

REPUBLIC OF KENYA



KENYA NATIONAL AUDIT OFFICE

**REPORT
OF
THE AUDITOR–GENERAL
ON THE
FINANCIAL OPERATIONS
OF
EMBU COUNTY**

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SPECIAL AUDIT REPORT ON THE OPERATION OF EMBU COUNTY GOVERNMENT AND THE FORMER COUNCILS FOR THE PERIOD 1 JANUARY TO 30 JUNE 2013

EXECUTIVE SUMMARY

1.0 Introduction

1.1 The Auditor General has the mandate to audit and report on the accounts of the National and County Governments under Article 229 of the Constitution and Public Audit Act, 2003. Further, the County Government Act, 2012 replaced the Local government Act Cap 265, thus effectively dissolving all the 175 local Authorities and creating 47 County Governments.

1.2 According to Transition to Devolved Governments Act, 2012, after the general election on 4 March 2013, the functions, assets, liabilities and staff of the former Local Authorities were to be taken over by the County Governments. The objective of the special audit exercise was to ensure existence of a seamless transition process and proper systems for accountability of public resources before, during and after transition to County Governments

2.0 Audit objectives

The audit covered the Embu County Executive, County Assembly, and former Municipal Council of Embu, Former County Council of Embu, Former Municipal Council of Runyenjes and former County Council of Mbeere transactions for the period 1st January to 30th June, 2013 and took into account transactions before, during and after the transition period. The terms of reference set for the audit included verifications and confirmations of transactions in respect to but not limited to the following areas:

- Taking over of the former Local Authorities

- Cash and bank balances
- Current debtors and suppliers balances
- Motor vehicles and office equipment
- IPPD Payroll and establishment
- ICT and G-pay system
- Recurrent and development expenditure items
- Procurement and procurement procedures

2.1 The audit teams faced several constraints during the audits, including delay in getting various documents and non-availability of key staff of the former Local Authorities. These constraints resulted in delay in concluding the audits within the planned timelines

3.0 Key Audit Findings

Embu County Executive and County Assembly

3.1 Failure to take over the Defunct Local Authorities

The County Government of Embu had not officially taken over the assets and liabilities of the former County Council of Embu, the former Municipal Council of Embu, Former Municipal Council of Runyenjes and former County Council of Mbeere as at the time of audit conclusion on 27 September 2013, contrary to instructions issued by the Ministry of Local Government vide Circular No. MLG/1333/TY/52 of 18th February, 2013. Arrangements should be made by Transition Authority to have assets and liabilities of the former County Councils handed over to the County Government.

3.2 Current Assets and Liabilities

(i) Cash and Bank Balances

The Embu County Government opened an account on 9 May 2013 for receiving LATF bank balances from the defunct Local Authorities. The account had a credit balance of Kshs.136,526 as at 26 September 2013. However, the amount had not been swiped to the County Exchequer Account as was expected. The account should be closed and the funds transferred to the Embu County Government Exchequer Account.

(ii) Current Debtors

The County Government of Embu did not validate or consolidate its debtors, especially those from defunct local authorities under Embu County which totaled Kshs.249,171,824. Appropriate systems for recording debtors by the County Government should be developed in order to ensure accuracy of records. Also, debt collection policy should be put in place to facilitate collection of County debts as and when they fall due.

(iii) Current Creditors

Unpaid bills as at 30 June 2013 were Kshs.2,142,573 while Local Purchase Orders (LPOs) raised and unpaid amounted to Kshs.4,824,500, giving a total of Kshs.6,967,073. LPO's raised for goods worth Kshs.3,963,677 had not been issued to the suppliers as at the time of audit on 11 September 2013.

Creditors from defunct local authorities totaling Kshs.96,465,358 should be consolidated so as to give the correct position of outstanding creditors. The creditors should be promptly recorded in a ledger indicating particulars of each creditor and the same updated on a regular basis.

3.3 Fixed Assets-Motor Vehicles and Office Equipment

There was no proper taking over of motor vehicles and office equipment from the defunct Local Authorities. A master assets register incorporating all the motor vehicles and office equipment valued at Ksh.83,613,570 inherited from the defunct Local Authorities and equipment and motor vehicles bought by the County Government had not been opened.

The County Government should ensure that a master Fixed Assets Register is maintained which should clearly indicate the locations of the equipment and motor vehicles. Ownership documents for all vehicles should also be obtained.

3.4 Revenue Collection

During the period 21 May 2013 to 30 June 2013, the County Government collected revenue totaling to Kshs.21,401,938. However, no Receipts Cash Book was maintained while Revenue Collection Control Sheets were not checked by a senior official. Funds totaling to Kshs.5,374,843 were not transferred from bank accounts of the Defunct Local Authorities. The County Government should ensure that a receipts cashbook is maintained where revenue collected is promptly recorded and strong internal control system put in place to ensure proper accountability of revenue at every stage in the revenue collection cycle.

3.5 Procurement of Goods, Works and Services

(i) Procurement and Contract Management

The County Government received Kshs.61,592,200 from Transition Authority on 23 April 2013, for refurbishment and furnishing nonresidential premises and purchasing Hansard for County Assembly.

Kshs.25, 265,945 was spent on repair works at the Town Hall and Probation Offices using three different contracts. Two contracts costing Kshs.15,867,421 were awarded to a contractor sourced through restricted tendering method of procurement but which was not registered by Ministry of Public Works. This was contrary to section 89(3) b of the Public Procurement and Disposal, Act 2005.

(ii) Irregular Reallocation of Funds

A generator (30KVA 3 phase) costing Kshs.3,850,000 included in the Bills of Quantities (BQs) for repair works at Probation offices was not installed but instead, the funds were utilized for extra works not in the BQs. These extra works were undertaken at Town Hall, under construction of conference room and partitioning of offices. These were two different contracts awarded to the same contractor and, it was not clear why funds were reallocated from one contract to the other. Further, no prior authority for the reallocation was sought as required by the Government Financial Regulations and Procedures.

(iii) Lack of Formal Contracts

There were no formal contracts executed between the three Contractors and the Client, for the three contract namely Construction of conference room and partitioning of offices in Embu Town Hall, Refurbishment of Embu Probation Office to house the Governor and Re-roofing of Town Hall and improvement of exiting sentry respectively. This was contrary to Section 68 of Public Procurement and Disposal Act, 2005.

(iv) Unregistered Sub-Contractor

A Sub-Contractor undertook further works related to electrical installations, Closed Circuit Television installation and plumbing works all valued at Kshs.2,402,500 yet the contractor was not registered under any category as per the list from Ministry of Public Works.

(v) Refurbishment of Embu County Council Hall to House County Assembly

The Embu County Tender Committee awarded a contract for refurbishment of Embu County Council Hall to house the County Assembly at a contract price of Kshs.33,315,826. The contractor was sourced through a restricted procurement method involving a list of seven registered contractors. However, only the Contractor who was awarded the contract was in the list provided by the Ministry of Public Works. The tender was irregularly awarded to the Contractor since the other six competing firms were not in the list of registered contractors provided by Ministry of Public Works. The project was to be completed by 9 September 2013, but physical verification carried out on 10 September 2013 revealed that the works were about 90% complete. A generator acquired at a cost of Kshs.5,499,432 had not been commissioned. According to the bills of quantities, the existing power line at the County Assembly was to be upgraded from single phase to three phase at a cost of Kshs.540,000, but this had not been done as at 10 September 2013. There was no evidence availed for audit review to show that extension period had been sought by the Contractor and granted.

The County Government should ensure that all future procurements of goods, services and works are done in accordance with the requirements of the prevailing procurement procedures as stipulated by the Public Procurement and Disposal Act, 2005.

3.6 Implementation Status of Integrated Financial Management Information System (IFMIS) and G-Pay

As at the time of conclusion of the audit on 27 September 2013, the IFMIS installed at the County was not operational due to lack of connectivity to the internet, although staff had been trained on usage of the system. All payments are currently being done manually by

use of cheques, a system which the Government intended to abolish by adopting IFMIS and G-Pay system to improve financial management and accountability. Action should be taken to address connectivity problem which is hindering usage of the two systems, and which if fully implemented will improve financial management within the county.

3.7 Information Technology (IT) Control Environment

Assessment made on how the County Government of Embu has put in place structures to govern and manage its information systems revealed the following weaknesses amongst others:

- The County has one (1) data center (server room) at the Embu County Headquarters and physical inspection of the data center indicated that the room is not a restricted area and therefore easily accessible to unauthorized persons, the server is exposed to over-heating and there's no air-conditioning system to control the temperatures, there are no fire extinguishers and smoke detectors and there were combustible materials e.g. cartons, in the room and this exposes the server room to fire
- There is Local Area Networks (LAN) at the County headquarters, at the County Assembly and at Mbeere sub county office. The county also has a fiber optic connection between the county headquarters, Governor's office and Deputy Governor's office. There's however no wide area network to connect to Mbeere and Runyenjes sub-county offices
- The county has received personal computers to be used for IFMIS and officers have since been trained. The personal computers that have been installed with IFMIS will use Orange CDMA Modems to connect to IFMIS through the Treasury's Virtual Private Network (VPN). According to ICT manager, the orange connectivity within the region is reliable but IFMIS is not yet

operational. There was no satisfactory explanation given for the delay in using IFMIS despite uploading the 2013/2014 budget estimates in the system.

- Review of the installed LAIFOMS revealed Weak logical access controls
- Analysis of the user set-up in LAIFOMS at Mbeere sub-county office indicated that segregation of duties had been compromised as the users had been granted conflicting roles.

In order to mitigate the risks, the County Government should develop and approve the key ICT documents that ensure proper management of IT operations. The County may consider having a wide area network (WAN) that connects all the sub-counties with the county headquarters so as to ensure that operations are centrally managed.

3.8 Irregular Payment of Allowances

i) Subsistence Allowance

Subsistence allowance of Kshs.81,500 was paid to a non-employee of the former local Authorities or Embu County Government. The irregularly paid amount should be recovered from the accounting officer who knowingly authorized the payment.

ii) Sitting Allowances

County Executive Committee Members were irregularly paid sitting allowances totaling Kshs.366,000. The amount irregularly paid should be recovered from the County Executive Members.

Members of the County Assembly (MCS) were paid allowances totalling Kshs.500,240 on 17 June 2013 categorised as sitting allowances of Kshs.240,000, transport allowance of Kshs.60,000 and meal allowance of Kshs.90,000. These allowances were requested on the grounds of public budget hearing held within the County. The allowances were paid based

on night out rates instead of stipulated sitting allowances rate. The MSC also claimed meal allowances, thus resulting to double payment of allowances. The irregularly paid allowances should be recovered from the respective members of the county assembly.

3.9 Other Findings

(i) Maintenance of Essential Accounting Records at the Transition County Treasury

Examination of expenditure totaling Kshs.154,448,911 disclosed that proper payment vouchers, vote books, cash books and expenditure ledgers were not maintained. The County Government should recruit qualified staff and ensure that essential accounting records are maintained as required by the Government Financial Regulations and Procedures.

(ii) Unaccounted for Expenditure

During the period March to June 2013, the Embu County Government received funds totalling Kshs.206,156,942 from the National Government to enable it meet its obligations, spent Kshs.156,025,903 while Kshs.50,131,039 not yet committed was returned to the Central Bank of Kenya (CBK) on 2 July 2013. The expenditure figure includes Kshs.1,576,991 not supported with any documentation.

(iii) Outstanding Imprest

The County Government of Embu held imprests totalling to Kshs.3,600,000 at 30 June 2013 for office use. No explanation was given for failure to surrender the imprests as at the closure of the financial year as required by Government Financial Regulations and Procedures. The County Government should ensure that imprests issued are surrendered or accounted for before the closure of the financial year.

(iv) Unauthorized Reallocation of Voted Funds

The County Government paid Kshs.12,196,659 on 17 June 2013 for supply of a new Toyota Prado for the Governor. The cost of Kshs.12,196,659 exceeded the authorized budgetary provision of Kshs.10,000,000 by Kshs.2,196,659 or about 22%. The excess expenditure was irregularly charged to travelling and subsistence allowance. Accounting Officer should be surcharged for the extra cost of the vehicle. The County Government should operate within the budgetary provisions or seek approvals for reallocation of funds.

(v) Un Supported Expenditure

The County Assembly spent Kshs.4,053,445 for payment of sitting, meals & travelling allowances and the expenditure charged under subsistence and travelling allowances. The expenditure was not supported by relevant documentation like motor vehicle work tickets, bus tickets, workshop invitation letters and head of departments' approvals to justify the payments. The County Assembly should ensure that future expenditure of any nature is supported with the relevant documentation.

Defunct Municipal Council of Embu

3.10 Audit Findings

Improper Handing Over to Transition Authority/County Government

There was no proper handing over of the former Municipal Council of Embu assets and liabilities to the Transition Authority as required by the Ministry of Local Government Circular No. MLG/1333/TY/52 of 18 February, 2013. As result, the County Government had no records of assets and liabilities owned by the former Municipal Council as well as other outstanding debts. The Transition Authority should arrange for proper handing over of assets, liabilities and staff of the former Municipal Council to the County Government to enable the County Government have a basis of opening balances to be reflected in its books of account.

3.11 Current Assets and Liabilities

(i) Cash and Bank Balances

(a) Closure of bank accounts

The defunct Municipal Council of Embu, operated eleven (11) bank accounts which were maintained in various commercial banks. According to a letter reference EBU/TA/ADMI/4/8 of 15 May 2013, from the Interim County Secretary, the banks accounts which were to be frozen on 28 February 2013 were closed between 16 May and 12 July 2013, after being in operation without change of bank signatories. This was contrary to County Governments Public Finance Management Transition Act, 2013. The County Government should ensure that instructions and directives issued from time to time are adhered to.

(b) Failure to Maintain Receipt Cashbooks

The Council did not maintain physical receipts cashbooks but instead relied on LAIFOM revenue analysis. Consequently, no bank reconciliations were prepared. The County Government should ensure cashbooks are maintained and balanced daily as required by the Government Financial Regulations and Procedures.

(ii) Current Debtors Balances

The list of current debtors availed for audit reflected outstanding plot rent and rates totaling Kshs.79, 252,060 as at 28 February 2013. However, the amount disclosed in the statement of assets and liabilities as at 28 February 2013 was Kshs.138,680,603, resulting to unreconciled difference of Kshs.59,428,543. Appropriate systems for recording debtors by the County Government should be developed to ensure accuracy and completeness of records. Also, debt collection policy should be put in place to facilitate collection of County debts as and when they fall due.

(iii) Current Creditors Balances

The Council did not maintain the creditors' ledger and hence it was not possible to ascertain accuracy and validity of creditor's balance of Kshs.81,531,981 handed over to the County Government. The creditors should be promptly recorded in a ledger indicating particulars of each creditor and the same updated on a regular basis. Also, creditors handed over from the former Council should be validated and confirmed before making payments.

3.12 Fixed Assets

Vehicles without Logbooks

Ownership documents for five (5) vehicles valued at Kshs.3,496,000 were not produced for audit verification and confirmation. The whereabouts of the five logbooks should be established and if found lost, efforts should be made to obtain duplicate copies from the Kenya Revenue Authority.

3.13 Staff Payroll Records

Overpaid Leave Allowances

The Council overpaid leaves allowances totaling Kshs.1,391,520 to staff members during the period under review. The overpaid leave allowances should be recovered immediately.

Irregular Payment of Non Practicing Allowance

The Council paid non practicing allowances totaling Kshs.120,000 to some four (4) members of staff who did not qualify for payment since there was no evidence they had practicing certificates from ICPAK's registration Committee. The payment of non-practicing allowance should be stopped forthwith until the officers produce valid practicing certificates.

Defunct County Council of Embu

3.14 Improper Handing Over to Transition Authority/County Government

There was no proper handing over of the former County Council of Embu assets and liabilities to the Transition Authority as required by the Ministry of Local Government Circular No. MLG/1333/TY/52 of 18 February, 2013. The Transition Authority should arrange for proper handing over of assets, liabilities and staff of the former County Council to the County Government to enable the County Government have a basis of opening balances to be reflected in its books of account.

3.15 Current Assets and Liabilities

(i) Cash and Bank Balances

(a) Closure of Bank Accounts

The defunct County Council of Embu operated seven bank accounts (7) in various commercial banks. Three (3) of the accounts were disclosed in the statement of assets and liabilities while the remaining four (4) were not. However, none of the accounts was closed on 28 February 2013. The G.R.F and LATF accounts both maintained at the Kenya Commercial Bank had a balance of Kshs.321,057 and Kshs.4,574,672 as at the time they ceased operations but there was no evidence that the funds were swiped to the County Government exchequer.

The Transition Authority should ensure that all bank accounts are closed and balances transferred to the County Government exchequer account.

(b) Unsupported withdrawals

Withdrawals totaling Kshs.45,851,544 were made from the County Council bank accounts between 1 March to 4 June, 2013 but were not supported by payment vouchers. It was not possible to confirm propriety of the expenditure. Investigations should be carried out to establish how the unsupported withdrawals totaling to Kshs.45,851,544 were utilized.

(c) Failure to maintain Receipt Cash books

The former County Council did not maintain physical cashbooks but instead relied on LAIFOM revenue analysis. Consequently, no bank reconciliations were prepared. The County Government should ensure that receipt cash books are maintained and balanced on daily basis.

(ii) Current Debtors Balances-Plot Rents and Rates

Outstanding plot rent and rates totaled Kshs.4,458,587 as at 28 February 2013, but the balance was not disclosed in the statement of assets and liabilities submitted to the Transitional Authority. An appropriate system for recording debtors should be developed to ensure accuracy of records. Also, debt collection policy should be put in place to facilitate collection of County debts as and when they fall due.

(iii) Current Creditors balances

The list of creditors made available for audit indicated a sum of Kshs.390,260 as outstanding as at 31December 2012. The list did not include audit fees of Kshs.600,000 which had been outstanding since 2012. The County Government should ensure that audit fee due is paid without further delay.

3.16 Fixed Assets

(i) Motor Vehicles and Office Equipment

The former County Council of Embu had eight (8) motor vehicles valued at Kshs.7,300,000 in its establishment as at 30 June, 2013. Only nine (9) logbooks were produced for audit confirmation of ownership. Motor vehicle registration KUL 321 a lorry, was omitted in the statement along with three (3) trailers and were not seen during the physical verification. The missing vehicles should be reported to the police for investigations and possible prosecution of the officers who might have occasioned loss of Council property.

(ii) Office furniture and Equipment

The office furniture and equipment valued at Kshs.1,500,000 included in the statement of assets and liabilities submitted for audit could not be traced during the physical verifications as no inventory/fixed assets register was maintained. Efforts should be made to trace the furniture and equipment which were located at the County Hall, the current County Assembly.

3.17 Revenue Collections-Under banking of Revenue

Revenue amounting to Kshs.16,190,052 was collected by the Council from 1 January to May 2013, but only Kshs.1,961,222 was banked, leaving unaccounted for difference of Kshs.14,228,830. Internal control systems should be improved to ensure prompt recording of revenue to include checking of the records by senior officers in rotation to ensure accuracy and prompt surrender of revenue and daily reconciliations of collections and banking.

3.18 Staff Payroll

i) Undisclosed Salary Arrears

The former Council had outstanding salary arrears totaling Kshs.3,467,628 as at 30 June 2013, arising from implementation of new Collective Bargaining Agreement in September 2012. The arrears were paid on 12 March 2013 but no disclosure had been made in the statement of assets and liabilities as at 28 February 2013.

ii) Irregular payment of non-practicing allowance

The former Council paid non-practicing allowances totaling Kshs.90,000 to some members of staff who did not qualify for payment as there was no evidence to show they had practicing certificates from ICPAK's registration committee. The payment of non-practicing allowance was irregular and should be stopped forthwith until the officers produce valid practicing allowances.

3.19 Other Audit Observations

i) Local Authorities Transfer Fund (LATF)

LATF disbursement for 2012/2013 amounting to Kshs.30,104,129 were not utilized on planned and approved projects but was apparently diverted to recurrent expenditures. Funds earmarked for projects should always be utilized for the intended purposes.

ii) Unsupported Allowances

The Council spent Kshs.3,028,640 between January 1 to 28 February 2013 on subsistence and travelling allowances. The allowances were paid through various payment vouchers processed in favour of the County Cashier but which were not supported with any documentation for confirmation of validity of the journeys undertaken. Efforts should be made to ensure that payments made are fully supported.

iii) Irregular Payment of Tuition Fees

The council paid tuition fees for some officers undertaking various courses and charged them as council expenditure without an approved supplementary estimate, instead of advancing the officers the tuition fees so as to be recovered in twelve equal installments after which the officers could claim for a refund for examination passed. Future payment of tuition fees should be based on budgeted amount.

iv) Un Vouched Expenditure

The former County Council incurred an expenditure of Kshs.21,635,648 between 1 March and 21 May 2013 which could not be verified due to non-availability of payment vouchers. Payment of any kind should be supported with payment vouchers for proper accountability of public funds.

Defunct Municipal Council of Runyenjes

3.20 Improper Handing Over to Transition Authority/County Government

There was no proper handing over of the former Municipal Council of Runyenjes assets and liabilities to the Transition Authority as required by the Ministry of Local Government Circular No. MLG/1333/TY/52 of 18 February, 2013. As result, the County Government has no records of assets and liabilities owned by the former Municipal Council of Runyenjes as well as other outstanding debts. The Transition Authority should arrange for proper handing over of assets, liabilities and staff of the former Municipal Council to enable the County Government have a basis of opening balances to be reflected in its books of account.

3.21 Current Assets and Liabilities

(i) Closure of Bank Accounts

The former Municipal Council of Runyenjes operated nine (9) bank accounts in various commercial banks which were closed on 12 June 2013 in total disregard of the County Governments Public Finance Management Transition Act, 2013.

(a) Handing over of Cash and Bank

Cash and cash equivalents handed over as at 28 February 2013 was shown as Kshs.1,489,717. However, bank reconciliation statements reflected cash equivalents of Kshs.1,926,031 creating un-reconciled difference of Kshs.436,314. The variance should be reconciled. The County Government to ensure that reconciliations prepared are checked and confirmed with senior officials.

(ii) Debtors

The Council handed over debtors totaling Kshs.120,208,801 to the County Government. It however did not maintain an updated debtors Ledger to record movements of debtors, and in particular plot rent/rates with a balance of Kshs.110,676,567. An appropriate system for recording debtors should be developed to ensure accuracy and completeness. Also, debt collection policy should be put in place to facilitate collection of County debts as and when they fall due.

(iii) Creditors

The statement of assets and liabilities as at 28 February, 2013 for the former Council reflected creditors of Kshs.25,208,801 handed over to the County Government. The Council did not maintain an updated creditor's ledger to record creditors transactions neither did it circularize the creditors to confirm the balances. The council paid creditors amounting to Kshs.50,906 after 28 February 2013 without a proper explanation. No

Creditors should be paid without properly establishing that a service/good was rendered /supplied to the Council.

3.22 Fixed Assets

The former Municipal Council of Runyenjes handed over assets valued at Kshs.210,314,550, the valuation having been done in February 2012. The assets included land and buildings, motor vehicles, office equipment and furniture. However, the Council did not maintain a comprehensive Fixed Assets Register to record council assets including Land. The County Government should ensure that a proper system for recording fixed assets is put in place to safe guard the assets.

3.23 Revenue Collection

The revenue collected and banked by the Council from 1 March 2013 to 30 April 2013 amounted to Kshs.7,269,310. Revenue collected amounting to Kshs.842,549 had been spent directly/before banking. Proper systems should be put in place to ensure that all revenue collections are banked intact.

3.24 Other Findings

(i) Expenditure incurred by the former Council without an approved budget

The former Council/County Government spent Kshs.3,975,388 between March and June 2013 without an approved budget, contrary to Section 8(2) (c) of the County Governments Public Finance Management Transition Act, 2013. No expenditure should be incurred without an approved budget.

Defunct County Council of Mbeere

3.25 Improper Handing Over to Transition Authority/County Government

There was no proper handing over of the former County Council of Mbeere assets and liabilities to the Transition Authority as required by the Ministry of Local Government Circular No. MLG/1333/TY/52 of 18 February, 2013. As result, the County Government has no records of assets and liabilities owned by the former County Council of Mbeere as well as other outstanding debts. The Transition Authority should arrange for proper handing over of assets, liabilities and staff of the former County Council to enable the County Government have a basis of opening balances to be reflected in its books of account.

3.26 Current Assets and Liabilities

(i) Cash and Bank Balances

(a) Closure of Bank Accounts

The former Council closed three accounts between 25 and 26 June 2013, leaving five banks accounts active beyond 30 June 2013, contrary to the County Governments Public Finance Management Transition Act, 2013. The accounting officer should ensure that all accounts are closed and the balances thereof transferred to the county revenue account.

(b) Failure to Maintain Cashbooks

Only three cash books were maintained for Project, LATF and GRF bank accounts out of eight accounts operated by the former Council. Failure to operate cash books renders an organization vulnerable to fraudulent transactions which may go undetected for a long time. Cash books should be maintained for all bank accounts and balanced on daily basis. Monthly bank reconciliation statements should be prepared in accordance with Government financial regulations and procedures.

(c) Unsupported Interbank Transfers

The former County Clerk and County Treasurer transferred a total of Kshs.21,000,000 from LATF account on March 2013, to other three accounts without supporting payment vouchers. This was contrary to Government financial regulations and procedures which require that all payments must be processed vide payment voucher.

(ii) Debtors

The Council did not prepare a statement of assets and liabilities as at 28 February 2013 as required by the Ministry of Local Government and therefore debtors were not disclosed as at that date. According to a list of debtors dated 1 January 2013, total debtors amounted to Kshs.24,003,604. An appropriate system for recording debtors should be developed to ensure accuracy of records. Also, debt collection policy should be put in place to facilitate collection of County debts as and when they fall due.

(iii) Creditors

Creditors totaling Kshs.4,137,422 were reflected in a letter dated 30 May 2013. The letter did not disclose salary arrears totaling Kshs.10,354,789 arising from implementation of Collective Bargaining Agreement of 1 September 2012. Accuracy of the creditors balance could not be ascertained due to lack of complete records. A proper system should be developed to ensure accuracy and completeness of creditors' records

3.27 Fixed Assets

Motor Vehicles and Office Equipment

The former Council engaged a private valuer to do valuation of its assets and a valuation report dated 12 July 2010 was prepared. Physical verification of motor vehicles and equipment revealed undisclosed computers and accessories valued at Kshs.376,400 while the value of motor vehicles and machinery of Kshs.18,796,000 excluded a motor

vehicle bought in 2011 costing Kshs.2,481,880 and four motor cycles costing Kshs.362,000. A fixed assets register with detailed information for all the assets should be maintained.

3.28 Revenue Collection

(i) Non-Banking of Revenue

Revenue totaling Kshs.3,193,895 was collected by the Council between January to February 2013, while Kshs.23,374,434 was collected between March and June 2013. A total of Kshs.7,566,825 collected was spent at source. The expenditure related to hire of taxis, subsistence allowances and fuel. All revenue collected should be banked intact as required by the Government Financial Regulations and Procedures.

(ii) Failure to maintain crucial records and weak internal control system

A Counterfoil Receipt Books Register (CRBR) for recording and control of receipts and issue of accountable documents like receipt books, local purchase orders, local service orders, collection control sheets, stores ledger cards etc. was not maintained. The CRB register should be maintained to enhance accountability of accountable documents at the County.

3.29 Staff Payroll

The Council continued to pay its staff between March to June 2013 even after the County Government was in place. The wage bill for the Council increased from Kshs.3,012,926 to Kshs.4,659,978 between March and June 2013, due to implementation of the CBA of September, 2012.

3.30 Procurement of Goods and Services

The Council had no approved annual procurement plan to assist in managing procurement of goods and services. Also, an independent inspection and acceptance committee was not in place, contrary to the requirements of the Public Procurement and Disposal Act, 2005 and regulations of 2006.

3.31 Other Audit Findings

(i) Payment of doubtful legal fees

During the month of February 2013, the former the council paid legal fees totaling Kshs.508,651 to a firm of Advocates for unspecified representations. This payment was not supported by instructions issued to the firm of advocates to represent the council, invoice or a fee note. It was not possible to confirm the nature of transaction or the basis on which the fee was based.

(ii) Local Authorities Transfer Fund (LATF)

The County Council of Mbeere received Kshs.33,091,079 from the Ministry of Local Government to fund approved budget with a provision for capital projects of Kshs.35,000,000 in the financial year 2012/13. However, only Kshs.4,500,000 was applied to fund capital projects while the balance of the funds was applied for other recurrent expenses including staff salaries. The County Government should ensure that funds budgeted are utilized for the intended purposes only.

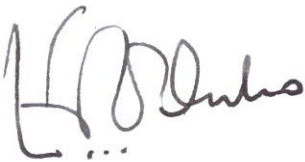
(iii) Doubtful Payment of Consultancies Services

During the transition period, the council made payments for consultancy services totaling to Kshs.1,387,000. However, the payments were not supported with the relevant

documentation. The Government financial regulations and procedures require that all payments are supported with relevant documentation before they are made.

3.32 Conclusion

The audit has revealed that poor book keeping was very much evident in the Defunct Local Authorities and appears to exist also in the County Government. Financial controls are also weak as no financial policies have been formulated by the County Treasury that would help to strengthen the existing laws and regulations in ensuring full accountability of public resources. In addition the adoption of technology is very low and the county government has not put in place mechanisms to improve the situation. It is also clearly evident that the process of taking over of assets and liabilities, including staff of the former Council was not properly handled due to apparent lack of leadership by officials of Transition Authority who had the responsibility to ensure a smooth and seamless transition process. The County Government should however ensure full control of functions, including revenue collection, recording and proper accounting for the same while awaiting guidance from the National Treasury based on the accounting and reporting systems to be developed by the Public Sector Accounting Standards Board in accordance with Section 194 of the PFMA, 2012. Detailed audit findings are contained in the main audit report herewith appended.



Edward R. O. Ouko, CBS

AUDITOR-GENERAL

05 December, 2013

DETAILED AUDIT REPORT

AUDIT OF EMBU COUNTY GOVERNMENT EXECUTIVE AND COUNTY ASSEMBLY FINANCIAL OPERATIONS FROM 3 MARCH 2013 TO 30 JUNE 2013

1.0 Introduction

The County Government Act 2012 repealed the Local Government Act Cap 265 thus dissolving all the Local Authorities and creating 47 County Governments. After the General Elections of 4 March 2013, it was expected that all the bank accounts previously operated by the defunct Local Authorities were to be closed in accordance with the provision of the Public Finance Management Transition Act No. 8 of 2013.

County Governments were to open and maintain collection account at Sub – Counties in commercial banks where revenue receipts were to be banked intact and swept directly to the County Revenue Fund either at Central Bank or KCB, funds from the County Revenue Fund can only be withdrawn as mandated by the County Appropriation Act and Authorized by the Controller of Budget as requested by the County Treasury and funds from the County Revenue Fund are issued to County spending unit for County operations including development and recurrent expenditure.

2.0 Audit Objectives

The following were the main audit objectives:

- Confirm existence of proper accountability of cash and bank balances before, during and after transition to the County Government.
- Confirm that revenue and expenditure were recorded and properly accounted for before, during and after the transaction period.

- Confirm that operational debtors and creditors were accurately recorded and transferred from the defunct local authority to County Government.
- Establish that assets taken over by the County Government are properly listed, exist and are being used to provide services to the County.
- Ensure that assimilation of the defunct local authority's staff with other county government staff is seamless and no ghost workers or irregular change of items have been imported in the new IPPD system.
- Ensure that the County Assembly and Executive Committees comply with the budget and that expenditures are properly charged to County Revenue Fund.
- Ensure that ICT system is not circumvented by manual system where IFMIS and G – Pay systems are fully implemented.
- Confirm that where manual systems are in use, proper accountability system is put in place and specific plans for system changeover exist.
- Confirm that procurement of goods and services is done in accordance with the Public Procurement and Disposal Act, 2005, and related 2006 Regulations.

3.0 Key Audit Findings

Embu County Executive and County Assembly

3.1 Failure to take over the Defunct Local Authorities

The County Government of Embu had not officially taken over the assets and liabilities of the former County Council of Embu, the former Municipal Council of Embu, Former Municipal Council of Runyenjes and former County Council of Mbeere as at the time of audit conclusion on 27 September 2013, contrary to instructions issued by the Ministry of Local Government vide Circular No. MLG/1333/TY/52 of 18th February, 2013. Arrangements should be made by Transition Authority to have assets and liabilities of the former County Councils handed over to the County Government.

3.2 Current Assets and Liabilities

(i) Cash and Bank Balances

a) Opening of Bank Accounts

The County Government of Embu opened various banks accounts on 10May 2013. Between 1 March to 11 May 2013, revenue and payments were made to and from the bank accounts of the defunct local authorities under the County Government of Embu namely: the Municipal Council of Embu, Municipal Council of Runyenjes, County Council of Embu and County Council of Mbeere.

b) Failure to carry out board of survey

The accounting officer did not arrange for a board of survey to examine and verify cash on hand and bank balances at the close of business on 30 June 2013 as required by the Government Financial Regulations and Procedures. A board of survey is important in ensuring proper management of cash books and accuracy of cash and bank balances.

c) Outstanding Imprest as at 30 June 2013

The County Government of Embu held imprests totaling to Kshs.3,600,000 as at 30 June 2013 for office use. However, the imprests were surrendered on 1 July 2013.

Although the expenditure was examined and found to conform to the purposes for which the imprest was issued, no explanation was given for failure to surrender the imprests as at the closure of the financial year as required by Government Financial Regulations and Procedures.

Recommendations

The cut off procedures should be documented to enable the officers of the County Treasurer to adhere to the financial regulations and procedures.

(ii) Current Debtors

During the period ended 30 June 2013, the County Government of Embu did not validate or consolidate its debtors especially the debtors of the defunct local authorities under the Embu County. The debtors totaled Kshs.249,171,823 and are as shown below:-

Local Authority	Item	Amount (Kshs.)
Embu County Council	Plot rents	4,458,587
	GoK contribution in lieu of rates	21,248,772
Embu Municipal Council	Staff debtors	5,577,415
	Plot rents and rates	73,674,645
Mbeere County Council	Plot rents	24,003,604
Runyenjes Municipal CouncilDebtors		120,208,801
Total Debtors		249,171,824

Further, it was noted that no debtors register was maintained.

Recommendations

The County debtors should be validated and a register opened to ensure that no debtor is lost.

(iii) Current Creditors

Doubtful Creditors

According to the list of creditors availed for audit, unpaid bills as at 30 June 2013 were Kshs.2,142,573 while Local Purchase Order (LPOs) raised and unpaid amounted to Kshs.4,824,500 hence a total of Kshs.6,967,037. However, out of the total LPOs raised, ten with an amount of Kshs.3,963,677 had not been issued to the suppliers as at the time of audit on 11 September 2013, and it was not clear why the suppliers were purported to be outstanding yet the office was retaining the LPOs. Although the defunct local authorities had been instructed to hand over all their liabilities as at 28 Feb 2013, it was noted that as at 30 June 2013 the outstanding balance of Kshs103,995,366 had not been incorporated in the creditors of Embu County Government. More so, the County Government had not

opened a creditor's ledger and had not validated the creditors as at 30 June 2013. The details of creditors' balances from the defunct authorities were as follows:-

Local Authority	Balance of Creditors as at 28 Feb 2013	Balance as at 30 June 2013
	Amount (Kshs.)	Amount (Kshs.)
Municipal Council of Embu	81,531,981	74,096,946
County Council of Embu	600,000	600,000
Mbeere County Council	Not indicated	4,203,000
Municipal Council of Runyenjes	25,166,400	<u>25,095,420</u>
Total		<u>103,995,366</u>

Recommendations

Creditors from defunct local authorities should be consolidated so as to give the correct position of outstanding creditors. Creditors' ledger should be maintained all Creditors should be validated so that the County does not pay fictitious claims.

3.3 Fixed Assets

Motor Vehicles and Office Equipment

Although Local Authorities in Embu County prepared statements of assets and liabilities, there was no proper taking over of the motor vehicles and office equipment from the defunct Local Authorities. A master assets register incorporating all the motor vehicles and office equipment all valued at Kshs.83,613,570 and inherited from the defunct Local Authorities is as shown below:

Local Authority	Value of assets as per statement of assets and liabilities

Municipal Council of Embu	40,876,300
County Council of Embu	8,800,000
Municipal Council of Runyenjes	10,836,490
County Council of Mbeere	23,100,780
Total	83,613,570

Recommendations

The County Government should ensure that a master Fixed Assets Register is maintained. The register should clearly indicate the location of the equipment and motor vehicles and should be updated.

3.4 Revenue Collection

(i) Failure to Transfer Funds from Accounts of Defunct Local Authorities

Funds totaling to Kshs.5,374,843 were not transferred to Embu County Exchequer Account as at 30 June 2013 from the defunct Local Authorities.

(ii) Failure to Maintain Receipts Cash Book

The County Government Exchequer account was opened on 21 May 2013 where revenue was banked. During the period 21 May 2013 to 30 June 2013, the County Government collected revenue totaling to Kshs.21,401,938 .However, a receipts cash book to record the revenue was not maintained.

(iii) Poor Maintenance of Revenue Collection Control Sheets

Examination of revenue collection control sheets disclosed the following unsatisfactory matters:-

There was no evidence that they were checked by any senior officer to confirm the accuracy of revenue collected. Also, they did not indicate official receipt numbers issued by the cashier against surrender of revenue collected and surrendered.

Recommendations

The County Government should ensure that a receipts cashbook is maintained where revenue collected is promptly recorded. The Government should also put in place strong internal control system to ensure proper accountability at every stage in the revenue collection cycle. Revenue collection control sheets should be maintained by the Revenue Officer, who should ensure that official. The county government should employ experienced revenue collectors on permanent terms.

3.5 Procurement of Goods, Works and Services

Transition Authority letter ref TA./2/1 dated 23 April 2013 forwarding AIE no. A685051 for Kshs.61,592,200 required the funds to be utilized for refurbishment and furnishing nonresidential premises and Hansard for County Assembly. The County Government spent Kshs.25,265,945 on repair works at the Town Hall and Probation Offices using three different contracts as detailed below while Kshs.33,315,826 was utilized for refurbishment of the County Assembly in a different contract.

(i) Irregular award of contracts for repair works at the Town Hall and Probation Offices

A contractor was awarded two contracts for the construction of conference hall and partitioning of office in the Embu Town Hall and refurbishment of Embu Probation Office

block at a cost of Kshs.3,005,201 and Kshs.12,862,220 respectively, all totaling Kshs.15,867,421. The contracts were awarded on 24 May 2013 by the Embu County Tender Committee in a meeting held on that date under Minute No. EBU/COUNT/07/2012/2013 and EMBU/COUNTY/09/2012/2013, respectively. However, it was observed that the contractor was not among the registered contractors with the Ministry of Public Works as evidenced by a letter Ref MoPW/EC/PROJ 6/103 Vol. IV (10) from the County Works Officer dated 10 May, 2013. It is therefore not clear on what basis the tender committee awarded the two contracts to the firm. Further, the services were sourced using the restricted tendering method of procurement. However, there was no evidence produced to show that the conditions set out under section 73(2) of Public Procurement and Disposal Act, 2005 were met.

Other observations made regarding these contracts are as follows:-

(ii) Unwarranted Disqualification of Interested Bidders

Two of the bidders, were disqualified for not being tax compliant as per minute no. EBU/CNT/M1/08/2012-2013, for the construction of conference room. There was no evidence that this condition of tax compliance as set out for responsiveness were communicated to the prospective bidders. Therefore, disqualifying them for not satisfying conditions that were not expressed in the tender document was contrary to Section 66 (3) (b) of Public Procurement and Disposal Act, 2005.

(iii) Favoritism in Consideration for Responsiveness of Tenders during Evaluation

The only condition that was used for responsiveness was submission of tax compliance certificate under construction of conference room for Kshs.3,005,201. The other two contracts which were of higher values of Kshs.9,400,524 and

Kshs.12,862,220 respectively, only considered deviation from engineers estimate of 10%. It was therefore, not clear why tax compliance was set as a condition for a contract of Kshs.3,005,201 and yet the same condition was not considered while awarding the other two contracts totaling to Kshs.22,262,744.

(iv) Financial and Technical Evaluation of Contracts

In all the above contracts, there was no evidence that the bidders financial and technical capability to undertake the contracts were properly evaluated before making the awards. For example, there was no evidence that the contractor was required to show the number of technical employees in the company and their qualifications, ownership and number of equipment to undertake the works. The contractor was also not required to submit audited financial statements for a certain period to show the financial position of the firm and access to credit facilities.

(v) Irregular Reallocation of Funds

A generator (30KVA 3 phase) whose cost was Kshs.3,850,000, as provided for in the Bills of Quantities (BQs) was not installed but instead the funds were utilized for extra works not in the BQs. These extra works were not undertaken in the Probation Offices where the generator was to be installed but at Town Hall, under construction of conference room and partitioning of offices. These were two different contracts though awarded to the same contractor and therefore, it was not clear why reallocation of funds from one contract to the other was done. Further, no prior authority for the reallocation was sought as required by the Government Financial Regulations and Procedures.

(vi) Lack of Formal Contracts

There were no formal contracts executed between the three Contractors and the client for contract numbers EBU/COUNT/07/2012-2013, EBU/COUNT/09/2012-2013 and

EBU/COUNT/08/2012-2013 for Construction of conference room and partitioning of offices in Embu Town Hall, Refurbishment of Embu probation office to house the Governor and Re-roofing of Town Hall and improvement of exiting sentry respectively, contrary to Section 68 of Public Procurement and Disposal Act, 2005. Only a form of agreement was signed.

(vii) Unregistered Sub-Contractor

The Contractor undertook further works related to electrical installations, Closed Circuit Television installation and plumbing works all valued at Kshs.2,402,500 yet the contractor was not registered under any category as per the list from Ministry of Public Works. The signature page in the Tender documents for the Contractor did not indicate contract number and it was not signed. The list of registered contractors from the Ministry of Public Works did not indicate the categories under which the firm was registered.

**(viii) Refurbishment of Embu County Council Hall to House County Assembly-
Contract no. EBU/COUNT/06/2012-2013b**

(a) Irregular Procurement Method

Invitation to tender

The Embu Tender Committee awarded a contract for refurbishment of the Embu County Council Hall to house the County Assembly at a contract price of Kshs.33,315,826. The contractor was sourced through a restricted procurement method involving a list of seven registered contractors availed by County Works Officer through letter reference MOPW/EC/PROJ6/103 VOL IV(10) dated 3 May 2013. However, according to County

Tender Committee minute number EBU/CNT/M1/07/2012 -2013, the number of firms invited was ten.

It was noted that out of the ten tenderers, only the contractor who was awarded the contract was in the list provided by the Ministry of Public Works. It was therefore not clear where details for the other nine contractors were obtained from.

(b) Award of the Contract

Seven out of the ten firms responded to invitation to tender and were evaluated as per minute no. EBU/CNT/M1/07/2012 -2013 dated 24 May 2013, after which the tender was awarded to the Contractor being the lowest responsive bidder as recommended by the Tender Committee.

The tender was irregularly awarded to the Contractor since the other six competing firms as per evaluation minute were not in the list of registered contractors provided by Ministry of Public Works.

(c) Delay in completion of works

Records availed for audit indicated that contract no, EBU/COUNT/06/2012-2013B was to be completed by 9 September 2013. However a physical verification carried out on 10 September 2013 revealed that the contractor had not completed the project although the works were about 90% complete.

Payments made totaled Kshs.14,220,596 while works totaling Kshs.16,342,633 had been certified for payment through letter reference MoPW/EC/FIN3/15 VOL 1(18) of 18 September 2013. The power line had not been upgraded to three phase while the generator acquired at a cost of Kshs.5,499,432 had not been commissioned. There was no evidence availed for audit review to show that extension period had been sought by the Contractor and granted.

(d) Failure to upgrade Power line

According to the bills of quantities, the existing power line at the County Assembly was to be upgraded from single phase to three phase at a cost of Kshs.540,000. However, as at 10 September 2013, the power line had not been upgraded.

(e) Failure to Construct Project Manager's Office

The Project Manager's office with a provision of Kshs.100,000 in the BQs had not been contracted during the entire project period.

Recommendation

The procurement laws should be applied in all procurement processes. The County Government should ensure that the Contractor completes all the works without further delays.

**(ix) Sub Contracts for Installation and Commissioning of a Generator -
Tender No. EBU/COUNT/11/2012 - 2013**

(a) Irregular Procurement Procedures

The Embu County Tender Committee subcontracted the services of supplying, installing and commissioning of a 200kv generator at the Embu County Chambers at a contract sum of Kshs.5,499,432 using the restricted tendering method from ten (10) firms.

The tender was awarded to a Nairobi based firm at a cost of Kshs.5, 499,432. However, a prime cost of Kshs.9,025,000 had been provided in the bills of quantities, resulting to a savings of Kshs.3,525,568. List of pre-qualified contractors used to invite tenders for the generator was not availed for audit and it was therefore not clear where details for the other nine contractors were obtained from.

(b) Non-Disclosure of Bid Prices for five Tenderers

According to the Embu County Government tender minute number EBU/CNT/M2/05/2012-2013, bids were invited from ten contractors and all of them responded and were evaluated. However, scrutiny of the minute revealed that bid prices for five out of the ten bidders were not disclosed since the committee analyzed bid prices for only five contractors. Failure to disclose the bid prices for the five tenderers purported to have responded casts doubt validity of information contained in the minutes of the tender committee.

(c) Lack of Formal Contract

There was no formal contract signed between the client and the sub-contractor to show the binding terms of contracts, contrary to section 68 of the Public Procurement and Disposal Act, 2005.

(d) Lack of Certificate of Testing

Physical verification carried out on 10 September 2013 disclosed that the generator was supplied and installed but it had not been commissioned. However, there was no evidence that the generator had been tested and found to be in good working condition before the installation.

(e) Certification of Amount not Due

The tender document included contingency sum of Kshs.300,000 whose details were not provided although it had been included in the certificate number 2 for payment to the contractor.

Recommendations

Procurement laws should be applied in the procurement of all goods, services and works in future.

(x) Purchase of a Motor Vehicle

An amount of Kshs.12,196,659 was paid through Cheque No. 000012 of 17 June 2013 for supply of a new Toyota Prado for the Governor. The payment was supported by swift RTGS of 18 June 2013 dully completed in favor of the payee, undated LPO NO.1980957, a Pro Forma Invoice No. TKL/JM/ECG/05/13A of 13 June 2013, Conditional Letter of Acceptance of same date which required full payment before registration, request by County Secretary to Commissioner of Motor Vehicle Registration of 27 June 2013 seeking approval to register the vehicle in civilian number plate, a letter stopping the request to register the vehicle in civilian number plate of 29 June 2013, an application for registration of 30 June 2013 showing the vehicle registration number as KBU 683 T in civilian number plate, customs document entry number 2013NBI 1105856 and an inspection receipt of 16 July 2013.

The funds for the purchase were sourced from available budgetary provisions as follows:

Account	Descriptions	Amount (Kshs.)
0.0003.01.3110.701	Purchase of motor vehicles	10,000,000
0.0003.01.2210301	Travel and subsistence	<u>2,196,659</u>
Total		<u>12,196,659</u>

An examination of the supporting records revealed the following:

- i). The vehicle was procured at a cost of Kshs.12,196,659 or 22% above the authorized budgetary provision of Kshs.10,000,000. Although there were other models from the same supplier which could have been acquired with the available budget, and without irregularly charging travelling and subsistence allowance, no explanation was given for the reallocation of funds without prior authority of the Controller of Budget.

- ii). The log book for the purchased motor vehicle was not made available for audit scrutiny although a work ticket and a file for a vehicle registration number KBU 268T had been opened.

In the circumstance therefore, ownership of the vehicle could not be confirmed.

Recommendations

Ownership documents for the vehicle should be maintained. Budgetary controls should be put in place to ensure that the County Government operations are within the laws.

(xi) Procurement of Fuel

During the period under review, the County Government of Embu incurred an expenditure of Kshs.819, 270 in procurement of fuel. Examination of payment vouchers relating to the expenditure disclosed that although the fuel was bought, no store records were maintained to show receipt and usage of the fuel, contrary to Section 18 (2) of the Government Financial Regulations and Procedures.

Recommendations

- i) ***Procurement regulations should henceforth be adhered to while awarding contracts. The procurement unit should prepare contract documents between the winning bidder and the client in line with the award decision as stipulated in the Public Procurement and Disposals Act, 2005 and 2006 regulations. The contract should clearly address the following matters which were not addressed by the form of agreement signed between the client and the contractor on 5 June 2013; Payments to the contractor(stages of completion and the amount of retention if any), defect liability period, (if applicable for repairs), arbitration of disputes, variation of contract and any other matter that could be related to the***

contract. This is in accordance with Section 68 of Public Procurement and Disposals Act, 2005.

- ii) Responsiveness of tenders should be determined objectively by clearly expressing the requirements for consideration of the tenders.*
- iii) The Accounting Officer should ensure that composition of the evaluation committee is changed in accordance with Regulation 16 (3) of Public Procurement and Disposal Regulations, 2006 so that the tenders are evaluated in two stages; namely technical and financial stages.*
- iv) Technical evaluation would be done by independent officers professionally competent to rate all the tender offers in relation to quality and performance (in this case Public Works officials) while financial evaluation would be done by a financial evaluation committee composed of members who are knowledgeable and experienced in financial matters in the entity by considering the suppliers' rating and financial aspects of the tender as set out in the evaluation criteria.*
- v) Technical evaluation would be carried out first as per regulation 16(5) and (6) and tenders that qualify for further evaluation during technical stage would be the ones that proceed to the financial evaluation stage as per regulation 16(7) of Public Procurement and Disposal regulations, 2006.*
- vi) The above committees should however be formed in accordance with Regulation 16 (3) of Public Procurement and Disposals Regulations, 2006.*

3.6 IFMIS and G-Pay

The county has received personal computers to be used for IFMIS and officers have since been trained. The personal computers that have been installed with IFMIS will use Orange CDMA Modems to connect to IFMIS through the Treasury's Virtual Private Network (VPN). According to ICT manager, the orange connectivity within the region is reliable but

IFMIS is not yet operational. There was no satisfactory explanation given for the delay in using IFMIS despite uploading the 2013/2014 budget estimates in the system.

3.7 Information Technology (IT) Control environment

Assessment of how the County has put in place structure to govern and manage the information systems in place revealed the following:

Management of IT operations

In order to effectively and efficiently govern and manage the IT operations, the County is yet to develop some of the key ICT documents including ICT policies and procedures, Business Continuity Plans and Disaster Recovery Plans

IT organization structure

The ICT department at the county headquarters has three (3) employees who do not have defined roles and responsibilities required for them to effectively manage the IT operations at the county.

Hardware

Assessment of the existence and management of the hardware infrastructure at the county revealed the following:

Computers and accessories

The County has been supplied with nineteen (19) personal computers by Treasury which will be solely used for IFMIS. It was however noted that the county does not have a comprehensive ICT inventory for all ICT assets at the headquarters and all the sub-county offices. It is therefore unlikely that the ICT staff can effectively manage these ICT assets and provide the necessary hardware maintenance.

Data Centre

The County has one (1) data center (server room) at the Embu headquarters and physical inspection of the data center indicated the following:

- i. The room is not a restricted area and therefore easily accessible to unauthorized persons.
- ii. Server is exposed to over-heating and there's no air-conditioning system to control the temperatures.
- iii. There are no fire extinguishers and smoke detectors.
- iv. There were combustible materials e.g. cartons, in the room and this exposes the server room to fire.

Network connectivity

There is Local Area Networks (LAN) at the county headquarters, at the county assembly and at Mbeere sub county office. The county also has a fiber optic connection between the county headquarters, Governor's office and deputy Governor's office. There's however no wide area network to connect to Mbeere and Runyenjes sub-county offices.

Currently, all payments are done manually by use of cheques.

LAIFOMS

LAIFOMS had been installed at the Embu Municipal council offices, Embu county council offices and Mbeere county council. LAIFOMS is mostly been used in revenue collection, issuance of single business permits, property management and recording of the accountable documents. Review of the installed LAIFOMS revealed the following:

Weak logical access controls

Analysis of the user set-up in LAIFOMS at Mbeere sub-county office indicated that segregation of duties had been compromised as the users had been granted conflicting roles. For instance, the system administrator has access to other modules that include receipting and single business permits. Further, analysis of the event activity logs revealed that the system administrator also collects revenue from customers. The user rights are therefore not granted on the basis of the officers' job designation.

Integrated Personnel Payroll Database (IPPD)

The County has since consolidated the employees' complement and payroll for all the sub-county offices. The first consolidated payroll to be processed and paid was for the month of July 2013.

During the audit, we extracted the employees' details and payroll from LAIFOMS and compared with the IPPD payroll. The following observations were made:

3.8 Payment of Allowances

i) Payment of Subsistence Allowance to non-staff Member

During the months of May and June, 2013, the County Executive paid subsistence allowances at the rate of Kshs.3,500 and Kshs.500 for night out and lunch allowances respectively. The payee was not an employee of any of the former local Authorities or Embu County Government.

An examination of these payments revealed that the payee had no personal number and there was no personal file to confirm recruitment, deployment, or secondment to the County Government of Embu to warrant a charge of allowances paid to him to public funds. The payment remains irregular and should be recovered from the officer who authorized the same.

ii) Irregular Payment of Sitting Allowance-CEC Members

During the period under review the office irregularly paid County Executive Committee Members sitting allowances totaling Kshs.366,000. The allowances were paid as result of a resolution passed vide MIN/23/CEC/2013 during the CEC meeting held on 27 June 2013. On 28 June 2013 the members were paid sitting allowances for four different days whose details including dates were not specified and no minutes of the meetings were availed. The payments totaling Kshs.366,000 were made vide payment voucher no. EC/EX/06/311 on 28 June 2013 and in support of the expenditure was a memo ref. EC/CE/G/1 dated 27 June 2013 seeking approval of payment of lunch allowances totaling to Kshs.40,000 at the rate of Kshs.5,000 per member. It stated that the meeting was held on 28 June 2013 but the payment was made on 27 June 2013 vide cheque no. 000134. Hence the payment was made one day before the meeting took place and the lunch allowances were paid at the rates of Kshs.5,000 each instead of Kshs.2,000 as stipulated in the Transition Authority circular Ref TA/7/1 of 10 May 2013.

iii) Irregular Payment of Sitting Allowances-MCA

On 17 June 2013 the Members of County Assembly were paid allowances totalling Kshs.500,240 through payment voucher no EC/EX/06/155 categorised as sitting allowance of Kshs.240,000 transport allowance of Kshs.60,000 and meal allowance of Kshs.90,000. The allowances were requested on the grounds of public budget hearing held within the County. It was noted that the members were paid sitting allowances based on night out rates instead of stipulated sitting allowance rates as per the list attached to payment voucher. Moreover, the members claimed meal allowances yet they had been given night out allowances, thus resulting to double payment of allowances, contrary to governing regulations.

iv) Improper Payment of Allowances of Kshs.4,053,445

The County Assembly spent Kshs.4,053,445 in payment of sitting, meals and travelling allowances. The amounts were charged under subsistence and travelling allowances without regard to the rules governing payments of subsistence allowances. For example, allowances were paid through various payment vouchers which were not supported by evidence of travelling in form of bus tickets or vehicle work tickets. Further, there were no return to office reports, invitation letters or approvals from heads of Departments authorizing the journey. Hence the validity of these payments could not be ascertained.

Recommendations

Irregularly paid allowances should be recovered from all the beneficiaries, while future allowances should be paid in accordance with the regulations. Ensure payments of allowances are supported by payees' details such as personal number, salary scale and designation for proper accountability.

3.9 Other Findings

i) Non Maintenance of Essential Accounting Records at the Transition County Treasury

Examination of expenditure totaling to Kshs.154,448,911 incurred at the County disclosed the following weaknesses:

- (i) Proper payment vouchers, vote books, cash books and expenditure ledgers were not maintained during the period under review. Although the Executive used the F.O.20 for payments, the vote book certificates were not completed since it was not maintained. Also, there was no evidence that the vouchers were examined in the examination section since the examination certificates were also not completed. The cashbook maintained did not indicate the receipts on the receipts side of the cashbook and it was not regularly checked by senior officers.

- (ii) The payment vouchers that originated from County Assembly were not in the prescribed F.O 20 or F.O.22 forms which have certificates for vote book commitments and uncommitted balances. The County Assembly devised their own payment vouchers and which did not have space for vote book commitments, examination section, Internal Audit, and space to indicate accounts items to which the expenditure was charged. No explanation was given for failure to maintain essential records as required by Government Financial Regulations and Procedures.

ii) Unaccounted for Expenditure

During the period March to June 2013, the Embu County Government received funds totaling Kshs.206,156,942 from the National Government, to enable it meet its obligations. Out of this amount, Kshs.50,131,039 was returned to the Central Bank of Kenya (CBK) on 2 July 2013 since there were no commitments for the funds. The County Executive spent Kshs.156,025,903 out of which, a balance of Kshs.1,576,991 could not be accounted for .

Recommendations

Although payments cashbook maintenance had changed as at the time of audit by indicating receipts, it should be maintained in accordance with the indicated criteria. The cash and bank balances should be reflected at all times in the payments cash book. A cash analysis book should also be maintained alongside the cash book. Also, vote books to control the expenditure should be maintained to reflect the available balances per budgeted items.

Defunct Municipal Council of Embu for the Period 1 January to 4 March 2013

3.10 Audit Findings

Improper handing over to County Government

There was no proper handing over of the former Municipal Council of Embu assets and liabilities to the Transition Authority as required by the Ministry of Local Government Circular MLG/1333/TY/52 of 18 February 2013.

3.11 Current Assets and Liabilities

(i) Cash and Bank Balances

The defunct Municipal Council of Embu, operated eleven (11) bank accounts which were maintained in four (4) commercial banks namely; Kenya Commercial Bank, National Bank of Kenya, Equity Bank and Consolidated Bank of Kenya. According to a letter reference EBU/TA/ADMI/4/8 of 15 May 2013, from the Interim County Secretary, the banks accounts which were to be frozen on 28 February 2013 were closed between 16 May and 12 July 2013, after being in operation without change of bank signatories.

(a) Failure to Maintain Receipt Cashbooks

The Council did not maintain physical receipts cashbooks but instead relied on LAIFOM revenue analysis. Consequently, no bank reconciliations were prepared.

(b) Poor Maintenance of Revenue Collection Control Sheets

There was no evidence that the control sheets were checked by any senior officer for confirmation of the accuracy of revenue collected. As a result, accuracy of revenue figures could not be confirmed.

(ii) Current Debtors Balances

The list of current debtors availed for audit reflected outstanding plot rent and rates totaling Kshs.79, 252,060 as at 28 February 2013. However, the amount disclosed in the statement of assets and liabilities as at 28 February 2013 was Kshs.138,680,603, resulting to unreconciled difference of Kshs.59,428,543.

(iii) Current Creditors Balances

The Council did not maintain the creditors' ledger and hence it was not possible to ascertain accuracy and validity of creditor's balance of Kshs.81,531,981 handed over to the County Government.

3.12 Fixed Assets

Vehicles without Logbooks

The Council did not make available for audit ownership documents for five (5) vehicles valued at Kshs.3,496,000.

3.13 Staff Payroll Records

i) Overpayment of Leave Allowance

The Council overpaid leave allowances totaling Kshs.1,391,520 to staff.

ii) Outstanding Salary Arrears

Examination of payrolls for the period July 2012 to February 2013 disclosed that the Council had outstanding salary arrears totaling Kshs.11,546,445. The arrears were for five (5) months from September 2012 up to January 2013.

iii) Unremitted Statutory Deductions

The Council had unremitted statutory deductions covering the period July, 2012 - April 2013, totaling Kshs.13,427,571.

iv) Irregular Payment of Non Practicing Allowance

The Council paid non practicing allowances totaling Kshs.120,000 to some four (4) members of staff who did not qualify for payment since there was no evidence they had practicing certificates from ICPAK's registration Committee. Membership to ICPAK without practicing certificate is not a qualification for non-practicing allowance.

The Defunct County Council of Embu for the Period 01 January to 04 March 2013

3.14 Audit findings

Improper handing over to the County Government

There was no proper handing over of the former County Council of Embu, assets and liabilities to the County Government as required by the above circular. The letter submitting list of assets, liabilities and human resource reference ADM/1/14/55 dated 20 February 2013 to the Chairman Transition Authority, was not acknowledged by the Transition Authority. The Interim County Secretary, taking over did not sign to acknowledge receipt of the assets, liabilities and human resource.

3.15 Current Assets and Liabilities

(i) Cash and Bank Balances

(a) Failure to close Bank Accounts.

The defunct County Council of Embu operated seven bank accounts (7), three (3) of which were disclosed in the statement of assets and liabilities while the remaining four (4) were

not. However none of the accounts was closed on 28 February 2013 in accordance with Transition Authority instructions.

(b) Failure to maintain Receipt Cash books.

The council did not maintain physical cashbooks but instead relied on LAIFOM revenue analysis. Consequently, no bank reconciliations were prepared.

(c) Unsupported expenditure

Examination of the above accounts bank statements disclosed withdrawals totalling Kshs.45,851,544 made during the period 1 March to 4 June 2013, but were not supported by payment vouchers. In the absence of payment vouchers supporting the above bank debits, propriety of the expenditure could not be confirmed.

(ii) Current Debtor Balances

(a) Plot Rents and Rates

Examination of the list of council plot rents and rates availed for audit disclosed outstanding plot rent and rates totaling Kshs.4,458,587 as at 28 February 2013. However, this amount was not disclosed in the statement of assets and liabilities submitted to the Transitional Authority.

(b) Unsupported Contribution in Lieu of Rates

During the period under review, the council passed a resolution to borrow Kshs.15,000,000 out of which, Kshs.3,000,000 was earmarked for financing preparation of the council valuation roll. As at the time of audit, the valuation roll had not been done and hence the value of contribution in lieu of rates had not been validated. In absence of a validated list, the correctness of debtors figure of Kshs.21,248,772 included in the statement of assets and liabilities could not be confirmed.

(iii) Current Creditor balances

The list of creditors availed for audit indicated a sum of Kshs.390,260 as outstanding as at 31 December 2012. The list did not include audit fees of Kshs.600,000 which had been outstanding since 2012. As at 28 February 2013 the council had paid all the creditors, except Kshs.600,000 due Kenya National Audit Office. The amount remained outstanding after cancellation of cheque number 009339 dated 20 June 2012 which had not been replaced as at the time of audit.

(a) Failure to disclose salary arrears

The council had outstanding salary arrears totaling Kshs.3,467,628 arising from implementation of the new Collective Bargaining Agreement in September 2012. Although the arrears were paid on 12 March 2013, no disclosure had been made in the statement of assets and liabilities as at 28 February 2013

3.16 Fixed Assets

(i) Motor Vehicles

The statement of assets and liabilities indicated the former council had eight (8) motor vehicles in its establishment. However, logbooks produced for audit confirmation of ownership revealed that the council had nine (9) motor vehicles but for unexplained reasons, motor vehicle registration KUL 321 a lorry, green in color was omitted in the statement along with three trailer registration nos. ZA8175, Z 6668 and ZB 3019. These vehicles were not seen during the physical verification and no explanation was given as to their whereabouts.

(ii) Office furniture and Equipment

The office furniture and equipment included in the statement of assets and liabilities submitted for audit could not be traced during the physical verifications as no inventory/fixed asset register was maintained.

3.17 Revenue Collection

i) Under banking of Revenue

Examination of revenue records for the period 1 January 2013 to May 2013 disclosed that Kshs.16,190,052 was collected. However, banking slips and bank statements for the same period indicated that only Kshs.1,961,222 was banked, leaving unaccounted for difference of Kshs.14,228,830.

3.18 Payroll

(a) Failure to use IPPD Payroll

The council was using payroll in the LAIFOM to pay salaries between March 2013 and June 2013 because the IPPD payroll system had not been installed at the County Government.

(b) Irregular payment of non-practicing allowance

The council paid non-practicing allowances totaling Kshs.90,000 to some members of staff who did not qualify for payment as there was no evidence to show they had practicing certificate from ICPAK's registration committee. Membership of ICPAK without practicing certificate is not a qualification for non-practicing allowance.

3.19 Other Audit Observations

(i) Local Authorities Transfer Fund(LATF)

The approved budget for the year 2012/13 included an amount of Kshs.29,147,975 for capital projects identified for implementation by the council upon receipt of LATF funds from the Central Government.

However, upon approval and disbursement of funds amounting to Kshs.30,104,129 from Ministry of Local Government towards the implementation of the budget, the budgeted capital projects were not implemented.

(ii) Imprests

During the period January 1 to 28 February 2013 Kshs.3,028,640 was spent on subsistence and travelling allowances. The allowances were paid through various payment vouchers processed in favour of the county cashier. However, it was observed that the payment vouchers were not supported as no vehicle work tickets or bus tickets were attached to confirm the journeys undertaken, and therefore justifying the allowances paid.

(iii) Irregular Payment of Tuition Fees

The council paid tuition fees for some officers undertaking various courses and charged them as council expenditure without an approved supplementary estimate, instead of advancing the officers the tuition fees so as to be recovered in twelve equal installments after which the officers could claim for a refund for examination passed.

(iv) Un-vouched Expenditure

According to financial regulations, all payments should be supported with payment vouchers for proper accountability of public funds. During the audit, expenditure totaling

to Kshs.21,635,648 incurred by the council between 1 March and 21 May 2013 was not verified due to non-availability of payment vouchers and other supporting documents.

Defunct Municipal Council of Runyenjes for the period 01 January to 04 March 2013

Audit Findings

3.20 Improper Handing Over to the County Government

The Ministry of Local Government Circular MLG/1333/TY/52 of 18 February 2013 required Clerks of Local Authorities to ensure that there was proper handing over to the Transition Authority. However, there was no proper handing over of the former Municipal Council of Runyenjes assets and liabilities to the Transition Authority as required by the Ministry of Local Government circular.

3.21 Current Assets and Liabilities

i) Closure of Bank Accounts

The former Municipal Council of Runyenjes operated nine (9) bank accounts. The Interim County Secretary on 17 May 2013 wrote to Kenya Commercial Bank and Equity Bank Managers vide letters Reference FIN 3/2/42 and FIN 3/3/ 38 respectively to close the bank accounts operated by the former council and transfer the balances to Kenya Commercial Bank account for general rate account and Co-operative bank account for LATF. On 30 May 2013 the former Clerk and former Treasurer wrote to the respective bank managers to close the bank accounts vide letters FIN.4/20/VOL.I/111 for Kenya Commercial Bank accounts and FIN.4/20/VOL.I/112 for Equity accounts. The accounts were closed in the month of June 2013.

ii) Cash Balances

The council did not constitute a board of survey to establish the correct cash on hand as at 28 February 2013. The council indicated cash and cash equivalents being handed over as at 28 February 2013 as Kshs.1,489,717. However, a scrutiny of the council records indicated that the council prepared bank reconciliations statements for LATF and GRF accounts showing cash equivalent of Kshs.1,926,031 resulting to un-reconciled difference of Kshs.436,314.

iii) Debtors

The council did not maintain an updated debtors Ledger to record movements of debtors and in particular plot rent/rates. Further, the councils continued collection of revenue from the debtors without carrying out cut off procedures to reflect debts collected for the County Government.

iv) Creditors

The council did not maintain an updated creditor's ledger to record creditors transactions neither did the council circularize the creditors to confirm the balances. The council paid creditors amounting to Kshs.50,906 after 28 February 2013. It was not clear why the creditors were paid after they have been handed over to the County Government.

3.22 Fixed Assets

The council handed over assets valued at Kshs.210,314,550 and the valuation had been done in February 2012. However, the former Municipal Council of Runyenjes did not maintain a comprehensive Fixed Assets Register to record council assets including Land.

3.23 Revenue Collection

The council continued collecting revenue and banking it in the council General Rate Fund account maintained at the Equity Bank, after the 28 February 2013. The revenue collected and banked as from 1 March 2013 to 30 April 2013 amounted to Kshs.7,269,310.

3.24 Other Findings

Expenditure

i) Expenditure incurred by the Council/County without an approved budget

The former council made payments totaling to Kshs.3,975,388 from its GRF accounts between March and June 2013. However, it was not possible to establish whether the expenditure was made in accordance with budget approved by Parliament and County Assembly as required by County Governments Public Finance Management Transition 2013 section 8(2) (c). The council also engaged casual workers and paid Kshs.315,220 without budgetary approval.

(ii) Imprest

The council did not maintained Imprests records as they did not operate an imprest register and warrants.

Former County Council of Mbeere Financial Operations from 1 January to June 2013

Audit Findings

3.25 Improper Handing Over to the County Government

The former Clerk to the defunct County Council of Mbeere did not prepare a statement of assets and liabilities as at 28 February 2013 as required by the Ministry of Local

Government. Instead he prepared two statements one as at 7 February 2013 and the other as at 30 May 2013.

3.26 Current Assets and Liabilities

i) Cash and Bank Balances

The defunct County Council of Mbeere operated eight bank accounts maintained at the Co-operative Bank of Kenya. Records availed for audit indicated that three accounts were closed between 25 and 26 June 2013 leaving five banks accounts active beyond 30 June 2013, without authority of the accounting officer of the Embu County Government.

(a) Failure to Maintain Cashbooks

The former County Council of Mbeere maintained eight bank accounts. Out of these, only three cash books were maintained for Project, LATF and GRF. The other five banks accounts had no cash books. No explanation was given for failure to maintain cash books for the five bank accounts.

(b) Unsupported Interbank transfers

During the period ended 28 February, 2013, the former County Clerk and County Treasurer made interbank transfers totaling Kshs.21,000,000 from the LATF account to other accounts without supporting payment vouchers.

ii) Debtors

The council did not prepare a statement of assets and liabilities as at 28 February 2013 as required by the Ministry of Local Government and therefore, debtors were not disclosed as at that date. Further, it was noted that no debtors' ledger was maintained by the former council but according to a list of debtors dated 1 January 2013 total debtors amounted to Kshs.24,003,604.

iii) Creditors

The council did not prepare the statement of assets and liabilities as instructed by the Ministry of Local Government through circular MLG/1333/TY/52 of 18 February 2013. The Council had outstanding salary arrears totaling Kshs.10,354,789 for seven months from September 2012 up to March 2013 resulting from implementation of collective bargaining agreement on 1 September 2012. The salary arrears were however, not disclosed in the handing over report dated 30 May 2013.

Due to lack of creditor's ledger, it was not possible to ascertain the balance of creditors as at 30 December 2012, 28 February and 30 June 2013.

3.27 Fixed Assets

i) Motor Vehicles and Office Equipment

The former council had engaged a private valuer to value its assets and a valuation report dated 12 July 2010 prepared. The valuation report did not disclose four motor cycles valued at Kshs.362,000 registration numbers KAW 314Z, KAW 315Z, KAW 316Z and KAW 317Z belonging to the former County Council of Mbeere. Physical verification of motor vehicles and equipment revealed undisclosed computers and accessories valued at Kshs.376,400. The handing over report as at 30 May 2013 and valuation report indicated the value of motor vehicles and machinery at Kshs.18, 796,000. However, the council acquired a motor vehicle registration no. KBJ 773U valued at Kshs.2, 481,880.00 in 2011, after the valuation date, which was not disclosed in the handing over report as at 30 May 2013.

3.28 Revenue Collection

i) Revenue spent at source

Revenue totaling Kshs.7,566,825 collected was spent at source. The expenditure related to hire of taxis, subsistence allowances and fuel.

ii) Failure to maintain crucial records and weak internal control system

The former Council did not maintain a Counterfoil Receipt Books Register (CRBR) to record and control receipts and issues of accountable documents like receipt books, local purchase orders, local service orders, collection control sheets, stores ledger cards etc. Although it was explained that the issue of receipt books is controlled through LAIFOMS, this was not the case.

3.29 Staff Payroll

i) Increase in Payroll Amount

The wage bill for the former council increased by Kshs.1,647,052 in April 2013 from Kshs.3,012,926 to Kshs.4,659,978 due to implementation of the new Collective Bargaining Agreement.

ii) Irregular payment of Non Practicing Allowances

The council paid non-practicing allowances totaling Kshs.55,000 to two officers who did not qualify for the allowances as there was no evidence that they had practicing certificates from ICPAKs registration Committee. Membership to ICPAK without practicing certificate is not a qualification for non-practicing allowance.

3.30 Procurement of Goods and Services

All council procurements for goods and services were executed without support of an approved annual procurement plan. There was no evidence adduced on the existence of an independent inspection and acceptance committee as provided in the Public Procurement and Disposal Act, 2005 and regulations of 2006 which requires procuring public entity to establish various committees.

3.31 Other Audit Findings

(i) Irregular of payment of doubtful legal fees

During the month of February 2013, the council paid legal fees amounting to Kshs.508,651 to a firm of Advocates for unspecified representations. This payment was not supported by instructions issued to the firm of advocates to represent the council, invoice or a fee note. Moreover, the exact services rendered to the council such as filing service, attendance, summons etc which could have the basis for charging legal fees, were not disclosed. It was not possible to confirm the nature of transactions or the basis of the fee.

(ii) Local Authorities Transfer Fund (LATF)

The County Council of Mbeere received Kshs.33,091,079 from the Ministry of Local Government to finance approved budget which had included capital projects of Kshs.35,000,000 for 2012/13. However, out of the total funds received, only Kshs.4,500,000 was applied to fund capital projects. The balance of the disbursement was applied for other expenses not related to the budgeted capital projects.

(iii) Doubtful Payment of Consultancies Services

During the transition period, the council paid doubtful payments for consultancy services totalling to Kshs.1,387,000. However, the payments were not supported with the

relevant documents. The County Government should ensure that payments are properly supported at all times before any payment is made.

3.32 Conclusion

I wish to thank the management of Embu County for their cooperation and assistance extended to my staff during the period of this important audit assignment.

A handwritten signature in dark ink, appearing to read 'E. R. O. Ouko', with a stylized flourish at the end.

Edward R. O. Ouko, CBS
AUDITOR-GENERAL

05 December, 2013