

**KWALE COUNTY**



**COUNTY ASSEMBLY OF KWALE**

**SECOND ASSEMBLY – SECOND SESSION**

**REPORT**

**OF THE**

**COMMITTEE ON PUBLIC INVESTMENTS AND ACCOUNTS**

**ON THE**

***THE FINANCIAL STATEMENTS OF  
THE COUNTY ASSEMBLY OF KWALE  
FOR THE FY ENDED 30<sup>TH</sup> JUNE 2016.***

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**LIST OF ACRONYMS AND ABBREVIATIONS.**

1. CEC - County Executive Committee.
2. HON - Honourable.
3. SRC - Salaries and Remuneration Commission.
4. FY -Financial Year.
5. SOCAT -Societies of Clerks at the Table.
6. PFM ACT -Public Finance Management ACT.
7. LSO -Local Service Order.
8. LPO -Local Purchase Order.
9. BQ -Bills of Quantity.

**PREFACE.**

**Mr Speaker sir**, one of the salient roles of the Public Investments and Accounts Committee is the examination of the accounts showing the appropriations of the sum voted by the County Assembly to meet the public expenditure and of such other accounts laid before the County Assembly as the Committee may think fit. It is therefore in this regard that the committee has come up with this report.

**COMMITTEE MANDATE.**

The Committee on County Public Investment and Accounts is one of the Select Committees established pursuant to provisions of *Standing Order No. 186* tasked with the responsibilities:-

- (a) The examination of the accounts showing the appropriations of the sum voted by the County Assembly to meet the public expenditure and of such other accounts laid before the County Assembly as the Committee may think fit.
- (b) The examination of the reports, accounts and workings of the county public investments;
- (c) The examination, in the context of the autonomy and efficiency of the county public investments, whether the affairs of the county public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices:

Provided that the Committee shall not examine any of the following, namely:

- (i) Matters of major County or National Government policy as distinct from business or commercial functions of the public investments;
- (ii) Matters of day-to-day administration; and,
- (iii) Matters for the consideration of which machinery is established by any special statute under which a particular county public investment is established.

**ACKNOWLEDGEMENT.**

**Mr Speaker Sir**, I want to sincerely thank the members of the Public Investments and Accounts Committee for their dedication throughout the period of compiling of this report, the office of the Speaker, the Clerk and the Auditor General for their support and adequate facilitation.

**BACKGROUND.**

**Mr Speaker sir**, the office of the Auditor General has the mandate to audit and report on the accounts of the national and county governments under article 229 of the Constitution of Kenya and Public Audit Act, 2003.

It is in this regard that the committee is privileged to table a report of the **Financial Statements of the County Assembly of Kwale for the Year Ending 30<sup>th</sup> June 2016.**

**COMMITTEE MEMBERSHIP.**

The County Assembly Select Committee on Public Investments and Accounts was constituted on October, 2017 comprising of the following Members:-

- |                                |                 |
|--------------------------------|-----------------|
| 1. Hon. Patrick Mangale Nyawa  | - Chairman      |
| 2. Hon. Melda Nyakiti          | - V/Chairperson |
| 3. Hon. Raia Mkungu            | - Member        |
| 4. Hon. Mweruphe Jackson Ngoro | - Member        |
| 5. Hon. Alfred Ruwa Bavu       | - Member        |

**Mr Speaker sir**, it is in this regard that I present before this honourable house the report on the **Financial Statements of the County Assembly of Kwale for the Year Ended 30<sup>th</sup> June 2016.**

**Hon Patrick Mangale Nyawa**

**Chairman, Public Investments and Accounts Committee.**

**Signature ..... Date .....**

**Hon Melder James Nyakiti**

**Vice chairperson, Public Investments and Accounts Committee**

**Signature ..... .Date .....**

**Hon Raia Mkungu**

**Member.**

**Signature ..... Date .....**

**Hon Ndoro Mweruphe**

**Member.**

**Signature ..... Date .....**

**Hon Alfred Ruwa Bavu**

**Member.**

**Signature.....Date.....**

**COMMITTEE OBJECTIVES.**

**Mr Speaker sir**, the committee main objective in this report is:

(a) The examination of the accounts showing the appropriations of the sum voted by the County Assembly to meet the public expenditure and of such other accounts laid before the County Assembly as the Committee may think fit.

**METHODOLOGY.**

**Mr Speaker sir**, in compilation of this report the committee used the following methods to gather information:

1. Interviewing the management of the County Assembly of Kwale.
2. Review of applicable legislations and regulations.
3. Examination of vouchers, cash books, vote books, bank statements, tenders and contract documents, store documents and other related records.
4. Review of minutes of meetings especially where there are resolution affecting management of cash.
5. Physical inspection/verification of documents.

**COMMITTEE REPORT.**

The Committee scrutinized the Auditor General report on the Financial Statement of the County Assembly of Kwale for FY 2015/2016, which had raised some queries. The Committee met with the management of the County Assembly on 21<sup>st</sup> and 22<sup>nd</sup> May, 2018 who then responded to the queries raised by the Auditor General as below.

**1.0 BUDGET ANALYSIS AND PERFORMANCE.**

During the year under review, the County Assembly of Kwale had a budget of Kshs. 971,757,000 comprising of development budget of Kshs. 479,095,940 and recurrent budget of Kshs. 492,661,060. Actual total expenditure was Kshs. 793,636,027 resulting to a net under expenditure of Kshs. 178,120,973 or 19% as analysed below:

<b>Vote</b>	<b>Budget (Kshs)</b>	<b>Actual Expenditure (Kshs)</b>	<b>Under Expenditure (Kshs)</b>	<b>% Percentage</b>
Development	479,095,940	348,002,444	131,093,496	27%
Recurrent	492,661,060	445,633,583	47,027,477	9.5%

<b>Total</b>	<b>971,757,000</b>	<b>793,636,027</b>	<b>178,120,973</b>	<b>19%</b>
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As the analysis indicates, the County Assembly of Kwale did not utilize a total of Kshs. 178,120,973. This may have affected the intended purpose of budget allocation and service delivery to the residents of Kwale County. The County Assembly management has not provided any plausible explanation for the anomaly.

#### **Management response.**

This was due to late disbursements from National Treasury. It is worthwhile to note that development payments are based on the certificates of valued works by the engineer. During the period under review no certificates had been issued by the engineer on works done to enable the Assembly to absorb the stated amounts.

#### **Committee observations**

- i. That the Assembly received a disbursement of Ksh. 835,917,738 for the year under review.
- ii. That the Assembly failed to absorb Ksh.135,839, 262 for the year under review.
- iii. That the Accounting Officer failed to constitute a project management committee to oversee the construction of projects which led to the under absorption.

#### **Committee recommendations.**

- i. That the Accounting Officer shall within 30 days after the adoption of this report constitute project management committees to oversee the implementation of projects.

### **1.1 RECURRENT BUDGET.**

During the year under review, the County Assembly of Kwale allocated Kshs. 492,661,060 for recurrent expenditure but spent Kshs. 445,633,583 thus resulting in under expenditure of Kshs. 47,027,477 or 9.5% of its recurrent vote as detailed below:

<b>Item</b>	<b>Budget (Kshs)</b>	<b>Actual (Kshs)</b>	<b>Under Utilization (Kshs)</b>	<b>% Percentage</b>
Compensation of Employees	193,609,630	188,434,846	5,174,784	3%
Use of goods and services	252,161,809	239,243,292	12,918,517	5%
Social Security Benefits	18,860,445	12,296,495	6,563,950	35%
Acquisition of Assets	28,029,176	5,658,949	22,370,227	80%
<b>TOTAL</b>	<b>492,661,060</b>	<b>445,633,583</b>	<b>47,027,477</b>	

**Management response.**

The acquisition of assets queried by the Auditor General relates to pending bills of Kshs.28,029,176/- out of which Ksh.21,929,420/- represented car loan and mortgages which were not part of the exchequer releases for the year under review.

It is true that there was over budgeting on Personal Emoluments of Ksh.5,174,784/- on compensation of employees and Ksh.6,563,950/- on social security benefits, However this amount was not spent and they formed part of the swift to CRF Account at the end of the year.

**Committee observations.**

- i. That the management failed to utilize Ksh.28,029,176/= out of which Ksh.21,929,420 represented Car loan and Mortgages due to lack of an Act in place.
- ii. That the management confirmed there was over budgeting on Personal Emoluments of Ksh. 5,174,784/= and Ksh. 6,563,950/= on Social Security benefits.
- iii. That the County Assembly failed to bring in place a legislation on Car Loan and Mortgages which could enable the Controller of Budget release funds for the same.
- iv. The County Assembly failed to do a supplementary budget to reallocate the funds to other departments of the County Executive to ensure that the monies were absorbed within the FY under review.

**Committee recommendations.**

- i. That the Accounting Officer shall ensure that resources that are allocated to programs can be absorbed within that financial year.
- ii. That the Accounting Officer shall mobilize his administration to ensure funds reallocations are done in time.
- iii. That the Accounting Officer shall ensure that the PFM Act 2012 on reallocation of funds is strictly adhered to.

**1.2 DEVELOPMENT BUDGET**

During the year under review, the County Assembly of Kwale allocated Kshs. 479,095,940 for development expenditure but spent Kshs. 348,002,444 resulting in an under-expenditure of Kshs. 131,093,496 or 27% of the development vote as detailed below:

Item	Budget Kshs.	Actual Kshs.	Under Kshs.	%
County assembly complex & administrative block	432,095,940	328,807,553	103,288,387	23
Speakers Residence	47,000,000	19,194,891	27,805,109	59
<b>Total</b>	<b>479,095,940</b>	<b>348,002,444</b>	<b>131,093,496</b>	<b>27</b>

The management has not provided satisfactory explanation for the underutilization of the budget by Kshs. 131,093,496 or 27%.

#### Management response.

It is worthwhile to note that payments on development projects are based on works certified by engineers. Apparently during this financial period the Engineer submitted works certificates that were not enough to absorb the budgeted amounts.

#### Committee observations.

- i. The County assembly received a disbursement of Ksh.479, 095,940 for development and failed to absorb Ksh. 131,093,496 for the year under review.
- ii. The Accounting Officer failed to constitute project management committees to oversee the construction of the Assembly Complex and the Administration block leading to the under absorption.
- iii. The County Assembly failed to do a supplementary budget to reallocate the funds to other departments of the County Executive to ensure that the monies were absorbed within the FY under review.

#### Committee recommendations.

- i. The Accounting Officer shall constitute project management committees to oversee the construction of projects of the County Assembly within thirty days after the adoption of this report.
- ii. The Accounting Officer in future shall make prior arrangements with the County Executive departments for reallocation of funds which the County Assembly may not be able to absorb within the financial year.

### 1.3 BUDGET VARIANCE.

Review of the approved supplementary budget for the year 2015/2016 revealed that balances for 14 expenditure items varied from the budgets captured in the Integrated Financial Management Information Systems (IFMIS) vote book. The variances totalling to Kshs. 26,998,000 resulted from reallocations/adjustments captured in IFMIS but not supported by the approved supplementary budget as detailed below:

No.	Title/Details	Approved Budget Kshs.	Approved Supplementary Estimates Kshs.	Final Approved Budget Kshs.	IFMIS Presented Budget Kshs.	Variance Kshs
1.	Purchase of Office Furniture and Fitting	3,000,000	(2,568,202)	431,798	475,798	44,000
2.	Purchase of Computers, Printers and other IT Equipment	4,244,357	(2,958,248)	1,286,109	1,377,109	91,000

3.	Basic salaries – County Assembly Service	29,797,126	-	29,797,126	26,247,126	3,550,000
4.	Personal Allowances paid - Other	6,000,000	(3,110,330)	2,889,670	3,043,670	154,000
5.	Basic Salaries – County Assembly Service	62,735,673	-	62,735,673	63,735,673	1,000,000
6.	Responsibility Allowance	9,972,000	-	9,972,000	10,393,000	421,000
7.	Transport Allowance	24,538,983	-	24,538,983	24,013,983	525,000
8.	Personal Allowances paid - Other	59,404,800	(22,500,000)	36,904,800	39,454,800	2,550,000
9.	Travel Costs (airlines, bus, railway, mileage allowances, etc.)	6,666,529	(1,997,049)	4,669,480	4,774,480	105,000
10.	Daily Subsistence Allowance	10,500,000	22,655,278	33,155,278	43,944,278	10,789,000
11.	Rents and Rates – Non- Residential	2,400,000	470,600	2,870,600	3,061,600	191,000
12.	Other Operating Expenses - Other	6,000,000	(1,304,751)	4,695,249	1,295,249	3,400,000
13.	Telephone, Telex, Facsimile and Mobile Phone Services	2,160,000	(92,382)	2,067,618	2,171,618	104,000
14.	Publishing & Printing Services	4,228,319	(340,906)	3,887,413	3,937,413	50,000
15.	Catering Services (receptions) Accommodation, Gifts, Food and Drinks	14,000,000	15,470,385	29,470,385	25,446,385	4,024,000
	<b>Total</b>	<b>245,647,787</b>	<b>15,318,358</b>	<b>249,372,182</b>	<b>253,372,182</b>	<b>26,998,000</b>

The County Assembly management have not provided a plausible explanation for the discrepancy.

**Management response.**

Section 154(2) a,b,c and (3) of the Public Finance Management Act 2012 provides as follows;

(2) An accounting officer of a county government entity may reallocate funds between programs or between Sub-votes in the budget for a financial year, but only if,

(a). provisions made in the budget of a program or sub-vote are available and are unlikely to be used;

(b). a request for the reallocation has been made to the County Treasury explaining the reasons for the reallocations and the County Treasury has approved the request and,

(c) the total of all reallocations made to or from a program or Sub-vote does not exceed ten percent of the total expenditure approved for that program or sub-vote for that year.

(3) regulations approved by the county assembly may prescribe requirements for the reallocation of funds within Sub-votes or programs.

In the absence of approved regulations by the County Assembly of Kwale we relied on Section 154(2) a,b,c as above.

**Committee observations.**

- i. That the budget variance was as result of reallocation of funds between programs and sub-votes which were done according to the Public Finance Management ACT 2012.

**Committee recommendations.**

- i. That the Accounting Officer in future shall report any reallocations of funds to the County Assembly for adoption by the members.
- ii. That the Accounting Officer shall liaise with the County Treasury to ensure regulations on reallocation of funds between programs or votes is adopted within thirty days after the adoption of this report.

**2.0 UNSUPPORTED BALANCES.**

The statement of financial assets as at 30<sup>th</sup> June, 2016 reflect a balance of Kshs. 3,758,264 under control variance whose supporting schedules were not availed for audit review. Further, scrutiny of the financial statements revealed that the balance was only included in the financial statements to balance the statement of financial assets.

In the circumstances, the validity and completeness of the financial statement for the year ended 30<sup>th</sup> June, 2016 cannot be ascertained.

**Management response.**

The under control variance of Kshs. 3,758,264 was brought up by technical challenges in the IFMIS postings.

This under control variance means that the money received as cash flow was less than the money posted and paid in IFMIS. This means that some invoices recognized in IFMIS did not go through in the Internet Banking platform resulting to the variance which means they were not paid.

**Committee observations.**

- i. The management failed to provide tangible evidence to respond to the cause of variance of Ksh.3, 758,264 as queried by the auditor.

**Committee recommendations.**

- i. The Accounting Officer to provide relevant reconciliation statements amounting to Ksh.3,758,264 within 15 days after the adoption of this report failure to which the Accounting Officer shall be surcharged of the same.
- ii. That the Accounting Officer shall ensure that all transactions are done through the Central Bank Kenya accounts to avoid such variances in future.

### **3.0 TRANSFERS FROM THE COUNTY TREASURY/EXCHEQUER RELEASES.**

The statement of receipts and payment for the year ended 30<sup>th</sup> June, 2016 reflects transfers from the County Treasury/Exchequer Releases totalling to Kshs. 835,917,738. However, the report of the Controller of Budget indicates that the County Assembly received recurrent exchequer of Kshs. 492,660,000 and development exchequer of Kshs. 335,000,000 all totalling to Kshs. 835,917,738 thus resulting to unexplained or reconciled variance of Kshs. 8,257,738.

Consequently, the accuracy and completeness of the transfers from the County Treasury/Exchequer Releases totalling to Kshs. 835,917,738 for the year ended 30<sup>th</sup> June, 2016 cannot be confirmed.

**Management response.**

We hereby confirm that the amount received from the County Treasury with respect to Exchequer releases is Ksh.835,917,738/=

**Committee observations.**

- i. The management confirmed that it was true that there was a variance of Ksh.8,257,738 released by the County Treasury to the County Assembly more than what the Controller of budget had allocated for meaning that one or more of the County Executive departments received less allocation of Ksh.8,257,738 for the year under review.
- ii. The variance also displays weak financial controls at the County Treasury.

- iii. The Accounting Officer to date has failed to do a reconciliation of accounts on the exchequer releases from the County Treasury despite the query raised in the management letter by the Office of the Auditor General.

**Committee recommendations.**

- i. That the Accounting Officer shall ensure a reconciliation of accounts on the exchequer releases with the County Treasury is done within 30 days after the adoption of this report failure to which a disciplinary action shall be taken against the Accounting Officer.

## **4.0 USE OF GOODS AND SERVICES.**

### **4.1 DOMESTIC TRAVEL AND SUBSISTENCE.**

Included in the use of goods and services expenditure balance of Kshs. 239,243,292 in the statement of receipts and payments is domestic travel and subsistence expenditure amounting to Kshs 105,063,633 out of which Kshs. 6,387,066 was paid out as mileage allowance to Members of the County Assembly. However, the mileage allowance was not supported by monthly claims as required by SRC circular SRC/TS/CGOVT/3/16 which states that claims will only be made based on the distance between the county headquarters and the members' home with the claims limited to one claim per week at applicable Automobile Association of Kenya (AA) rates based on the cubic capacity of the Members' vehicle.

In view of the anomaly, the propriety of domestic and subsistence allowances totalling to Kshs. 6,387,066 for the year ended 30<sup>th</sup> June, 2016 cannot be ascertained.

**Management response.**

We hereby confirm that the year under review the mileage claims as required by SRC circular are available.

**Committee observations.**

- i. That there were no proper mileage claim forms designed for the same.
- ii. The Accounting Officer failed to provide payment schedule of mileage claims amounting to Ksh. 6,387,066 for the year under review for committee scrutiny.

**Committee recommendations.**

- i. The Accounting Officer shall ensure the use of proper statutory mileage claim forms capturing all the details as required within 15 days after the adoption of this report.
- ii. The Accounting Officer shall provide before the committee payment schedules of mileage claim forms amounting to Ksh.6,387,066.00 within 15 days after the adoption of this report failure to which disciplinary action shall be taken against the Accounting Officer.
- iii. The Accounting Officer shall be guided by the necessary government code of regulations pertaining to all payments.

## **4.2 TRAINING.**

Included in the use of goods and services balance of Kshs. 239,243,292 reflected in the statement of receipts and payments are training expenses totalling to Kshs. 17,175,749 incurred during the year under review. However, there was no evidence to confirm that the training needs assessment was done and that a plan was prepared and approved by the County Assembly Service Board in line with Section 1.3 of the County Public Service Human Resource Manual 2013 which requires that training in the county public service shall be based on training needs assessment which shall be conducted every 2 years.

Consequently, the propriety of training expenses balance of Kshs. 17,175,749 for the year ended 30<sup>th</sup> June, 2016 could not be ascertained.

### **Management response.**

All trainings carried out for staff and MCAs were done for capacity building through request and approval by the board. Hence forth the management will comply and conduct training needs assessment and have plans approved by the board as per Auditors recommendations.

### **Committee observations.**

- i. The management admitted before the committee that they did not have the training needs assessment while conducting trainings amounting to Ksh, 17,175,749 for the year under review.
- ii. That there were no plans approved by the County Assembly Service Board as according to Section 1.3 of the County Public Service Human resource manual 2013.
- iii. That the management was using County Assembly Service Board resolutions to conduct trainings.

### **Committee recommendations.**

- i. That the Accounting Officer shall come up with a training needs assessment for the entity within 30 days after the adoption of this report.
- ii. The Accounting Officer and the County Assembly Service Board shall adhere to section 1.3 of the County Public Service Human resource manual 2013.

## **4.3 HOSPITALITY SUPPLIES AND SERVICES.**

Included in the use of goods and services balance of Kshs. 239,243,292 reflected in the statement of receipts and payments is expenditure totalling to Kshs. 34,259,356 incurred on hospitality supplies and services. However, included in the balance are payments to hotels and conferences totalling to Kshs. 14,989,341 which were not supported by documentary evidence such as requisition by the user department, list of persons served and duly signed attendance registers to confirm the number of officers catered for.

Consequently, and in light of the foregoing, it has not been possible to confirm the propriety of hospitality supplies and services balance of Kshs. 14,989,341 for the year ended 30<sup>th</sup> June, 2016.

**Management response.**

We wish to confirm to the committee that Ksh.14,989,341/= was fully supported with documentary evidence.

The Auditor General has not furnished us with the breakdown of payment Vouchers of Ksh. 14,989,341/= to enable us retrieve and provide all documents needed by the committee to satisfactorily support the query.

**Committee observations.**

- i. The Accounting Officer failed to provide before the committee support documents to confirm the propriety of Ksh.14,989,341/= incurred as hospitality supplies and services despite a request by the committee to do so.
- ii. The Committee expresses its displeasure at the Accounting Officer for failure to provide support documents for the expenditure of Ksh.14,989,341 for the year under review.

**Committee recommendations.**

- i. That the Accounting Officer shall provide before the committee support documents for expenditure of Ksh.14,989,341/= within 15 days after the adoption of this report failure to which the Accounting Officer shall be surcharged.

**5.0 VOTE BOOK.**

The statement of comparison of budget and actual amounts – recurrent for the year ended 30<sup>th</sup> June, 2016 indicates that the County Assembly of Kwale incurred total recurrent expenditure amounting to Kshs. 445,633,583. Examination of the County Assembly vote book revealed that the Assembly made payments and commitments totalling to Kshs. 314,891,465 for the eleven (11) months from July 2015 to May 2016. Expenditure of Kshs. 130,742,118 was incurred in June 2016. This would have required written approval for the commitments by the Accounting Officer as required by Section 50 of the Public Finance Management (County Government) Regulations, 2015. The section states that all commitments be done not later than the 31<sup>st</sup> May of each year, except with the express approval of the Accounting Officer in writing. The Management failed to provide for audit review the written approval of the Accounting Officer for the commitment and expenditure totalling to Kshs. 130,742,118 incurred after 31<sup>st</sup> May, 2016.

In absence of written approval from the Accounting Officer, it has not been possible to confirm the regularity of the expenditure totalling to Kshs. 130,742,118 incurred in June 2016.

**Management response.**

All expenses paid by the County Assembly were made within the precincts of the law, all LPOs and LSOs were approved by the Accounting Officer. Payment Vouchers were authorized by the Accounting Officer.

The express approval sort in relation to cumulative payments amounting to Kshs. 130,742,118/= in June 2016 was embedded on the LSOs, LPOs Memos and approved payment vouchers which were directly signed by the Clerk of the Assembly who is the Accounting Officer of the entity.

The amount paid in the month of June were regular and all support documentation relating to them were availed to the Auditor General and the same is available for review by the committee.

**Committee observations.**

- i. That there was no written express approval by the Accounting Officer for the expenditure of Ksh. 130,742,118 incurred in the month of June, 2016 as required by regulation 50 of the PFM regulations 2015.

**Committee recommendations.**

- i. That the Accounting Officer shall always be guided by regulation 50 of the PFM regulations 2015 when making payments for the Month of June in any financial year failure to which the Accounting Officer shall be surcharged for any amount incurred in the month of June with no written express approval as required.

**6.0 ACQUISITION OF ASSETS.**

**6.1 UNEXPLAINED VARIANCE.**

The statement of receipt and payments for the year ended 30<sup>th</sup> June, 2016 reflects a balance of Kshs. 343,787,890 under acquisition of assets while supporting schedules presented for audit review reflects a balance of Kshs. 348,002,444 thus resulting to unexplained or reconciled variance of Kshs. 4,214,554. As a result, the accuracy and completeness of the acquisition of assets balance of Kshs. 343,787,890 for the year ended 30<sup>th</sup> June, 2016 cannot be confirmed.

**Management response.**

The management wish to reiterate that Kshs.343, 787,890 is the correct position and there is no unreconciled variance towards the same. This figure is broken down into two as per the audited financial statements.

(a). Recurrent Ksh.5,658,949/=

(b). Development Ksh. 338,128,941/=

Total Ksh. 343,787,890/=

There was no additional information provided to the Auditor General far above this recorded amount.

**Committee observations.**

- i. The Accounting Officer failed to provide before the committee the vote book for the year under review.
- ii. The committee expresses its displeasure at the Accounting Officer for failure to provide payment schedules amounting to a variance of Ksh.4,214,554/=

**Committee recommendations.**

- i. The Accounting Officer shall avail the vote book before the committee analysing the postings made on the acquisition of assets amounting to Ksh.4,214,554/= within 30 days after the adoption of this report failure to which the Accounting Officer shall be surcharged.

## **6.2 LAND.**

The statement of receipts and payments for the year ended 30<sup>th</sup> June, 2016 reflects a balance of Kshs. 343,787,890 in respect of acquisition of assets. Out of this amount, Kshs. 318,934,050 are payments to a local firm for constructing the Kwale County Assembly complex and the County Assembly administrative offices. However, ownership documents for the land on which the two buildings were built were not availed for audit verification.

**Management response.**

This land for the construction of the Assembly Complex and Office Administration was allocated by the County Government of Kwale through the Department of Land. This can be confirmed from the department of Lands Kwale.

**Committee observations.**

- i. That there were no land ownership documents for the Assembly Complex and the Office Administration Block.
- ii. The Accounting Officer has to date failed to initiate the process of acquiring land ownership documents for the Assembly Complex and the Office Administration Block.

**Committee recommendations.**

- i. That the Accounting Officer shall initiate the process of acquiring ownership documents for the Assembly Complex and the Office Administration Block within 30 days after the adoption of this report.
- ii. That the Accounting Officer as the custodian of the Assembly assets shall be guided by section 147(1) (f) of the PFM Act 2012 which states that “subject to the Constitution, the Accounting Officer of the County Assembly shall monitor, evaluate and oversee the management of the public finances including acting as custodian of the entity’s assets except as may be provided by other legislation or the Constitution”.

### **6.3 CONSTRUCTION OF THE SPEAKER'S OFFICIAL RESIDENCE.**

The statement of receipt and payments for the year ended 30<sup>th</sup> June, 2016 reflects an amount of Kshs. 343,787,890 incurred on acquisition of assets. Records presented for audit review indicated that the County Assembly awarded the contract for construction of the Speaker's residence and Ksh.19,194,891/= had been paid as at 30<sup>th</sup> June, 2016. However, the following was noted in relation to the payment:

1.0 The contractor had been paid Kshs. 80,000 to put up a signboard but upon verification on 14<sup>th</sup> November, 2016, no signboard had been hoisted.

2.0 The terms and conditions of the contract indicated that the project was to be completed by 8<sup>th</sup> December, 2016. However, the last certificate issued by the project engineer certified work valued at Kshs. 19,194,891 thus indicating that the project was below 50% complete on the said date.

Consequently, the accuracy and propriety of acquisition of assets balance of Kshs. 343,787,890 for the year ended 30<sup>th</sup> June, 2016 could not be confirmed.

#### **Management response.**

The management wish to confirm that the sign board was erected. The management will seek to get a reason from the contractor as to why the project completion had delayed.

#### **Submission from Maka Building and Construction Ltd on the delayed construction of the Speaker's official residence.**

The Director and Site Manager Maka Building and Civil Engineering Works were tasked to explain on the delayed construction of the Speaker's official residence as picked by the Auditor General. They were also asked to explain the reasons why the sign board for the construction site had been removed as queried by the Auditor General. The representatives of Maka Building and Civil Engineering Works informed the committee that they had experienced several challenges on the site outlined as follows.

- i. The preliminary ground excavation work had been quantified for soft ground where as the ground was coral rock.
- ii. The engineers supervising the works were from Nairobi Ministry of Works and it took a lot of time when inspection, supervision, and direction were required.
- iii. The frontage of the site had to be changed – as the front looked like the back-from what was originally envisaged in the BQ.
- iv. The extra works increased the cost of works and authority to vary the original cost needed to be sought and given by the County Engineer and the County Assembly.

The Contractor said that the work was at 80 percent complete with plumbing and electrical works still pending. The Contractor added that even if the variation sum as pegged by the Public Procurement and Disposal Act is paid it will not be enough to complete the pending works.

On erecting the sign board that had been paid for by the County Assembly, the Contractor said that the board had been erected at the onset of the construction work. However it had been removed when the local engineers took over supervision and inspection of the site and complained that the board was referencing the Nairobi Engineers. The Contractor said they have the signboard in their workshop and will replace it.

**Committee observations.**

- i. That the sign board for the construction of the speaker's official residence was erected but later vandalized.
- ii. The construction period for the project took long contrary to the contract agreement with no request for extension approved by the Accounting Officer.
- iii. The Accounting Officer failed to provide before the committee the project file for scrutiny and verification.
- iv. The committee expresses displeasure at the Accounting Officer for failure to provide the project file before the committee.
- v. That the Accounting Officer never attempted to compel the contractor to finish the project within the contract period as stated in the contract agreement.
- vi. The Accounting Officer failed to constitute a project management committee to oversee the construction of the project.
- vii. The contractor admitted before the committee that he did land scaping.
- viii. That during a committee visit it was established that the sign board had been erected.

**Committee recommendations.**

- i. The Accounting Officer shall compel the contractor to pay penalties and damages for failure to complete the project within the contract period failure to which any variations incurred during construction shall not be approved.
- ii. That Accounting Officer shall ensure that all contract agreements have a clause on non-delivery of contracts within the specified period stipulating the penalties and damages.
- iii. That Maka building and engineering works and its Associates be blacklisted from working with the County Government of Kwale.

**7.0 PENDING BILLS.**

Note 18.1 to the financial statements for the year ended 30<sup>th</sup> June, 2016 on pending accounts payable reflects a balance of Kshs. 153,655,464 whereas records presented for audit review indicated that the management of the County Assembly had made commitments totalling to Kshs. 211,655,464 as at 30<sup>th</sup> June, 2016 thus resulting to an unexplained or unreconciled balance of Kshs. 58,000,000.

Further, the pending bills include an amount of Kshs. 111,929,420 disclosed as supply of goods which could not be traced in the budget for the year under review. In addition, the management failed to present for audit contracts agreements and local purchase orders to confirm that the sum of pending bills committed.

Consequently, the propriety of the pending bills totalling Kshs. 153,655,464 as at 30<sup>th</sup> June, 2016 cannot be confirmed.

**Management response.**

The management wish to confirm that the actual position of the pending bills was Ksh.153,655,464/= as per the Financial statements Ksh. 58,000,000/= was a technical error posted in the IFMIS which was not possible to clear due to technical capacity then as the system was new to every user in the department.

**Committee observations.**

- i. The Accounting Officer admitted before the committee that Ksh.58,000,000/= was an erroneous posting made in the IFMIS due to technical capacity of the staff as the system was new to the users but was later corrected.

**Committee recommendations.**

- i. That the Accounting shall ensure that staff handling the IFMIS are well capacitated and adequately trained.

## **8.0 CAR AND MORTGAGE FUND.**

The County Assembly established a car and mortgage fund in line with the salaries and remuneration commission circular SRC/TS/CGOVT/3/16 to finance members in purchase of motor vehicles and acquisition of houses. A review of the fund statement availed for audit for the year ended 30<sup>th</sup> June, 2016 indicated that the fund had a balance of KSHS 110,761,041. However the following observations were made:

- The county assembly did not present for audit review the policy regulating the issuance and management of the car and mortgage fund as required by the Public Finance Management Act, 2012
- Records presented for audit indicated that total loans disbursed amounted to Kshs 101,442,929. However, the management did not show the proportions of the car loan and mortgages. It was therefore not possible to confirm that the management adhered to the car loan and mortgage facility limits of Kshs 2,000,000 and Kshs 3,000,000 respectively as provided in the circular issued by the Salary and Remuneration Commission.
- The management failed to provide evidence that the motor vehicles and properties acquired were jointly owned by respective borrowers and the County Assembly in line with the scheme policy.

Consequently, it has not been possible to confirm the regularity of the car and mortgage fund and of the outstanding loans balance of Kshs 101,442,929 reflected in the Fund statement. Further, it has not been possible to confirm the recoverability of the loan balances before the end of the current County Assembly term.

**Management response.**

The management wish to reiterate that it provided the regulations on Car Loan and Mortgages. We have attached hereto annex the said Act in existence passed by the Assembly on this matter. The management wish to confirm that for each individual member the proportion of Car Loan was Ksh.2,000,000/= and the balance of Ksh. 3,000,000/= for Mortgage as per the SRC circular.

**Committee observations.**

- i. The Accounting Officer failed to avail the policy and regulations on Car Loan and Mortgages to the Auditors during the time of audit although these documents were available.
- ii. The management failed to provide evidence that the motor vehicles and properties acquired were jointly owned by the respective borrowers and Family bank on behalf of the County Assembly although the documents were available in the Office.
- iii. The management failed to provide to the auditors during the time of audit the contract agreement between the County Assembly and Family bank on the issuance of Car Loan and Mortgages.
- iv. The Accounting Officer managed to recover all the outstanding loans on Car Loan and Mortgages issued to Members of the first Assembly as stipulated in the contract agreement.

**Committee recommendations.**

- i. That in future the Accounting Officer shall always ensure that all necessary support documents, data and information are always availed to the auditors during the time of audit to avoid unnecessary queries.

## **9.0 COMPENSATION OF EMPLOYEES.**

The statement of receipts and payments for the year ended 30<sup>th</sup> June, 2016 reflects compensation of employees' expenditure totalling to Kshs 188,434,846 against which the following observations were made

### **9.1 STAFF ESTABLISHMENT.**

During the year under review, the County Assembly recruited five (5) staff. However, the approved staff establishment, scheme of service and salaries structure were not presented for audit review.

Consequently, it was not possible to confirm the number of authorised positions and the vacant ones to be filled under each cadre.

**Management response.**

The staff establishment has not been finalized. The SRC is yet to give guidelines on the optimum structure levels of the County Assemblies. SRC had given guideline to the assemblies but the same was challenged by SOCAT in the Court of Law which was yet to be determined.

**Committee observations.**

- i. The management to date does not have an approved staff establishment.
- ii. That Salaries and Remuneration Commission gave out guidelines on the staff establishment to all the Assemblies.
- iii. That Society of Clerks at the Table challenged the staff establishment given by SRC at the High Court.
- iv. That Salaries and Remuneration Commission has the constitutional mandate to review all remuneration benefits of public servants.
- v. That County Assembly Service Board recruited five staff with no approved staff establishment hence the basis for recruitment could not be confirmed.
- vi. That due to lack of staff establishment and scheme of services staff career progression has been inhibited.

**Committee recommendations.**

- i. That the Accounting Officer and County Assembly Service Board shall develop an approved staff establishment and scheme of service within 30 days after the adoption of this report.

**9.2 ETHNIC COMPOSITION.**

The Human Resource Department failed to avail for audit review the data on ethnic composition of staff in the IPPD payroll and those employed in wards.

Consequently, we could not confirm whether the County Assembly Service Board adheres to the provisions of the County Government Act, 2012 on equity in employment.

**Management response.**

The management wish to confirm that the ethnic composition of staff in the IPPD and those employed in the Wards were availed for audit review and is also available for review by the committee.

**Committee observations.**

- i. The Accounting Officer failed to avail to the auditors during the time of audit the analyzed data on the ethnic composition of staff in the IPPD and those in the Wards.

**Committee recommendations.**

- i. That the Accounting Officer shall avail the analyzed data on the Ethnic composition of staff in the IPPD and those in the Wards within 30 days after the adoption of this report.

**COMMITTEE GENERAL OBSERVATIONS.**

**Mr. Speaker Sir**, the Committee generally observed the following.

- i. That the Accounting Officer failed to avail the necessary support documents, data and information to the auditors during the time of audit leading to a disclaimer opinion.
- ii. That by his failure to avail the requisite support documents the Accounting Officer has failed to account for expenditures running to hundreds of millions.
- iii. That over the last three consecutive financial years the Auditor General has consistently raised the issue of non-compliance by the Accounting Officer when given the opportunity to provide documents in support of expenditures.

### **COMMITTEE GENERAL RECOMMENDATIONS.**

**Mr. Speaker Sir**, the committee generally recommends as follows.

- i. That the County Assembly Service Board shall ensure that its officers keep proper records of all activities and projects undertaken by or on behalf of the Assembly and to promptly release such records to the Auditor General when requested to do so.
- ii. That the County Assembly Service Board shall take stringent action against any officer of the service who fails to avail any information, data or documents to the Auditor General whenever such documents are required during the time of audit.

**Mr Speaker sir**, I again wish to thank the members of the Assembly, the office of the Speaker, the office of the Clerk and the office of the Auditor General for their continued support during the period of compiling this report.

**Mr Speaker sir**, I now urge this Honourable House to adopt this report.

Thank you.

**SIGNATURE .....** **DATE.....**

**HON PATRICK MANGALE**

**CHAIRMAN, PUBLIC INVESTMENTS AND ACCOUNTS COMMITTEE.**