REPUBLIC OF KENYA

OFFICE OF THE AUDITOR-GENERAL

REPORT

OF

THE AUDITOR-GENERAL

ON

THE FINANCIAL OPERATIONS OF COUNTY ASSEMBLY OF BUSIA

FOR THE PERIOD I JULY 2014 TO 30 JUNE 2015

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REPORT OF THE AUDITOR-GENERAL ON FINANCIAL OPERATIONS OF COUNTY ASSEMBLY OF BUSIA FOR THE PERIOD 1 JULY 2014 TO 30 JUNE 2015

EXECUTIVE SUMMARY

Introduction

The Office of the Auditor-General has the mandate to audit and report on the financial operations of the National and County governments under Article 229 of the Constitution of Kenya and the Public Audit Act, 2003.

Audit Objective

The audit objective was to find out how much the County Assembly complies with legislation governing its operations and whether there is general adherence to public financials controls in the operation of the County Assembly and the delivery of its services.

Terms of Reference

The terms of reference set out included verification and confirmation of transactions in respect of but not limited to the following areas;

- Budgetary Control and Performance
- Unbudgeted for Foreign Travel Expenditure by Members of the County Assembly
- Irregularities on Development Expenditure
- Irregular Personnel Costs
- Procurement of Goods and Services
- Unsupported Expenditures
- Irregular Payment of Facilitation Allowances
- Irregularities in Car and Mortgage Fund
- Internal Controls and Governance Structure
- Pending Bills
- Long Outstanding Imprest

Key Audit Findings

1.0 Budget and Budgetary Control

The approved Recurrent and Development budget for the year 2014/2015 was Kshs.660,213,285 and Kshs.75,070,650 respectively. However, the County Assembly received Kshs.227,411,397.00 a total of Kshs.507,872,559 (69%). No explanation has been given for failure to receive and spend as per the approved budget.

Further, the reported amount for Other Receipts of Kshs.507,872,559.00 includes amount transferred from County Government Treasury of Kshs.256,705,532 and other receipts of Kshs.251,167,026 the latter of which was not actually received by the county assembly but represents payment effected by the County Executive on behalf of the County Assembly.

2.0 County Assembly Receipts

County Assembly Budgeted Receipts for the year 2014/2015 was Kshs.735,283,955.00. However, only an amount of Kshs.507,872,558.00 had been received as at 30 June, 2015. No explanations were given for failure of the executive to remit the balance of Kshs.227,411,397.00.

3.0 Irregularities in Compensation of Employees

3.1 Irregular Sitting Allowances

The members of County Assembly were cumulatively paid Kshs.750,000.00 irregularly through inserting their names in the closed attendance register.

3.2. Payments in Excess of Recommended Monthly Sitting Allowance

Records examined revealed that 33 MCAs were cumulatively paid Kshs.70,753,800 instead of Kshs.49,420,800 as monthly sitting allowances. This resulted to an excess of Kshs.21,333,000 over their monthly sitting allowance entitlement.

3.3. Irregular Plenary Sitting Allowance Overpayments

An amount of Kshs.4,222,400 was overpaid on plenary sessions as a result of using the Departmental committee rate instead of the plenary session rate.

3.4. Failure to Remit Pay As You Earn Tax on Sitting Allowance

Unremitted PAYE recovered from payment of Sitting Allowances to Members of the County Assembly amounting to Kshs.15,512,550.00 was not duly remitted and received by the Kenya Revenue Authority.

3.5. Understatement of Sitting Allowances Expenditure

During the audit, a monthly reconciliation was undertaken to review the accuracy of the registered sessions, rates applied and casting of the total amount due to each member of the Assembly.

However, the schedules prescribed had a variation of Kshs.4,098,700.00 between the cumulative amount of Kshs.96,770,900.00 disclosed in the financial statements and the actual recalculated amount of Kshs.100,869,600.00 as analyzed in **Appendix IV.**

4.0 Use of Goods and Services

4.1 Directly expensed Foreign Travel payments

The use of Goods and Services expenditure of Kshs.89,231,021 includes an amount of Kshs.6,911,086 paid out directly in respect to foreign travel and subsistence without raising the prerequisite imprest warrants and without necessary supporting documents.

4.2. Unsupported Domestic Travel and Accommodation payments

Likewise, payments totaling to Kshs.18,586,754.00 were made to various County assembly members and Staff as night outs while attending various committees during report writing at different times and attending to other official matters directly without imprest warrants and necessary support documents.

4.3. Understated Office and General Supplies Expenditure

The schedules provided for audit review in support of the item of Office and General Supplies reflect an amount of Kshs.6,605,965.00 against the figure reflected in the accounts of Kshs.6,827,938.00 resulting into unexplained difference of Kshs.211,973.00.

5.0. Acquisition of Assets/ Construction of Office Block at Assembly

A firm vide contract no. BSA/CTA/82/2013-2014 was contracted for the completion of a two storey building at a cost of Kshs.22,359,776.00 and has been paid Kshs.13,499,275.85 so far. However, the project appeared stalled as at the time of audit two months after the expected completion date and the contractor was not on site.

6.0. Cash and Cash Equivalents

6.1. Compromised Controls over Cash Management

Cash withdrawals from the Kenya commercial bank during the months of August, 2014 and September 2014 exceeded Kshs.8,994,534 and Kshs.7,482,472.00 respectively was in

excessive contrary to National Treasury regulations of cash limit of Kshs.700,000.00 per week hence shs.2,800,000 per month.

6.2 Unremitted Imprest Recoveries by County Executive

Included in the Statement of Assets is cash receivable of Kshs.27,594,213 in respect of imprests recovered through the payroll but was never remitted to the County Assembly. It is not clear why the County Executive failed to remit this amount to the Assembly.

6.3 Outstanding Imprest

The County Assembly had outstanding imprest of Kshs.157,000 from as far back as 2013/14.

7.0 Irregular Mortgage and Car Loan Revolving Fund Payments

Each of the 54 members of the County Assembly was granted loan facilities amounting to Kshs.5,000,000.00 comprising of Kshs.3,000,000.00 for mortgage and Kshs.2,000,000.00 for car loan totaling Kshs.270,000,000. The mortgage amount of Kshs. 3,000,000.00 was fully disbursed to members without provision of support documents for the intended purchase or construction of houses. Further, Legal fees amounting to Kshs.6,390,518.00 in respect of processing charges for both the land and the motor vehicles were also paid through the Fund and not by the beneficiaries.

In addition, no log books or joint ownership documents together with comprehensive insurance cover were provided for the vehicles acquired.

Consequently, the amount of Kshs.277,205,838 could not be confirmed as a proper charge on public funds. An additional Kshs.815,320 was incurred by the fund on mortgage protection and fine policy instead of the beneficiaries incurring the costs.

8.0 Fixed Asset Register

The County Assembly had not developed and maintained a complete fixed asset register incorporating acquired and assets inherited from the defunct local authorities.

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AUDITOR-GENERAL

Nairobi

13 September 2016

DETAILED REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL OPERATIONS OF COUNTY ASSEMBLY OF BUSIA FOR THE PERIOD 1 JULY 2014 TO 30 JUNE 2015

DETAILED AUDIT FINDINGS

1.0. Budget and Budgetary control

1.1 Variation between the Actual and Revenue Budget Kshs.227,411,397.00

According to the approved estimates, the County Assembly budgeted receipts for the year ended 30 June, 2015 amounted to Kshs.735,283,955.00. Out of this budget only an amount of Kshs.507,872,558.00 was received during the year to 30 June, 2015 leaving a balance of Kshs.227,411,397.00 unreceived. Further, the Assembly underspent in both recurrent and development by Kshs.252,137,269.00.

Recommendation

(i) The County Assembly management to operate within the approved budget estimates to deliver on its mandate to the County residents.

(ii) The County Assembly to ensure that all transactions pertaining to the entity are completely captured in its records and duly supported with the necessary documents.

A summary of the County assembly's budget performance is as follows;

Item	Actual - 2013/2014 (Kshs)	Budget 2014/2015 (Kshs)	Actual 2014/2015 (Kshs.)	Difference between Budget and actual (Kshs.)	% of Receipt/ Utilization (Kshs.)
RECEIPTS					
Transfer from County Government Treasury	692,977,668	735,283,955	507,872,559	227,411,396	69%
PAYMENTS-RECURRENT					
Compensation of Employees	225,054,821	362,930,832	308,286,848	54,643,984	85%

Use of Goods and Services	182,572,808	297,282,473	113,623,725	183,658,748	35%
Transfer to Other Government Units	74,949,842	-	-	-	-
Social Security Benefits	166,400	-	-	-	-
Other payments	100,412,260	-	-	-	-
Sub total	583,156,131	660,213,285	421,910,573	238,302,732	64%
Payments Development					
Acquisition of assets	104,748,871	75,070,650	61,236,113	13,834,537	82%
Total Expenditure	**687,905,002**	**735,283,955**	**483,146,686**	**252,137,269**	**66%**

No reason was given for failure of the executive to remit Kshs.227,411,397.00. This casts doubts on whether the budgeting process was accurate and realistic as required by the public financial regulations and procedures in operation. The County Assembly did not achieve its targeted service delivery goals.

2.0 County Assembly Receipts Kshs.507,872,559.00

Statement of receipts and payments shows that a total of Kshs.507,872,559.00 was received by the County Assembly. The amount includes amount transferred from Busia County Government Treasury of Kshs.256,705,532.00 and other receipts of Kshs.251,167,026.00 paid directly by the County Executive without full supporting documents.

A total of Kshs.251,167,026.00 was supposed to be transferred to County Assembly operations Account, posted in the cash book and then spent for Assembly operations. However, the amount was not transferred to the operations account but was spent directly by the County Treasury and charged on the County Assembly budget allocation. The amount was acknowledged by the County Assembly in the financial statements as other receipts. Payment vouchers for only Kshs.138,434,933.35 were provided leaving an amount of Kshs.112,732,092.65 unsupported.

Recommendation

The County Assembly should obtain payment vouchers and account for the expenditure of Kshs.112,732,092.65 incurred by the County Executive on its behalf.

3.0. Irregularities in Compensation of Employees

Examination of records relating to compensation of employees revealed the following irregularities:

3.1 Irregular Sitting Allowances – Kshs.780,000.00

Examination of the attendance register for members of the County Assembly during plenary sessions revealed that in some instances members who did not attend sessions, their names were at a later date irregularly inserted and therefore earned allowances for sittings they never attended.

Members of the County Assembly involved in this practice were cumulatively paid a total of Kshs.780,000.00 for 1,634 sessions described and summarized in **Appendix I**.

Recommendation

The County Assembly management to ensure that the amount of Kshs.780,000.00 paid for sessions not attended is duly recovered from the members of the County Assembly concerned.

3.2 Payments in Excess of Recommended monthly sitting allowance ceilings

The Controller of Budget's (CoB) Annual County Governments Budget Implementation Review Report for the year 2014/15 dated August 2015, indicated that in Table 2 at Page 12 the Busia County Assembly paid an average of Kshs.152,035.00 per month which was beyond the approved monthly ceiling of 32 sittings as per SRC guidelines.

Review of the payments records revealed that 33 MCAs cumulatively earned Kshs.70,753,800.00 instead of Kshs.49,420,800.00 resulting to an excess of Kshs.21,333,000.00 beyond their entitlement as summarized in **Appendix II**.

No reason was provided for failure to adhere to the Salaries and Remuneration Commission ceilings.

Recommendation

Recover the amount of Kshs.21,333,000 from the responsible MCAs.

3.3. Irregular Plenary Sitting Allowance Overpayments

In an apparent mix up, the rates applied for the payment of plenary sitting allowance were confused with Departmental Committee Allowances where the Chair and Vice Chair earn an enhanced allowance due to the responsibility bestowed on them.

Examination of records revealed that 26 MCAs were paid sitting allowances using the Departmental Committee Rates while attending plenary instead of the plenary sessions rates cumulatively totaling to Kshs.15,616,900.00 instead of Kshs.10,401,300.00 resulting to an overpayment of Kshs.4,222,400.00 as analyzed in **Appendix III**.

Recommendation

Recover from the responsible members of the County Assembly the sitting allowances amounts paid in excess of the authorized rates totaling Kshs.4,222,400.00.

3.4. Failure to remit Pay As You Earn (PAYE) Tax on sitting allowances

Included in the reported compensation of employees expenditure of Kshs.332,471,274 is an amount of Kshs.100,869,000.00 in respect to sitting allowances paid outside the payroll. Although tax recovery of Kshs.30,260,000.00 was effected, only Kshs.14,748,330.00 was paid to Kenya Revenue Authority (KRA). The tax balance of Kshs.15,512,550.00 has not been remitted to Kenya Revenue Authority to date. No reason has been provided for this anomaly.

Recommendation

Remit the recovered and unremitted PAYE tax balance of Kshs.15,512,550.00 to Kenya Revenue Authority (KRA) promptly.

3.5. Understatement of Sitting Allowances Expenditure

During the audit, a monthly reconciliation was undertaken to review the accuracy of the registered sessions, rates applied and casting of the total amount due to each member of the Assembly.

However, the schedules prescribed had a variation of Kshs.4,098,700.00 between the cumulative amount of Kshs.96,770,900.00 disclosed in the financial statements and the actual recalculated amount of Kshs.100,869,600.00 as analyzed in **Appendix IV.**

Recommendation

Amend the sitting allowances amount reflected in the financial statements for 2014/2015 to Kshs.100,869,600.00.

4.0. Use of Goods and Services

Examination of the use of Goods and Services payment records revealed the following:

4.1. Directly Expensed Foreign Travel payments

Included in the Use of Goods and Services expenditure of Kshs.89,231,021.00 is an amount of Kshs.6,911,086.00 for foreign travel and subsistence expenditure.

However, the amounts were directly issued to officers and expensed contrary to the requirements of the PFM Act 2012 regulations. Further, no supporting documents were provided for audit review except schedule of names.

Recommendations

- Take appropriate against the responsible officers for not following up

  regulation on issuance of imprests.

- Ensure that all advances for work outside station are processed through the normal imprest system and are accounted for before issue of additional imprest.

4.2. Unsupported Domestic Travel and Accommodation Payments

The allocated amount of Kshs.30,413,819.00 for domestic travel and subsistence includes payments totaling to Kshs.18,586,754.00 made to various County assembly members and Staff as night outs while attending various committees during report writing at different times and other official matters. However, staff and members of the Assembly were not issued with imprests instead direct payments were made to them contravening the regulations on issuance of imprests while on official duty. Further, the payments lacked proper supporting documents like work tickets, receipts for travel, taxi hire receipts where applicable, minutes of the meetings confirming that the reports were written.

Recommendations

- Amounts advanced for work be issued through imprest warrants. Such advances must be accounted for upon return to duty station with appropriate supporting documents.

- Recover the unsupported amount of Kshs.18,586,754 from the responsible members.

4.3. Understated Office and General Supplies Expenditure

The schedules provided reflect a figure of Kshs.6,605,965 against the financial statement figure of Kshs.6,827,938.00 resulting into a difference of Kshs.211,973.00.

Recommendation

Adjust the office and general supplies expenditure in the financial statement by the understatement of Kshs.211,973.

5.0. Acquisition of Assets/Completion of Office Block the Assembly

A firm vide contract no. BSA/CTA/82/2013-2014 was contracted for the completion of a two storey building at a cost of Kshs.22,359,776.00.

Payments amounting to Kshs.13,499,276.75 had been made to the contractor as detailed below:

Date	PV No.	Amount (Kshs)	Remarks
16/6/2015	1	5,323,720.85	Only a summarized certificate without details is attached
27/5/2015		3,825,216.00	Only a summarized certificate without details is attached
21/1/2015		3,674,839.00	Only a summarized certificate without details is attached
13/10/2014	263	675,500.00	Only a summarized certificate without details is attached
		13,499,275.85	

Audit verification during the month of October, 2015, over two months after the expected completion date, there was no work going on even though the building remained incomplete the contractor was not on site and there was no formal request for extension of work.

Recommendations

County Assembly management to ensure all certificates for payment on account are supported by details and specifications of the exact nature of work being paid for to facilitate proper evaluation by authorized officers and mitigate against risk of overpayment.

- Retention money to be held by the County Assembly till contract is fully executed.
- The Contractor be held liable for non-completion of work
- Recover any payments for work not done and ensure contract is fully executed.

6.0. Cash and Cash Equivalents

6.1. Compromised Controls over Cash Management

Examination of the relevant cash books and bank statements revealed the following;

i. The cash book and bank reconciliation statements were not checked by a responsible officer. The officer in charge, failed to check and take responsibility for the entries in the cash book / banking statement. The accuracy of cash transactions could not therefore be confirmed.

ii. There was no documented cash limits policy in place, a phenomenon which led to excessive cash transactions as demonstrated in the table below;

Transaction Date	Description	Cheque No.	Transaction Amount (Kshs)
15/8/2014	Office operations	001229	160,000
15/8/2014	Office operations	001238	5,000,000
18/8/2014	Office operations	001239	1,250,000
29/8/014	Office operations	001287	2,584,534
	Total for August		**8,994,534**
1/9/2014	Office operations	001289	914,472
3/9/2014	Office operations	001290	1,700,000
4/9/2014	Office operations	001291	90,000
4/9/2014	Office operations	001294	3,500,000
27/9/2014	Office operations	001298	1,028,000
27/9/2014	Office operations	001304	250,000
	Total for September		**7,482,472**

The above table indicates that cash withdrawals from the Kenya commercial bank during the two months of August, 2014 and September 2014 totaled Kshs.8,994,534.00 and Kshs.7,482,472.00 respectively which exceeded the cash limit of Kshs.700,000.00 per week.

Recommendations

- Adhere to the Cash limits as provided by the Public Finance Management Act, 2012.
- Use an office float for operations.
- Develop and implement approved Cash Management Policies

6.2. Unremitted Imprest Recoveries by County Executive

Included in the statement of assets is cash receivable of Kshs.27,594,213. This amount is in respect to imprests earlier issued to members of staff who failed to account for the same. The amount was recovered through the payroll but was never remitted to County Assembly. It is not clear why the County Executive failed to remit this amount to the Assembly and also

whether the amount can be readily convertible to known amount of cash to qualify to be reported as cash and cash equivalent.

Recommendations

Follow up with the County Executive to have the amount remitted or do a reconciliation to show a true and fair view of the cash and cash equivalents position for the County Assembly.

6.3. Outstanding Imprest

The County Assembly did not maintain imprest register and also failed to recover Kshs.157,000.00 reflected in Note 10c of the financial statements outstanding as at year end. Some of this amount was issued in as far back as 2013. There is a possibility that the amount was not spent for the intended purpose and thus the failure to surrender.

Recommendation

- The County Assembly management should recover the outstanding imprest amounts from the concerned officers.

7.0 Mortgage and Car Loan Revolving Fund

7.1. Each of the 54 members of the County Assembly was granted loan facilities amounting in total to Kshs.5,000,000.00 comprising of Kshs.3,000,000.00 for mortgage and Kshs.2,000,000.00 for car loan. This added to a total of Kshs.270,000,000.00 for all the 54 members. A review of the fund committee minutes revealed that the mortgage amount of Kshs.3,000,000.00 was fully disbursed to members without provision of support documents for the intended purchase or construction.

7.2. Legal fees amounting to Kshs.6,390,518.00 in respect of processing charges for both the land and the motor vehicles were also borne by the fund and not by the beneficiaries. This also applied to expenditure on mortgage protection and Fire Policy amounting to Kshs.815,320.00. As at the time of the audit there was no documentary evidence that any of the charges had been registered.

7.3. No log book or joint ownership documents together with comprehensive insurance cover were provided for the vehicles acquired.

7.4. The amount of cash and cash equivalents of Kshs.50,159,090.00 reported as at 30 June 2015 do not represent amount that is readily convertible to known amount of cash with insignificant risk as required by the accounting standards.

It is composed of recoveries from MCAs amounting to Kshs.30,031,206.52 that were not remitted by the Executive, Kshs.12,926,796.00 amount defaulted by the MCAs and other dues for the County Government amounting to Kshs.7,201,087.15 which are all receivables.

Recommendations

- The County Assembly Management to ensure that all documentation to evidence the need and proper utilization of the mortgage and the car loan facility is on file, otherwise recover the funds for the relevant MCAs.
- The County Assembly Management to ensure that expenditure on legal fees and insurances paid from the fund on behalf of individual members is recovered from the concerned members
- The County Assembly Management to follow up with the lawyers on all outstanding loans to ensure the relevant charges are duly properly registered.
- The County Assembly Management to ensure that amount reported as cash and cash equivalent represent amount that is readily available cash.
- In future, all cash transactions with members should be effected through the bank and not in cash for the purpose of proper control.

8.0. Fixed Assets Register

The County Assembly does not maintain a Fixed Assets Register for the assets acquired. Further, the assets formerly under the defunct local authorities in Busia County have not been incorporated in the County Government Assets Register.

Recommendation

- The County Assembly management to develop a comprehensive Fixed Asset Register for the County Assembly Assets.
- The Assembly management to include all the shared and allocated assets from the defunct local authorities in the asset register.

CONCLUSION

The setting up of structures, systems of governance and staffing took long and was slow. These clearly indicate that the County Assembly still faced several challenges in the Second year of operation.

The County Assembly should however ensure full control of the functions, enhanced expenditure control, capacity building of staff and strengthen the internal control mechanism for proper and effective accountability of resources.

The County Assembly should strive to adhere to the Public Financial Management Act, 2012 and the constitution in its financial operations to enhance effective service delivery to the County residents.

FCPA EDWARD R. O. OUKO, CBS
AUDTOR-GENERAL

Nairobi

13 September 2016