

COUNTY GOVERNMENT OF KISUMU



COUNTY ASSEMBLY OF KISUMU

THE HANSARD

Official Report

THIRD ASSEMBLY – SECOND SESSION

Thursday 08th June, 2023

House met in the Main Chamber at 2:30 p.m.

(The Speaker (Hon. Elisha Jack Oraro) in the Chair)

PRAYER

The Speaker (Hon. Oraro): Honourable Members, I want to request that pursuant to the provisions of Kisumu County Assembly Standing Order No. 32 (2) that the Serjeant-at-Arms rings the quorum bell for the first five minutes.

(Quorum bell rung for five minutes)

The Speaker (Hon. Oraro): Honourable Members, I am not able to see the Chief Whip but I can see that the seat occupied by the Leader of Majority is not vacant. Do we have quorum?

Hon. Omollo (MCA, West Nyakach Ward): Honourable Speaker, we have quorum.

The Speaker (Hon. Oraro): Mr. Clerk, please take us through the Order Paper of today.

The Speaker (Hon. Oraro): Next order!!

COMMUNICATION FROM THE CHAIR

The Speaker (Hon. Oraro): Honourable Members, I want to welcome you to this session. It has been brought to my attention that Hon. Seth Okumu raised a Statement yesterday and the Speaker allowed the Members to ventilate on and there was no determination made. Therefore, I

want to refer you to the provisions of Standing Order No. 41 (10) and 42. That is Statements. If you look at the Standing Orders, there is a procedure in which should be followed. Procedure in which Statements are brought to the House and the manner in which the Statement was brought, I believe was under Standing Order No. 42, as personal statements. This is where, by the indulgence of the House by the Speaker, Members may debate, as it is in the Standing Order. I want to quote; ‘During *Statement hour*, a Member may, by the indulgence of the House, explain matters of a personal nature although there is no question before the House, but such matter may not be debated.’

Therefore honorable Members, it is not possible to make a determination on that Statement. If there is need by Members that is of topical concern then it should be brought in the right manner, and with prayers therein, on what the plenary would make a resolution on. So, I direct.

The Speaker (Hon. Oraro): Next Order!!

NOTICES OF MOTION

The Speaker (Hon. Oraro): Hon. Alice Wajewa.

Hon. Wajewa (Nominated MCA): Thank you, Mr. Speaker, Sir, Pursuant to the provisions of Standing Order No. 182(6), of the Kisumu County Assembly Standing Orders, I wish to table today Thursday 8th June, 2023, a report by the Tourism, Wildlife and Heritage committee on their benchmarking exercise at Nakuru County Assembly.

The Speaker (Hon. Oraro): I believe you are giving a notice.

Hon. Wajewa (Nominated MCA): No, Mr. Speaker, you passed on Papers before I could read it out.

The Speaker (Hon. Oraro): I did call out on Papers but anyway you have laid the paper.

Hon. Wajewa (Nominated MCA): Okay, let me then give a notice of motion...

The Speaker (Hon. Oraro): No, no. just bring the paper.

Hon. Members, I confirm receipt of the report by the committee on Tourism, Wildlife and Heritage on their benchmarking exercise with Nakuru County Assembly, and I want to direct that the House business committee considers this report for purposes of scheduling for debate.

The Speaker (Hon. Oraro): Next Order!!

REPEAT ON NOTICES OF MOTION

(A member did not lay a paper when Order on Papers was called out and read it when notices of motion was called to order)

Hon. Wajewa (Nominated MCA): Thank you, Mr. Speaker, Sir, Pursuant to the provisions of Section 45(1) of the Kisumu County Assembly Standing Orders, I wish to give a notice of motion

The Speaker (Hon. Oraro): Honourable Members, I confirm receipt of the report from the Standing Committee of Tourism, Wildlife and Heritage on the Benchmarking Exercise with Nakuru County Assembly and I want to direct that the House Business Committee considers this report for purposes of scheduling it for debate. Thank you.

The Speaker (Hon. Oraro): Next Order!

NOTICES OF MOTION

The Speaker (Hon. Oraro): Honourable Alice Wajewa.

Hon. Wajewa (Nominated Member): Thank you Mr. Speaker Sir. Pursuant to the provision of Standing Orders No. 45 (1) of the Kisumu County Assembly Standing Orders, I wish to give a Notice of Motion that this House adopt the report by the Standing Committee of Tourism, Wildlife, and Heritage on their Benchmarking Exercise with its sister counterpart of Nakuru County Assembly, thank you.

The Speaker (Hon. Oraro): Next Order!

STATEMENTS

The Speaker (Hon. Oraro): Honourable Members, it is statement hour.

The Speaker (Hon. Oraro): Honourable Members, if there are no statements to be sought, then we move to the next order!!

MOTION

ADOPTION OF THE REPORT BY PIC/ PAC COMMITTEE ON THE CONSIDERATION OF THE AUDITOR GENERAL'S REPORT ON THE FINANCIAL STATEMENTS OF THE COUNTY EXECUTIVE OF KISUMU FOR THE YEAR ENDED 30TH JUNE, 2020.

BY

HON. KENNEDY OUKO, MCA, WEST KISUMU WARD.

(CHAIRPERSON, PIC/PAC COMMITTEE)

The Speaker (Hon. Oraro): The Honourable Kennedy Ouko.

Hon. Ouko (MCA, West Kisumu Ward): Hon. Speaker, on behalf of the Public Accounts and Investments Committee (PIC/PAC) read together with the provisions of Kisumu County Assembly Standing Orders 188, I wish to present to this House the report of the Select Committee on the Audited Financial Statements of County Government of Kisumu, financial year 2019/2020.

The County Assembly exercises oversight over County revenue and its expenditure Pursuant to Article 185(3) of the Constitution of Kenya 2010, through the Public Accounts and Investments Committee which, in turn, derives its mandate from the County Assembly Standing Orders.

It's instructive that Article 229 (8) of the Constitution of Kenya, 2010, requires the County Assembly, within three months after receiving an audit report, to debate, consider the report and take appropriate action.

The Committee held a number of sittings during which it received both written and oral evidence from the Accounting Officer on audit queries raised by the Auditor-General. Minutes of the Committee's meeting is annexed to this report.

A major challenge that the Committee encountered, from time to time, is the high level of unpreparedness on the part of the management. In many occasions, the management requested for extension of timelines for submission of responses. In addition, the Committee had no funds as at the time of culmination of this report.

The Office of the Auditor-General continues to highlight cases of questionable expenditure of public funds in its annual reports. There is, however, a real risk of reducing this serious contribution by the OAG into a mere ritual if no action is taken on those findings.

The Committee has, therefore, upon careful evaluation of the evidence before it, taken a pragmatic step by holding to account individual officers for their various acts of omission and/or commission that occasioned loss of public funds. In some cases, the Committee has invoked the provisions of Article 226(5) of the Constitution of Kenya, 2010 and recommended that the concerned officers make good the losses that have arisen under their watch.

Honourable Speaker, I wish to register my appreciation to fellow Honorable Members of the Committee, the Offices of the Speaker and the Clerk of the Assembly, Committee Secretariat and the Office of the Auditor General for facilitation and technical support that made the production of this report possible.

Special appreciation goes to the National Democratic Institute (NDI) for their financial support during the entire period of culmination of this report.

Honorable Speaker, on behalf of the Public Accounts and Investments Committee, I now wish to table the report on the consideration of the Auditor General's report on the Financial Statements

of the County Executive of Kisumu for the year ended 30, June 2020 and urge this House to adopt it.

Establishment and Mandate of the Public Accounts and Investments Committee

Hon. Speaker, the Public Accounts and Investments Committee is established under Standing Order No. 188 of the Kisumu County Assembly Standing Orders and is mandated to undertake the following functions;

- i). 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 House as the committee may think fit;
- ii). Examination of the working of the Public Investments
- iii). Examine the reports and accounts of the Public Investments and,
- iv). Examine in the context of the autonomy and efficiency of the public investments, whether the affairs of the public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices.

1.2 Composition of the Public Accounts and Investments Committee

The Committee as currently constituted comprises of the following Honorable Members,

Table 1: Committee Membership as at April 2023

NAME	POSITION
MEMBERS	
1. Hon. Ken Ouko	Chairperson
2. Hon. Geoffrey Warindu	Vice Chairperson
3. Hon. Mildred Ajumbo	Member
4. Hon. Seth Okumu	Member
5. Hon. Nancy Matara	Member
6. Hon. Rueben Rakwach	Member
7. Hon. Zackaria Okoyo	Member
8. Hon. James Were	Member
9. Hon. James Omollo	Member

SECRETARIAT

1.	Austine Ochieng	Committee Clerk
2.	Chrispine Oguta	Clerk Assistant
3.	Patrick Okoyo	Hansard
4.	CPA Naboth Odero	Internal Auditor
5.	Geoffrey Omollo	Fiscal Analyst
6.	Bill Otieno	Legal Counsel
7.	Faith Judith	Serjeant-at-arm
8.	Raphael Juma	Research
9.	Wycliffe Owade	Research

LEGAL FRAMEWORK & GUIDING PRINCIPLES**Legal Framework**

Hon. Speaker, the Committee was guided by the following legal instruments;

1. Constitution of Kenya 2010: Article 229 of the Constitution of Kenya, 2010 requires the Auditor General, within a period of six months after the end of each financial year, to audit and report, in respect of that financial year, on; (i) The accounts of the National and County governments, (ii) The accounts of all funds and authorities of the National and County governments.

The Constitution further indicates that, all aspects of public finance shall be guided by the following principles;

- i). Openness and accountability including public participation in financial matters.
- ii). That the public finance system shall promote an equitable society, and in particular: the burden of taxation shall be shared fairly; Revenue raised nationally shall be shared equitably among national and County governments and that expenditure shall promote equitable development of the country, including by making special provision for marginalized groups and areas
- iii). The burdens and benefits of the use of resources and public borrowing shall be shared equitably between present and future generations;
- iv). Public money shall be used in a prudent and responsible way and;
- v). Financial management shall be responsible, and fiscal reporting shall be clear

2. The Committee also relied on Article 226(5) of the Constitution of Kenya, 2010 which provides that if the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not.
3. Public Audit Act 2015; Section 7 mandates the Auditor General to: (i) Give assurance on the effectiveness of internal controls, risk management and overall governance at National and County Government; (ii) Undertake audit activities in state organs and public entities to confirm whether or not public money has been applied lawfully and in an effective way
4. Public Finance Management Act, 2012: Section 149 of the Public Finance Management Act, 2012 outlines the responsibilities of Accounting Officers for the County Government and County Assembly and it categorically states that; “An accounting officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is; Lawful and authorized; and Effective, efficient, economical and transparent. The Act primarily provides for the effective management of public finances by the National and County Governments; the oversight responsibility of Parliament and County Assemblies; the different responsibilities of Government entities and other bodies.

Section 3 of the PFM Act, 2012: emphasizes on the need for upholding the fiscal responsibility principles. These principles are to be observed in both the National and County levels of Government. The Act further mandates the County Accounting officers to monitor, evaluate and oversee the management of their public finances.

Section 156 of PFM Act, 2012: Provides for circumstances under which a public or accounting officer may engage in improper financial conduct to include but not limited to; undermining any financial management procedures or controls; making or permitting an expenditure that is unlawful or has not been properly authorized by the entity concerned; failing without reasonable cause to pay eligible and approved bills promptly in circumstances where funds are provided for or contravening the PFM Act or any other laws.

5. Public Procurement and Asset Disposal Act, 2015: This Act primarily seeks to give effect to Article 227 of the Constitution of Kenya, 2010, to provide procedures for efficient public procurement and for assets disposal by public entities. The disposal and procurement process ought to be transparent, accountable and cost-effective.

Hon. Speaker, in this report, the Committee has applied Article 226(5) of the Constitution of the Constitution of Kenya, 2010 and Section 156 of the Public Finance Management Act, 2012 to make various recommendations as indicated in this report.

Guiding Principles

Hon. Speaker, in the execution of its mandate, the Committee was guided by core Constitutional and statutory principles on Public Finance Management.

These principles include the following;

1. Constitutional Principles on Public Finance: Article 201 of the Constitution of Kenya 2010 provides for fundamental principles aimed at guiding all aspects of Public Finance. It states that the principles are; inter alia;
 - i). Openness and Accountability including public participation in financial matters;
 - ii). Public money shall be used in a prudent and responsible way; and
 - iii). Financial management shall be responsible and fiscal reporting shall be clear.
2. Obligations of the Accounting officer;
 - i). Article 262(2) of the Constitution of Kenya 2010 which provides that; The Accounting officer of a national public entity is accountable to the national assembly for its financial management, and the accounting officer of a county public entity is accountable to the county assembly for its financial management.
 - ii). Section 149(1) of the Public Finance Management Act 2012 provides that; an accounting officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is; (i) Lawful and authorized and; and (ii) Effective, efficient and transparent

These provisions obligate all the accounting officers to appear before the Public Accounts and Investments Committee to respond to audit queries raised by the Auditor General

3. Direct Personal Liability: Article 226(5) of the Constitution is unequivocal that, if the holder of a Public Office or a political office, directs or approves the use of Public Funds contrary to the law or instruction, the person is liable for any loss arising from that use and shall make good, the loss, whether the person remains the office holder or not. In the same spirit, Section 203(1) of the Public Finance Management Act, 2012 enacts that; a public officer is personally liable for any loss sustained by a County Government and is attributed to; (i) The fraudulent or corrupt conduct, or negligence of the officer or, (ii) The officer's having done any act prohibited by Sections 196, 197, and 198

The Committee considers these legal provisions as the basis for holding accounting and public officers directly and personally liable for any loss of Public Funds that may occur under their watch.

REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE COUNTY EXECUTIVE OF KISUMU FOR THE YEAR ENDED 30, JUNE 2020

Hon. Speaker, Mr. Wilson Abiero, the Accounting Officer appeared before the Committee on 13th February 2023 to adduce evidence on the Audited Financial Statements of the County Executive of Kisumu for the year ended 30, June 2020 (The minutes and the submissions from the Accounting Officer are annexed to this report). The following officials accompanied him;

Wilson Abiero – Ag. Chief Officer, Finance

Keziah Okoth – Ag. Director Accounting Services

Godfrey Dienya – Director Internal Audit

Philip Adundo -Chief Officer, Strategy, Policy and Service Delivery

Joan Kanjejo- Director Supply Chain M

Domnic Oluoch – Internal Auditor

Kungu J. Otieno – Director Revenue

Rev. B. Ouko- Budget Officer, Department of Agriculture, Livestock and Fisheries

The following officers represented the Office of the Auditor General;

1. Samuel Chege
2. Kennedy Oenga

BASIS FOR ADVERSE OPINION

Hon. Speaker, the opinion of the Auditor General on the Financial Statements of Kisumu County Executive for the year ended 30, June 2020 was informed by the following;

Inaccuracies in the Financial Statements

Hon. Speaker, the Auditor General observed inaccuracies in the financial statements and noted that the statement of receipts and payments reflected various receipts balances which were at variance with similar balances as per the IFMIS Miscellaneous Receipts Report (MRR), resulting to an unexplained net difference of Kshs.1, 690,153,373 as shown below:

Table 2: Illustrations of unexplained inaccuracies in financial statements

Receipts	Statements of Receipts & Payments (Kshs.)	IFMIS Report (Kshs.)	Difference (Kshs.)
Exchequer Releases	7,544,172,968	6,031,317,213	1,512,855,755
County Own Generated Receipts	811,076,124	987,654,256	(176,578,132)
Transfers from Other Government Entities	353,875,750	0	353,875,750
Total	8,709,124,842	7,018,971,469	

Further, the statement of receipts and payments reflected total receipts of Kshs.8,733,502,114. However, the Controller of Budget Implementation Review Report for 2019/2020 reflected actual total receipts balance as Kshs.10,218,772,532 resulting to an un-explained variance of Kshs.1,485,270,418 between the two reports.

In addition, the exchequer releases of Kshs.7,544,172,968 included an amount of Kshs.102,790,158 for Universal Health Care and Agriculture Sector Development Support Project (ASDSP). However, the Management did not provide the disbursement schedule to support the balance

Management Response/Submission by the Accounting Officer

Hon. Speaker, in their response to the foregoing issues on inaccuracies in the financial statements, the County Government management, through the accounting officer, indicated that the variances between financial statements and IFMIS Miscellaneous Receipt Report arose due to system challenges faced in posting of data which they indicated to have been escalated to national treasury for support. They responded that they relied on other reports to prepare the financial statements due to inadequacy of data from IFMIS.

Further to the response, the management also indicated that the Controller of Budget implementation report captured balance brought forward from the previous financial year (2018/2019) of Kshs. 1,524,076,529 that had already been reported in the financial statements of financial year 2018/2019 and that, that is what caused the variance.

The disbursement schedule to support Agriculture Development Support Programme was availed. Expected disbursement was Kshs. 17,029,227 but Kshs. 11,264,613 was received.

The Universal Health Care receipt of Kshs. 91,525,525 was a balance for the financial year 2018/2019. During the FY 2018/2019, expected disbursement was Kshs. 274,576,632 but Kshs. 183,051,090 was received leaving a balance of Kshs. 91,525,502

Committee Deliberations and Observations

Hon. Speaker, during joint committee deliberations and interrogations, in the company of the Officers from the Office of the Auditor General and the accounting officers, the Committee observed the following in regards to this audit query and the management response;

- i). The Management in their response indicated that the Controller of Budget Implementation Report captured balance brought forward from the financial year 2018/2019 of Kshs. 1,524,076,529 that had already been reported in the financial statements of 2018/2019. However, according to the Auditors, there was no reconciliation provided to support the same during the time of audit.
- ii). No disbursement schedule was provided to support the receipt of ksh. 91,525,525 for the Universal Health Care
- iii). It was noted by the Office of the Auditor General that despite the Management indicating that they had requested for Vote Book Management System Configuration from the National Treasury, there was no status or progress report on the same as at the time of deliberations.

Committee Recommendations

Hon. Speaker, based on the absence of the schedule for the Universal Health Care to support the receipt of Kshs. 91,525,525 and status report on Vote Book Management System Configuration from the National Treasury, the Committee recommends to this House to resolve as follows;

- i. That the Accounting Officer submits to this Assembly the disbursement schedule to support the receipt of Kshs. 91,525,525 for the Universal Health Care in a period of not more than 90 days upon adoption of this report
- ii. THAT in future, the Chief Officer Finance/Accounting Officer must ensure proper reconciliation to ensure that there is agreement between the figures in the Financial Statements and the IFMIS system
- iii. THAT this matter/issue remains unresolved.

Unsupported County Own Generated Receipts

Hon. Speaker, the Auditor General observed that as disclosed in Note 9 to the financial statements, the statement of receipts and payments reflects County Own Generated Receipts of Kshs.811,076,124. The balance includes payroll revenue surcharge of Kshs.6,228,243 that was not supported with detailed schedules of employee deductions. Revenue totaling to Kshs.5,886,736 collected by Maseno – Agriculture Training Centre was not remitted to the County Revenue Fund (CRF) account as per the requirements of Section 80 and 81 of the Public Finance Management (County Governments) Regulations, 2015 which states that all revenue collected by the County Government should be remitted to the CRF. Further, out of the total

collections of Kshs.5,886,736, it was noted that Kshs.4,328,198 was spent at source and no approval or documentation was provided during audit to support the expenditure. In the circumstances, the accuracy of county own generated receipts amounting to Kshs.811,076,124 in the financial statements could not be confirmed.

Management Response

Hon. Speaker, the management of the County Government (Executive) responded that; the County Government of Kisumu Department of Agriculture Livestock and Fisheries maintains a bank account named Maseno ATC-DFF with Kenya Commercial Bank Account number 1149539208. The Maseno Agricultural Training Centre (ATC) was running this account for a fund referred to as Demonstrations Farms Fund (DFF) for revenue collection before the advent of devolution to provide resources for development and running of the commercial activities (enterprises) on a revolving basis. The fund was established by the Exchequer and Audit Act, CAP 412 laws of Kenya, through the LEGAL NOTICE NO. 456 of 16th November 1990. This continued until the financial year 2019/2020 when the use of the account for the Demonstrations Farms Fund purpose was stopped since the legal notice is yet to be reviewed and realigned to fit into the devolved government system. However, this action has greatly constrained the revenue regeneration capacity of the institution.

Subsequently, the account was used as an operation account for Vicnaqua Fish Project, an EU funded project (a copy of the letter authorizing the use of the account as an operation appended herein; REF; NALF/COALF-KSM/GC/DEV.8B/ (3) was attached). Further, the County Executive Committee Member for Finance and Economic Planning was at that time, working on establishing an agricultural facility financing fund to support the day to day cash needs of Maseno ATC and other revenue generating institutions in the County Department of Agriculture, Livestock, Fisheries and Irrigation to enhance service delivery. A schedule of employee payroll surcharge deductions was attached.

Committee Observations

Hon. Speaker, the following observations were made in regards to this issue;

- (i) According to the Office of the Auditor General, the payroll surcharge deductions were sufficiently supported by IPPD generated records or other authenticated records. The supporting documents were provided later and not during the time of audit
- (ii) There was no response on the revenues that were spent at source. Similarly, there was no evidence of subsequent transfers to the County Revenue Fund.
- (iii) The Committee observed that a letter of REF;DALF/COALF-KSM/GC/FIN6/VOL1 dated 28th January 2021 was written to branch manager KCB Kisumu Branch to transfer all the funds held in the account number 1148451196 to County Revenue Fund account number 1141991705.

- (iv) However, the committee could not establish whether the subsequent collections in that account are being transferred to the County Revenue Fund Account as required by Sections 80 and 81 of the PFM regulations 2015.

Committee Recommendations

Hon. Speaker, the Committee recommends to this House to resolve as follows;

1. THAT the Accounting Officer, submits to this House within a period of 90days upon adoption of this report:
 - a. Comprehensive report on the annual own source revenue collected by Maseno ATC for the financial year 2019/2020,
 - b. Measures that they have put in place to ensure that all subsequent revenues collected are remitted to county revenue funds account as per section 80 and 81 of the Public Finance Management regulation 2015
2. THAT the Accounting Officer submits financial statements for financial year 2020/2021 and 2021/2022 relating to all the Agricultural Training Centers within Kisumu County to the Office of the Auditor General in a period of not more than 90days upon adoption of this report for a Special Audit.
3. THAT the Chief Officer Finance automates own-source revenue collections due to the all the Agricultural Training Centers within the County before the end of the financial year 2023/2024 and a report on the automation be submitted to this Assembly
4. That this issue remains unresolved

Unreturned Funds to CRF

Hon. Speaker, the Auditor General observed that as disclosed in Note 10 to the financial statements, the statement of receipts and payments reflects returned County Revenue Fund, CRF issues of Kshs.24,377,272 which were transfers from the Development Recurrent accounts at the Central Bank of Kenya. However, the balance excludes imprest and operations accounts that were holding a total balance of Kshs.4,229,013 at the end of the previous year which had not been transferred to the CRF account. Further, the transfers of Kshs.24,377,272 were done on 7th August, 2019. Consequently, the accuracy and completeness of receipts of Kshs.24,377,272 reflected as returned County Revenue Fund issues in the statement of receipts and payments for the year ended 30 June, 2020, could not be confirmed.

Management Response

Hon. Speaker, the management responded that there were commitments made in the financial year 2019/2020 and therefore were paid in the subsequent financial year, hence could not be transferred to County Revenue Fund account (CRF)

Committee Observations

Hon. Speaker, during the deliberations and analysis of the responses on this audit issue, the committee made the following observations;

1. The Committee observed that the transfers disclosed were made in August 2019 which was just one month into the new financial year 2019/ 2020 and that could not account for transfers which ought to have been made after the end of the financial year ended 30th June 2020.
2. The payment vouchers that were attached relates to activities which took place way before the closure of the financial year which would have been paid within the financial year
3. The management failed to adhere to the cut off procedures in case of unpaid commitments as per National Treasury guidelines
4. The balance of Kshs. 4,229,013 relating to imprest and operations account was not sufficiently reconciled/explained
5. The committee noted that despite the management indicating that they had committed all the funds including the ksh. 4,229,013 relating to imprest and operations account, it was against accounting standards and practice to commit imprest and operations accounts
6. Nonetheless, the management failed to provide any evidence of any such commitments as alleged.

Committee Recommendations

Hon. Speaker, based on the foregoing observations, the Committee recommends;

1. THAT in future, the Chief Officer Finance must ensure that all accounting processes are undertaken through the IFMIS system
2. That in future, the Management must ensure that unspent money are returned back to the County Revenue Fund Account
3. THAT this matter remains unresolved

Compensation of Employees

Hon. Speaker, the Auditor General observed that as disclosed in Note 11 to the financial statements, the statement of receipts and payments reflects compensation of employees' balance of Kshs.4, 261,475,456. The balance includes pensions and other social security contributions amounting to Kshs.41, 286,470. However, supporting documents provided for review indicate a total of Kshs.235, 536,988 was spent on pension and social contribution resulting to a variance of Kshs.194, 250,518. Management has explained that the difference had been included in the basic salaries of permanent employees' balance. The mis-posting had not been corrected.

Further, the balance included basic wages of temporary employees' balance of Kshs.129,674,986. However, payments amounting to Kshs.8,865,802 were not supported with payment vouchers, schedule of payees, approvals and support for work done including personal allowances paid as part of salary amounting to Kshs.1,594,196,492. However, review of documents indicates that the balance constitutes an amount of Kshs.16,402,366 paid to the County Public Service Board members as sitting allowances, travelling allowances, and airtime and retainer allowances. However, Management did not avail supporting documents such as invitation letters, schedule or agenda of meetings as well as signed attendance sheets. The amount of Kshs.16,402,366 also includes Kshs.1,235,062 paid as honoraria to employees, the basis of which was not explained or supported. Consequently, the accuracy, validity and completeness of the Kshs.4,261,475,456 spent as compensation of employees in the statement of receipts and payments for the year ended 30 June, 2020 could not be confirmed.

Management Response

During the financial year under review, the County Government budget for pension and other Social Security Contributions was under budgeted and leading to other payments under basic salaries being charged under the vote on pension and social security contribution resulting into variance reported by the auditor. However, the management indicated that the same had been rectified and subsequent financial statements had demonstrated the same rectification.

Committee Observations

Hon. Speaker, the committee made the following observations on this particular audit issue;

1. The management failed to provide explanations on unsupported expenditures of Kshs. 8,865,802 and Kshs. 16,402,366.
2. Supporting documents on casuals attached to the management response only amounted to Kshs.3,597,300 thus leaving an unsupported payments to temporary employees at ksh. 5,268,502
3. That the management failed to provide the relevant documents supporting the expenditures of Kshs. 16,402,366 relating to sitting allowances, travelling allowances, airtime and retainer allowances to members of the County Public Service Board
4. That the management failed to provide the vouchers, schedule of payees, approvals and support for work done to support the expenditure amounting to Kshs.8,865,802 as highlighted by the Auditor General
5. That the total unsupported expenditures amounted to Kshs. 21,670,868 (comprising of Kshs. 5,268,502 allegedly paid to temporary employees but could not be supported and Kshs. 16,402,366 (includes Kshs.1,235,062 paid as honoraria to employees) relating to sitting allowances, travelling allowances, airtime and retainer allowances to members of the County Public Service Board –all of which could not be supported)

Committee Recommendations

Hon. Speaker, based on the foregoing findings, the Committee recommends the following;

1. THAT the Accounting Officer, Finance and Economic Planning submit to this Assembly supporting documents for payments amounting to ksh. 5,268,502 relating to basic wages of temporary employees and relevant documents to support payments amounting to Ksh. 16,402,366 (including Kshs.1, 235,062 paid as honoraria to employees) in a period of not more than 90 days upon adoption of this report.
2. That failure by accounting officer to support the amount mentioned in 1 above within 90 days upon adoption of this report, the whole amount turn into irregular payments.
3. That Pursuant to Article 226(5) of the Constitution of Kenya 2010 which states that, if the holder of a Public Office or a political office, directs or approves the use of Public Funds contrary to the law or instruction, the person is liable for any loss arising from that use and shall make good, the loss, whether the person remains the office holder or not, the County Executive Committee Member for Finance, Economic Planning and ICT (after elapse of 90days) immediately initiates the recovery of Ksh. 16,402,366 and ksh. 5,268,502 from the then Chief Officer Public Service Board and the then Chief Officer Finance and Economic Planning respectively, and a report on the progress be submitted to this Assembly.
4. That this matter remains unresolved

Use of Goods and Services

Hon. Speaker, the Auditor General noted that in note 12 to the financial statements, the statement of receipts and payments reflected use of goods and services of Kshs.995,424,701. The following observations were made:

Unsupported Payments

The balance includes several balances amounting to Kshs.10,135,479 that was not supported with relevant documents as tabulated below: -

Table 3: Illustration of unsupported payments

No.	Item	Amount (Kshs.)	Supporting Documents not Aailed
1	Fuel, Oil and Lubricants	3,638,239	Invoices, Work Tickets, Receipts or Payment Vouchers
2	Other Operating Expenses	2,828,440	Invoices, Payment Vouchers orReceipts
3	Routine Maintenance – Other Assets	2,000,000	No supporting documents

4	Routine Maintenance – Vehicles and Other Transport Equipment	1,668,800	Invoices, payment vouchers and receipts.
		10,135,479	

Management Response

Hon. Speaker,

On unsupported payments highlighted in the table above, the management responded that the County Government did not provide the requisite documents at the time of audit because they were in the archive at that time. They however indicated that the same had been provided to auditors for verification as at the time of committee deliberations on this matter.

Committee Observations

Hon. Speaker, the Committee made the following observations on this issue;

1. That the management failed to provide supporting documents of Kshs.10, 135,479 under use of goods and services during the time of audit
2. The Committee noted that without supporting documents referenced in this matter, there was possible direct loss of ksh. 10,135,479 of public funds
3. That despite the Accounting Officer's submission that the supporting documents had been provided for audit review, as at the time of committee deliberations on this matter, the Officers from the Office of the Auditor General disputed and indicated that the documents were yet to be provided for audit review.
4. The Committee finds that contrary to Section 27 (3) (f) & (g) of the County Assembly Powers and Privileges Act 2017, the management (Chief Officer) wilfully lied to and misled the Committee on the provision of required documents for audit
5. The Committee finds that the County Government of Kisumu does not have a policy on record management

Committee Recommendations

Hon. Speaker, the Committee recommends to this House to resolve as follows;

1. That the Accounting Officer, Finance and Economic Planning submit to this Assembly the supporting documents for payments amounting to Kshs. 10,135,479 in a period of not more than 14 days upon adoption of this report
2. That failure by the Chief Officer Finance and Economic Planning to comply with recommendation 1, the payments turn to irregular payments
3. That Pursuant to Article 226(5) of the Constitution of Kenya 2010 which states that, if

the holder of a Public Office or a political office, directs or approves the use of Public Funds contrary to the law or instruction, the person is liable for any loss arising from that use and shall make good, the loss, whether the person remains the office holder or not, the County Executive Committee Member for Finance and Economic Planning (after elapse of 14days) immediately initiates the recovery of ksh. 10,135,479 from the then Accounting Officer who authorised the unsupported payments and a report on the progress be submitted to this Assembly.

4. THAT in order to ensure safe keeping of Government records and documents, and adherence to Section 17 (3) of Access to Information Act 2016, the County Secretary formulates the Kisumu County Records management policy and submits the same to the County Assembly within 90 days upon adoption of this report.
5. That this issue remains unresolved

Irregular Insurance Costs

Hon. Speaker, still on Use of Goods and Services, the Auditor General observed irregular insurance costs whose balance include an amount of Kshs.63,855,265 in respect of insurance costs. The review of the insurance records revealed;

- a) That the management did not provide policy documents, quotations and records to show how the service providers were sourced for payments totaling to Kshs.4, 716,395.
- b) An insurance agent was engaged to facilitate covers for four (4) motor vehicles at a cost of Kshs.955, 975 on 29 November, 2019. However, the certificate of insurance copy attached to the payment indicated that the cover's commencement date was 21 January, 2019 ten (10) months earlier.
- c) A Debit Note No.9875 for premium cover amounting Kshs.5, 123, 098 listed twenty-one (21) vehicles that were covered. However, only sixteen (16) vehicle insurance certificates were provided to support the payment. There was no evidence that the other five (5) vehicles were covered.
- d) A Debit Note No.9876 for premium cover amounting to Kshs.1, 931,630 indicated that thirty-nine (39) vehicles were covered. However, three (3) of the vehicles had already been included in an earlier Debit Note No.9875 above.
- e) Debit Note No.9877 for Kshs.2, 028,539 indicated insurance for various vehicles but there was no list of the vehicles for which the premium was paid and that Six (6) debit notes with a cumulative premium value of Kshs.1,084,060 were not supported with copies of certificates of insurance

Management Responses

- a) On the issue of provision of policy documents, quotations and records to show how the service providers were sourced for insurance payment amounting to ksh. 4,716,395, the management responded that the payments were supported by the request for quotations, opening and evaluation minutes including award and acceptance letters.
- b) On the issue of the dating of the certificate of insurance copy that was attached to the payment which indicated that the cover's commencement date was 21 January, 2019 ten (10) months earlier, the management indicated that this was a typing error in the dating of the award letter
- c) On the issue of debit note No.9875 for premium cover amounting Kshs.5, 123, 098 which listed twenty-one (21) vehicles that were covered but only sixteen (16) vehicle insurance certificates were provided to support the payment and no evidence that the other five (5) vehicles were covered; the management responded that they had therein attached the five certificates for the Auditors review as at the time of committee reviews and deliberations on the matter.
- d) On the issue of debit note No.9876 for premium cover amounting to Kshs.1, 931,630 which indicated that thirty-nine (39) vehicles were covered but three (3) of the vehicles were already included in an earlier Debit Note No.9875; the management responded that the County Government initiated the recovery of the amount overpaid to correct the error noted.
- e) On the issue of debit note No.9877 for Kshs.2, 028,539 which indicated insurance for various vehicles but there was no list of the vehicles for which the premium was paid and that Six (6) debit notes with a cumulative premium value of Kshs.1,084,060 were not supported with copies of certificates of insurance; the management responded that they had provided, as at the time of committee deliberations on this matter, copies of the certificate of insurance for Audit review.

Committee Observations

Hon. Speaker, on each of the issues raised under irregular insurance costs, the committee considered and makes the following observations;

- a) On the issue of provision of policy documents, quotations and records to show how the service providers were sourced for insurance payment amounting to ksh. 4,716,395, to which the management responded that the payments were supported by the request for quotations, opening and evaluation minutes including award and acceptance letters:

The Committee observed that the supporting documents with respect to the payments of Ksh. 4,716,395 for insurance costs were provided to the Auditors as indicated by the management. However, these were not provided at the time of audit

- b) On the issue of the dating of the certificate of insurance copy that was attached to the payment which indicated that the cover's commencement date was 21 January, 2019, ten (10) months earlier, to which the management indicated that this was a typing error in the dating of the award letter:

The Committee observed that the alleged typing error could not be substantiated by the management.

- c) On the issue of debit note No.9875 for premium cover amounting Kshs.5, 123, 098 which listed twenty-one (21) vehicles that were covered but only sixteen (16) vehicle insurance certificates were provided to support the payment and that there was no evidence that the other five (5) vehicles were covered to which the management responded that they had therein attached the five certificates for the Auditors review as at the time of committee reviews and deliberations on the matter;

The Committee observed that the Management failed to provide the insurance certificates for five vehicles during the time of audit contrary to the provisions of Section 62(1)(b)(c) of the Public Audit Act, 2015 on timely provision of documents and evidences for purposes of audit.

On the issue of debit note No.9876 for premium cover amounting to Kshs.1, 931,630 which indicated that thirty-nine (39) vehicles were covered but three (3) of the vehicles were already included in an earlier Debit Note No.9875; to which the management responded that the County Government had initiated the recovery of the amount overpaid to correct the error noted:

The Committee noted that the letter initiating refund of the overpayment was dated 3rd March 2023, 6 days before the accounting officer appeared before the committee. The letter also had no evidence that it was received by the insurance company. The purported letter was therefore to hoodwink the assembly committee.

- d) On the issue of debit note No.9877 for Kshs.2, 028,539 which indicated insurance for various vehicles but there was no list of the vehicles for which the premium was paid and that Six (6) debit notes with a cumulative premium value of Kshs.1,084,060 were not supported with copies of certificates of insurance; to which the management responded that they had provided, as at the time of committee deliberations on this matter, copies of the certificate of insurance for Audit review;

The Committee found that the management indeed provided the insurance certificates for audit review. This was confirmed by the Auditors

Committee Recommendations

Hon. Speaker, based on the foregoing findings and observations, the Committee makes the following recommendations on each of the audit issues under irregular insurance costs;

- (i) On the issue of provision of policy documents, quotations and records to show how the service providers were sourced for insurance payment amounting to ksh. 4,716,395, to which the management responded that the payments were supported by the request for quotations, opening and evaluation minutes including award and acceptance letters: and to which the Committee observed that the supporting documents with respect to the payments of Ksh. 4,716,395 for insurance costs were provided to the Auditors as indicated by the management;
1. The Committee recommends that this issue is resolved since the management provided requisite documents in support of the insurance costs.
- (ii) On the issue of the dating of the certificate of insurance copy that was attached to the payment which indicated that the cover's commencement date was 21 January, 2019 ten (10) months earlier, to which the management indicated that this was a typing error in the dating of the award letter, and to which the Committee observed that the alleged typing error could not be substantiated by the management;

The Committee recommends that the audit issue is resolved.

1. The committee further recommends that the County Executive Committee member initiate an internal investigation on possible loss of public funds that may have been caused by the typing error and report to this house within a period of 90 days upon adoption of this report.
- (i) On the issue of debit note No.9875 for premium cover amounting Kshs.5, 123, 098 which listed twenty-one (21) vehicles that were covered but only sixteen (16) vehicle insurance certificates were provided to support the payment. The committee noted that as the time of audit, there was no evidence that the other five (5) vehicles were covered. The management responded that they had provided the five certificates for the Auditors review as at the time of committee deliberations.
1. The Committee recommends that this matter is resolved since the insurance certificates had been provided nonetheless despite the late provision therein.
2. The committee further recommends that going forward, the management must adhere to Section 62(1) (c) of the Public Audit Act 2015 that requires timely provision of information during the time of audit
- (ii) On the issue of debit note No.9876 for premium cover amounting to Kshs.1, 931,630 which indicated that thirty-nine (39) vehicles were covered but three (3) of the vehicles were already included in an earlier Debit Note No.9875; to which the management responded that the County Government initiated the recovery of the amount overpaid to

correct the error noted and to which the Committee noted that the management did not provide evidence of the above said recovery nor evidence of any such process that had been initiated;

1. THAT the Accounting Officer Finance and Economic Planning submits evidence of recovery of the amount for the insurance of the three vehicles within 14 days upon adoption of this report
2. That failure by the accounting officer finance to submit the evidence of recovery within 14 days upon the adoption of this report, Pursuant to Article 226(5) of the Constitution of Kenya 2010 which states that, if the holder of a Public Office or a political office, directs or approves the use of Public Funds contrary to the law or instruction, the person is liable for any loss arising from that use and shall make good, the loss, whether the person remains the office holder or not, the County Executive Committee Member for Finance and Economic Planning initiates the recovery of the amount due to the relevant accounting officer who authorised the irregular insurance expenditures and evidence of the said recoveries be submitted to this Assembly within 90 days upon adoption of this report
3. The Committee Recommends that this matter remains unresolved

(iii) On the issue of debit note No.9877 for Kshs.2, 028,539 which indicated insurance for various vehicles but there was no list of the vehicles for which the premium was paid and that Six (6) debit notes with a cumulative premium value of Kshs.1,084,060 were not supported with copies of certificates of insurance; to which the management responded that they had provided, as at the time of committee deliberations on this matter, copies of the certificate of insurance for Audit review and to which the Committee found that the management indeed availed the insurance certificates for audit verifications;

1. The Committee recommends that this matter is resolved since the insurance certificates were indeed provided and verified by the auditors.

Misclassification of Domestic Travel and Subsistence Expenses

Hon. Speaker, the Auditor General observed that, still under use of goods and services, the balance constituted an amount of Kshs.168,085,892 in respect of domestic travel and subsistence which included a payment of Kshs.641,439 to a travel agent for purchase of air tickets that was misclassified as domestic travel and subsistence.

Management Response

The management responded that the expenditure was incurred to facilitate the Governors travel to USA for Official meeting; however there was no vote in the foreign travel.

Committee Observations

1. The committee notes that the foreign travel was charged on domestic travel vote without requisite regularization by the County Assembly through the supplementary budget.
2. The committee notes that the management violated Article 223 of the Constitution of Kenya 2010 that requires approval of the assembly for such expenditures.

2. Committee Recommendations

1. That the issue is resolved
2. THAT in future, the Accounting Officer must ensure compliance with provision of Article 223 of the Constitution of Kenya 2010.

Irregular Foreign Travel and Subsistence Expenses

Hon. Speaker, under use of goods and services, the Auditor General also observed irregular foreign travel and subsistence expenses in which it was noted that the balance constitutes an amount of Kshs.31,181,771 in respect of foreign travel which includes a payment of Kshs.4,774,172 being shipping charges for a hyacinth harvester donated by the Indian Government on 19th May, 2020 which does not relate to foreign travel. Further, Management did not provide supporting documents showing how the service provider was sourced to undertake the clearing service and whether this cost had been factored in the budget and the procurement plan. The machine had also not been received at the time of payment. Consequently, the accuracy, completeness and validity of the expenditure amounting to Kshs.995,424, 701 under use of goods and services reflected in the statement of receipts and payments for the year ended 30 June, 2020 could not be confirmed.

Management Response

The management responded that the Auditor's observation was true that the Government did not plan for it in the budget nor in the procurement plan. But the County Government of Kisumu was in need of the hyacinth harvester machine which Indian Government offered to donate. The donation was not anticipated as would normally occur but it was a condition of the donation that the shipping charges of Kshs. 4,774,172 be paid before the machine is released and the County Government had to comply or risk losing the donation.

Committee Observations

Hon. Speaker,

1. Despite the explanations on the need for the said machine, the committee observed that the Management failed to provide documents to support Kshs.4,774,172 in respect of shipping charges during the time of audit.
2. There was no evidence of cabinet approvals and County Assembly supplementary

regularization of the expenditure

3. The Management failed to provide supporting documents showing how the service provider was sourced to undertake the clearing service and whether this cost had been factored in the budget and the procurement plan.

Committee Recommendations

Due to the apparent lack of supporting documents for the amount of Kshs. 4,774,172 that relates to shipping charges for the machine in question up to and until the time of committee deliberations, the committee recommends the following;

1. That the Accounting Officer submit to this Assembly supporting documents showing how the service provider was sourced to undertake the clearing services and whether this cost had been factored in the budget and the procurement plan within a period of 90days upon approval of this report
2. That the Accounting Officer submit to this Assembly all the supporting documents for the amount of Kshs . 4,774,172 that relates to shipping charges within a period of 90days upon adoption of this report
3. THAT in future, the Accounting Officer must ensure compliance with Article 223 of Constitution of Kenya 2010, Section 135 of PFM Act 2012 and Regulation 39 of PFM Act (County Government) Regulations 2015 when incurring such expenditures.
4. That this audit issue remains unresolved

Transfer to Other Government Units

Hon. Speaker, the other audit issue raised by the Auditor General was on the matter of transfers to other Government Units. The auditor noted that in Note 14 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.1, 775, 555, 843 in respect of transfer to other government entities. However, the following observations were made:

Misclassification of Expenditure

The balance includes payments to suppliers and contractors totaling Kshs.237,259,339 for various works, goods and services provided. It has been noted that the suppliers and contractors were not government agencies or entities established under the Public Finance Management County Government Regulations Sections 197(1) and 200(1) which set the guidelines for establishment of county funds and county corporations respectively. The payments should therefore have been classified as either use of goods and services or acquisition of assets as opposed to treating it as transfers to other government units. In the circumstances, the financial statements are not fairly stated.

Management Responded: that they had noted the observation of the auditor and the problem/misclassification had been corrected in the subsequent financial statements

Committee Observations: The committee noted that despite claims by the management to have noted the observation, the financial statements were not therefore fairly stated

Committee Recommendations: In the circumstances, the committee recommends;

1. THAT the matter be resolved
2. THAT in future, the accounting officer must ensure that proper classification of expenditures is done to ensure fair representation of the financial statements

Unsupported Transfer to Vocational Training Institutions

Hon. Speaker, under transfer to other Government Units, the Auditor also noted that the balance included, under other current transfers, grants and subsidies, transfers to various vocational training centers amounting to Kshs.23, 460,000. However, there were no acknowledgement letters from recipients or evidence for transfers of Kshs.18, 760,000 to confirm that the institutions received the funds or expenditure returns to ensure that the funds were utilized as planned. Consequently, the accuracy, validity and completeness of the expenditure amounting to Kshs.256, 019,339 included in the transfers to other government units for the year ended 30 June, 2020 could not be confirmed.

Management Responded: That the vocational Institutions received the funds and utilized as planned. Evidence of acknowledgement letters of transfer receipts from the vocational institutions were provided in a table format as illustrated below;

Table 4: Illustration of receipts of funds transferred to VTCs

Name of Institution	Date received	Amount (Kshs)
Ahero VTC	31/01/2020	5,370,000.00

Rotary VTC	31/12/2019	3,750,000.00
Akado VTC	14/05/2020	3,975,000.00
Ahero VTC	07/04/2020	4,995,000.00
Akado VTC	01/07/2020	4,050,000.00
Ahero VTC	01/07/2020	5,070,000.00
TOTAL		27,210,000.00

Committee Observations: During Committee deliberations, the Officers from the Office of the Auditor General indicated that the acknowledgement letters from the recipients or evidence for transfers of Kshs. 18,090,000 during the financial year 2019/2020 and ksh. 9, 120,000 of 1st July 2020 had been provided and confirmed.

Committee Recommendations: In the circumstances, the Committee recommends;

1. THAT the matter is resolved.
2. THAT in future, the management must ensure compliance with Section 21 of Public Audit Act 2015 which gives the Auditor the power to timely obtain documents, information or evidence in the possession of public officers or public bodies for purposes of Audit.

Acquisition of Assets

Hon. Speaker, the Auditor General highlighted a number of audit issues under Acquisition of Assets, in which they observed that note 17 to the financial statements, the statement of receipts and payments reflected a balance of Kshs.1, 116,320,347 under acquisition of assets. The following observations were made;

Unsupported Acquisition of Land

The balance included an amount of Kshs.20, 000,000 relating to acquisition of land. However, the balance differs significantly with the balance of Kshs.32,000,000 verified from other records provided for audit review by Kshs.12,000,000. From these records, the amount was paid for purchase of a thirty-four (34) hectares parcel of land for relocation of the Kachok dumpsite and thus an unexplained difference of Kshs.12,000,000 in the reported balance. Management is yet to obtain ownership documents such as title deed for the land and make use of the site for refuse disposal.

Management Responded; that according to the agreement on acquisition of land for relocation of Kachok dumpsite between Nishad Hassanally Kasam and amp; Shirin Meshindi Mohammed Dahya and the County Government of Kisumu, the department of Lands, Physical Planning and Urban Development was the purchaser, and the amount agreed was 33.5 million on 28/01/2020. The management explained that 32.0 million was paid on 9th February 2022 using 2 vouchers i.e 1st Voucher was 20.0 million and second voucher was 12.0 million and that they attached photocopies of the vouchers which were paid on 9th April, 2020. They indicated that the balance of 1.5million was paid on 9th February 2022 and that they attached copies of the same. The management further indicated that the payment as at then had been completed and the dumping site is operational. The County Government of Kisumu has also acquired the title deed reference No. Kisumu/West Sidho/3233.

Committee Field Verification Visits

A committee visit to the dumpsite in question revealed the following;

1. The land in which the dumpsite is located is only partially fenced
2. Not all the waste taken to the site is biodegradable and sorting of the wastes are done at the site
3. There is generally a poor drainage system within the site

Committee Observations

Hon. Speaker,

1. The Committee observed that the title deed and payment records had been provided to the auditors and verification of the same had been done.
2. The site is operational.

Committee Recommendations:

Hon. Speaker, based on the foregoing findings and committee observations, the committee recommends the following;

1. That this matter is resolved.
2. THAT the Management ensure that the whole parcel of land is fenced before the end of the following financial year (2023/2024) to avoid encroachment
3. That the Management address the poor drainage system within the dumpsite in a period of not more than 3 months

Irregular Off-setting of Expenditure

Hon. Speaker, the Auditor noted that the balance includes a negative amount of Kshs.3,720,601 in respect of rehabilitation and renovation of plant, machinery and equipment which has been set-off in arriving at total value of Kshs.1,116,320,347. Management has not explained what the amount represented and the rationale of setting it off against the amount under acquisitions of the assets in the year under review.

Management Response

The management responded that the negative figure of Kshs. 3,720,601 arose as a result of movement/changes done during supplementary budget. This happens when/budgets are reduced but after line item in this case rehabilitation and renovation of plant, machinery and equipment had been charged. However, it should be noted that this particular occurrence was rectified in the subsequent Financial Statements of FY 2020/2021 and FY 2021/2022

Committee Observations:

1. The committee observed that this was a matter of misrepresentation of the financial statements

Committee Recommendations:

- (i) THAT the matter is resolved.
- (i) That in future, the Accounting Officer must ensure that the financial statements represent a true and fair position of the County Government.

Other Unsupported Expenditure

Hon. Speaker, under acquisition of Assets, the Auditor also noted the following amounts that were not supported:

Table 5: Illustration of unsupported expenditure

No.	Item	Amount (Kshs.)	Documents Not Provided
1	Purchases of Trucks Under Purchase of Vehicles and Other Transport Equipment	32,250,000	Payment Vouchers, Procurement documents and other relevant records.
2	Purchase of a Photocopier, Computers and Other Equipment under Purchase of Office Furniture and General Equipment	631,000	Payment vouchers, Procurement documents and other relevant records.
3	Research Studies, Project Preparation and Design	4,074,929	Payment vouchers, Procurement documents and other relevant records
	TOTAL	36,955,929	

The Management Responded that; The County Government did not submit the supporting documents at the time of the audit because they were in the archive and that they had since been availed to auditors for verification

Committee Observations

1. That the Management failed to provide documents to support the amount of Kshs.36, 955,929 both during the time of audit and as at the time of committee deliberations contrary to the management response.
2. THAT pursuant to Section 27 (3) (d) (ii), (f) & (g) of the County Assembly Powers and Privileges Act 2017, the Accounting Officer wilfully lied to and misled the Committee that despite not providing the documents during the time of audit, they had provided them for verification as at the time of committee deliberations on this matter.
3. The Accounting Officer was under oath as at the time of lying to the Committee that the documents had been submitted to the Office of the Auditor General

Committee Recommendations

1. THAT the Accounting Officer Finance and Economic Planning submit to this Assembly through the Office of the Auditor General, the documents supporting the expenditures of the Kshs. 36, 955, 929 in a period of not more than 14 days upon adoption of this report.
2. THAT failure by the Accounting Officer to submit the supporting documents in (1) above, by a copy of this report, the matter be automatically referred to the Ethics and Anti-Corruption Commission for further investigations for possible loss of public funds amounting to Kshs. 36, 955, 929
3. That the Ag. Chief Officer Finance & Economic Planning, Mr. Wilson Abiero, is hereby fined a total sum of Kshs. 400,000 Pursuant to Section 27(4) of the County Assemblies Powers and Privileges Act 2017, to be deducted from his monthly salary and allowances due to him effective the end of June 2023 for wilfully misleading the Committee on the provision of required documents for audit with reference to the unsupported payments of Kshs. 36, 955, 929. This Section of the law provides that a person that commits such an offence is liable for a fine of not more than five hundred thousand or a term of imprisonment not exceeding one year or both such fine and imprisonment.
4. THAT this matter remains unresolved;

Irregular Payment for Renovation of Deputy Governor's House

Hon. Speaker, the Auditor General noted that during the year under review, management spent Kshs.5, 000,000 for the renovation of the deputy governor's house. However, the Bills of Quantities were not signed, had no preparation date and tender reference numbers. The contract agreement did not disclose the contract timeframe and the contract amount. It was noted further, that the works done under payment certificate number One (No. 1) dated 17 June,2019 amounting

to Kshs.5,000,000 was not supported by an inspection and acceptance report and letter of appointment of the inspection committee. There was no document provided to support certified works and hence it was difficult to confirm the extent of the works which were done while the tender advert, regret letters and other procurement documents were not availed for audit review.

Management responded that; the information required by the auditors could not be responded to adequately because the file in question was amongst the files and documents burnt at the department of Lands, Housing, Physical Planning and Urban Development.

Committee observations

1. The relevant documents to support the issues raised by the auditor on the matter of renovations done were not provided for verification.
2. The management indicated that the supporting documents were burnt. However, this could not be verified
3. There are other several avenues through which the management could have used to acquire the supporting documents.
4. It was observed that even if the documents were burnt at the department of Lands, Housing and Physical Planning as alleged by the management, other copies of the said documents could still be accessed from the paying department of Finance and Economic Planning, or from the contractors
5. The committee observed that this was just but an indication of apparent refusal by the management to provide the documents for audit contrary to Section 21 of the Public Audit Act 2015
6. THAT the Accounting officer of Finance and Economic Planning violated Section 62 (1) (b) of the Public Audit Act 2015 which states that a person shall not without justification fail to provide information required under this Act

Committee Recommendations

1. THAT the accounting officer provides the said supporting documents from the Finance and Economic Planning department within 14 days upon adoption of this report failure to which he be held liable in line with article 226 (5) of the Constitution of Kenya, 2010 which provides for personal liability for an accounting officer in case of loss of public funds.
2. THAT failure to provide the documents within 14 days as indicated above, and Pursuant to article 226 (5) of the Constitution of Kenya 2010 which stipulates for direct personal liability for an accounting officer in case of loss of public funds, the Committee recommends that the County Executive Committee Member for Finance and Economic Planning initiates recovery of ksh.5, 000, 000 spent on the alleged renovations from then Accounting Officer Finance and Economic Planning, who authorised the said expenditure

and a report on the same be submitted to the County Assembly within 90 days upon adoption of this report.

3. THAT the matter remains unresolved

Cash and Cash Equivalents

Hon. Speaker, the Auditor General observed that the statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.1,890,874,366 which constitutes a bank balance of Kshs.1,890,819,766 and cash balances of Kshs.54,600 from which the following observations were made:

- (i) As listed in Note 21A to the financial statements, the balance includes bank balances of Kshs.1,890,819,766 which comprised of fifty-three (53) bank account balances. However, the cashbooks and bank reconciliations for twenty-four (24) of the bank accounts totaling to Kshs.260,758,079 were not provided for audit review.

The management responded that; the observation by the auditor is true. However, the situation had changed and all the cashbooks and bank reconciliations for the subsequent financial years had been provided for audit review as reported

The Committee observed that the Management failed to provide the cashbooks and reconciliations that were requested by the auditors.

The Committee recommends that; the issue remains unresolved and that the Accounting Officer submit to this Assembly the Cashbooks and Reconciliations within a period of 90 days upon adoption of this report

- (ii) The balance includes two deposit account balances held in Co-operative Bank and Commercial Bank of Kenya with unrepresented cheques amounting to Kshs.23,716,953 and Kshs.9,764,398 respectively, which were stale and had not been reversed in the respective cashbooks.

The management responded that; the observation by the auditor is true. However, the stale cheques had since been reversed

The Committee observed that; the details of unrepresented cheques were not been provided
The Committee recommends that; the issue remains unresolved and that the Accounting Officer submit the details of the unrepresented cheques within a period of 90 days upon adoption of this report.

- (iii) The County Executive had sixteen (16) bank accounts which were dormant and had nil balances as per the bank statements as at 30 June, 2020 but no evidence was provided to explain why the Management continued to maintain the accounts which are not operational. Bank balance certificates for these bank accounts were also not availed for audit review.

The management responded that; the observation made by the auditor at the time of audit is true. However, the accounts had since been closed

The Committee observed that; evidence of closure of the accounts were provided
The Committee recommends that issue is resolved

- (iv) Cashbooks, bank reconciliations, board of survey and certificate of bank balances for eighty-three (83) bank accounts operated by the health facilities in the county were not provided for audit review and the account balances for these banks were not included in the financial statements.

The management responded that; the observation made by the auditor at the time of audit was true. However, the documents had been delivered to the Office of the Auditor General for review. And further that the primary health facilities are not collecting cash or charging fee for service due to the agreement between the Danish Government and the Government of Kenya which provides donor funding (DANIDA) as user fee and therefore the primary health facilities are exempted from charging user fees and that the board of survey form may apply in this case.

The Committee observed that; Sampled cashbooks from Health Centres were confirmed by the auditors
The Committee recommends that the issue is resolved

- (v) Further, the bank balances in the following bank accounts held by the County Executive of Kisumu were not disclosed;

Table 6: Bank accounts held by County Executive whose balances were not disclosed to the Auditors

No.	Account Name	Bank
1.	Covid 19 response Kisumu County	SBM bank
2.	Jaramogi Oginga Odinga Teaching and Referral Hospital	KCB
3.	Jaramogi Oginga Odinga Teaching and Referral Hospital –Retention	KCB

The Management did not respond on this issue.

The Committee recommends that the issue remains unresolved and that the Accounting Officer submit to this Assembly certified bank balances of the three accounts as at 30th June 2020 within a period of 90days upon adoption of this report.

- (vi) Payments in the bank but not yet recorded in the cashbooks amounted to Kshs.9,257,620 for Kisumu County Deposit account as per the bank reconciliation statement provided. There were no explanations on why the transactions were not posted to the cashbooks. The county did not also maintain a cheque register for tracking the movement of cheques issued.

The management responded that; the observation by the auditor was true but the same had since been posted in cashbook

The Committee recommends that; the issue is resolved. However, the committee further recommends that going forward, the Accounting Officer must ensure regular update of the cashbook and reconciliation as required by Section 90 of the Public Finance Regulations 2015

- (vii) During the year under review, three bank accounts namely, Kenya Urban Support Program account, Kisumu Devolution Support Program account and Covid-19 Response account were opened but the letters of authorization to open the accounts were not submitted to the Office of the Auditor-General and Controller of Budget as stated in Regulation 82(5) of the Public Finance Management (County Governments) Regulations, 2015.

The management responded that; It is true that the letters of authorization to open those accounts were not provided at the time of audit and that the same were provided at the time of deliberations

The Committee observed that the letters of authorization to open the bank accounts were yet to be provided even at the time of Committee deliberations

The Committee recommends that; the issue remains unresolved and that the Accounting Officer submit to this Assembly the evidence of submitting the letter authorizing the opening of the above accounts to the Auditor General and the Controller of Budget as required by Section 82(5) of the Public Finance Management Regulations, 2015, within a period of 90days upon adoption of this report.

- (viii) The cash balances amounting to Kshs.54,600 as at 30 June, 2020 were held at four locations. However, no board of cash survey certificates were provided for audit review.

The Management failed to respond on this issue

The Committee recommends that; the issue is resolved. However, the committee further recommends that going forward, the Accounting Office must ensure that Board of Survey is done and Cash Survey Certificate is kept to support the balance reported in the financial statements

Inaccuracies in the Statement of Cash Flows

The statement of cash flows reflects an increase in accounts receivables of Kshs.96,635,084 which differs significantly with the actual movement in accounts receivables of Kshs.668,515,761 which was a decrease from Kshs.783,346,771 as at 30 June, 2019 to Kshs.114,831,010 as at 30 June, 2020 as per the statement of assets and liabilities. Consequently, the accuracy of the statement of cash flows could not be confirmed.

Management Response: The figure of Kshs. 96,635,084 represented as increase in accounts payables was erroneous and was corrected in the financial statement 2020/2021 under note 16 (Prior year adjustments)

Committee Observations: There was no evidence of prior year adjustments that was provided for verification

Committee Recommendations:

1. That the Accounting Office submit to this Assembly evidence of prior year adjustments within a period of 90days upon adoption of this report
2. THAT going forward, the management must ensure that the financial statements represent a true and fair position of the County Government.
3. THAT this matter remains unresolved.

Unsupported Accounts Payables - Deposit and Retentions

The statement of assets and liabilities reflects accounts payables – deposits and retentions balance of Kshs.27,768,566. However, no schedule was provided for audit review to confirm the entities or firms that the amounts related to. It was not possible to confirm that the payments had been made after year end for projects that had been handed over and the retention period lapsed as there was no record of the same. Consequently, the propriety, accuracy and completeness of the accounts payables – deposits and retentions balance of Kshs.27,768,566 as at 30 June, 2020 could not be confirmed.

Management Response: The schedule of Kshs. 27,768,566 supporting the figure relating to deposits and retentions have been provided

Committee Observations: The Management failed to provide the schedules on retentions and deposits during the time of audit. The schedules have since been provided and confirmed by the auditor

Committee Recommendations: That the issue is resolved.....

(Hon. Were rises on a Point of Order)

The Speaker (Hon. Oraro): Hon. Were. Just a minute Honourable Kennedy. Yes Honourable James Were, what is your Point of Order!!

Hon. Were (MCA, Nyalenda “B” Ward): Thank you Mr. Speaker. Mr. Speaker, there is no quorum in the House.

The Speaker (Hon. Oraro): Honourable Members, Hon. James Were is raising an issue that there is no quorum. Is the Chief Whip in the House? Maybe you can count the number of members in the House and inform me whether there is quorum or not.

The Chief Whip (Hon. Obonyo MCA, South West Kisumu Ward): Thank you Mr. Speaker, there is no quorum.

The Speaker (Hon. Oraro): Honourable Members, I want to refer you to the provisions of Kisumu County Assembly Standing Order No. 33 (1) which stipulates that;

“if at any time a chair is taken or when the County Assembly is in committee, a Member objects that there is not a quorum present, The Speaker or he Chairperson shall count the County Assembly or the Committee as the case may be and;

“If on the count under paragraph (1) does not appear to be present, the Speaker or the Chairperson shall cause the Division Bell to be rung as on a Division, and if no quorum is present at the expiration of the eight minutes”

“If the Speaker is in the Chair, the Speaker shall adjourn the County Assembly until the next sitting without question put; and

The Speaker (Hon. Oraro): Honourable Members, based on the referred order, I therefore, want to request the Serjeant-at-arm to ring the quorum bell for eight minutes. Hon. Members when the quorum bell is being rung no Member is permitted to move out.

(Quorum bell being rung)

The Speaker (Hon. Oraro): Yes, Whip can you confirm if we have quorum.

Deputy Whip (Hon. Obonyo, MCA, South West Ward): Mr. Speaker, there is still no quorum in the House.

The Speaker (Hon. Oraro): Honourable Members, I want to refer to the provisions of Kisumu county Assembly Standing Orders No 33 (2) (a) which states that;

“If on the account that the quorum does not appear to be present, the Speaker shall call the division bell to be rung as on division and if no quorum is present at the expiration of the eight minutes. If the speaker is in the chair, the Speaker shall adjourn the County Assembly until next sitting without question put”.

ADJOURNMENT

The Speaker (Hon. Oraro): Honourable Members, therefore as per the provisions of the stipulated Standing Orders, the House stands adjourned to Tuesday, 13th June 2023 at 2.30 p.m.

(House rose at 04.56 p.m.)

Addendum

The Hansard Team

Zablon Otiende – Senior Hansard Reporter (Ag. Editor)

Edward Odanga – Hansard Reporter

Fanuel Okode – Hansard Reporter

Patrick Okoyo – Hansard Reporter

Jacklyne Otieno – Hansard Reporter

Jesca Otieno – Hansard Reporter

Vallery Achieng’ – Hansard Reporter