

**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***

***COUNTY EXECUTIVE OF KWALE***

***FOR YEAR 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. IFMIS -Integrated Financial Management Information System

## **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 Investments 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 this report, the office of the Speaker and the Clerk for their support and adequate facilitation, the office of



the Auditor General for their continued support in guiding the committee while preparing this report.

**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 Executive 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 - Vice 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 Executive 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, Public Investments and Accounts Committee**

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

**Hon Ngoro Mweruphe**

**Member, Public Investments and Accounts Committee**

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

**Hon Alfred Ruwa Bavu**

**Member, Public Investments and Accounts Committee**

Signature.....Date.....

**COMMITTEE OBJECTIVES.**

**Mr Speaker sir**, the committee main objective of 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.
- (b) The examination of the reports, accounts and workings of 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.

**METHODOLOGY.**

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

- 1. Interviewing the key officers of the County Executive departments.
- 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 queries raised in the Auditor General report on the Financial Statement of the County Executive of Kwale for FY 2015/2016. The Committee met with the management of the County Executive departments as from 30<sup>th</sup> May to 4<sup>th</sup> June, 2018 who responded to the queries raised by the Auditor General as below.

## **Basis for Disclaimer of Opinion**

### **1.0 Inaccuracies in the Financial Statements.**

The statement of assets as at 30 June, 2016 reflected fund balance brought forward of Kshs. 1,453,092,689. However, the previous year's balance carried forward was Kshs. 1,432,536,872 resulting in unexplained or unreconciled variance of Kshs. 20,555,817.

As a result, the accuracy and completeness of the balance brought forward of Kshs. 1,453,092,689 as at 30th June, 2016 could not be confirmed.

#### **Management response.**

The figure of Ksh. 20,555,817 was prior in 2014/2015 financial year adjustment. This was as a result of understatement of expenditure due to IFMIS errors that were reported by the Auditor and now corrected in the 2015/2016 financial statements.

#### **Committee observations.**

**Mr. Speaker sir** the committee observed the following.

- i. That Ksh.20,555,817.00 was an understatement of expenditure caused by IFMIS errors which was prior in 2014/15 financial year and corrected in the 2015/2016 financial year.

#### **Committee recommendations.**

**Mr. Speaker sir** the committee recommends as follows.

- i. That the Accounting Officer shall avail all necessary support documents, information and data before the auditors during the time of audit as required by the Public Audit Act,2015 to avoid such unnecessary queries.

## **2.0 Other Receipts.**

### **2.1 Waiver.**

Included in other receipt in note 11 to financial statements for the year ended 30th June, 2016 are rents of Kshs. 10,152,379 and other property income of Kshs. 39,534,783. This amount was less waiver amounting to Kshs. 3,032,235 granted by the receiver of revenue during the year.

Evidence that these waivers were approved and authorized by the County Legislation was not availed for audit contrary to Section 159 1(c) of the Public Finance Management Act, 2012, which requires that any waiver or variation of a charge of fees to be authorized by an act of Parliament or County Legislation.

Further, the management did not report the waiver to the Auditor General as required by Section 210 2(b) of the Constitution.

Under the circumstances, the propriety of the waiver of Kshs. 3,032,235 granted for the year ending 30th June, 2016 could not be confirmed.

### **Management response.**

On a quarterly basis the County Treasury submits to the County Assembly Revenue and expenditure reports which include a list of all individuals who have been granted waivers. Attached is the Annual report for the Financial Year ended 30<sup>th</sup> June, 2016.

### **Committee observations.**

**Mr. Speaker Sir** the committee observed the following.

- i. That Ksh.3, 032,235.00 granted as waiver during the year was not approved by the County Assembly as required by Section 159(1c) of the PFM Act, 2012.
- ii. The CEC finance failed to disclose the waiver to the Auditor General as required by Section 210(2b) of the constitution.

### **Committee recommendations.**

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

- i. That the CEC Finance shall within sixty days after the adoption of this report come up with a County legislation on grant of waiver.
- ii. That the CEC Finance shall strictly adhere to section 159(1c) of the PFM Act, 2012 and section 210(2b) of the constitution.

## **2.2 Inconsistent Revenue Collection.**

The statement of receipts and payments for the year ended 30th June, 2016 reflects other receipts of Kshs. 248,534,536.00 compared to Kshs. 253,972,260 collected in 2014/2015 financial year resulting in a revenue decline of Kshs. 5,437,724 or 2%. Below is a summary of three years revenue collection:

		<b>2015-2016</b>	<b>2014-2015</b>	<b>2013-2014</b>
	<b>Details</b>	<b>Kshs.</b>	<b>Kshs.</b>	<b>Kshs.</b>
1	Rents	10,152,379.00	3,622,995	1,057,175
2	Other property income	39,534,783.00	40,042,199	53,680,568
3	Receipts from Administrative Fees and Charges - Collected as AIA	-	-	112,802,661
4	Fines, Penalties and Forfeitures	11,255,058.00	10,861,596	10,865,510

5	Business permits	58,603,940.00	57,223,148	37,430,620
6	Cesses	13,887,864.00	12,586,710	
7	Plot rents	-	216,037	
8	Administrative services fees	-	203,383	
9	Various fees	11,687,988.00	11,117,235	
10	Council's natural resources	21,195,193.00	19,330,374	
11	Other miscellaneous revenues	25,756,635.00	32,714,269	
12	Market/trade centre fee	5,880,700.00	10,334,050	
13	Vehicle parking fees	11,028,074.00	383,690	
14	School fees	-	404,800	
15	Public health services	32,621,588.00	45,405,015	
16	Slaughter houses administration	840,189.00	1,916,059	
17	Other health and sanitation	3,867,695.00	5,006,500	
18	Tender Documents Sale	2,305,500.00	2,604,200	1,875,000
	<b>Total</b>	<b>248,617,586</b>	<b>253,972,260</b>	<b>217,711,534</b>

From the above, revenue collection increased by Kshs. 36,260,726 or 17% in 2014/2015 and decreased by Kshs. 5,354,674 or 2% in 2015/2016.

This is an indication of possible revenue leakages or inefficient revenue collection systems contrary to Section 157 (2) of the Public Finance Management Act, 2012 which requires that the receiver of County Government revenue ensures that the revenue for which the receiver is responsible, is collected or recovered and is accounted for. Consequently, the County Executive may not fully finance its budget activities which may negatively affect service delivery to residents of Kwale County.

### **Management response.**

The County Government has been experiencing several challenges which result in under collection of revenue. Some of them include; lack of enough capacity to collect garbage, need to facilitate the enforcement section, pending cases against the implementation of 2014

Kwale County Finance Act, lack of fenced auction rigs and lack of designated parking areas have greatly affected collection of revenue.

**Committee observations.**

**Mr. Speaker Sir** the committee observed the following.

- i. That there was a revenue decline of Ksh.5, 437,724 or 2% in the year under review.
- ii. That the Accounting Officer department of Finance admitted before the committee that there were some administrative challenges leading to decline in revenue collection.
- iii. That there was no Finance legislation guiding revenue collection in the year under review.

**Committee recommendations.**

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

- i. That the County Assembly shall fast track the enactment of all County legislative proposals enhancing the Finance Act within 90 days after the adoption of this report.
- ii. That the CEC Finance shall address all the administrative challenges in revenue collection to enhance revenue.
- iii. The County Legal Attorney shall within 30 days after the adoption of this report brief the Assembly on the said pending court cases hindering revenue collection.

**3.0 Exchequer Releases.**

The statement of receipts and payments for the year ended 30<sup>th</sup> June, 2016 reflects exchequer releases of Kshs. 5,125,697,562 while the report of the Controller of Budget as at the same time has a figure of Kshs. 5,447,870,000 resulting in unexplained or unreconciled variance of Kshs. 322,172,438.

Consequently, the accuracy and completeness of the exchequer releases of Kshs. 25,697,562 for the year ended 30<sup>th</sup> June, 2016 could not be confirmed.

**Management response.**

The Exchequer release of Ksh.5,125,697,562.00 as per the statement of receipts and payments is the National share of revenue allocated to the County for the year and remitted directly to the County Revenue Fund. While the figure of Ksh.5,447,870,000.00 in the report of the Office of the Controller of Budget are withdrawals from the County Revenue Fund after the approval by the Office of the Controller of Budget.

The total in the County Revenue Fund includes the National Government Exchequer releases, the Local Revenues Collected during the year and the unspent funds from previous year. This was then returned to the County Revenue Fund at the beginning of the year to finance the budget for the year under review. The withdrawals can therefore not match the Exchequer releases by the National Treasury.

**Committee observations.**

**Mr. Speaker Sir** the committee observed the following.

- i. That the variance of Ksh.25,697,562 were commitments for the year ended 30<sup>th</sup> June 2016 which had not been spent.
- ii. That the Accounting Officer Finance failed to provide the above information to the auditors during the time of Audit.

**Committee recommendations.**

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

- i. That the Accounting Officer shall at all times avail all the necessary support documents, information and data to the auditors during the time of audit as required by the Public Audit Act, 2015.

**4.0 Compensation to Employees.**

**4.1 Basic Wages of Temporary Employees.**

The statement of receipts and payments for the year ended 30<sup>th</sup> June, 2016 reflects a balance of Kshs. 1,431,956,682 as compensation to employees out of which the County Executive paid Kshs. 13,189,092 for casual wages in which Kshs. 12,501,892 was incurred by the Department of Health. However, the department failed to provide written authority from the County Public Service Board to engage casual employees as required by the County Public Service Human Resource Manual Section B. 16(1). Further, records on recruitment and the terms of engagement were not availed for audit. In addition, records on supervision and certification of payments by the responsible officer in the department were not availed for audit.

Consequently, the propriety of Kshs. 12,501,892 paid as casual wages for the year ended 30<sup>th</sup> June, 2016 could not be confirmed.

**Management response.**

Department of Health Services.

The department did not have a written approval from the County Public Service Board since the said casuals were inherited from the ministry of Health after inception of devolution. These four hundred casuals were sourced from hospitals and rural health facilities the time regulated by the Ministry of Health policy and guidelines governing management and oversight of the health facilities.

The department is in the process of regularizing the casuals with 71 casuals from the four Sub County hospitals already regularized and approved by the Board. The rest of the casuals are in the process of vetting and soon will be regularized and approved by the Board.

County Public Service Board.



The casuals in question were on board long before the existence of the County Public Service Board, having been engaged by the respective Health Facility (hospital) committees.

In the Financial Year 2015/2016 on 17<sup>th</sup> February, 2016 the County Public Service Board approved a request for the regularization of seventy one (71) casuals who were working in Msambweni, Kinango, and Kwale Sub County Hospitals.

From the above expenditure, it means that there are more of these casuals whom the health department is yet to request for formal engagement approval by the Board. The Board will however officially advise the health department to identify all the casuals working in all health facilities in the County and make an official request for engagement by the Board to avoid a repeat of the same. This will however depend on budget provision by the department.

### **Committee observations.**

**Mr. Speaker Sir** the committee observed the following.

- i. That the Accounting Officer department of Health Services failed to provide written authority from the County Public Service Board for the hiring of casuals as required by the County Public Service Human Resource Manual Section B. 16(1).
- ii. That records on supervision and certification of payments by responsible officers in the department were not availed to the auditors during the time of audit but availed to the committee for scrutiny and verification.
- iii. That the department of Health Services and the County Public Service Board could not ascertain the exact number of casuals hired in the health facilities.
- iv. That the department is in the process of regularizing the casuals with 71 casuals drawn from the sub-county hospitals already regularized and approved by the County Public Service Board.

### **Committee recommendations.**

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

- i. That the Accounting Officer Health Services shall at all-time provide support documents, information and data to the auditors during the time of audit as required by the Public Audit Act, 2015.
- ii. That the department of Health Services and the County Public Service Board shall fast track the process of regularizing all the casuals working in the Health Facilities and report back to the committee within 60 days after the adoption of this report.
- iii. That the County Public Service Board shall come up with policy guideline and regulations on hiring of casuals within 90 days after the adoption of this report.

## **4.2 Recruitment.**

The County Executive of Kwale recruited 377 staff in various cadres during the year. Records availed for audit indicated that 294 (77%) of the newly recruited staff were from the dominant community in the County, this contravened Section 65 (e) of the County

Government Act, 2012, which requires that in selecting candidates for appointment, the County Public Service Board shall consider the need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the County.

Consequently, the County was in breach of the law.

### **Management response.**

At the commencement of devolution and with the secondment of staff from the National Government to County Government most of the technical positions (Nursing Officers, Clinical Officers and etc ) were largely dominated by communities from outside the County.

In the year under review ending 30<sup>th</sup> June, 2016 the ethnicity composition of County staff was as detailed below.

<b>S/NO</b>	<b>TRIBE</b>	<b>TOTAL NO. IN EMPLOYMENT.</b>	<b>PERCENTAGES (%)</b>
1	Bajun	7	0.259%
2	Embu	9	0.334%
3	Kamba	295	10.954%
4	Kikuyu	109	4.047%
5	Mbere	1	0.037%
6	Meru	26	0.96%
7	Tharaka	1	0.037%
8	Kisii	29	1.076%
9	Kuria	2	0.074%
10	Luhya	69	2.562
11	Mijikenda	1,905	70.738%
12	Pokomo	22	0.816%
13	Swahili Shirazi	11	0.408%
14	Taita	85	3.156%
15	Taveta	5	3.156%
16	Luo	48	1.782%
17	Kalenjin	25	0.928%
18	Teso	3	0.111%
19	Masai	2	0.074%
20	Dorobo	1	0.037%
21	Samburu	1	0.0371%
22	Turkana	2	0.0742%
23	Boran	2	0.0742%
24	Burji	1	0.0299%
25	Somali	7	0.2599%
26	Other Kenyan	8	0.02970%
27	Kenyan Asian	3	0.1114%
28	Kenyan European	1	0.0371%
29	Kenyan Arab	13	0.4827%
	<b>TOTAL NO. OF EMPLOYEES</b>	<b>2,693</b>	<b>100%</b>

From the above statistical breakdown of County Staff it should be noted that the Mijikenda with 70.7% representation was grouped as one (1) tribe whereas it comprises of nine tribes in reality, of which some come from outside Kwale County including the Giriama, Kauma and Ribe.

The County Public Service Board has thus gradually been doing a balancing act in employment so as to achieve the 70% and 30% rule.

Should we be compared with other counties the 23% in the year under review would place us at a commendable position country wide. The Board is thus striving towards realizing this progressively.

**Committee observations.**

**Mr. Speaker Sir** the committee observed the following.

- i. That the County Public Service Board failed to provide to the auditors data on the ethnic composition of staff during the time of audit but the same was availed before the committee for scrutiny and verification.
- ii. That 77% of the newly recruited staff of the County Executive for the year under review were from the dominant community in the County contravening section 65(e) of the County Government Act.
- iii. That Mijikenda has been grouped to be one ethnic community while it comprises of other tribes as the Giriama, Ribe and Kauma who come from outside Kwale.

**Committee recommendations.**

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

- i. That the County Public Service Board shall at all-time avail support documents, information and data to the auditors during audit as required by the Public Audit Act, 2015.
- ii. That the County Public Service Board shall strictly adhere to section 65(e) of the County Government Act.
- iii. That Kwale County members of parliament and the senator shall urgently take up the matter to the parliament for consideration and where possible to amend the County Government Act so as to exclude Mijikenda as one ethnic community.

**5.0 Defunct Local Authorities Assets and Liabilities.**

As reported in the previous year, Annex 4 to the financial statements for the year ended 30<sup>th</sup> June, 2016 reflects assets balance of Kshs. 4,997,489,080 (Kshs. 1,974,390,048 2014/2015). This excludes assets of unknown value inherited from the defunct local authorities and National Government Departments which were devolved to County Governments. Although the County Executive of Kwale availed an asset register and report on verification of assets and liabilities of the defunct County Council of Kwale prepared and initiated by Transition Authority, there was no indication that these assets have been valued as at 30<sup>th</sup> June, 2016.

Consequently, the accuracy and completeness of assets balance of Kshs. 4,997,489,080 as at 30<sup>th</sup> June, 2016 could not be confirmed.

**Management response.**

The handing over report was discussed by the County Executive and the County Assembly validated and submitted it to the Intergovernmental Relations Technical Committee and we are awaiting their decision but all the assets from the County have been captured in the Asset register.

**Committee observations.**

Mr. Speaker sir the committee observed the following.

- i. That the assets inherited from the defunct County Council of Kwale have not been valued.

**Committee recommendations.**

- i. That the County assets inherited from the defunct County Council shall be valued and a valuation report be availed before the committee within 60 days after the adoption of this report.

**6.0 Retention.**

The statement of assets as at 30<sup>th</sup> June, 2016 reflects retentions balance of Kshs. 146,498,185. These amounts were held in Central Bank Deposit Account No. 1000230649 at the Central Bank of Kenya. However, the County Executive did not maintain a cash book for the retention bank account and no bank reconciliation statement was availed for audit review.

Consequently, the accuracy and completeness of retentions balance of Kshs. 146,498,185 as at 30<sup>th</sup> June, 2016 could not be confirmed.

**Management response.**

The retention of Ksh.146,498,185.25 had been included as payables while the same had been expensed in the financial statements and a cash book maintained which has been availed before the committee for perusal and scrutiny.

**Committee observations.**

Mr. Speaker Sir the committee observed the following.

- i. That the Accounting Officer Finance failed to avail the retention cash book and bank reconciliation statement to the auditors during the time of audit but the same was availed to the committee for scrutiny and verification.

**Committee recommendations.**

Mr. Speaker sir the committee recommends as follows.

- i. That the Accounting Officer Finance shall at all-times avail all the necessary support documents, information, and data to the auditors during the time of audit as required by the Public Audit Act, 2015.

## **7.0 Emergency Fund.**

As previously reported in the year 2014/2015, the County Government of Kwale opened an emergency fund account but as at 30<sup>th</sup> June, 2016, the fund had not been approved by the County Assembly as required by the Public Finance Management Act 2012, Section 110 (1). The County Government financial records revealed that the County had a balance of Kshs. 11,620,749.85 in the Emergency Fund Account as at 30<sup>th</sup> June, 2016. During the year, the County spent Kshs. 700,305 from the Emergency Fund but did not seek approval from the County Assembly as required by the Public Finance Management Act, 2012, Section 114 (1) which requires that the County Executive Committee Member for Finance shall seek approval of the County Assembly within two months after payment is made from the Emergency Fund.

Further, the County Executive of Kwale did not prepare and submit financial statements in respect of Emergency Fund to the Auditor-General within three months after the end of the financial year as required by Public Finance Management Act 2012, Section 115 (1).

Consequently, the propriety of the Emergency Fund expenses of Kshs. 700,305 and the accuracy of the fund balance for the year ended 30<sup>th</sup> June, 2016 could not be confirmed.

### **Management response.**

The Kwale County Disaster and Emergency Fund Act 2016 has since been enacted by the County Assembly of Kwale in accordance with the requirements of the Public Finance Management Act. The amount spent were authorized by the County Assembly in the Appropriation Act 2015.

### **Committee observations.**

**Mr. Speaker Sir** the committee observed the following.

- i. That the CEC Finance contravened Section 110(1) of the PFM Act by withdrawing Ksh.700,305 from the Emergency fund without the Kwale County Disaster management and Emergency fund bill approved by the County Assembly as required by the PFM Act,2012.
- ii. That the CEC Finance failed to disclose the financial statements in respect of the Emergency fund to the Auditor General as required by Section 115(1) of the PFM Act,2012.

### **Committee recommendations.**

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

- i. That the CEC Finance shall strictly adhere to Section 110(1) and 115(1) of the PFM Act 2012.

## **8.0 Outstanding Imprest and Advances.**

Included in the statement of assets as at 30<sup>th</sup> June, 2016 is outstanding imprest and advances amounting to Kshs. 6,020,355.26. Records availed for audit review indicated that imprest and

advances amounted to Kshs. 1,367,380 and Kshs. 4,652,975.26 respectively. However, the salary advance balance was not supported by Integrated Payroll Personnel Data (IPPD) reports.

Consequently, it has not been possible to confirm the authenticity and validity of the salary advance balance of Kshs. 4,652,975.26 as at 30<sup>th</sup> June, 2016.

**Management response.**

The outstanding Advances figure of Ksh.4,652,975.26 comprised of Ksh.4,588,825.26 from the IPPD report and Ksh.64,150 from the Manual report. The list of staff from the individual departments were submitted for Audit. The list of all staff with outstanding advances has been provided for before the committee for scrutiny and perusal.

**Committee observations.**

Mr. Speaker Sir the Committee observed the following.

- i. That a list of all staff with outstanding advances was provided before the committee for scrutiny and verification.

**Committee recommendations.**

- i. That the management shall provide before the auditors all support documents, information and data during the time of audit as required by the Public Audit Act, 2015.

**9.0 Pending Bills.**

Included in the Annex 1 to the financial statements are pending bills of Kshs. 1,214,480,065 for the year ended 30<sup>th</sup> June, 2016. The analysis of pending bills in the annex disclosed the total pending bills per department and did not provide specific amount committed for each project or budget item as prescribed by the Public Sector Accounting Standard Board (PSASB). In addition, the County Executive did not provide Local Purchase Orders, Local Service Orders, Invoices, Contracts, unpaid certified works to support the outstanding pending bills. Further, the pending bills of Kshs. 1,214,480,065.42 compared to cash and bank balances of Kshs. 1,094,948,079.18 reflects an excess vote of Kshs. 273,337,450.97. The management has not explained how to finance the excess vote.

Consequently, the accuracy completeness and regularity of the pending bills of Kshs. 1,214,480,065 stated as at 30<sup>th</sup> June, 2016 could not be confirmed.

**Management response.**

The amount of Ksh.1,214,480,065 represents commitments from various departments that had been already tendered for, awarded and awaiting completion. There are no invoices and certified works as these are ongoing projects to be revoted in the financial year.

**Committee observations.**

**Mr. Speaker sir** the committee observed the following.

- i. That the management failed to provide the specific amount committed for each project or budget item as prescribed by the Public Sector Accounting Standard Board during the year under review.
- ii. The management did not provide for LPOs, LSOs, Invoices, contracts agreements and unpaid certified works to support outstanding bills since they were commitments for unspent monies.

**Committee recommendations.**

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

- i. That the management shall avail all support documents, information and data to the auditors during the time of audit as required by the Public Audit Act, 2015.

**10.0 Routine Maintenance of Motor Vehicle.**

Included in the use of goods and services under note 13 to the financial statements for the year ended 30<sup>th</sup> June, 2016 is routine maintenance – vehicles and other transport equipment of Kshs. 47,355,312. However, the respective logbooks for the vehicles were not availed for audit review. Further, there was no evidence that the repairs and spare parts purchased were accounted for in the S13 stores records.

Consequently, the propriety of Kshs. 47,355,312 spent on motor repairs for the year ended 30<sup>th</sup> June, 2016 could not be confirmed.

**Management response.**

The department confirmed before the committee that maintenance of logbooks of all motor vehicles was a practice that was adopted later after recommendation of the Audit Management Letter for the year under review. In reference to note 13 of the financial statements for the year ended 30<sup>th</sup> June, 2016 the department had an expenditure of Ksh.5,185,647.25 for routine maintenance of motor vehicle and that Ksh.47,355,312 was for the entire county government vehicles. The department herein attached departmental payment vouchers for its routine maintenance of vehicles and inspection reports before the committee for perusal and scrutiny.

The repairs and spare parts purchased were done by the dealers and service providers therefore the same could not be accounted for in the S13 stores records. However the old parts are stored in the transport store as evidence of repairs.

**Committee observations.**

**Mr. Speaker Sir** the committee observed the following.

- i. That the respective logbooks for the motor vehicles were not availed to the auditors at the time of audit since it was a practice that was adopted after a recommendation from the auditors through the management letter.
- ii. That there was no evidence that repairs and spare parts were accounted for in the S13 store records since repairs and spare parts were purchased by dealers and service providers hence could not be accounted for in the S13 store records.

**Committee recommendations.**

**Mr. Speaker sir** the committee recommends as follows.

- i. That the management shall avail all the support documents, information and data to the auditors during the time of audit as required by the Public Audit Act, 2015.

## **11.0 Acquisition of Assets**

### **11.1 Proposed Construction of Kwale Market, Stalls and Electrical Installation.**

Included in the construction of buildings balance of Kshs. 460,566,937 in note 18 to the financial statement is an amount of Kshs. 23,950,450 paid for construction of Kwale market, stalls and electrical installation.

Records availed for audit revealed the following:

- a. The advertisement was not availed for audit review. This contravened Section 68(2) c of the Procurement and Disposal Act 2015 which requires that as procurement procedure, the advertisement should be kept as it appeared in the publication.
- b. Tender document indicated a prime cost/provisional sums of Kshs. 850,00 which consisted of provisional sum of Kenya shillings 600,000 for bus park shades, Kshs. 100,000 for project administrative expenses and Kshs. 150,000 for internal drainage and plumbing work which was not supported by bills of quantities.
- c. Contract agreement dated 17<sup>th</sup> June, 2015 had no contract completion date. The 1<sup>st</sup> certificate of Kshs. 11,499,537.04 dated 25<sup>th</sup> June, 2016, includes a payment of Kshs. 9,913,394 which based on the contractors invoice and had no detailed measurements of the completed works.

Under the circumstances, it has not been possible to confirm the propriety of Kshs. 23,950,450 spent on Kwale market stalls and electrical installation for the year ended 30<sup>th</sup> June, 2016.

### **Management response.**

The department of Public Service and Administration wish to confirm that the stated project is now complete and in use. However the department confirms that an advert for the construction of the project was availed to the auditors during audit hence Section 68(2) c of the Public Procurement and Asset Disposal Act 2015 was not contravened. The department has also herein availed the same advert before the committee for perusal and confirmation.

The prime cost of Ksh.850,000 was reallocated in a variation of the stated project as issued in the Works officer's report after a requisition by the contractor. The department has provided the certificate of measured works by the engineer and the contract agreement for committee perusal and scrutiny.

### **Committee observations.**

**Mr. Speaker sir** the committee observed the following.



- i. That Ksh. 23,950,450 was spent for the construction of Kwale market stall and electrical installation.
- ii. That the advertisement for the project was not availed to the auditors during audit or to the committee contravening Section 68(2c) of the Public Procurement and Asset Disposal Act 2015.
- iii. That the contract agreement dated 17<sup>th</sup> June 2015 for the construction of the market stall had no contract completion date.
- iv. That Ksh.9,913,394 paid to the contractor in the 1<sup>st</sup> certificate had detailed measurement of completed works which was availed before the committee.

**Committee recommendations.**

**Mr. Speaker sir** the committee recommends as follows.

- i. That the management shall in future avail support documents, information and data to the auditors during the time of audit as required by the Public Audit Act, 2015.
- ii. That the Accounting Officer Department of Public Service and Administration shall avail the advertisement of the project to the committee within 15 days after the adoption of this report.

**11.2 Construction of Storm Water Drainage.**

Included in the purchase of specialized equipment plant and machinery balance of Kshs. 63,159,041 in note 18 to the financial statement for the year ended 30<sup>th</sup> June, 2016 is an amount of Kshs. 22,690,064 paid for construction of storm water drainage at Ukunda. Field verification carried out on 19<sup>th</sup> September, 2016 revealed the following:

- a. The certificate of work done issued by the County Engineer does not provide the detailed measurement of complete work done.
- b. Project management fee of Kshs. 100,000 was paid in the first and the second payment certificates, no receipts have been provided to support the expenditure.
- c. A request for permission and advice to Kenya National Highways Authority (KENHA) on the proposed storm water drainage at Ukunda town alongside Mombasa Lunga Lunga Highway referenced CGK/ENG/27/01/06 was made on 22<sup>nd</sup> January, 2016 while the project was advertised in April 2015, ten (10) months before the request to KENHA was made. The tender was opened on 6<sup>th</sup> May, 2015, evaluation was done on 12<sup>th</sup> May, 2015 and tender awarded on 14<sup>th</sup> May, 2015. No evidence of any permission granted from KENHA was availed for audit review and management has not explained why permission from KENHA was not sought before the advertisement was done.

Under the circumstances, it has not been possible to confirm the propriety of Kshs. 22,290,064 incurred for water drainage at Ukunda/Gombato Wards for the year ended 30<sup>th</sup> June, 2016.

**Management response.**

The department of Environment and Natural Resources then the department of Land, Physical Planning and Natural resources can authoritatively confirm that the certificates of works issued by the works officer had detailed measurement of complete work done which was presented before the auditors during audit. The department further wish to avail the same before the committee for scrutiny and perusal.

The project management fee of Ksh. 100,000 was money paid to the contractor which is payable to the project manager to facilitate him or her in supervising the project. Receipts for the expenditure of Ksh.100,000 as project management fee is hereby attached for committee perusal and confirmation.

A request for permission and advice to Kenya National Highways Authority (KENHA) on the proposed storm water drainage at Ukunda town alongside Mombasa Lunga Lunga Highway was sought as early as March 2015 when the project was being thought of. The department had a prior engagement with KENHA in January 2016 when discussing the drawings and design of the project. In 27<sup>th</sup> March, 2016 another request for advice was done by the County Engineer through an email which KENHA again never responded. Later in 2016 KENHA sent a representative in a meeting to guide the department on where to place the trench which changed the survey and design of the project hindering the implementation of the project.

**Committee observations.**

**Mr. Speaker sir** the committee observed the following.

- i. That permission from KENHA was granted after the project had been awarded.
- ii. That KENHA sent a representative to advice the department on where to place the trench after survey and design of the project had already been done.
- iii. That receipts amounting to Ksh.100,000 for expenditure of project management fee was availed before the committee.

**Committee recommendations.**

**Mr. Speaker sir** the committee recommends as follows.

- i. That all relevant procedures and steps established shall be adhered to before implementation of such project.
- ii. That the management shall in future avail support documents, information and data to the auditors during the time of audit as required by the Public Audit Act, 2015.

**11.3 Construction of Multipurpose Hall.**

Included in the construction of buildings balance of Kshs. 460,566,937 in note 18 to the financial statements for the year ended 30<sup>th</sup> June, 2016 is an amount of Kshs. 6,852,464 for construction of a multipurpose hall at ATC Mkongani. A site visit in the month of November,

2016 revealed that the project was incomplete despite full payment. The works were at stone walling's plus window frames at the time of verifications.

Consequently, it has not been possible to confirm the propriety of Kshs. 6,852,464.00 incurred on constructing a multipurpose hall at Mkongani for the year ended 30<sup>th</sup> June, 2016.

**Management response.**

The department of Agriculture, Livestock and Fisheries disputed that by December 2016 the project had been paid in full. The management informed the committee that the project had a total cost of Ksh.6,852,464.50 out of which payments were made as follows upon issuance of engineers certificates of works.

First payment was made on 24/6/2016 valued at Ksh.3,779,807.80.

Second payment was made on 07/10/2016 valued at Ksh.1,624,000.00.

Third payment was made on 12/10/2017 valued at Ksh.779,128,.00.

**Total payment made to date is Ksh.6,182,935.80**

**Balance unpaid is Ksh.669,528.70**

This is to confirm that the project has not been paid in full as put by the auditors. The project manager has not issued the final payment of Ksh.669,528.70. In addition the department is also holding the retention money in our deposit account. Therefore the project has not been fully paid before completion.

Currently the status of the project is substantially complete the contractor is finalizing on the drainage which is to be completed in due course. The physical status of the project stands at 97% painting being finalized.

**Committee observations.**

Mr. Speaker Sir the committee observed the following.

- i. That the project had not been paid for in full as picked by the Auditor General.

**Committee recommendations.**

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

- i. That the management shall in future avail support documents, information, data to the auditors during the time of audit as required by the Public Audit Act, 2015.

**11.4 Supply and Installation of Fleet Tracking Devices.**

Included in the purchase of vehicles and other transport equipment balance of Kshs. 60,381,248 in note 18 to the financial statements for the year ended 30<sup>th</sup> June, 2016 is an amount of Kshs. 3,600,000 paid for supply and installation of fleet tracking devices for 139 motor vehicles. Records availed for audit revealed that Inspection and Acceptance Committee indicated that 132 vehicles were fitted with the tracking system device, 69 vehicles were

working condition while 63 devices were not working. There was no evidence that 7 vehicles were fitted with the gadgets. However, the management failed to provide evidence that the above was rectified before payment. Further, a verification exercise at the transport section revealed that the fleet management system was not in use as expected.

Consequently, it has not been possible to confirm the propriety and value for money for Kshs. 3,600,000 incurred in fitting the tracking devices for the year ended 30<sup>th</sup> June, 2016.

**Management response.**

The department reiterate that the fleet tracking gadgets were supplied in 2014, 139 in number and installation started immediately which later stopped in December and resumed in March, 2015 and completed in June same year. Thereafter testing and verification was to be done after the procurement of the fleet monitoring materials which were a screen and two laptops which were supplied later. During testing 69 vehicles could not be reached or be identified since they were either at garages for repairs or had faulty batteries hence the system could not reach them as it works in areas with networks or when the battery is fitted and functional. The rest of the 7 vehicles were installed with the gadgets after testing and verification of acceptance committee was done but verification report was not amended. The fleet management system has been used before since reports from the same after installation were generated to provide sufficient evidence that all the vehicles were fitted with the gadgets.

Currently the system is not working as the contract is yet to be renewed. Negotiation for the renewal of the contract is on-going and is soon to be finalized.

The importance of this system is that it can help do the following;

- a) Control of vehicles and report by PC or though M1 fleet internet web log on.
- b) Vehicles can communicate their position using descriptive landmark and GPS coordinates.
- c) Can immobilize the vehicles via internet or short message.
- d) Can track multiple units offline/online and gather real time information.

**Committee observations.**

**Mr. Speaker sir** the committee observed the following.

- i. That the fleet tracking devices were installed to all the 139 vehicles.
- ii. That the fleet management system was not functional since the contract expired.
- iii. That the department was in the process of renewing the contract.

**Committee recommendations.**

**Mr. Speaker sir** the committee recommends as follows.

- i. That the Accounting Officer department of Transport and Public works shall ensure that the fleet management system is functional within 60 days after the adoption of this report.

### 11.5 Stalled Project-Beach Road.

Included in the construction and civil works balance of Kshs. 22,478,072 in note 18 to the financial statements for the year ended 30<sup>th</sup> June, 2016 is an amount of Kshs. 6,101,368.00 in respect of proposed cabro paving of Beach Road from Nakumatt Junction to the Beach. Physical verification of the project in September 2016 revealed that although some materials had been delivered to the site, the road had not been opened up following a court order restraining the County Executive of Kwale from constructing the road.

Under the circumstances, it has not been possible to confirm the propriety of Kshs. 6,101,368 for the expenditure on proposed cabro paving blocks of beach road at Ukunda for the year ended 30<sup>th</sup> June, 2016.

#### Management response.

The then department of Tourism, Investment promotion and ICT made a budget to initiate a project of opening, laying of cabro blocks and construction of beach traders stalls along Nakumatt-Indian Ocean Beach Access road. The project was to be implemented in 2 phases.

1. Phase one: opening and lying cabro paving blocks,
2. Phase two: construction of beach traders stalls, washrooms and lighting.

With phase one of the project planned for implementation in the financial year 2015/2016.

In the Financial Year 2014/15 phase 1 of the project was awarded at a contract sum of Ksh.17,128,336.50. The contractor moved to site and opened the entire road besides transporting materials to the site (cabro and sand) for the same. After completing 32% of the works a company by the name GALERIUS INVESTMENT LIMITED moved to court claiming ownership of the entire trench registered under the title KWALE/DIANI BEACH BLOCK 1072 forcing the department to temporarily halt the project pending hearing and determination of the same.

Court proceeding begun in October, 2015 in the high court of Mombasa with the County furnishing the court with an affidavit of beach operators, Dr. Mohammed Pakia the then Chief Officer Lands, Physical Planning and Natural Resources and residents who live along the said road. Then after the elapse of five months and two successive court hearings a ruling was made on 26<sup>th</sup> February, 2016 ordering the County to stop the construction and further demolish any structure that the County might have erected through ORDER NO.11. The department stopped the project and paid the works done by the contractor prior to the court verdict.

The department paid for the certified work done and materials on site before the court order which totalled to Ksh. 6,041,976.00.

PV NO	PAYMENT DETAILS	AMOUNT IN KSH
T103-1	Being payment for road opening	5,507,448.00
T267-1	Being payment for material on site	534,528.00

<b>TOTAL</b>	<b>6,041,976.00</b>
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**Committee observation.**

**Mr. Speaker Sir** the committee observed the following.

- i. That Ksh.6,041,976.00 was paid to the contractor for certified work done and materials delivered on site.
- ii. That the project was halted following a court order issued at the Mombasa High Court.
- iii. That the implementation of the project was stopped until the case is determined fully.

**Committee recommendations.**

**Mr. Speaker sir** the committee recommends as follows.

- i. That the County Attorney shall within 30 days furnish the Assembly on the status of the case.
- ii. That the County Government shall plead with the Court to fast track the determination of the case.

**12.0 Budget Control and Performance.****12.1 Budgetary Absorption.**

During the year under review, the approved final budget for Kwale County Executive was Kshs. 6,639,720,438 with Kshs. 2,353,334,334 (37%) allocated to the recurrent expenditure and Kshs. 4,286,386,104 (63%) to development. The total budget reflected overall budget absorption of Kshs. 6,172,566,525 (93%) resulting in under absorption of Kshs. 467,153,912 (7%) as summarized below;

<b>Receipt/Expense Item</b>	<b>Budget Allocation</b>	<b>Actual</b>	<b>Budget Utilization Difference</b>	<b>% of Utilization</b>
	<b>Kshs.</b>	<b>Kshs.</b>	<b>Kshs.</b>	<b>%</b>
Compensation of Employees	1,436,647,111.00	1,431,956,682.15	6,477,267.85	100%
Use of goods and services	1,170,853,290.00	1,030,176,483.85	139,407,941.15	88%
Other grants and transfers	519,450,000.00	464,445,432.00	55,004,568.00	89%
Transfer to other		835,917,738	835,917,738	

Government units				
Social Security Benefits	16,000.00	-	16,000.00	0%
Acquisition of Assets	3,438,254,038	2,410,070,190.50	1,028,183,848.35	70%
Other Payments	74,500,000	-	74,500,000	0%
<b>TOTALS</b>	<b>6,639,720,438.00</b>	<b>6,172,566,525.00</b>	<b>1,303,071,651.50</b>	<b>93%</b>

The under absorption of approved budget is an indicator of activities and projects in the annual work-plan not implemented by the County Executive and which is likely to have negative impact on delivery of goods and services to the residents of Kwale County.

### **Management response.**

It is true that Kwale County Executive was able to absorbed 93% of the budgeted sum for the year under review which was a reasonable rate despite the challenges of disbursement from the National Exchequer which forms 95% of the County budget. The County had an under absorption of 7% which was majorly contributed by late disbursement and decline in revenue collection for the year under review. The County would only be able to realize 100% absorption once disbursements from the Exchequer are timely and consistent.

### **Committee observations.**

**Mr. Speaker Sir** the committee observed the following.

- i. That the County was unable to absorb 7% of the budget for the year under review due to late disbursement from the Exchequer.

### **Committee recommendations.**

**Mr. Speaker sir** the committee recommends as follows.

- i. That the County Executive Officers shall liaise with the Inter-Governmental Relations Committee to compel the National Treasury to ensure disbursements to the Counties are timely made.
- ii. The Senate shall compel the National Treasury to ensure disbursements to the Counties are consistent and timely.

## **12.2 Development Budget.**

During the year under review, County Executive of Kwale allocated Kshs. 4,286,386,104.00 for development projects and spent Kshs. 3,483,464,329.70 (81%) resulting in under expenditure of Kshs. 1,155,960,979 or 81% of budget. The under expenditure was mainly on the following items:

Development Item	Budget	Actual Expenditure as per Financial Statements	Under Absorption
	(Kshs.)	(Kshs.)	(Kshs.)
Use of goods and services	353,612,352.00	300,293,545.05	(53,318,806.95)
Other grants and transfers	474,450,000.00	464,445,432.00	(10,004,568.00)
Transfer to other Government units		355,000,000	355,000,000
Acquisition of Assets	3,386,323,752.00	2,363,725,352.55	(1,022,598,399.40)
Other Payments	72,000,000.00		(72,000,000.00)
<b>Total</b>	<b>4,286,386,104</b>	<b>3,483,464,329.60</b>	<b>(1,155,960,979)</b>
			(802,921,775)

From the above table, it is clear that the County Executive did not utilize most of the funds allocated resulting in an under absorption of Kshs. 802,921,775 (19%) which means the County Executive of Kwale did not implement or complete some of the projects as planned and hence the intended objectives could not be achieved for the year ended 30<sup>th</sup> June, 2016.

### Management response.

The County Executive of Kwale had an under absorption of Ksh.802,921,775 in the development budget forming 19% for the year under review . This under absorption in the development budget was orchestrated by late disbursement and procurement procedures cutting across the various departments. The County Government has streamlined its systems to ensure that projects are awarded at a time when funds are available so as to ensure contractors are paid in due time.

### Committee observations.

Mr. Speaker Sir the committee observed the following.

- i. That the County was unable to absorb 19% of the development budget for the year under review which was orchestrated by delays in disbursement.
- ii. That the under expenditure was caused by the introduction of the IFMIS and E-procurement which was new to the users.

### Committee recommendations.

Mr. Speaker Sir the committee recommends as follows.

- i. The Senate shall compel the National Treasury to ensure disbursements to the Counties are consistent and timely.



- ii. The management shall ensure that the procurement department has the capacity to handle matters of IFMIS and procurement in time

### 12.3 Governor's Budget.

During the year under review, County Executive of Kwale had an approved Governor's budget of Kshs. 378,747,456 with Kshs. 108,047,456 (29%) allocated to the recurrent expenditure and Kshs. 270,000,000 (71%) to development as shown below:

### 12.4 Development Budget.

The office of the Governor (County Executive Services) was allocated a total of Kshs. 270,000,000 for development during the year under review out of which Kshs. 200,000,000 was for construction of proposed County Headquarters, Kshs. 40,000,000 for construction of Governor's residence and Kshs. 30,000,000 for pending bills. As at 30<sup>th</sup> June, 2016 the Department had spent a total of Kshs. 249,998,160 (93%) resulting in under expenditure of Kshs. 20,001,840 (7%) as shown below:

ITEM	Final Budget Kshs.	% of The Budget	Total Expenditures Kshs.	% of Actual Expenditure	Under Expenditure	% Under expenditure
3110201 Residential Buildings (including hostels)	40,000,000	15%	39,998,160	16%	1,840.00	0%
3110202 Non-Residential Buildings (County Head Quarters)	200,000,000	74%	185,000,000	74%	15,000,000	8%
4130201 Domestic Payables	30,000,000	11%	25,000,000	10%	5,000,000	17%
<b>Total</b>	<b>270,000,000</b>	<b>100%</b>	<b>249,998,160</b>		<b>20,001,840</b>	<b>7%</b>

The management has not provided any explanation for the failure to utilize the budget fully. Underutilization of budget results in poor service delivery which in turn affects the standards of living for the residents of Kwale County.

**Management response.**

The department of Public Service and Administration wish to confirm that Ksh. 270,000,000 was allocated to cater for the construction of the County Headquarters, residential house for the Governor and transfer to the Transitional Authority.

The department spent Ksh.210,000,000 towards the construction of the County Headquarters and Ksh. 39,998,160 was transferred to Transitional Authority as a refund.

The balance of Ksh.20,000,000 was reallocated in the subsequent budget as it was meant for the construction of the Governors residence. This sum was not utilized in the year under review for there was no available land for the construction of the Governors residential house.

**Committee observations.**

**Mr. Speaker sir** the committee observed the following.

- i. That the office of the Governor had an under expenditure of 7% of the development budget for the year under review.
- ii. That the department was unable to absorb the 7% of the budget due to lack of Land for the construction of the Governor's residential house and delay in disbursement of funds from the Exchequer.

**Committee recommendations.**

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

- i. That the Council of Governors shall engage the Inter-Governmental Relations Technical Committee to compel the National Treasury to disburse funds to the Counties in time.

**12.5 Recurrent Budget.**

The County Executive of Kwale budgeted Kshs. 108,747,456 for the Governor's recurrent expenditure while the actual expenditure amounted to Kshs. 102,805,588 resulting in under expenditure of Kshs. 5,941,868 for the year ended 30<sup>th</sup> June, 2016 as summarized below:

<b>Item</b>	<b>Amount Budgeted (Kshs.)</b>	<b>Actual Expenditure as per Financial Statements</b>	<b>Under Expenditure (Kshs.)</b>
<b>Payments</b>			
Compensation of Employees	52,365,649.00	52,291,680.35	73,968.65
Use of goods and services	54,715,835.00	49,172,757.50	5,543,577.50
Social Security Benefits		-	

Acquisition of Assets	1,665,972.00	1,341,650.00	324,322.00
<b>Total</b>	<b>108,748,456.00</b>	<b>102,805,587.85</b>	<b>5,941,868.15</b>

The management has not provided explanation for the failure to utilize all approved budgetary provisions. Underutilization of budget results in non-implementation of planned development projects negatively affecting service delivery to the public.

### **Management response.**

The department of Public Service and Administration confirms that Ksh.5,941,868.15 was not utilized in the financial year 2015/2016 as the department had not received its exchequer release in time hence led to under absorption of the stated amount.

### **Committee observations.**

**Mr. Speaker Sir** the committee observed the following.

- i. That Ksh.5,941,868.15 was an under expenditure in the office of the Governor from the recurrent budget for the year under review.
- ii. That this under expenditure was orchestrated by delays in disbursement from the Exchequer.

### **Committee recommendations.**

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

- i. That the Council of Governors shall engage the Inter-Governmental Relations Technical committee to compel the National Treasury to disburse funds to the Counties in time.

## **12.6 Revenue Budget.**

The statement of receipts and payments reflected other receipts amounting to Kshs. 248,617,586 for the year ended 30<sup>th</sup> June, 2016 against a revenue target of Kshs. 300,000,000 resulting in under collection of Kshs. 51,382,414 (17%) as per the revenue report for the year 2015/2016.

<b>REVENUE SOURCE</b>	<b>Budget Kshs.</b>	<b>Actual Kshs.</b>	<b>Under Collections Kshs.</b>	<b>Over Collections Kshs.</b>
Land Rate	88,066,590	53,092,173	(34,974,417)	
Single Business Permit	58,447,660	60,552,431		2,104,771

House and Stalls Rent	6,938,800	7,478,097		539,297
Market Fees	4,932,000	5,030,425		98,425
Royalties and Cess	30,188,220	31,845,730		1,657,510
Transit Goods	6,000,000	6,113,755		113,755
Auction Fees	5,972,140	6,032,637		60,497
Advertisement	12,601,700	12,720,628		118,928
Parking Fees	10,764,000	11,028,074		264,074
Revenue from Hospital	52,160,000	32,621,588	(19,538,412)	
Building Plan Approval	5,000,000	2,771,746	(2,228,254)	
Land Revenue	1,600,000	1,645,900		45,900
Garbage Fees	3,600,000	3,699,350		99,350
Slaughter	850,000	867,590		17,590
Miscellaneous	5,052,000	5,138,630		86,630
Revenue from Trade and Cooperative	400,000	430,760		30,760
Revenue from Agriculture Livestock and Fisheries	3,000,000	3,680,377		680,377

Public Health and Sanitation	4,426,890	3,867,695	(559,195)	
<b>Local Revenue</b>	<b>300,000,000</b>	<b>248,617,586</b>	<b>(57,300,278)</b>	<b>5,917,864</b>

From the above analysis the under collection resulted from failure to meet targets for the rates, revenue from hospitals, building plans approval and public health and sanitation revenue streams. The collection also reflected drop from the previous year's local revenue collection of Kshs. 253,972,260 (2014/2015) to 248,617,586 (2015/2016) by Kshs. 5,354,674 (2%).

The revenue collections drop and failure to meet the target gives an indication of leakages considering that there has been no indication of reduced economic activities in the specific areas where revenue collections were low.

#### **Management response.**

The County experienced under collection of revenue in rates, revenue from hospitals, building plans approval, public health and sanitation revenue streams. This was mainly due lack of legislations and policies which would guide revenue collections in the mentioned areas.

Further KRA barred the County Government from collecting revenues from transit vehicles at the Lungalunga border post which has significantly reduced revenue collection. Moreover the department of Health Services has had technical challenges in collecting NHIF claims due to staff capacity. Currently the Finance department is seconding its clerks to the Health department so as to collect NHIF claims in time. The department of Environment and Natural resources is in the process of employing more enforcement officers will work in collaboration with revenue clerks to maximize the collection of revenues on building approval which will generally boost revenue for the County.

#### **Committee observations.**

**Mr. Speaker Sir** the committee observed the following.

- i. That the County had an under collection of revenue amounting to Ksh.51,382,141 (17%) for the year under review.
- ii. That this under collection was caused by lack of legislations and policies to enhance revenue collection.

#### **Committee recommendations.**

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

- i. That the County Executive shall within 90 days after the adoption of this report come up with legislative proposals to be enacted by the Assembly which will guide revenue collection.

## 12.7 Project Implementation.

A total of Kshs. 1,772,702,216.82 was budgeted to finance 352 projects in the 2015/2016 budget period which the departments were required to implement within the financial year. However, the implementation of these projects was behind schedule and by December 2016 Kshs. 837, 036,844.67 had been spent on 93 projects, which represent only 47% of the funds allocated as follows:

Department	No of Budgeted Projects	Budget	Actual Expenditure	No. of Projects Implemented	% of Funds Used in Implementation
		Kshs.	Kshs.		
Public Service and Administration	4	29,523,930.00	4,593,275.00	1	16%
Finance and Economic Planning	2	42,000,000	0	0	0%
Executive Services	2	240,000,000	224,998,160.00	0	3%
Lands, Physical Planning and Natural Resources	11	62,015,396	44,643,229	3	71%
Education and Human Resource	73	343,393,452.96	124,474,168.53	3	36%
Water Services	69	369,117,872	124,642,663.38	25	34%
Infrastructure Development & Public Works	35	103,385,530	48,175,536	6	47%
Trade and	31	85,360,451.01	37,994,741.76	11	45%

cooperative development					
Community Development, Culture and Talent Management	28	105,963,362	9,751,276	3	9%
Health Services	38	157,254,340	44,350,799	3	28%
ICT, Tourism	28	99,323,551	53,958,407	10	54%
Department of Agriculture, Livestock and Fisheries	31	138,364,331.85	119,454,589	28	86%
<b>Total</b>	<b>352</b>	<b>1,775,702,216.82</b>	<b>837,036,844.67</b>	<b>93</b>	<b>47%</b>

It was further observed that the County Executive was implementing the 2014/2015 projects in the year under review thus affecting the implementation of 2015/2016 projects.

### **Department of Public service and Administration.**

#### **Management response**

The department confirmed that it was only one project that was completed in the financial year 2015/2016 out of the four projects as reported. This was brought by the delay in design of the skip bin truck and the skip bins. The supply of such trucks delays since it is almost impossible to find readymade ones here in Kenya. The other challenge was under funding of the Governor Chase car which had been allocated Ksh.4,000,000 which was insufficient to procure the vehicle during the year under review. Currently these projects have been completed.

### **Department of Finance and Economic planning.**

#### **Management response.**

The two projects which the department failed to implement during the year under review were automation of revenue collection and Valuation of County Assets. These two projects were not completed in the year as there were at various stages during the time of audit. It is worth to note that projects of such magnitude require vigorous testing before implementation. Currently the Revenue automation project is complete, it has been tested, integrated with Safaricom and bankers hence it has drastically reduced revenue leakage and loss in the

County. As for the Valuation of County Assets the contractor has just concluded and the draft report is to be presented before the CEC Finance on 12<sup>th</sup> June, 2018.

## **Department of Lands, Physical planning and Natural Resources.**

### **Management response.**

The projects for the year under review had challenges in implementation especially for the land banking. Most of areas in Kinango and the County in general lack land ownership documents hence the department could not procure land leading to the under implementation of projects.

Delays of disbursement from the National Treasury also contributed to the under implementation of the project since funds could not be utilized during the year under review. Some of the monies that were also underutilized were savings from the procurement of a vehicle which had been allocated Ksh.6,000,000 but the vehicle was purchased at lower price.

## **Department of Water Services.**

### **Management response.**

Under implementation of the projects for the year under review has been greatly brought by inconsistent disbursement of funds to the department from the exchequer. It has also been contributed by delay in retendering of projects brought by termination of under-performing contractors who pose a challenge in full implementation of the projects.

The department is currently engaging contractors who have sufficient capacity to complete projects within the specified time period. The department has also employed qualified staff to boost supervision and monitoring of projects. This will contribute to a reasonable budget absorption rate.

## **Department of Infrastructure development and public works.**

### **Management response.**

Under implementation of the projects for the year under review has been brought by inconsistent disbursement of funds to the department from the exchequer. It has also been contributed to by delay in retendering of projects bought by termination of under-performing contractors who pose a challenge to full implementation of the projects.

The department is currently engaging contractors who have sufficient capacity to complete projects within the specified time period. The department has also employed qualified staff to boost supervision and monitoring of projects. This will contribute to a reasonable budget absorption rate.



## **Department of Trade and Cooperative development.**

### **Management response.**

It is true that the year under review the department had under absorption of 45 percent that was contributed to by introduction of IFMIS and E-procurement systems which were new to the users and posed technical challenges. Despite the systems there were also delays in the disbursement of funds from the National Treasury which led to under implementation of projects for the year.

## **Department of Community development, Culture and Talent management.**

### **Management response.**

The department implemented few projects in the year 2015/2016 due to the following reasons.

- i. Delayed release of bill of quantities from the Public Works department.
- ii. Lack of available land to implement some of the projects.
- iii. Delay in release of Engineer's certificates of works that form basis of payments.
- iv. Some of the contractors abandoned sites before completion of projects resulting in subsequent retendering of projects which took time.

The department has currently been able to complete all the projects except for four which are almost at completion stage and two which were deferred due to land disputes.

## **Department of Health Services.**

### **Management response.**

In FY 2015/2016, the e procurement system was introduced for procurement of all items including projects. This severely affected the process of procurement as some processes were not visible on the system on different occasions. An example is evaluation rights for evaluation committees, which had to be authorized from National Treasury. Despite this challenge, the status as shown in the report is not reflective of the actual status. An extract from the vote book for the period JULY 2015 to JUNE 2016 shows actual absorption of health projects at 57%. Delay was also brought about by delayed disbursements from National Treasury.

## **Department of ICT and Tourism.**

### **Management response.**

It is true that the year under review the department had under absorption of 54% which was contributed to by introduction of IFMIS and E-procurement systems which were new to the users and posed technical challenges. There were also delays in the disbursement of funds from the National Treasury which led to under implementation of projects for the year.

## Department of Agriculture, Livestock and Fisheries.

### Management response.

The department in the year under review had completed projects to a tune of 86% as indicated by the audit report which is a commendable works done compared to rest of the departments. The remaining 14% was work on progress for uncompleted projects which was as result of procurement procedures and were at various stages. The department has put up strategies to ensure absorption rate is at 100% in the subsequent years especially with the decentralized procurement services that are currently provide for.

### Committee observations.

**Mr. Speaker sir** the committee observed the following as regards to project implementation.

- i. That Kshs. 1,772,702,216.82 was budgeted to finance 352 projects in the year under review but only Kshs. 837, 036,844.67 had been spent on 93 projects, which represents only 47% of the funds allocated.
- ii. That the under expenditure was caused by delay in disbursement from the Exchequer.
- iii. E-procurement which had been introduced for the first time caused delays.
- iv. The introduction of IFMIS which was new to the users was also a challenge.
- v. Under performing contractors who led to termination and retendering of projects delayed project completion.

### Committee recommendations.

**Mr. Speaker Sir** on project implementation the committee recommends as follows.

- i. That the County Executive Officer shall engage the Inter-Governmental Committee to compel the National Treasury to disburse funds to the Counties in time.
- ii. That the Senate shall compel the National Treasury to disburse funds to the Counties consistently and timely.
- iii. That the County Executive management shall ensure that the procurement department is well capacitated to handle procurement matters in time.
- iv. That staff handling IFMIS shall be trained and their capacity be enhanced to ensure they are well familiarized with the system.

## 12.8 Projects Verification.

Examination of projects worth Kshs. 122,618,103.66 implemented by the County Executive of Kwale during the year revealed the following;

	Project	Amount	Irregularity
1.	Proposed construction of restaurant and open amphitheatre at Cultural Centre	8,992,674.00	Provisional works in the contract amounted to Kshs. 1.15m for electrical works, kitchen among other items that would have been itemized for quotation this amounted to

			direct procurement
2.	Fabrication of 4M steel tower supply and install 5000 ltrs UPVC tank and community water point for 5 water points	3,478,550.00	No certificate of works was produced for audit verification
3.	Proposed Construction of Kaphingo Maweu Water Pipeline Project	23,481,961.00	The Management issued a notification of award dated 18/5/15 and Contract agreement not dated was signed on 3/6/15 this contract did not provide duration for the contract.  The LSO issued by the Department for the works was dated 5/6/15, did not have the projects due date (completion date)
4.	Supply and Installation and Testing of Submersible Electric Pump Jomo Kenyatta Primary and Kiruku Borehole	1,095,975.00	LPO number 2400501 dated 5/2/16 was issued to the supplier but did not provide the details specifications of the pumps to be supplied. Inspection committee did not indicate the specifications of the pump supplied which they approved and signed to have inspected.
5.	Supply Installation and Testing of Solar Powered Borehole Pump Mtsangalifu	500,000	The LPO did not provide specifications for the item to be supplied and indicated “supply installation and testing of solar powered pumping unit” without giving specifications of the panel batteries pump capacity.
6.	Proposed Street Lighting in Diani Beach Road	66,924,576	34 solar panels costing Kshs. 486,200 missing. Further, the Department had not made any effort to rectify the safety of the panels to avoid further vandalism.
7.	Proposed Road Opening at Maji ya Chumvi-Mwangoloto Dateni Road	4,238,500.00	BOQ included road formation by dozer 120 hrs @9,200 total to Kshs. 1,104,000.00 and Gravelling 950 cubic meter@ 550 total 522,500.00. These items were not properly supported by relevant documents to confirm that they were supplied register for

			hrs operated, deliveries made.
8.	Proposed Road Opening at Mudzi Ubomu Mnyenzeni Vikolani-Doti Road	4,675,491.36	<p>Performance bond issued on 17/3/15 expiring on 16/5/15. The bond was inadequate since it required the contractor to pay 20% or minimum of Kshs. 50,000 before the bank could settle any claim by employer.</p> <p>BOQ included item 7 gravelling 700cm @1057 total 739,900 but actual measurement undertaken and invoiced amounted to 1335cm @ 1057 total 1,411,095. No details of why actual works varied with bills quoted. No documents provided to support the supply and gravelling of the road.</p>
9.	Proposed Opening of Tsuini-Ngathini- Juakali Road	4,692,456.00	<p>Certificate of completion dated 11/12/15 indicating that the contractor was allowed to continue undertaking works without a valid bond for over 5 months.</p> <p>BOQ included gravelling 1378cm @ Kshs. 1760 total Kshs. 2,425,280.00. The management did not provide evidence for delivery of these items as per the bills. The contractor claimed vide letter dated 4/9/15 to have supplied 2535cm of gravel.</p>
	<b>Total</b>	<b>122,618,103.36</b>	

Consequently, the propriety of expenditure totalling Kshs. 122,618,103.36 on acquisition of assets for the year ended 30<sup>th</sup> June, 2016 could not be confirmed.

## **Department of Community Development, Culture and Talent Management.**

### 12.8 Projects Verification.

**Management response.**

**Proposed construction of a restaurant and one amphitheatre at Cultural center.**

That the project was awarded to one contractor who then sub-contracted to a licenced electrical engineer. That Ksh.500,000 used as provisional sum for electrical installation was sub-contracted to a licensed electrical engineer and details of the works carried out were quoted in the bills of quantities. The other provisional sums valued at Ksh.650,000.00 were building works carried out by the contractor and were adequately measured before release of payment as per the priced measure by the bills of quantities.

The provisional sum is provided as a cost estimate when there is no immediate sufficient detail. A measured valuation is later prepared to show how the provisional sum was expended.

**Committee observations.**

**Mr. Speaker sir** the committee observed the following.

- i. That the bills of quantities provided for provisional sum of Ksh.500,000 for electrical works and Ksh.650,000 for building works.

**Committee recommendations.**

**Mr. Speaker sir** the committee recommends as follows.

- i. That the Accounting Officer shall ensure that the bills of quantities are specific on the items to be done before commencement of any project.
- ii. That the Accounting Officer shall avail the necessary support documents, information and data to the auditors during the time of audit as required by the Public Audit Act, 2015.

**Department of Water services.**

**Management response.**

**Fabrication of 4M steel tower supply and installation 5000ltrs UPVC tank and community water point for 5 water points.**

The department wish to confirm that supporting documents for this project were availed to the auditors during the time of audit. The department has also attached herein with the Local Service Order, Bills of Quantities and Engineers Certificate of Works for the committee scrutiny and perusal.

**Proposed construction of Kaphingo-Maweu water pipeline project.**

The department confirms that supporting documents for this project were availed to the auditors during the time of audit. We acknowledge that completion date was not indicated in the LSO though this was an omission. The project was however completed successfully. The LSO, BQ and engineers certificate of works are herein attached for committee perusal.

**Supply and Installation and testing of Submersible Electric Pump at Jomo Kenyatta primary school and Kiruku Borehole.**

The department further confirms that supporting documents were availed to the auditors during audit. We acknowledged that the LPO did not provide the detailed specifications of the pump to be supplied. However the specifications were included in the Bill of Quantities when the quotations were being floated. The LSO, BQ and Engineers Certificates of Work is herein attached for committee perusal and scrutiny.

**Supply, Installation and Testing of solar powered Borehole pump at Mtsangatifu.**

The department reiterates that supporting documents for this project were availed to the auditors during audit. We acknowledged that the Local Purchase Order did not provide the detailed specifications of the pump to be supplied. However the specifications were provided in the invitation for bids section (b) deliverables under data for boreholes where the pump specifications were as follows;

- a) Capable of pumping 0.9m<sup>3</sup>/h at a head of (38+10=48M)
- b) Pump diameter should not exceed 150mm.
- c) Tank capacity is indicated as 1000M3.

The department has herein attached the LSO, BQ and Engineer's Certificate of Works of the project for committee perusal.

**Committee observations.**

**Mr. Speaker sir** the committee observed the following.

- i. That the local purchase order did not provide for the specifications on the pumps to be supplied but the same was provided for in the bills of quantities.
- ii. That the Accounting Officer failed to provide the above information to the auditors during the time of audit.

**Committee recommendations.**

**Mr. Speaker sir** the committee recommends as follows.

- i. That the Accounting Officer shall avail the necessary support documents, information, and data to the auditors during the time of audit as required by the Public Audit Act, 2015.

**Department of ICT and Tourism.**

**Management response.**

**Proposed Street lighting in Diani Beach road.**

Current the project is under the department of Infrastructure Development and Public Works but the department wish to confirm that some solar panels were vandalized especially the Jadini/Africana area where most of the solar panels are surrounded by the bush. The department currently has recruited 20 enforcement officers to do patrols. The department is also working with the property owners and the community in intensifying surveillance of the

street lights. Currently the stolen panels have been replaced and for over six months now they have not be vandalized as it used to be.

## **Department of Infrastructure Development and Public Works.**

### **Management response.**

#### **Proposed Street lighting in Diani Beach Road.**

The department reiterates that supporting documents for this project were availed to the auditors during audit.

At a site meeting held on 8<sup>th</sup> June 2015, the contractor highlighted the challenges he encountered where solar panels and batteries were vandalized. The project electrical engineer then issued instructions after consultations to weld all the bolts and nuts to make it harder for the vandals to steal the equipments. The contractor also reported the matter to the police for further investigations

The Bills of Quantities and project file have been herein availed before the committee for scrutiny.

### **Committee observations.**

**Mr. Speaker sir** the committee observed the following.

- i. That 34 solar panels were installed and vandalized by unknown people.
- ii. That the department took corrective measures by replacing them and deploying enforcement officers to make patrols and intensify surveillance of the street lights.
- iii. The contractor went ahead to weld all the bolts and nuts to make it difficult for vandals to steal the panels.
- iv. The matter has also been reported to the police for further investigations.

### **Committee recommendations.**

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

- i. That the County Executive shall carryout a feasibility study before implementation of projects to avoid loss of public funds.

#### **Proposed road Opening at Maji ya Chumvi Mwangoloto- Dateni road.**

The department confirms that supporting documents were availed to the auditors during audit.

The department wish to reiterate that there is always verification of the quantity in Cubic Meters of the trucks being used and the number of stucks. A standard measurement worksheet that is signed by both the contractor's representative and the employer's representative is prepared after satisfactory verification of the quantity. However measures have been put in place to ensure proper documentation in supply and delivery of gravelling of roads like deliveries schedules, vehicle number plates and tallying sheet showing the number

of stucks dumped. The department has herein attached the Bills of Quantities, Project File and Measurement Worksheet showing the gravelling for this particular road.

**Proposed road opening at Mudzi Ubomu-Mnyenzi-Vikolani-Doti road.**

The department further confirms that supporting documents for the project were availed to the auditors during audit. We acknowledge the omission during contract implementation where the performance bond provided was inadequate. However the road was completed satisfactorily and therefore no public funds were lost in the process but proper measures have been put in place to enable adequacy of performance bonds from contractors. Find herein the completion certificate.

The department wish to confirm that there is always verification of the quantity in cubic meters of the trucks being used and the number of stucks. A standard measurement worksheet that is signed by both the contractor's representative and the employer's representative is prepared after satisfactory verification of the quantity. However measures have been put in place to ensure proper documentation in supply and delivery of gravelling of roads like deliveries schedules, vehicle number plates and tallying sheet showing the number of stucks dumped. The department has herein attached the Bills of Quantities, Project File and Measurement Worksheet showing the gravelling for this particular road.

**Proposed Opening of Tsuini-Ngathini-Juakali road.**

The department confirms that supporting documents for this project were availed to the auditors during audit. The department acknowledges the omission during contract implementation where the performance bond provided was not valid. However, the road was completed satisfactorily and therefore no public funds were lost in the process but proper measures have been put in place to enable adequacy and validity of performance bonds from contractors. Find herein the completion certificate of works.

The department wish to confirm that there is always verification of the quantity in CM of the trucks being used and the number of stucks. A standard measurement worksheet that is signed by both the contractor's representative and the employer's representative is prepared after satisfactory verification of the quantity. However measures have been put in place to ensure proper documentation in supply and delivery of gravelling of roads like deliveries schedules, vehicle number plates and tallying sheet showing the number of stucks dumped. The department has herein attached the Bills of Quantities, Project File and Measurement Worksheet showing the gravelling for this particular road.

**Committee observations**

**Mr. Speaker sir** the Committee observed the following.

- i. That the department provided the committee with all support documents showing the detailed measurement of work done.
- ii. That the performance bonds raised were either invalid or inadequate.
- iii. That the detailed measurement of work was done by measuring the length, depth and the quantity of stucks dumped.



**Committee recommendations.**

**Mr. Speaker sir** the committee recommends as follows.

- i. That the Accounting Officer department of Infrastructure development and public works shall in future ensure that the performance bonds are accurate and adequate.
- ii. That the Accounting Officer shall empower the project inspection team to ensure quality work is done.

**COMMITTEE GENERAL OBSERVATIONS.**

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

- i. That the Accounting Officers failed to avail some of the necessary support documents, information and data to the auditors during the time of audit leading to a disclaimer opinion but there were availed to the committee for scrutiny and perusal.
- ii. That over the last three consecutive financial years the Auditor General has consistently raised the issue of non-compliance by the Accounting Officers when given the opportunity to provide documents in support of expenditures.
- iii. That most of the Accounting Officers are not well conversant with the Public Finance Management Act 2012, Public Procurement and Asset Disposal Act, 2015 and their regulations.

**COMMITTEE GENERAL RECOMMENDATIONS**

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

- i. That in future the management shall ensure that its officers keep proper records of all activities and projects undertaken on behalf of the County Executive and to promptly avail such records during the time of audit as required by the Public Audit Act, 2015.
- ii. That the CEC Finance shall within 60 days after the adoption of this report ensure that all Accounting Officers and any other relevant officers are well trained on matters of Public Finance Management Act, 2012, Public Procurement and Asset Disposal Act, 2015 and their regulations.

**Mr Speaker sir**, I again wish to thank the members of the Assembly, the office of the Speaker and the office of the Clerk for their support during compilation of 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.**