



Kakamega County's
AUDITOR GENERAL REPORT

2016/2017

Simplified version



Damaaja Tutetea Haki



**KENYA HUMAN RIGHTS
COMMISSION**

ISBN: 978-9966-100-36-8

Published by

Kenya Human Rights Commission

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ACKNOWLEDGEMENT

The Kenya Human Rights Commission (KHRC), wish to express gratitude to Ms. Perpetua Adar, who was engaged as the consultant to develop this simplified version of the Auditor General Report. Mr. Paul Annan – the Programme Advisor; Anti-Corruption and Devolution who was the lead editor and coordinated the development and review of this report.

A special thanks goes to Mr. George Kegoro – the Executive Director, Mr. Davis Malombe - the Deputy Executive Director and Ms. Elizabeth Kariuki – Programme Manager Economic & Social Justice, for providing technical support and policy direction in the conception and development of this report.

We appreciate the roles played by Medika Medi – Communications Officer for designing and editing this report and Faith Kirui - IT & Procurement Officer for overseeing the publication of this report.

Finally, we thank our development partner the Swedish embassy, through DIAKONIA for their technical and financial support that made the development of this report possible. However, the report does not in any way reflect their views.

BACKGROUND 1

1.1 Our History, Scope and Partnerships in Advocacy

The Kenya Human Rights Commission (KHRC) is a premier and flagship Non-Governmental Organization (NGO) in Africa that was established and incorporated on 9th April 1992 by Kenyans exiled in the United States of America (USA) and later registered in Kenya on 20th of January 1994. KHRC founders are among the foremost leaders and activists in struggles for human rights, good governance and democratic reforms in Kenya and beyond. Our **mandate** is to enhance a human rights-centred governance at all levels, while our **vision** is to secure human rights states and societies and our **Mission** is to foster human rights, democratic values, human dignity and social justice¹. This mandate and vision are executed under four independent strategic objectives and thematic programmes; Economic and Social Justice (ESJ); Transformative Justice (TJ); Inclusion and Identity (I&I) and Institutional Support and Development (ISD). All these programmes work in synergy. The KHRC works with grassroots based organizations including over thirty Human Rights Networks (HURINETS) across the counties; partners with national level - state and non-state actors and coalitions; and with sub-regional, regional and international human rights organizations and networks.

1.2 Our Interventions against Corruption and Related Injustices in the Society

We have identified corruption at both the national level and in devolved governance as one of the issues for policy and political advocacy. Corruption has established bad governance characterized by the lack of transparency, accountability, public participation, an enabling legal/judicial framework in the conduct of public affairs, particularly in public procurement. This has institutionalized impunity allowing systemic abuse and ineffective use of public resources. As an attempt to disrupt the corrupt system, the KHRC has conducted anti-corruption researches/studies which has generated evidence for advocacy at both the national and county levels of governance. We also and actively convene anti-corruption dialogues, through the annual “People’s Anti-corruption Summits” with both political actors and the public. Moreover and through the above-mentioned HURINETS at the community level, we create citizens’ awareness on the prevalence of corruption and increase their capacity to effectively engage and demand for prudence and probity in the conduct of governments’ businesses at both the national and devolved levels.

1 KHRC strategic plan

1.3 The Initiative to Simplify and Disseminate the Auditor Generals Reports

The Constitution provides that the Office of the Auditor General (OAG) has the primary oversight role of assuring accountability within the three arms of Government, Independent Commissions, Independent Offices and County Government entities. Specifically, the OAG has the mandate to audit and report to stakeholders on the fairness, effectiveness and lawfulness in the management of public resources. Vigilant citizens can then use these audit reports to oversight both county and national governments. Related to our interventions against Corruption, we are enhancing public understanding of the Auditor Generals' report around the select counties (Kwale, Wajir, Kisumu, Makueni and Kakamega), with the view to empowering Human Rights Networks to take appropriate actions on the implementation of the report's recommendations. It's in this regard that the KHRC is developing simplified version of these reports and unpacking manifestation of corruption, particularly in county governance. The key objective of this work is to deepen citizens' understanding of the auditor general's reports; unearth corruption in public procurement process, so that they can politically organize and take appropriate actions aimed at promoting transparency, accountability and participation in devolved governance, and influence policy and legislative reforms at both the county and national levels.

1.4 Simplification of the Auditor General's report for Kakamega County

Although the OAG has produced both the county assembly and county executive audit reports annually, there has been minimal citizen utilization to demand for transparency and accountability from the county government of Kakamega. Part of the issue is that citizens in the county cannot easily access, read and understand the contents of the audit reports. The reports are mainly accessed on the website of the auditor general which is challenging for those without internet access and for those who do not understand how to access documents online. For those citizens who are able to access the reports, the language used in the reports is very technical making it difficult to understand. Accessing the documents online is also expensive to the common citizens. The reports are also quite lengthy making reading them difficult and time consuming. To empower citizens in Kakamega County to effectively access, read, understand and demand action from their County Government, the Kenya Human Rights Commission (KHRC) has developed this simplified version of the Auditor General's report, for the financial year 2016/2017. The report uses easy to read language and explains technical terms to allow the reader to fully understand the contents.

No changes were made to the figures, meaning, conclusions and other relevant content found in the full version of the Auditor General's report.

REPORT ON COUNTY EXECUTIVE 2 OF KAKAMEGA

2.1 Overview of audit issues in the County Executive of Kakamega

	ISSUE	FINDINGS
2.1.1.	Cash and Cash Equivalents	It was not possible to determine the accuracy and completeness of the Cash and Cash Equivalents' balance of Kshs.1,582,340,523
2.1.2.	Acquisition of assets	Issues with Kshs.4,972,115,469 for Acquisition of Assets
	a) Lack of asset register	
	b) Construction of Governors residence	
	c) County headquarters	
	d) Irregular purchase of laptops and accessories	
	e) Purchase of motorcycles	
	f) County Enterprise Resource Planning (ERP)	
	g) Project implementation status	
	h) Differences in assets and payments	
	i) Stalled/abandoned/deserted projects	
	j) Stalled/abandoned projects- Ministry of Public Service & Administration	
2.1.3	Compensation of employees	It was not possible to confirm the accuracy of Kshs.3,713,660,633 for Compensation of Employees
2.1.4	Use of goods and services	It was not possible to confirm the propriety of the Use of Goods and Services figure of Kshs.1,395,918,882 spent
	a) Unreconciled rent payments	
	b) Consultancy services on ward projects	
	c) Provision of training services	
	d) Supply of car wash machine and water tanks	
	e) Construction of ECDE at Mwiya Primary school	
2.1.5	Difference in financial statements and payments through IFMIS	It was not possible to confirm the accuracy and completeness of the balance in the financial statements.
2.1.7	Pending bills	It was not possible to confirm Kshs.799,421,944 reflected the pending bills in the financial statements was fairly stated.

2.2 Qualified Opinion

The Auditor-General, upon review of the financial statements of the County Executive, gave a qualified opinion.

Key note

Qualified opinion means that although the financial transactions recorded are mostly in agreement with the records, there may be cases where the Auditor-General is unsatisfied with the accuracy of certain expenditures. Therefore, except for unsupported expenditure, the account reflects by and large a true and fair situation.

Except for the issues below, the Auditor-General concluded that public money was applied lawfully and in an effective way by the County Executive.

2.3 Why the County Executive received a Qualified opinion

2.3.1 Cash and Cash Equivalents

The Cash and Cash Equivalents of Kshs.1,582,340,523 included Kshs.1,151,793 as bank balance for 16 bank accounts operated for Wards Development Funds. These accounts were not supported with reconciliation statements and no cash books were provided for the 16 bank accounts. Below is a table of these 16 bank accounts.

Table 1: Ward Development Funds not supported with bank reconciliation statements

	Ward	Bank	Amount in financial statement (Kshs.)	Certificate of bank balance (Kshs.)	Variance (Kshs.)
1	Chevaywa	Coop Bank Kakamega	194	660,340	(660,146)
2	Khalaba	Family Bank Mumias	753,936	1,114,853	(360,918)
3	Kholera	Family Bank Mumias	11,040	77,222	(66,182)
4	Marama North		2,393		2,393
5	Mayoni	Family Bank Mumias	48,756		48,756
6	Muranda	Family Bank Kakamega	(535,758)		(535,758)
7	Musanda	Family Bank Mumias	43,160		43,156
8	Kongoni	KCB Moisbridge	15,456	15,456	
9	Koyonzo	Family Bank Mumias	130,070	4,035,295	(3,905,225)

10	Lusheya/ Lubinu	KCB Mumias	791.35	225,791.35	(225,000)
11	Malaha/ Isongo	Family Bank Mumias	45,162	1,468,398	(1,423,236)
12	Mumias North	Coop Bank Mumias	3,425	3,425	
13	Namamali	Family Bank Mumias	16,339	171,982	(155,643)
14	Shianda Marenyo	Coop bank Mumias	259,509	259,509	
15	Kisa North	Coop bank Kakamega	334,848	4,167,029	(3,832,182)
16	Kisa West	Coop bank Kakamega	303,034	297,152	5,882
Total			1,151,793	10,644,037	(11,064,098)

Key note

Bank reconciliation is a process that explains the difference on a specific date between the bank balances and an entities own accounting records (book balance). Therefore, the statement allows you to compare the bank records with your own accounting records.

Also, in the opening balance for Cash and Cash Equivalents of Kshs.2,135,109,847 was a cash balance of Kshs.98,560,024 being the bank balance for the County Assembly, Directorate of Alcoholic Drinks and Farm Input Collection account. This figure differed from the cash book balance of Kshs.21,802,579. Therefore, there was an unexplained opening difference of Kshs.76,757,446.

Therefore, it was not possible to determine the accuracy and completeness of the Cash and Cash Equivalents balance of Kshs.1,582,340,523.

2.3.2 Acquisition of assets

The County Executive financial statements show the amount of Kshs.4,972,115,469 for acquisition of assets. The following issues were noted:

a) Lack of asset register

The County Executive operates without an assets register in either hard or electronic form since inception and inheritance from the defunct local authorities.

b) Construction of Governors residence

Kshs.2,077,469,994 was for construction of buildings which includes Kshs.66,666,705 for the construction of the Governor's residence. However, the following issues were found upon audit review of the project records:

- (i) The contract number in the document provided for audit review- Governor's residence in Lugari was different from the number posted on the website- Governor's residence in Likuyani
- (ii) According to the advertisement for Governor's residence in Lugari, tenders were placed in the tender box on 13 March 2017 at Kotecha Building and submitted bids were to be publicly opened on the same date. According to the advertisement for Governor's residence in Likuyani, the tenders were placed in the tender box on 18 May 2016 at Kotecha Building and submitted bids were publicly opened on the same date
- (iii) The ownership documents/title deed for land on which the project is to be constructed was not provided for audit review
- (iv) Physical verification on 28 December 2017 revealed that though the Governor's residence land was to be completely fenced, one side had not been fenced
- (v) Minutes/reports regarding the project and confirming that there was public participation was not provided
- (vi) Engineers' estimates for the residence were not provided for audit review
- (vii) Physical verification revealed that the veranda measurements were changed from 2.8m to 5.1m but the cost implication was not qualified

c) County headquarters

Construction of the proposed headquarters was advertised on 5 March 2015 both in the Standard newspaper and the County Government website. A local contractor was awarded the contract at Kshs.125,740,280. However, a review of project records revealed the following issues:

- (i) Although the total amount quoted was Kshs.125,740,280 there were casting errors in the Bill of Quantities and in the actual amount resulting in an increase of Kshs.817,580. This brought the contract price up to Kshs.126,557,860.

Key note

Bill of Quantities (BOQ) is a document prepared by consultant/contractor that provides a specific itemized list of quantities and components needed to build, construct, maintain or repair a specific structure

- (ii) There were two different evaluation reports

- a. Report dated 10 April 2015 shows 16 bidders among them was a local contractor who quoted Kshs.126,672,473. The report of engineers estimates appeared twice as engineers estimates of Kshs.120,000,000 less prime costs and provisional sums of Kshs.73,150,000

Key note

Prime Cost is an allowance for the sum of the direct cost of materials and labour associated with a production process

Provisional sum is an allowance, usually an estimated sum for specific element of work not yet defined accurately to price

- b. Report dated 25 January 2016 shows 16 bidders and the local contractor who had quoted Kshs.126,672,473 in the first report had now quoted Kshs.51,858,786 and the engineers estimates were recorded as Kshs.73,150,000.

Therefore, it was not possible to confirm the correct evaluation applicable in the decision of the procurement process.

- (iii) According to an undated Project Manager report from the Ministry of Roads and Infrastructure, Public works & Energy, the completion period was extended by 25 weeks to 25 August but the project was not complete as at 19 December 2017 when physical verification was conducted
- (iv) A project vehicle provided for in the BOQ at Kshs.4,600,000 had not been procured
- (v) A total sum of Kshs.6,570,000 for special preliminaries was not accounted for

d) Irregular purchase of laptops and accessories

A meeting was held on 23 August 2016 by the County Executive Committee after which they declined to approve the budget for the expansion of Oparanya Care Programme to cover 24 facilities. Despite this decision of the Committee, the Program Coordinator awarded a tender and issued a contract on 15 December 2016 for the supply of 24 laptops for the expansion program. Laptops were delivered on 21 December 2016 and put in the storage. However, no inspection and acceptance report was provided for audit review.

e) Purchase of motorcycles

A contract was entered into with Toyota Kenya for the supply of 49 motorcycles at Kshs.11,836,800. The following are issues that were noted:

- (i) There was no budget for the procurement of motorcycles in the approved budget
- (ii) Contract documents were not provided for audit verification.
- (iii) A local purchase order was raised on 3 February 2017 and a proforma invoice raised on 6 February 2017 but delivery was on 16 August 2017 (7 months later) and they were issued by procurement to the user department on 16 November 2017 (3 months later)

- (iv) The motorcycles have not been registered and distributed and are stored at the Kenya Agricultural and Livestock Research Organisation stores
- (v) Requisitions made by user departments had no approvals

Therefore, it was not possible to determine the viability of the purchase.

f) County Enterprise Resource Planning (ERP)

A contract was entered into with a local company for the supply of a ERP system through a leasing model of purchase at Kshs.509,240,000 plus VAT. The contract provided for a monthly instalment of Kshs.7,327,333. However, a review of the project record revealed no tender documents and implementation reports.

g) Project implementation status

A review of 271 projects showed very low levels of completion as analysed below:

Table 2: Project implementation status

Category	No. of Projects	Contract Value (Kshs.)	Expenditure (Kshs.)
Projects below 20% completion	50	682,599,539	122,643,591
Projects above 20% completion	44	1,389,708,593	276,305,193
Projects over 50% but not complete	149	8,898,131,551	2,245,909,674
Complete and in use	28	332,804,351	285,239,826
Total	271	11,303,224,033	2,930,098,282

From the above table, about 90% of the projects were incomplete despite having gone beyond the contracted completion dates. It was further noted that the County Executive had not established a project management team as envisaged in the Public Finance Management Act, 2012.

h) Difference in Assets and Payments

The Acquisition of Assets Kshs.4,972,115,469 differs from the actual payment analysis amount of Kshs.4,174,898,511 by an unreconciled difference of Kshs.797,216,958.

i) Stalled/abandoned/deserted projects

Included in Kshs.4,972,115,469 are 31 projects with a total contract amount of Kshs.204,299,424 being among the 271 projects listed as being implemented. These projects were stalled or abandoned for various reasons including lack of capacity of contractors and poor project management. This is after Kshs.75,558,313 had been paid to the contractors.

j) Stalled/abandoned projects- Ministry of Public Service & Administration

Bunyala West Ward Office

Kshs.2,077,469,993 for construction of buildings includes Kshs.3,900,000 paid to a local contractor for the construction of Bunyala West ward office. However, no work has been done since the contractor did not started works following site handing over on 24 January 2017

Lwandeti Ward Office

Kshs.2,953,998 is for construction of Lwandeti ward office. The project reached 60 % completion but a private developer filed suit in 2015 claiming ownership of the land. Although an out of court settlement was reached with the claimant, the project site has not been accessible to the residents. Therefore it is not possible to confirm the accuracy and completeness of the value of these assets.

2.3.3 Compensation of employees

Included in Compensation of Employees Kshs.3,713,660,663 is an amount of Kshs.36,542,406 which is made up of staff meal allowances of Kshs.2,091,078 and Kshs.34,451,328 tax penalty for delayed remittance of pay as you earn (PAYE). These two payments do not constitute a charge on Compensation of Employees.

Also, the total net monthly payments to banks according to both the Integrated Personnel Payroll Data (IPPD) and the manual payrolls was Kshs.1,687,233,250. This was different to the actual payments of Kshs.1,868,573,271 to the designated county personnel bank accounts. Therefore, there was an unexplained difference of Kshs.181,340,021.

The compensation of employees support Schedule shows Kshs.3,713,660,633, the payroll generated shows Kshs.3,534,538,972 and the payroll summary sheet shows Kshs.3,684,346,553. No reconciliation was availed to support Kshs.3,713,660,633 from the available records.

Therefore, it was not possible to confirm the accuracy of Kshs.3,713,660,633 for Compensation of Employees.

2.3.4 Use of goods and services

The following issues were found to be included in the Use of Goods and Services figure of Kshs.1,395,918,882:

a. Unreconciled rent payments

Kshs.46,491,571 was for payments to various landlords for rented premises. However, the Schedule provided for audit review showed a payment of Kshs.40,887,079 creating an unreconciled difference of Kshs.5,604,493. Further, it was noted that some of the rented premises such as the Kotecha building were not fully occupied. Therefore, it is not possible to confirm the accuracy and propriety of the expenditure of Kshs.46,491,571 incurred on rent.

b. Consultancy services on ward projects

Kshs.54,817,250 for Utilities, Supplies and Services included Kshs.3,324,920 paid to a local audit firm for consultancy services on ward projects. However, no contract documents were provided for audit review.

c. Provision of training services

Kshs.39,487,720 was a training expense which included Kshs.4,200,000 paid to a local driving school for provision of training services on road safety and driving skills to motorcycle riders in the County. It was noted that out of the 600 motorcycle riders identified for training and issued with interim driving licenses, only 450 participants were trained and were not issued with the licenses.

d. Supply of car wash machine and water tanks

Kshs.54,817,250 for Utilities, Supplies and Services included Kshs.4,485,000 paid to a local firm to supply 65 high pressure car wash machines and branded cylindrical water tanks. An audit review of the tender evaluation minutes revealed that it was an open tender process that was advertised on the county's website in April 2016. The tender was closed and opened on 6 April 2016 and evaluation was done on 7 April 2016. The winner was not the lowest evaluated bidder among 3 bidders.

A further audit of the project file revealed tender/bid documents that were returned dated 25 November 2015 and the deadline for submission of tenders was 25 November 2015. Also according to the project file, 8 bidders submitted their bids for various amounts higher and lower than Kshs.4,485,000.

e. Construction of ECDE at Mwiya Primary school

The County Executive disbursed Kshs.2,500,000 to Mwiya Primary school and the payment schedule indicates that the funds were to be deposited to an account at Family Bank Ltd, Kakamega branch. However, the audit revealed there was no ECDE class that had been constructed. There were no committee minutes showing that this issue had been tabled and proper explanation provided. Also, no bank statement was provided for the Family Bank account for audit review.

Therefore, it was not possible to confirm the propriety of the Use of Good and Services figure of Kshs.1,395,918,882 spent.

2.3.5 Difference in financial statements and payments through IFMIS

The financial statements shows a total expenditure of Kshs.12,366,386,571 which is different from the IFMIS extracted records together with manual payments made outside IFMIS totalling to Kshs.13,539,903,943 by an unreconciled difference of Kshs.1,173,517,372.

Key note

Integrated Financial Management Information System (IFMIS) is an automated system that is used for public finance management and was first launched in Kenya on 2003. It interlinks planning, budgeting, expenditure management and control, accounting, audit and reporting

In a letter dated 10 November 2017, the National Treasury provided quality review feedback but this has not been acted on. No plausible explanation was given on the cause of the difference and how it has not been accounted for in the financial statements.

Therefore, it was not possible to confirm the accuracy and completeness of the balance in the financial statements.

2.3.6 Monitoring and Evaluation reports

A review of the monitoring and evaluation reports revealed on a sample basis that 171 projects estimated to cost Kshs.1,079,245,799 had been allocated Kshs.291,310,859. Of these projects, 43 or 25% were abandoned projects with a contracted cost of Kshs.140,765,149 and allocated Kshs.104,810,624.

Further, of these 43 projects, 7 are deemed complete at Kshs.7,372,910 but are not benefiting residents of Kakamega county for reasons ranging from location to poor workmanship. The remaining 39 projects with a contract sum of Kshs.265,056,198 where Kshs.37,402,240 had been disbursed was not explained.

2.3.7 Pending bills

A review of records provided in the audit review on pending bills revealed Kshs.1,068,266,852 as pending bills for all departments as tabled below.

Table 3: Pending bills from audited records

Department	Amount (Kshs.)
Lands	138,575,261
Education, Science & Technology	4,264,023
Trade	30,931,420
Agriculture, Fisheries and Livestock	23,368,486
Oparanya Care	253,031,510
Health services	163,785,878
Infrastructure, Public Works & Energy	210,007,419
Office of the Governor	23,933,786
Public Service & Administration	174,042,733
Finance and Economic Planning	42,484,436
Social Services, Youth and Sports	2,841,900
Total	1,068,266,852

However, the financial statements prepared by the County Executive reflected pending bills of Kshs.799,421,944 as analysed in the table below.

Table 4: Pending Bills in Financial Statement

Description	Amount (Kshs.)
Construction of buildings	127,301,577
Construction of civil works	264,453,182
Supply of goods	231,454,348
Supply of services	176,212,837
Total	799,421,944

The pending bills provided by all the departments (Table 3) differs from the pending bills in the financial statements (Table 4) by Kshs.268,844,908. The difference has not been explained.

Therefore, it was not possible to confirm that the pending bills reflected in the financial statements of Kshs.799,421,944 was fairly stated.

2.4 Other matters regarding the County Executive audit report

2.4.1 Budget analysis

i. Under/Over expenditure

The County Executive failed to meet its budget aspirations on both the development and recurrent combined as detailed in the table below.

Table 5: Budget analysis

Item	Budget (Kshs.)	Actual (Kshs.)	Variance (Kshs.)
Transfer from National Government entities	Nil	184,989,000	(184,989,000)
Proceeds from foreign grants/development	115,071,549	11,750,000	103,321,549
Conditional additional allocations to Kakamega	255,801,230	244,167,148	11,634,082
County own generated revenue	894,070,561	739,384,826	154,685,735
Compensation of employees	3,485,524,405	3,713,660,633	(228,136,228)
Use of goods and services	1,659,170,300	1,396,456,894	262,713,406
Acquisition of assets	6,325,149,467	6,357,384,412	(32,234,945)

ii. Under collection of receipts

The County Executive planned in its budget to collect Kshs.994,070,561 but it collected Kshs.449,487,486 in own generated revenue. This was an under collection of Kshs.544,583,075 or 55% on the approved budget.

2.4.2 County teaching and referral hospital

i. Foundation variation

From the initial plan, the foundation was to be pile based but during physical verification it was noted that this was changed to raft. There was no documentation provided to show the effects of the variation. The absence of a detailed variation order makes it difficult to know the cost implications of these changes.

ii. CGH Renovation-Amenity Block A, B, C, OPD, Pharmacy, Fencing, Surgical Theatre and Gate

Reasons for a change of design, quantities and cost implication documentation was not provided for review. It was noted that the Out Patient Department to Casualty Veranda flooring was poorly done and the Amenity Block C original drawing changed (length). The drawings were for a single line building. The length was divided halfway to make two wings facing each other.

2.4.3 Irregularity in procurement of construction of modern markets

The County Executive contracted various contractors in 2014/2015, 2015/2016 and 2016/2017 to construct modern markets in various regions at Kshs.55,816,147 as detailed in the table below.

Table 6: Contract sums and amounts paid for construction of markets

P.V No	Payment date	Sub item description	Payee	Contract sum (Kshs.)	Amount paid (Kshs.)
D319	25/01/17	Construction of modern market at Harambee Phase II	Transmillenium Builders Ltd		
D379	18/04/17	Construction of Ablution Block at Matunda Market	Devide Building Contractors Ltd	10,888,670	5,232,383
D396	24/04/17	Construction of Butali modern market Phase II	Midland Construction Ltd	5,555,409	1,616,715
D439	24/04/17	Proposed Construction of modern market phase II at Butere Trading Centre	Eldo-Rosta Contraction Company Ltd	13,617,588	8,607,200
D546	30/05/17	Construction of Mulwanda market	Interlect Contractors Ltd	10,085,273	4,998,321
D553	31/05/17	Construction of modern market at Shianda	Mahadi Investments Ltd	6,954,081	402,226
				8,713,127	3,012,789
			Total	55,816,147	23,869,635

At the time of audit, Kshs. 23,869,635 was paid during the year under review. The contractors were to be subjected to a procurement process. However, it was noted that in a letter written by the County Secretary dated 16 February 2016, extra works were done on Butere, Butali, Matunda, Shianda, Mulwanda and Harambee markets without being procured.

2.4.4 Contracts above the engineers estimates

An analysis of the quoted amounts for 6 markets revealed that all responsive bidders quoted above the engineers' estimates and the tender evaluation committee overlooked this and awarded the contracts.

2.4.5 Renegotiated contracts

Audit verification showed that 4 projects with a total initial contract sum of Kshs.202,261,771 were renegotiated to a new sum of Kshs.145,469,665 resulting in a discount of Kshs.56,792,106 or 28% of the original contract price. The following issues were noted:

- a) The renegotiation is an indication of alteration of a number of works but none of the works were supported with revised Bills of Quantities and revised architectural drawings
- b) There was no defined criteria used to arrive at the revised contract amounts and the revisions could not be related to the BOQ. This made it impossible to know the value of the work being done or to certify the same
- c) Exaggerations of prices quoted may have taken place given that no detailed engineers' estimates were on file to guide the evaluation of the works, preparation of the budgets or the discounts
- d) The project file for Nambacha revealed a payment with an unexplained difference of Kshs.8,430,799.

2.4.6 Failure to Reconcile Reported Development expenditure

The Department of Education, Science and Technology budgeted Kshs.544,732,000 for development but spent Kshs.997,018,072. This was an unexplained overspending of Kshs.452,286,072.

A local contractor was awarded Kshs.8,028,569 to construct twin workshop phase II at Shilovakhali County Polytechnic in 24 weeks. The following issues were noted:

- a) It was 2 years down the line and construction was not complete. There was no evidence of a request for extension of contract provided for review
- b) There was no evidence that the contract was advertised in at least 2 daily newspapers for nationwide circulation
- c) The workmanship was observed to be poor and there were big black spots on the ceiling board, an indication of a leaking roof
- d) It was not possible to confirm whether the contractor was competitively sourced as documents such as bids from unsuccessful bidders, tender committee minutes, tender evaluation committee report among other essential documentation was not provided for review
- e) No evidence was given to confirm that the project was being supervised by the relevant Ministry in order to confirm that the works were being done according to specifications and acceptable standards
- f) No copies of appointment letters to members of tender opening, evaluation and inspection as well as acceptance committee. It was therefore not possible to confirm whether the members who signed were duly authorised

2.4.7 Failure to prepare budget estimates and financial statements

The audit review of the County Polytechnics individual files revealed that none of the 61 county polytechnics prepared budget estimates and financial statements as required by the Kakamega County Polytechnics Act, 2014. However, the County disbursed Kshs.42,025,000 which was made up of Kshs.25,005,000 for 5,001 and 17,020,000 for 6,808 trainees. No returns were provided to ascertain the beneficiaries.

No reason was given for the failure to submit budget estimates. In the absence of approved budget estimates and returns, it is not possible to confirm how the budgeted amounts were arrived at, awarded and utilised.

REPORT ON COUNTY ASSEMBLY OF KAKAMEGA 3

3.1 Overview of audit issues in the County Assembly of Kakamega

ISSUE	COMMENTS
3.1.1. Inaccuracies in financial statements	It was not possible to confirm that the Cash and Cash Equivalent balance of Kshs.5,747,345 was fairly stated.
a) Inconsistencies of Cash and Cash Equivalents with other statements	
b) Co-operative bank account	
c) Lack of Bank Reconciliation statements	
3.1.2. Use of goods and services	Management did not follow procurement regulations. It was not possible to confirm the correctness of Kshs.73,529,556 included in Use of Goods and Services amount Kshs.388,909,081 .
a) Differences between Schedules and Financial Statements	
b) Domestic travel, subsistence and other transport costs	
c) Hospitality supplies and services	
d) Tax penalty	
e) Unsupported Consultancy fee	
f) Irregular hire of motor vehicles	
g) Expenditure on fuel, oil and lubricants	
3.1.3. Compensation of employees	It was not possible to confirm the propriety of Kshs.504,508,088 spent on Compensation of Employees
a) Funds disbursed to Wards	
b) Unsupported sitting allowance	
c) Unsupported compensation of employees	
3.1.4. Outstanding imprests	County Assembly had an outstanding imprest of Kshs.1,552,380 against regulations
3.1.5. Unsupported pending bills	Authenticity of bills amounting to Kshs.62,071,772 could not be confirmed

3.2 Adverse Opinion

The Auditor-General audited the following Financial Statements of the County Assembly of Kakamega as at 30 June 2017:

- Statement of financial assets
- Statement of receipts and payments
- Statement of cash flows
- Statement of comparison budget and actual amounts: recurrent and development combined
- Summary of significant accounting polities
- Other explanatory information

Key note

Adverse opinion means that although the financial transactions are recorded and there are books of accounts, the Auditor-General may be unsatisfied with the accuracy of significant amounts of expenditure.

Upon completion of the audit, the Auditor-General gave an adverse opinion finding that the financial statements do not present fairly the position of the County Assembly of Kakamega. Public money was not applied lawfully and in an effective way as explained below.

3.3 Why the County Assembly received an Adverse Opinion

3.3.1 Inaccuracies in financial statements

a) Inconsistencies of Cash and Cash Equivalentents with other statements

The Cash and Cash Equivalent balance of Kshs.5,747,345 was not in agreement with the unutilised Cash Balance of Kshs.189,199 reported in the financial statements. Also, there was an unexplained adjustment of Cash in Hand of Kshs.6,843,620 reported in the financial statements.

b) Co-operative bank account

As part of the Kshs.5,747,345 Cash and Cash Equivalent was Kshs.2,323,256 held at Co-operative bank account which is different from the Cashbook balance of Kshs.899,504. Therefore there was an unexplained difference of Kshs.1,423,352.

c) Lack of Bank Reconciliation statements

The County Assembly Management operated 3 major bank accounts in Central Bank of Kenya and Co-operative Bank of Kenya. However, Management did not prepare monthly bank reconciliation statements for all 3 bank accounts contrary to Section 90 (1) of the Public Finance Management Act, Arrangement of Regulations 2015.

Key note

Bank reconciliation is a process that explains the difference on a specific date between the bank balances and your own accounting records (book balance). Therefore, the statement allows you to compare the bank records with your own accounting records.

Therefore, it was not possible to confirm that the Cash and Cash Equivalent balance of **Kshs.5,747,345** was fairly stated.

3.3.2 Use of goods and services

The County Assembly financial statements indicate the amount Kshs.388,909,081 for Use of Goods and Services. The following issues were noted relating to this amount:

a) Differences between Schedules and Financial Statements

Management provided Schedules totalling Kshs.380,885,462 which was not in agreement with the financial statements figure of Kshs.388,909,081. Therefore, Kshs.8,023,619 was unsupported spending.

b) Domestic travel, subsistence and other transport costs

Kshs.44,933,594 was for per diem allowances paid to staff on duty away from work stations. However, these cash advances were directly expensed without documentation to support the payments as required by Section 93(3) of the Public Finance Management Act, 2015.

c) Hospitality supplies and services

Kshs.5,404,248 was paid to 12 local suppliers for providing 500ml bottled water at a unit price of Kshs.50. This is contrary to the Public Procurement Oversight Authority Market Price Index 2016 which recommends a unit price of Kshs.32 for Kakamega and environs. Also, all the suppliers in the transactions were not registered for Value Added Tax (VAT).

d) Tax penalty

Kshs.252,818,911 for Daily Subsistence Allowance included Kshs.12,625,112 tax penalties paid to Kenya Revenue Authority for non-compliance when paying allowances to staff. No explanation was provided for non-compliance with tax-regulations. Also, no documentary evidence was provided for audit review to indicate how the funds were moved from the approved budget to pay for the tax penalty.

e) Unsupported Consultancy fee

Kshs.28,343,965 was for Hospitality Supplies and Services which also included Kshs.2,420,000 paid to consultants. However, there was no contract agreement and other vital procurement documents provided for audit review.

f) Irregular hire of motor vehicles

Kshs.285,146,353 was for Domestic Travel and Subsistence which also included Kshs.2,905,880 paid to 3 local service providers for transport services. However, there were no tender documents provided contrary to the Public Procurement and Assets Disposal Act, 2015.

g) Spending on fuel, oil and lubricants**i. Unsupported fuel statements, invoices and local purchase order**

Kshs.2,143,928 for fuel and lubricants included Kshs.846,111 paid to an international oil marketer (Total Kenya) for fuel card reloading. However, there were no invoices, local purchase order or statements provided for verification. It was therefore difficult to reconcile the County Assembly's fuel register against the suppliers' statement.

ii. Unaccounted for fuel spending

Analysis as per work tickets revealed that Kshs.1,134,656 out of Kshs.2,143,928 could be accounted for. Therefore, there was an unexplained difference of fuel valued at Kshs.1,009,272 or 47% of the total spending which could not be verified.

Key note

Local purchase order (LPO) is a document created by the buyer to the seller to purchase a product

iii. Unreconciled fuel spending

The County Assembly had a budget of Kshs.2,000,000 for fuel, oil and lubricants. However, Kshs.2,143,928 was spent on fuel but documentation was provided for only Kshs.1,405,260. This meant there was an unexplained difference of Kshs.738,668.

Therefore, management did not follow procurement regulations and it was not possible to confirm the correctness of Kshs.73,529,556 included in the Use of Goods and Services amount Kshs.388,909,081.

3.3.3 Compensation of employees

The County Assembly financial statements indicate the amount Kshs.504,508,088 for Compensation of Employees. The following issues were noted relating to this amount:

a) Funds disbursed to Wards

Kshs.43,200,000 was disbursed to 60 wards for salary and rent. However, out of this amount, only Kshs.2,040,000 was accounted for leaving Kshs.41,160,000 unaccounted for.

b) Unsupported sitting allowance

Kshs.7,106,400 was for sitting allowances paid to Members of County Assembly (MCA's) for attending various committee meetings but they did not sign attendance registers. Also, a review of the attendance registers for various committee meetings revealed that allowances were paid to more number of members than the number of members registered in attendance as illustrated in the table below.

Table 7: Excess payments made to various Committees

	Committee	Members	Paid Sessions	Registered Attendance	Difference	Excess Payment
1	House Business Committee	14	19	6	13	709,800
2	Selection Committee	14	104	69	35	1,911,000
3	Budget and Appropriation Committee	11	73	51	22	924,000
4	Delegated County Legislation	15	97	84	13	764,400
5	Environment Committee	15	77	59	18	1,134,000
6	Industrialisation Committee	13	84	83	1	50,400
7	Ward Development Committee	13	112	80	32	1,612,800
	Total		566	432	134	7,106,400

c) Unsupported compensation of employees

Payroll records for Kshs.23,405,519 paid as compensation of employees were not provided for audit verification.

Key note

Payroll record is a document kept by employers containing details of salaries and wages paid to employees and any deductions to their pay (health, pension, taxes etc.)

Therefore, it was not possible to confirm the propriety of **Kshs.504,508,088** spent on Compensation of Employees.

3.3.4 Outstanding imprests**Key note**

Imprest is a form of cash advance or a float for travel or to attend meetings which an Accounting Officer may authorise to be issued to government officers. The officers are expected to return or refund the money to ensure it is properly accounted for.

Under Cash and Cash Equivalents was Kshs.5,747,345 for outstanding imprests not surrendered. Of this amount, Kshs.1,552,380 was issued to various officers and was not surrendered as at 30 June 2017. This is contrary to Section 93(5)5 of the Public Finance Management (County Governments) Regulations, 2015 which provides that a holder of temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station.

Therefore, the County Assembly had an outstanding imprest of **Kshs.1,552,380** against regulations.

3.3.5 Unsupported pending bills

The County Assembly had unverified pending bills totalling Kshs.62,071,772. These were unverified because invoices, demand notices, suppliers' statements, fee notes and delivery notes were not provided for audit verification.

Therefore, the authenticity of bills amounting to **Kshs.62,071,772** could not be confirmed.

3.4. Other matters regarding the County Assembly audit report

3.4.1 Budget analysis

The table below is an analysis of the County Assembly budget of Kshs.999,913,088 against actual expenditure Kshs.899,913,088.

Table 8: Analysis of Budget and Actual Expenditure

Item	Final Budget (Kshs.)	Actual (Kshs.)	Variance (Kshs.)
Compensation to Employees	575,772,564	504,508,088	71,264,476
Other Recurrent expenditure	324,140,524	395,215,801	(71,075,277)
Development Expenditure	100,000,000	-	100,000,000
Total	999,913,088	899,723,889	100,189,199

From the analysis in Table 2, there was an over expenditure in other recurrent expenditure (Kshs.71,075,277), under expenditure in compensation of employees (Kshs.71,264,476) and under expenditure in development expenditure (Kshs.100,000,000).

3.4.2 Over expenditure

The County Assembly had an unsupported over expenditure of Kshs.178,929,679 on some budget items as summarised in the table below.

Key note

Development expenditure plays a pivotal role in the growth of the County. It relates to costs spent in order to create assets that will provide long-term public good such as roads, hospitals, schools and airports. They normally include the construction of buildings, both residential and for office purposes; purchase of durable and long-term equipment, such as power generators and telecommunications equipment; establishment of water/sewer treatment plants, stadiums, recreational facilities and historical monuments, and installation of information technology equipment and other long-term equipment.

Recurrent expenditure is made up of regular expenses that go into the running of the County. These include salaries and allowances paid to County employees; operational costs such as travelling and accommodation, telephone, electricity and water bills; maintenance costs on equipment, buildings and installations; as well as funding for costs required to cover compulsory obligations such as bank charges, interest on official debt, remuneration costs and other services.

Table 9: Unsupported over-expenditure on various items

Item	Budget (Kshs.)	Actual expenditure (Kshs.)	Variance (Kshs.)	Variance (%)
Utilities, supplies and services	300,000	309,263	(9,263)	(3)
Fuel, oil and lubricants	2,000,000	2,143,928	(143,928)	(7)
Office, general supplies & services	11,000,000	12,615,906	(1,615,906)	(15)
Routine maintenance-vehicles & other transport equipment	2,000,000	2,362,689	(362,689)	(18)
Domestic travel, subsistence & other transport costs	153,000,000	285,146,353	(132,146,353)	(86)
Hospitality supplies and services	12,300,000	28,343,965	(16,043,965)	(130)
Employers contributions	12,013,611	37,495,082	(25,481,471)	(212)
Routine maintenance-other assets	1,400,000	4,526,104	(3,126,104)	(223)
Total	194,013,611	372,943,290	(178,929,679)	

3.4.3 Under expenditure

The County Assembly had under expenditure of Kshs.63,568,934 on various items as summarised in the table below.

Table 10: Under expenditure on various items

Item	Budget (Kshs.)	Actual expenditure (Kshs.)	Variance (Kshs.)	Variance (%)
Training expenses staff	10,500,000	532,338	9,967,662	95
Donations	1,000,000	100,000	900,000	90
Printing, advertisement and info supplies	22,800,000	4,423,778	18,376,222	81
Personal allowances-paid as reimbursements	1,316,000	306,000	1,010,000	77
Specialised material supplies	4,000,000	965,220	3,034,780	76
Purchase of vehicles and other transport equipment	15,000,000	4,318,600	10,681,400	71
Other operating expenses	21,500,000	6,798,657	14,701,343	68
Communication supplies and services	2,300,000	755,977	1,544,023	67
Purchase of office furniture and general equipment	5,240,524	1,887,020	3,353,504	64
Total	83,656,524	20,087,590	63,568,934	

Management did not explain the big difference between what was in the budget and the actual spending.

3.4.4 Development budget under expenditure

Management budgeted Kshs.100 million for the construction of the County Assembly's chambers and offices. However, the whole amount was not spent because the County Treasury (Exchequer) did not disburse the money. The amount was not factored in during supplementary budgeting because there was a case in court regarding the site where construction was to take place.

3.5 Human Resource matters

3.5.1 Ethnic composition

According to records availed for audit, the Assembly had 64 members of staff of which 94% were from the dominant Luhya community and 6 % from Luo community. This is contrary to Section 65 (1) of the County Government Act, 2012 which requires entities to employ 70 % from the dominant community and 30 % from other communities.

3.5.2 Lack of approved Staff Establishment

The County Assembly did not have an approved Staff Establishment and operated contrary to Article 235(1)(a) of the Constitution which requires that a County Government establish and abolish offices in its public service. There were no legal or administrative documents from the Salaries and Remuneration Commission provided for audit showing the category and salary scales of employees.

3.5.3 Failure to observe gender threshold

The County Assembly recruited 10 officers out of which only 2 were female. This is contrary to Article 27(8) of the Constitution which requires that no more than two-thirds of members appointed to positions shall be from the same gender.

3.5.4 Failure to avail Authority to Pay Responsibility allowance

At the time of audit, letters approving payment of responsibility allowance to 6 officers for the amount of Kshs.123,130 were not provided. Therefore it was not possible to analyse the allowances.

3.5.5 Problematic mileage payments

A total of Kshs.3,420,826 was paid through payroll to MCAs deemed to be coming from areas outside the 45km radius return journey as per the policy. However, no documents were provided to show how the amounts paid were arrived at.

3.5.6 Lack of audit committee

Contrary to Section 155(5) of the Public Finance Management Act, 2012 the Assembly has not established an audit committee whose functions are prescribed by Section 167 of the Public Finance Management Act, Regulation 2015. Therefore, the County Assembly has not put in place the required framework to mitigate weak internal control systems.

CONCLUSION 4

This brief on the Auditor General's report for Kakamega County has provided a simplified overview of the issues raised in the County Executive and County Assembly of Kakamega for the financial year 2016/2017. The findings of the audit reveal that public money was applied lawfully and in an effective way by the County Executive but was not applied lawfully and in an effective way by the County Assembly. The Auditor General raised audit issues regarding amounts totalling Kshs.12,463,457,451 in the County Executive and Kshs.647,409,141 in the County Assembly. In total there were questions regarding an amount of **Kshs.13,110,866,592** in the County of Kakamega. Also, the Auditor General raised concern where there was a breach of law or regulation governing the use of public funds as these are essential controls to ensure public money is used effectively and responsibly.



**KENYA HUMAN RIGHTS
COMMISSION**

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