3) months. Without proper head count the existence of the ghost workers cannot be ruled out.

iii) ***Unpaid Dues:*** The County Governments as at close of the financial year were in debt in respect of leave allowances arrears, Salary arrears for Defunct County Councils and Defunct Town Councils. It is the responsibility of the County Public Service Boards (CPSB) to deal with these issues. However, no action had been taken to confirm and clear the arrears at the close of financial year so as to motivate the affected staff and enhance productivity. Further, this may lead to conflict with the Union that advocate for the staff welfare. If the debts persist, the county governments might face industrial actions from the employees leading to further legal expenditure and may also cause low staff morale.

iv) ***Double Payment of Devolved Staff:*** In some instances, some staff drew salaries from the National Government as well as from the County Governments thus an anomaly in double payments. However, no effort has been made to recover the overpayment in spite of the direction given by the ministry to make a claim so as the ministry can initiate the recoveries. Effort to get the total double amount in question from the management was not fruitful. Without a proper follow-up by the County government, Public funds irregularly paid to these workers could be lost.

v) ***Payment of Salaries outside Integrated Personnel Payroll Data (IPPD) Payroll:*** Some payments to staff that were not in the County Government payroll. They included ECDE Teachers and ESP Health workers. The County Governments reasoned that they have not been assigned PIN numbers or Personal number. However, no explanation was given as to why they have not been assigned personal numbers. Paying of staff without personal numbers could lead to irregular employment and payment of individual who are not staff of the County Government due to lack of proper accountability.

All the payments of salaries for all officers other than casuals and works paid staff should be processed through Integrated Personnel Payroll Data (IPPD) program. Some officers of the County Governments were not included in the IPPD program during the review period and thus were paid salaries through vouchers. The officers had not been allocated IPPD Payroll Identification numbers. Personal files for the officers were also not provided thus it was not possible to examine their respective terms of engagement.

vi) **Unsupported Statutory Deductions:** Deductions made from the salaries in respect of LAPROFUND and LAPTRUST and remitted to the respective statutory bodies. However, no payment vouchers were produced for audit verification. Further, these bodies had not acknowledged receipt of the monies to confirm the expenditure. Without prove of payments, public funds could be lost through payments to other parties in preference of statutory bodies.

vii) ***Weaknesses in Human Resource Management***: The County Governments did not maintain Correspondences file to record the management of staff matters and other related issues as follows:

a) Transfer of all Human Resource records for the devolved staff has not been done. Further, no staff personal files have been opened for county Government staff for processing matters and correspondences such as leave forms, deployment letters, transfers, and other personal documents.
b) No organization structure has been prepared to match the existing staff to the structure so as to determine overall staff turnover, staffing levels, staff to be retained, transferred, merged, abolished etc. There were instances of mismatch of resources in terms of some staff who were not working according to their job descriptions.
c) No County Government Human Resource policy was made available for audit verification. Laxity in putting in place strong human resource management systems may lead to job dissatisfaction, chaos, industrial action by the employees and low productivity.

viii) ***Lack* of Policy/Plans** noted included the following

i.) In most counties there was no approved staff establishment for the County governments.

ii.) Most County Executives had not developed their organizational structures contrary to the provisions of section 46(10) of the County Government Act, 2012. As a result, levels of authority in the County were not well defined.

iii.) The County Executive had not developed an integrated Human Resource Plan and Policy document to help in the management of its Human Resources.

iv.) The County Executive had not completed any job evaluation and analysis. Consequently, responsibilities of officers at different levels of the organization and their roles in decision making are not clearly defined, well documented and communicated to the staff.

v.) The County did not carry out any staff performance evaluation / appraisal during the year.

vi.) The County Governments engaged staff without having done a human resource audit to determine the gaps and adequacy or otherwise in terms of numbers and competencies of the existing staff at the time of transition. No evidence was provided to show the recruitment process used and also the staff portfolio and structures at the time of their engagement. Further, most County Public Service Boards were not in existence by then. In addition, the salaries paid were not within the approved salaries scales.

2.15 Irregularities in Car and House Mortgage Loans Schemes

72. Variations/ disparities in the loan amounts disbursed to members of the scheme against the value of the cars and houses indicates are in excess loan payments contrary to Car and House Mortgage fund regulations. Secondly, there are cases of non-submission of logbooks to appointed fund administrators as collateral for advanced loans making recovery in case of defaulting difficulty.

i) No records kept by the fund administrators and no logbooks and or title deeds filed in respective files maintained by the management. No loan register to show individual members' cumulative loan and running loan balances.
ii) In most instances no submission of financial statements of the fund to the auditor general contrary to section 15(1)(d) for car loans and mortgages scheme regulations.
iii) Fridge benefit taxes applicable to these loans and payable by the employer were not calculated as required by The Income Tax Act.
iv) Risk loss of cars and land parcels as not jointly registered owned by the members and the Assemblies, taking into account that loans should be paid in full before expiry of the term of county assemblies and before general elections. In other instances, there are no insurance covers for mortgages as required by the regulations. Case in point, demise of MCAs or nullification of elections pose risk of loss as management may not be able to recover outstanding debts.
v) No verification of Valuation reports for properties bought by mortgage funds before advancing and approvals of loans applied by the members of the scheme.

3.0 IMPACTS OF FIDUCIARY RISKS TO COUNTY DEVELOPMENTS

73. Under the devolved system of governance, the goal of fiscal decentralization was to ensure that national resources percolate to the grassroots level. It was felt that this would ensure efficiency in public spending by ensuring resources are directed towards priority needs of the common *mwananchi*thereby alleviating poverty.

74. Despite teething problems in the first five years, it can be said that eight years post-devolution, many counties have generally been able to improve service delivery and implement key projects that have the potential to improve livelihoods in their various jurisdictions. However, massive misuse of public funds has been observed at the county level.

75. In financial year 2012/13, the audit reports by the office of the auditor general raised audit queries amounting to Ksh. 2.433 billion. In 2013/14, the audit queries increased to Ksh. 83.24 billion and by end of financial year 2014/15, the audit queries had more than doubled to Ksh. 298.451 billion. This is the equivalent of nine Thika superhighways, a whole new standard gauge railway from Mombasa to Nairobi or the entire economy of South Sudan, wiped out in a single financial year. These audit queries were mostly attributed to pending bills, unaccounted expenditure, under expenditure, underreporting of revenue, irregular payments among others.

76. The loss of Ksh. 298.45 billion from the economy may have cost the country approximately 5.4 percent in terms of economic growth. Simulations[1] indicate that if Ksh. 298.45 billion is injected into the economy in the current financial year and utilized efficiently in the productive sectors of the economy (productive investments) with no single wastage, it could actually help the economy achieve double digit growth of 10.9 percent. Given the increased gross national disposable

[1] Parliamentary Budget Office Macro Model (PBOM)

income, the effect will be an increase in private final consumption expenditure as well as private investments. Employment in the private sector is also likely to go up as denoted by an increase in the wage bill for the private sector. Given the increasing vibrancy and profitability of the economy, private firms are likely to expand their businesses and employ more. As such, formal private sector employment will experience a boost as workers exit the informal sector for the more lucrative private formal sector

77. With regard to the trade balance, imports are likely to increase significantly. This can be attributed to increased importation of consumer goods as well as investment goods due to increased investment in the government sector but also as part of the production processes of a thriving private sector. There is also observed a slight increase in exports. This may be on account of increased production and possibly improved quality of goods for exportation due to increased efficiency in the production process. As a result, the current account deficit is likely to worsen but this may not necessarily be detrimental to the economy as some of the imported goods are for investments purposes by both the government and the private sector.

78. In terms of revenue performance, given the activities in the economy in form of increasing employment, importation and general spending on goods and services, the government will collect additional revenue mostly from increased income tax, VAT and import duty. An increase in Interest payments is also observed implying an increase in borrowing to fund the increasing government investments.

79. Wastage of public funds compromises economic development. Indeed, some of the queried funds may have crossed borders thereby denying the country of crucial resources. The economic cost of misuse of resources can be felt in terms of opportunity cost for services not rendered that could otherwise have been provided for. This may result in stalling of government projects as well as increased costs to the public. As such, the poor are disproportionately affected as they may not be in a

position to pay more for these services. Misuse of public funds therefore worsens poverty and income inequality.

Salient issues emerging from the County Governments Audit Reports

80. The Committee noted the following concerns and made these observations based ontheir potential implications to economic growth not only to the counties but also affects national economic performance;

a. Long outstanding pending bills may have adverse effects on the County Governments ability to obtain goods and services on credit from supplies.

b. Pending Bills are an eyesore and an avenue for rent seeking. Pending bills affects businesses negatively not only for suppliers but also the economy. It distorts the planning horizon and procurement. Some of the pending bills could be avoided as they relate to fines, penalties and interests especially those pertaining to statutory deductions.

c. Failure to pay outstanding pending bills in time may cost county Governments good reputation among service providers as well as increasing the likelihood of litigations against them.

d. Delayed implementation of projects denies Public Service delivery. It may also lead to projects costs escalation due to inflation factors and eventually County Governments may have to incur additional expenditures on the projects.

e. Delay in implementing projects as per project cycle/plan affects the implementation of subsequent year's adversely. Thus resulting toproject implementations lagging behind schedule and some projects are partially implemented.

4.0 RECOMMENDATIONS

81. In general, the Committee made observations that failure to provide necessary supporting documents for audit and verification of expenditure requirements constitutes a seriousviolation of the Constitution, Statutes and Regulations. The Committee noted that in many cases supporting documentsrequired for audit review weresubmitted way out of the audit cycle. In view of this the committee makes the following recommendations;

1) **Capacity Building for Staff and Members of the County Assembly -** County Governments should recruit competent staff and ensure that they are continuously trained for better work output. Capacities of County Assemblies should be built for oversight purposes. County Governments should adopt proper record keeping mechanism, in order to enhance accountability. The National Government and IBEC should ensure that the Capacity Assessment and Rationalization Programme (CARPS) is concluded and implemented.

2) **Human Resource Management -**The committee recommends that the County Public Service Board should undertake its mandate as stipulated in the County Government Act, 2012 and come up with a staff establishment that is defined and implemented in concurrence with the County Assembly. The County Government should ensure that it complies with the SRC circulars and PFM guidelines on limits of wages and benefits as stipulated in section 107(2) and Regulation 25(1)(a) and (b).
3) **IFMIS System** – The Committee recommends that the IFMIS system should be fully implemented to ensure all the modules are operational and all loopholes sealed, so as not to hamper financial operations of the counties. That the system should operate optimally and efficiently to curb the persistent downtime A special audit should be done by the Auditor-General on the IFMIS system, to determine the viability of the

system with view of making improvements and upgrading specific modules due to technology advancements.

4) **Asset and Liability Register -** The Committee recommends the Intergovernmental Relations Technical Committee (IGRTC) to fast track the process of verification and Identification of assets and liabilities across all the 47 counties and submits its report to the Senate for consideration. The Committee further recommends that the CEO and the responsible CEC Member should ensure that assets are managed in line with section 153 of the PFM Act failure to which they should take responsibility for any loss of assets that may be occasioned by their negligence. Each County government should open a fixed assets register and ensure it is regularly updated besides taking inventory of all its assets. In addition, there should be valuation for each of the said inventory/ assets.

5) **Debt Management-** The Committee recommends that the CEC Member for Finance to designate persons to be responsible for collecting, receiving and accounting of all revenues as contemplated in section 157 of the PFM Act, 2012. The receiver of revenue to come up with optimization of collection of revenue in the county. The county should set realistic and achievable revenue targets. The County should update the valuation roll to be in line with the current market rate;

6) ***Oversight and Accountability:***The Senate is Constitutionally mandated and has obligation under Article 96 of the Constitution to not only protect the interest of counties but also to promote and safeguard accountability and openness in the manner of conducting the affairs at the county level. In this regard, the Committee recommends that this House demands and ensures adequate resources are transferred to the county level and should ensure enforcement at county level to comply and promote transparency and prudent utilization of public resources at all levels of government.

7) ***Audit and Budget Implementation Reports:*** each year the auditor general lays county governments' audit reports in this house in accordance to Article 229 of the constitution. Similarly, the Office of the Controller of Budget also lays their quarterly reports to both Houses of Parliament as well as to respective County Assemblies. Based on these reports, Senate is duty-bound to make decisions on public finance management based on the audit data and best practice examples. The audit reports then should guide the manner in which public resources are distributed within the confines of the law. Therefore, the Committee recommends that Where the Senate is satisfied that there has been material failure to implement previous audit recommendations made, then it may recommend withholding the withdrawals from respective County Revenue Fund of such monies as it may determine for the purpose of meeting any expenditure of such county.

8) The Audit Reports should seek to promote Efficiency and effectiveness in the use of resources and evaluation of financial performance for the benefit of all Kenyans. Counties whose financial statements are in shambles in management of its resources should be penalized through the Fiscal Responsibility Index / propriety index in the equitable sharing of resources and reward counties whose accounts are prudently managed and accounted for transparently.

9) ***Establishment of Sustainable Development and Impact Assessment Units***: To curb cases that abound of incomplete and not utilized projects and sometimes nonexistence projects across many counties with most projects status being incomplete long after expiry of intended completion dates, then there arises a need to establish units within every County Public Service Board (CPSB) with the mandate of taking stock of all projects within the county initiated by both county executives as well as County Assemblies and submit quarterly reports to the County Assembly and integrated in the

county development plans, County Fiscal Strategy Papers to ensure continuity and sustainable development.

10) In relation to **Pending Bills**, The Committee recommends that:**-**

a) Accounting Officers should institute measures to ensure that bills are alwayscleared within the financial year they fall;

b) Each county entity should appraise respective county assemblies with quarterly status report on outstanding pending bills and where necessary establish a taskforce on Pending Bills to verify and confirm authenticity of pending bills, and submit the same to the respective county assembly, failure of which he would be held accountable.

c) The National Treasury should ensure timely exchequer releases to County Governments to enable them settle bills as they fall due and strict adherence with the gazetted cash disbursement schedule;

11) Inrelation to ***Outstanding Unsurrentered Imprest***, the committee recommends each Accounting Officer should institute measures to ensure that county staff (imprest holders) adhere to PFM Act (county government) 2015 regulations and procedures onimprests to guard against malpractices and institute full recovery measures with interest for any outstanding imprests**.**

12) **Audit and Budget Implementation Reports-**The Committee recommends that counties whose financial statements are in shambles in management of its resources should be penalized through the Fiscal Responsibility Index / propriety index in the equitable sharing of resources and reward counties whose accounts are prudently managed and accounted for transparently.

13) **Responsibility on County Operations** The Committee recommends that Governors being the Chief Executives of Counties must at all times ensure that all officers and institutions under them exercise prudent financial management and controls, in compliance with the tenets of the constitution, and relevant laws and regulations. Failure to do so, they shall be held personally liable.

14) **Special Audits -**The Committee recommends that theOffice of the Auditor General undertakes special audits on selected counties from time to time, in order to promote the principles of public finance as enshrined in the Constitution.

15) **Surrender of Imprest –** The Committee recommends that the accounting officers and AIE holders should strictly enforce the laid down procedures as stipulated in Regulations 93 of the PFM Act, 2012 and ensure compliance. The CEC Finance should ensure that imprests are used for only intended purposes and are surrendered within the timelines as provided for in regulation 93 of PFM regulations.

Glossary of Terms

Term	Simplified Meaning
Under Expenditure	Non utilization of funds allocated for a specific purpose hence denying the public services/goods required
Pending Bills	This arise as a result of failure to make payments after more than 90 days credit time usually provided by the suppliers of Goods /services rendered but which the payments are not honored.
Unsupported expenditure	Expenditure incurred no supporting documents to confirm/support such expenditures or no such documents were availed for audit purposes
Unbanked revenue	Revenues collected but not deposited in the official County Governments revenues accounts
Unbudgeted Expenditure	Expenditures incurred on goods or services which were not included in the budget
Outstanding Imprests	Money advanced to public officials but not accounted for/surrendered as required
Irregular Payments	Expenditures incurred without following the due procedures put in place
Over (Excess) Expenditure	Expenditures incurred over and above the amount provided in the budget
Unaccounted expenditure/expenses	Expenses that cannot be accounted for, or goods were delivered but not recorded upon receipt
Under reporting of revenue	Revenue collected but not submitted to the county consolidation fund, revenue collected and utilized at source or revenue differentials that could not be accounted.
Uncompleted/stalled projects	Projects which are started but are abandoned midway hence no value to the public
Unqualified Opinion	This arises when the Auditor General is satisfied with documentation presented for review. It implies that there are no major problems with documentation and information that were presented for assessment and the funds are managed properly.
Qualified Opinion	This is as a result of Auditor General finding some problems that are not widespread or persistent with documentation and information supplied. The auditor received all the information required for audit. However, after review the audit reveals there are some gaps in adherence and compliance to legal procedures and budge

Adverse Opinion	An adverse opinion occurs when the Auditor General is able to review the entity's documentation supplied for audit purposes and the final audit reveals problems that are widespread and pervasive and will require considerable changes to remedy. This is equivalent to scoring a pass in an examination. Oversight institutions are concerned to recommend remedies to address such anomalies and systems.
Disclaimer	A disclaimer is when the auditor is unable to review fully an entity's documentation because there is a substantial amount of information that is missing. The absence of information makes it hard and difficulty for the Auditor General to make an opinion. In other words, the auditor feels unable to determine whether the situation is qualified or adverse because the paperwork is not adequate. This is a serious lapse in compliance and should be of concern to oversight bodies. For a disclaimer, the record keeping is so bad the auditor cannot give an opinion.

References;

1. The Constitution of Kenya, 2010;
2. The Public Finance Management Act 2012;
3. The County Government Act 2012;
4. The Public Procurement and Disposal Act 2015;
5. The Public Audit Act 2015;
6. The Senate Standing Orders;
7. The Public Financial Management Act 2012 (County Government) Regulations 2015;
8. The Government Financial Procedures and Regulations;
9. Various Auditor General's Reports on Financial Statements for Counties (2013/2014, 2014/2015 and 2015/2016);
10. VariousAuditor General Financial Operations Reports (2013/2014, 2014/2015 and 2015/2016 ;)
11. Various County Allocation of Revenue Acts.

5.0 ANNEXES