

REPUBLIC OF KENYA



REPORT

OF

THE AUDITOR-GENERAL

ON

**THE FINANCIAL OPERATIONS OF
KILIFI COUNTY EXECUTIVE**

**FOR THE PERIOD
1 JULY 2013 TO 30 JUNE 2014**

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REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL OPERATIONS OF KILIFI COUNTY EXECUTIVE FOR THE PERIOD 1 JULY 2013 TO 30 JUNE 2014

EXECUTIVE SUMMARY

Introduction

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

Audit Objective

The objective of the audit was to ascertain whether the systems formulated and applied by the County Executive were reliable for the management of the County Executive's finances in the delivery of service to the local residents.

Terms of Reference

The terms of reference set for the audit included verification and confirmation of transactions in respect to but not limited to the following areas:

- Budgetary controls and performance
- Annual operational /Activity plans
- Procurement of goods, works and services
- Allowances including travelling and accommodation expenses for local and foreign trips.
- Motor vehicle running expenses-Fuel
- Consultancy services
- Imprests and advances
- Cash and bank balances
- Human Resource Records
- IT Environment
- Non-Current assets
- Debtors
- Creditors

Key Audit Findings

1.0 Procurement of Goods and Services

1.1 Purchase of Unbudgeted Residential House for the Governor

Records availed for audit review indicate that the County Executive of Kilifi purchased a residential house for the Governor at a cost of Kshs.140,000,000. However, the County Government's approved budget and procurement plan availed for audit review did not have a provision for purchase of the governor's residential house. Funds were reallocated from purchase of land and construction of buildings budget lines for purchase of the residential house. Further, approval of the County Assembly as provided for by Section 154 of the Public Finance Management Act, 2012 was not availed for audit review.

1.2 Refurbishment of the Governor's Office

Records availed for audit revealed that refurbishment works at the Kilifi County Governor's Office block was awarded to a contractor at a cost of Kshs.43,615,306 for the second phase. No documentary evidence was availed to confirm how the contractor was identified, selected and awarded the contract for the refurbishment. The project file for the refurbishment was not available for audit verification and therefore it has not been possible to confirm the progression status of the repair works as at the time of this audit.

1.3 Procurement of the Legal Services

Payment records made available indicate that a law firm was paid Kshs.12,170,000 through payment voucher number 10000003 dated 20 December 2013 to provide legal services in respect of conveyancing and legal charges on transfer of property-Governor's residential house on behalf of the County Government. However, no documentation has been made available to confirm how the law firm was identified, selected and awarded the service as is required for a competitive procurement process. It has also not been explained how the fees and charges paid were calculated and agreed upon. In addition, payment voucher(s) in support of the payment were not made available for audit verification to confirm the propriety of the expenditure.

Records made available indicate that three (3) law firms were paid an amount totalling Kshs.17,595,175 for provision of legal services. However documentation in support of how the legal fees charged and paid for were not availed for audit verification. No case files were availed to confirm the status of the cases as at the time of audit and what legal representation they performed on behalf of the County Executive. Further, no documentation has been availed to confirm how the law firms were identified, selected and awarded the service.

1.4 Procurement of Simlaw Seeds

Examination of records availed revealed that the County Executive made payments totalling Kshs.17,672,000 for purchase of seeds. However, no documents in support of the procurement method used were made available for audit verification and therefore it

has not been possible to determine whether the procurement was done in line with the Public Procurement and Disposal Act, 2005. In addition, no records were availed for audit verification to confirm how distribution of the seeds was done or any acknowledgement of receipt of the seeds by the farmers.

1.5 Procurement of Ambulances

Examination of records made available for audit review disclosed that the County Executive contracted a motor vehicle supplier for supply and delivery of ten (10) land cruiser ambulances at a cost of Kshs.74,900,000. The County Executive made a down payment of Kshs.35,000,000 towards the supply. Although the initial tender was advertised for supply of six (6) ambulances, the contract was signed for supply of ten (10) ambulances. The quantity increment of four (4) ambulances which represents sixty-seven (67%) percent increase is against Section 31(b) of the Public Procurement and Disposal Regulations, 2006 which states that quantity variation for goods and services should not exceed ten (10%) percent of the original contract quantity. No documentation was availed to support the variation in the quantity of the additional four (4) vehicles supplied. This effectively meant that the additional expenditure of Kshs.29,960,000 was nugatory.

1.6 Procurement of Tractors

Examination of cash books and bank statements revealed that the County Executive made payments totalling Kshs.41,990,000 for purchase of tractors. However, no documents in support of the procurement method used were availed for audit verification.

In addition, no contract document was made available for audit verification to confirm the number of tractors ordered for and delivered and no registration certificates (logbooks) were availed to confirm ownership status of the tractors. Physical verification was also not possible as no details of the registration numbers of the tractors and their location were availed for audit review.

1.7 Procurement of Civil Works

During the period under review, the County Executive made payments amounting to Kshs.122,862,499.70 for civil works. However, the project files made available for audit review did not contain documentation on advertisement, procurement process, engineer's estimates, contractual agreement, Bill of Quantities, measurement of work done and other relevant certificates on completion and payments. It is not clear and the management has not explained the basis for payment for work done as no certificates of completion were availed for audit review.

1.8 Procurement of Catering Services

Records made available indicate that during the period under review, the County Executive spent a total of Kshs.7,476,014 on catering services for various hospitals. It was however, observed that the County Accounting Officer failed to establish hospitals

as procuring entities and establish tender, evaluation and inspection and negotiation committees for these entities, contrary to Section 9 (a) and (b) of the legislative supplement number 22 to the Public Procurement and Disposal Act, 2005 as set by the then Minister for Finance through Legal Notice number 60 of 25 March 2013.

1.9 Conference and Hotel Services

Information made available indicates that an amount totalling Kshs.4,779,355 was paid to various hotels during the period under review to provide conference and hotel services. However, no documentary evidence was availed for audit review to show how these hotels were identified, selected, rates determined and awarded to provide the services, since the hotels were not pre-qualified. In addition, no documentation has been availed to confirm that the officers had been invited to attend seminars in these hotels, the number of participants and how attendance was confirmed.

1.10 Procurement of Contracted Guards and Cleaning Services

Information available indicates that between the period 1 July 2013 and 31 March 2014 the County Executive spent a total of Kshs.7,498,400 on Contracted Guards and Cleaning Services. It was, however, observed that the Accounting Officer of County Government of Kilifi failed to establish urban areas and hospitals as procuring entities and establish tender, evaluation inspection and negotiation committees for the entities contrary to Section 9 (a) and (b) of the Legislative Supplement number 22 to the Public Procurement and Disposal Act, 2005 as set by the then Minister for Finance through Legal Notice number 60 dated 25 March 2013.

1.11 Procurement of Insurance Services

Information made available during the audit indicated that an insurance brokerage firm was paid a sum of Kshs.5,355,907 for providing insurance services to the County Executive. However, no insurance contract agreement was availed for audit verification. The County's insurance subject correspondence file which would contain information on the property, plant and equipment being insured was also not availed for audit review.

In addition, no documentation in support of how the insurance firms were identified, selected and awarded the services has been made available for audit review. In the absence of a contract agreement, the criteria used to determine rates charged could not be established as no valuation report was provided as a basis of determining the insurable value. No information was available specifying the underwriting insurance company and evidence of remittance of the money to the principal company could therefore not be confirmed.

1.12 Procurement of Drugs and Laboratory Materials, Dressing and Non-Pharmaceuticals

Records made available during the period under review indicated that the County Executive procured dressing and non-pharmaceutical, drugs and laboratory materials for hospitals in the County amounting to Kshs.2,443,911, Kshs.2,684,040 and Kshs.2,582,367 respectively. However the County Accounting Officer failed to establish

hospitals as procuring entities and establish a tender, evaluation and inspection and negotiation committees for the entities contrary to Section 9 (a) and (b) of the Legislative supplement number 22 to the Public Procurement and Disposal Act, 2005 as set by the then Minister for Finance through Legal Notice number 60 dated 25 March 2013.

1.13 Purchase of Furniture

Records made available for audit review indicated that the County Executive spent Kshs.6,759,907 to procure furniture following a tender advertised on 8 June 2013. However, tender evaluation and minutes awarding the tender were not availed for audit verification. The furniture could not be confirmed to be of the right quality and quantity as ordered since the inspection and acceptance committee's report was not availed for audit verification. There was also no evidence that the payment voucher used to effect the payment was subjected to vital internal controls such as examination, internal audit and vote book certification.

1.14 Purchase of Maize Meal

Information made available for audit verification indicated that the County Executive purchased 800 bags of 2 Kgs maize meal as relief food at a cost of Kshs.1,000,000. It was however observed that no requests for quotation for the purchase was done contrary to Section 88 of the Public Procurement and Disposal Act, 2005 as maize meal is a readily available item for which an established market exists. Further, no records were availed to confirm that the distribution was done to the needy beneficiaries of the relief food.

1.15 Purchase of Goods Through Cash

Records made available revealed that the County Executive made payments in cash to staff amounting to Kshs.2,863,586 to purchase various goods and services which would ordinarily be procured through the laid down procurement procedure for common user items. There was no evidence that the goods purchased were recorded in the stores records (stores ledger and bin cards) for controlled usage. Examination of cash sale receipts attached to the payment vouchers revealed that some of the purchases exceeded the mandatory threshold of Kshs.30,000 which requires the use of quotations while some purchases appeared doubtful as they did not have electronic tax receipts (ETR) generated.

1.16 Purchase of Computers and Printers

Records made available for audit review indicated that Kshs.2,165,200 was spent on purchase of computers and printers. However, no records were available to confirm receipt, recording and issue of these computers and therefore verification was not possible. In the absence of records it could not be confirmed whether the computers and printers have been recorded in the assets register and are recognized as property of the County Government of Kilifi.

1.17 Purchase of General Supplies

Records made available indicated that the County Executive purchased stationery amounting to Kshs.3,617,758 for the Department of Finance and Economic Planning and Kshs.1,957,500 for the Department of Youth Affairs, Culture and Social Services. Audit verification revealed that the items were not recorded in the respective stores records. Further, it was not possible to make confirmation of the items issued, utilized and balance remaining in the store as at the time of this audit.

1.18 Maintenance of Roads, Ports and Jetties

Information available indicates that the County Executive through its Public Works Department paid a total of Kshs.1,855,649 for maintenance of roads, ports and jetties. It was also observed that a contract for repair of drainage works at Biashara Street in Kilifi town was based on a work plan valued at Kshs.1,274,200. Although a contract agreement was signed on 15 April 2013, no tender opening, evaluation and award minutes were availed for audit review.

1.19 Air Travel Expenditure

During the period under review, the County Executive incurred an expenditure totalling Kshs.5,531,167 on purchase of air tickets. However, no local service orders (LSO) were raised and therefore it was not clear how the air tickets' firm was identified, selected and awarded the services. Further, there was no information availed for audit to confirm that invitation letters were sent to the officers for the travel and it was not clear how those to travel were identified. Also there was no evidence of travel in the form of boarding passes, actual air tickets and e-travel reports availed for audit verification. In addition the County Executive did not avail documentary evidence on air travel policy to determine officers entitled to use air transport as payments were made without authorized signatures of key officials as required on the payment vouchers.

1.20 Hire of Motor Vehicles

Records made available indicate that Kshs.11,431,330 was paid for hire of transport during the period under review. However, it is not clear if the service providers were pre-qualified and it is therefore not possible to establish how the car hire dealers were identified, selected, cost determined and awarded the services. The persons on whose behalf the hire of vehicles was done were also not identified. Staff and service companies were paid amounts totalling Kshs.7,309,880 and Kshs.1,548,450 respectively. However, details of how the service companies were identified, selected and awarded the services have not been made available. The criteria used to engage staff in hiring of transport has not been disclosed and the amounts accounted for.

No supporting documentation has been made available for audit review confirming how the different rates charged were determined and agreed on since no contract agreements were availed outlining the terms of engagements. There was also no evidence on the nature of duties undertaken by the persons hiring the vehicles and no list

of motor vehicles owned by the County Executive indicating their operational status at the time of hire which occasioned the need to hire transport.

1.21 Repair of Motor Vehicles

Records made available revealed that the County Executive of Kilifi spent Kshs.1,287,207 on repair of vehicles and purchase of vehicle spare parts which were carried out in local garages. However, no records are available to confirm how the garages were identified, selected and awarded the services.

In addition, no stores records were availed to confirm receipt, storage and issue of spare parts purchased. No log books were availed to confirm recording of repairs and work tickets indicating the defects that necessitated the repairs were not availed.

2.0 Travelling, Accommodation and Subsistence

Records availed for audit review indicated that an amount of Kshs.10,796,244 was paid to various officers of the County Executive, being claims for expenses incurred while performing various activities during the period under review. The officers were paid allowances in the name of 'meal' allowances, 'quarter per diem', lunch allowances and night outs while within their duty station and performing normal duties, under circumstances which could not be justified. These allowances are not amongst those listed in Section J and Section J.13 appendix J1 of the Code of Regulations and Section 152 of the Public Finance Management Act, 2012, and therefore the authority of these payments could not be confirmed. It was observed that these meal allowances were paid on the strength of a letter being issued from the Governor's office every month listing the officers to be paid and the county cashier would take an imprest to pay the officers.

Further, a total of Kshs.3,241,000 was spent in paying per diem allowances to County Executive officers who attended a fourteen (14) day Integrated Financial Management Information System training at Kenya School of Government, Nairobi for which no proof of travel was made available for audit verification. It was not specified when the training started and ended. There were also no indication of invitation letters sent to the officers showing when each officer was required to attend the training. In addition, the payments were observed not to have been subjected to vital controls such as examination of vouchers, internal audit, authorization, approval, vote book and cash book certification.

3.0 Fuel Expenditure

Available information indicates that an amount of Kshs.5,135,465 was spent on purchase of fuel from two local suppliers through imprests issued to two officers. However, the vehicles' fuel register and the original work tickets for the County Executive were not availed for audit review to confirm the consumption of the fuel. Therefore, the control on fuel costs was found to be unsatisfactory.

4.0 Staff Imprest

A review of the imprest records for the period under review indicated that a total of Kshs.40,632,133 was issued as imprest. However, as at 30 June 2014 only Kshs.17,976,062 had been surrendered resulting in Kshs.22,656,071 being long outstanding. It is not clear and the management has not explained why the imprest has not been recovered from the respective officers' salaries in line with Government Financial Regulations and Procedures.

5.0 Revenue Collection

Records made available for audit indicated that revenue from various streams amounting to Kshs.329,089,671 as at 30 June 2014 was collected against approved budget of Kshs.735,819,493 for the 2013/2014 financial year translating to 45% of the estimated collectable revenue realized. No explanation has been made to confirm the low level of revenue collection and measures taken to mitigate the shortfall in the short and long term.

6.0 Special Audit Request by the County Assembly on Allegations of Revenue Collection

The County Executive has seven Sub-Counties and each considered an independent revenue collection center. The seven revenue collection centers are; Rabai, Ganze, Kaloleni, Kilifi South, Kilifi North, Malindi and Magarini. Each of the revenue collection centers operates independently using either the Local Authorities Integrated Financial Operations Management System (LAIFOMS) or a manual system.

6.1 Global Review of Revenue Management Process

Kshs.670,000,000.00 was budgeted as local revenue to be collected for the financial year 2014/15 through Cess, Land Rates and Single Business Permits, representing 42%, 31% and 27% respectively.

The County Executive operates County Revenue Fund Account with Central Bank of Kenya (CBK) and Revenue Collection Account in Kenya Commercial Bank, Kilifi Branch Account No 1140769235. Revenues are collected in the Kilifi County Revenue Collection Account and transmitted to Kilifi Revenue Fund Account in CBK Account No 1000170212.

6.2 Analytical Review of Collection of Cess and Parking Fees

A comparison of the Cess and Parking Fees collected and reported by the County Executive before engaging Rain Drops Ltd during the year 2013 and 2012 against collections after engaging Rain Drops Ltd, in year 2014 revealed that the defunct local authorities collected an amount of Kshs.249,974,615 in 2012, while the County Government collected a much lesser amount of Kshs.65,668,592. Also noting that although the amounts collected by Rain Drops Ltd in 2014 when the process of collection was automated (Kshs.147,320,168), was 124% higher than that collected by the County

Executive in 2013 (Kshs.65,668,592), the collection by Rain drops Limited was still lower than Kshs.249,974,615 that was collected in 2012 by the defunct local authorities by 40%.

6.3 Analytical Review of Collection of Land Rates, Single Business Permits and Other Miscellaneous Revenues

It was observed that the local revenue collected and reported by all the 7 revenue collection points for land rates, single business permits and other miscellaneous revenues was Kshs.360,129,667.00.

6.4 Revenue Collection Process

6.4.1 Cess and Parking Fees by Rain Drops Limited

Rain Drops Limited was first contracted by the County Executive on 20 February 2014 as a Project Investor to collect Cess and Parking Fees on behalf of the County Government for 15 years.

6.4.2 Revenue Collection for Land Rates

The County Executive did not maintain a consolidated data base of all the properties that were eligible to pay land rates within the County. It was therefore not possible to extract information relating to the actual number of properties in the County, total rates due for each year and the balance outstanding.

It was further noted that land rates collected by the County Executive in 2013 and 2014 was 34% lower than what was collected by the defunct local authorities in 2012. The County Executive cited resistance during the transition periods in 2013 as County citizens were waiting for waiver from the County Government as they had not done the tax administrations and finance bills.

6.4.3 Revenue Collection for Single Business Permits

The County Executive did not maintain a database/register of businesses from which they collect single business permit fees. Kilifi North Sub-County that was sampled revealed that the Revenue Clerks only have a manual register in which they record those businesses which are invoiced at the beginning of each calendar year.

Based on the above shortcomings, the audit only relied on information captured by the Revenue Clerks in the control sheets used to collect the revenue, manual receipt books, and revenue summaries captured in an excel worksheet.

An analysis of the revenue collected by the County Executive in form of single business permits indicates that the amounts increased by 17% in 2013 when County Governments were established and further increased by 50% in 2014.

6.5 Revenue Collection Deposited into the Main Bank Accounts

On further analysis of the County Executive KCB Revenue Collection Account No. 1140769235 noted that it's the main revenue collection account operated by the County Government and is used for all local revenue collections. Revenue collected by Rain Drops Limited was also transferred into this account for onward transmission to CBK.

Review of the monthly bank statements for the above Revenue Collection Account revealed that a total of Kshs.613,425,292.29 was banked into the account during the period July 2013 to December 2014. The total amount was transferred out of this account during this period to the Kilifi Central Bank of Kenya Revenue Fund Account No. 100017021.

6.6 Procurement of Cess and Parking Fee Revenue Collection Agency System

The need for Revenue Management System was noted to have been inherited by the County Government from earlier assessments by the defunct local authorities who had conducted a study to enhance revenue collection. One of the recommendations of this study was partnering with companies with the expertise to install automated and related infrastructure to enhance the collections efficiency.

However, an annual procurement plan was not availed for audit review. In the absence of the annual procurement plan, it was not possible to verify that procurement of Revenue Management System was planned for in the annual procurement plan. Failure to maintain/ avail the annual procurement plan contravenes Section 20(1) of the Public Procurement and Disposal Regulations, 2006 that provide that "*A procurement entity shall prepare a procurement plan for each financial year as part of the annual budget preparation process*".

6.7 Contract Termination

On 16 February 2015 the County Secretary wrote a letter referenced CG/KLF/FIN/19/VOL.II (09) to the Managing Director Rain Drop Ltd terminating the contractual relationship between the County Government and Rain Drop Limited for breach of contract.



Edward R. O. Ouko, CBS
AUDITOR-GENERAL

Nairobi

20 August 2015

DETAILED AUDIT REPORT ON THE FINANCIAL OPERATIONS OF KILIFI COUNTY EXECUTIVE FOR THE PERIOD 1 JULY 2013 TO 30 JUNE 2014

1.0 Detailed Audit Findings

1.1 Procurement of Goods and Services

1.1.1 Purchase of Unbudgeted for Residential House for Governor

Records availed for audit review indicate that the County Executive purchased a residential house for the Governor at a cost of Kshs.140,000,000. However, the County Government approved budget and procurement plan availed for audit review did not have a provision for purchase of the governor's residential house. Funds were reallocated from purchase of land and construction of buildings budget lines for purchase of the residential house. Further, approval of the County Assembly as provided for by Section 154 of the Public Finance Management Act, 2012 was not availed for audit review.

Recommendation

The County Executive should adhere to the Public Finance Management Act, 2012 and the related government financial regulations and procedures on all procurement processes. Further the County Assembly's approval for the re-allocation of the funds should be made available for audit review failure to which the accounting officer is held liable and accountable for unauthorized re-allocation of Kshs.140,000,000.

1.2 Refurbishment of the Governor's Office

Records availed for audit revealed that refurbishment works at the Kilifi County Governor's Office block was awarded to a contractor at a cost of Kshs.43,615,306 for the second phase. No documentary evidence was availed to confirm how the contractor was identified, selected and awarded the contract for the refurbishment. The project file for the refurbishment was not available for audit verification and therefore it has not been possible to confirm the progression status of the repair works as at the time of this audit.

Recommendation

The County Executive should follow the Public Procurement and Disposal Act, 2005 and the related procurement and disposal regulations on procurement of works and related services. Further, the management should avail all respective documents in support of the refurbishment failure to which the accounting officer is held liable for the amount of Kshs.43,615,306 expended on the refurbishment.

1.3 Procurement of Legal Services

Payment records made available indicate that a law firm was paid Kshs.12,170,000 through payment number 10000003 dated 20 December 2013 to provide legal services in respect of conveyancing and legal charges on transfer of property-Governors residential house on behalf of the County Government. However, no documentation has been made available to confirm how the law firm was identified, selected and awarded the service since no evidence was availed to indicate that a competitive procurement process was done. It has also not been evidenced on how the fees and charges paid, were calculated and agreed upon. In addition, payment voucher(s) in support of the payment was/were not made available for audit verification to confirm the propriety of the expenditure.

Records made available indicate that three (3) law firms were paid an amount totalling Kshs.17,595,175 as detailed in **Appendix 1** for provision of legal services. However no documentation in support of how the legal fees charged and paid for were availed for audit verification. No case files were availed to confirm the status of the cases as at the time of audit and what legal representation they performed on behalf of the County Executive. Further, no documentation has been made available to confirm how the law firms were identified, selected and awarded the service.

In all cases, there is no documentary evidence that the County's legal office was involved in drawing a contract agreement for approval. Consequently, the propriety of the payment of Kshs.29,765,175 legal services could not be confirmed.

Recommendation

The County Executive should follow the Public Procurement and Disposal Act, 2005 and the related procurement and disposal regulations on all procurement of legal services. Further, management should avail all respective documents in support of legal services failure to which the Accounting Officer is held liable for the total amount of Kshs.29,765,175 expended on legal services.

1.4 Procurement of Simlaw Seeds

Examination of records availed revealed that the County Executive made payments totaling Kshs.17,672,000 for purchase of seeds. However, no documents in support of the procurement method used were made available for audit verification and therefore it has not been possible to determine whether the procurement was done in line with Public Procurement and Disposal Act, 2005. In addition, no records were availed for audit verification to confirm how distribution of the seeds was done or any acknowledgement of receipt of the seeds by the farmers.

Recommendation

The County Executive should follow the Public Procurement and Disposal Act, 2005 and the related procurement and disposal regulations on the procurement of seeds. Further,

the management should avail all the respective documents in support of the purchase of seeds failure to which the Accounting Officer is held liable for the total amount of Kshs.17,672,000 being expenditure on Simlaw seeds.

1.5 Procurement of Ambulances

Examination of records made available for audit review disclosed that the County Executive contracted a motor vehicle supplier for supply and delivery of ten (10) land cruiser ambulances at a cost of Kshs.74,900,000. The County Executive made a down payment of Kshs.35,000,000 towards the supply. Although the initial tender was advertised for supply of six (6) ambulances, the contract was signed for supply of ten (10) ambulances. The quantity increment of four (4) ambulances or sixty-seven (67%) percent is against Public Procurement and Disposal Regulations 2006 Section 31 (b) which states that quantity variation for goods and services should not exceed ten (10%) percent of the original contract quantity. No documentation was availed to support the variation in the quantity of the additional four (4) vehicle supplied. This effectively meant that the additional expenditure of Kshs.29,960,000 was nugatory. Further, registration documents of the ambulances were not availed for audit review and therefore it was also not possible to physically verify the existence of the ambulances.

Recommendation

The management should follow the Public Procurement and Disposal Act, 2005 on procurement of goods. Further the management should avail all documents in support of the authorization for purchase of additional ambulances failure to which the Accounting Officer is held liable for the nugatory expenditure of Kshs.29,960,000.

1.6 Procurement of Tractors

Examination of cash books and bank statements revealed that the County Executive made payments totalling Kshs.41,990,000 for purchase of tractors. However, no documents in support of the procurement method used were availed for audit verification.

In addition, no contract document was made available for audit verification to confirm the number of tractors ordered and delivered and no registration certificates (logbooks) were availed to confirm ownership status of the tractors. Physical verification was also not possible as no details of the registration number of the tractors and their location were availed for audit review.

Recommendation

The management should follow the Public Procurement and Disposal Act, 2005 on procurement of goods when procuring goods and services. Further, the management should avail all documents relating to procurement and registration of the tractors failure to which the Accounting Officer is held liable for the nugatory expenditure of Kshs.41,990,000.

1.7 Procurement of Civil Works

During the period under review, the County Executive made payments amounting to Kshs.122,862,499.70 for civil works. However, the project files made available for audit review did not contain documentation on advertisement, procurement process, engineer's estimates, contractual agreement, Bill of Quantities, measurement of work done and other relevant certificates on completion and payments. It is not clear and the management has not explained the basis of payments for work done as no certificates of completion were availed for audit review.

Recommendation

The management should follow the Public Procurement and Disposal Act, 2005 on procurement of goods and services. Further the management should avail for audit review all documents and certificates in relation to the procurement of the civil works failure to which the Accounting Officer is held liable for the unsupported expenditure of Kshs.122,862,499 for civil works.

1.8 Procurement of Catering Services

Records made available indicate that during the period under review, the County Executive spent a total of Kshs.7,476,014 as per **Appendix 2** on catering services for hospitals. It was however observed that the County Accounting Officer of Kilifi failed to establish hospitals as procuring entities and establish tender, evaluation and inspection and negotiation committees for these entities contrary to Section 9 (a) and (b) of the legislative supplement number 22 to the Public Procurement and Disposal Act, 2005 as set by the then Minister for Finance through Legal Notice number 60 dated 25 March 2013.

Recommendation

The management should establish hospitals as procuring entities as per the Legal Notice No.60. Further, the Accounting Officer should be held accountable for the expenditure of Kshs.7,476,014 for failure to follow the law.

1.9 Conference and Hotel Services

Information made available indicates that an amount totalling Kshs.4,779,355 was paid to various hotels during the period under review to provide conference and hotel services. However no documentation evidence was availed for audit review to show how these hotels were identified, selected, rates determined and awarded the services since the hotels were not pre-qualified. In addition no documentation has been availed to confirm that the officers had been invited to attend seminars in these hotels, the number of participants and how attendance was confirmed.

Recommendation

The management should ensure that procurement of conference and hotel services is in line with the Procurement Law. Further, the documents in support of the procurement of conferences and hotel services be availed for audit review. Further, the attendance register of the participants should be availed for audit review failure to which the Accounting Officer is surcharged for the unsupported amounts of Kshs.4,779,355.

1.10 Procurement of Contracted Guards and Cleaning Services

Information available indicates that between the period 1 July 2013 and 31 March 2014 the County Executive of Kilifi spent a total of Kshs.7,498,400 as detailed in **Appendix 3** on Contracted Guards and Cleaning Services. It was however observed that the Accounting Officer of County Government of Kilifi failed to establish urban areas and hospitals as procuring entities and establish tender, evaluation inspection and negotiation committees for the entities contrary to Section 9 (a) and (b) of the Legislative supplement number 22 to the Public Procurement and Disposal Act, 2005 as set by the then Minister for Finance through Legal Notice number 60 dated 25 March 2013.

Recommendation

The management should follow the Public Procurement and Disposal Act, 2005 on procurement of goods and services. Further the Accounting Officer should be held liable for the expenditure of Kshs.7,498,400 on contracted guard and cleaning services which was incurred contrary to the Law

1.11 Procurement of Insurance Services

Information made available during audit indicated that an insurance brokerage firm was paid a sum of Kshs.5,355,907 for providing insurance services to the County Government. However, no insurance contract agreement was availed for audit verification. The County's insurance subject correspondence file which would contain information on the property, plant and equipment being insured was also not availed for audit review.

In addition no documentation in support of how the insurance firms were identified, selected and awarded the services has been made available for audit review. In the absence of a contract agreement, the criteria used to determine rates charged could not be established as no valuation report was provided as a basis of determining the insurable value. No information was available specifying the underwriting insurance company and evidence of remittance of the money to the principal company could therefore not be confirmed.

Recommendation

The management should ensure procurement of insurance services is in line with Public Procurement Disposal Act. 2005 and that all documents in support of the procurement of insurance services totalling Kshs.5,355,907 are availed for audit review failure to which the respective officers be surcharged for the unsupported amount of Kshs.5,355,907.

1.12 Procurement of Drugs and Laboratory Materials - Dressing and Non-Pharmaceuticals

Records made available during the period under review indicated that the County Executive procured dressing and non-pharmaceuticals, drugs and laboratory materials for hospitals in the County for Kshs.2,443,911, Kshs.2,686,040 and Kshs.2,582,367 as detailed in **Appendix 4,5 and 6** respectively. However the County Accounting Officer failed to establish hospitals as procuring entities and establish a tender, evaluation and inspection and negotiation committees for the entities contrary to Section 9 (a) and (b) of the Legislative Supplement number 22 to the Public Procurement and Disposal Act, 2005 as set by the then Minister for Finance through Legal Notice number 60 dated 25 March 2013.

Recommendation

The management should follow the Public Procurement and Disposal Act, 2005 on procurement of goods and services. Further the Accounting Officer should be held liable for the expenditure totalling Kshs.7,712,318 incurred contrary to the Law.

1.13 Purchase of Furniture

Records made available for audit review indicated that the County Executive spent Kshs.6,759,907 to procure furniture following a tender advertised on 8 June 2013. However, tender evaluation and minutes awarding the tender were not availed for audit verification. The furniture could not be confirmed to be of the right quality and quantity as ordered as the inspection and acceptance committee's report was not availed for audit verification. There was also no evidence that the payment voucher used to effect the payment was subjected to vital internal controls such as examination, internal audit and vote book certification.

Recommendation

The management should ensure that all procurement processes are in line with Public Procurement and Disposal Act, 2005 and related procurement and disposal regulations. Further, the necessary documentation should be availed for audit review to confirm that goods received were of the right quantity and quality, failure to which the Accounting Officer is held liable for Kshs.6,759,907 incurred on purchase of furniture.

1.14 Purchase of Maize Meal

Information made available for audit verification indicated that the County Executive purchased 800 bags of 2 Kgs maize meal as relief food at a cost of Kshs.1,000,000. It was however observed that no requests for quotation for the purchase was done contrary to Section 88 of the Public Procurement and Disposal Act, 2005 as maize meal is a readily available item for which an established market exists. Further, no records were

availed to confirm that the distribution was done to the needy beneficiaries of the relief food.

Recommendation

Management should adhere to the Procurement Law at all times when procuring goods and services. Further the accounting officer should make available procurement records for audit review to confirm the purchase failure to which the Accounting Officer is surcharged for the unsupported amounts of Kshs.1,000,000. Further, records to confirm receipt of the relief food by the needy beneficiaries should also be availed for audit verification.

1.15 Purchase of Goods Through Cash

Records made available revealed that the County Executive made payments in cash to staff amounting to Kshs.2,863,586 as detailed in **Appendix 7** to purchase various goods and services which would ordinarily be procured through the laid down procurements procedures for common user items. There was no evidence that the goods purchased were recorded in the stores records (stores ledger and bin cards) for controlled usage. Examination of cash sale receipts attached to the payment vouchers revealed that some of the purchases exceeded the mandatory threshold of Kshs.30,000 which requires the use of quotations while some purchases appeared doubtful as they did not have electronic tax receipt (ETR) generated as detailed in **Appendix 7**.

Recommendation

The management should ensure that all procurement processes are in line with Public Procurement and Disposal Act, 2005 and related procurement and disposal regulations. Further, the necessary documentation should be availed for audit review to confirm that goods purchased were properly received, and were of the right quantity and quality failure to which the Accounting Officer is held liable for the expenditure of Kshs.2,863,586.

1.16 Purchase of Computers and Printers

Records made available for audit review indicated that Kshs.2,165,200 as detailed in **Appendix 8** was spent on purchase of computers and printers. However no records were available to confirm receipt, recording and issue of these computers and therefore verification was not possible. In the absence of records it could not be confirmed whether the computers and printers have been recorded in the assets register and that they are recognized as property of the County Government of Kilifi.

Recommendation

The Accounting Officer should make available for audit review the records in respect of the computers and printer failure to which the responsible officer is surcharged for the Kshs.2,165,200 of the unsupported amounts.

1.17 Purchase of General Supplies

Records made available indicated that the County Executive purchased stationery worth Kshs.3,617,758 as detailed in **Appendix 9** for the Department of Finance and Economic Planning and Kshs.1,957,500 for the Department of Youth Affairs, Culture and Social Services. Audit verification revealed that the items were not recorded in the respective stores records. Further, it was not possible to make confirmation of the items issued, utilized and a balance remaining in the store as at the time of this audit.

Recommendation

The management should ensure that stores records availed for audit review are up to date and reflect the correct movement of goods received, issued and the running balance is also reflected failure to which the officer in charge of the stores is held liable for the amount of general supplies of Kshs.3,617,758.

1.18 Maintenance of Roads, Ports and Jetties

Information available indicates that the County Executive through its Public Works Department paid a total of Kshs.1,855,649 as detailed in **Appendix 10** for maintenance of roads, ports and jetties. It was also observed that a contract for repair of drainage works at Biashara Street in Kilifi town was based on a work plan valued at Kshs.1,274,200. Although a contract agreement was signed on 15 April 2013, no tender opening, evaluation and award minutes were availed for audit review.

In addition, paints were purchased by a member of staff at a cost of Kshs.470,460. However the paints were not verified by the inspection and acceptance committee as no report was availed for audit verification. No records were also availed to confirm receipt, utilization and the remaining balances.

Recommendation

The management should ensure that procurement of goods and services is in line with the Public Procurement and Disposal Act, 2015. Further documents in support of the procurement process of the works should be availed for audit review failure to which the accounting officer is held liable for the expenditure of Kshs.3,600,309.

1.19 Air Travel Expenditure

During the period under review, the County Executive incurred an expenditure totalling Kshs.5,531,167 on purchase of air tickets. However, no Local Service Orders (LSO)

were raised and therefore it was not clear how the air tickets' firm was identified, selected and awarded the services. Further, there was no information availed for audit to confirm that invitation letters were sent to the officers who travelled and it was not clear how those earmarked for travel were identified. Also there was no evidence of travel in the form of boarding passes, actual air tickets and travel reports were not availed for audit verification. In addition the County Executive did not avail documentary evidence on air travel policy to determine the officers entitled to use air transport as payments were made without authorized signatures of key officials as required on the payment vouchers.

Recommendation

The management should ensure that procurement of air tickets is in line with the Procurement Law. Further, the documents in support of the travel should be availed for audit review failure to which the respective officers are surcharged for the unsupported amounts of Kshs.5,531,167.

1.20 Hire of Motor Vehicles

Records made available indicate that Kshs.11,431,330 was paid for hire of transport during the period under review. However, it is not clear if the service providers were pre-qualified and it is therefore not possible to establish how the car hire dealer was identified, selected, cost determined and services awarded. The persons on whose behalf the hire of vehicles was done were also not identified. Staff and service companies were paid amounts totalling Kshs.7,309,880 and Kshs.1,548,450 respectively. However, details of how the service companies were identified, selected and awarded the services have not been made available. The criteria used to engage staff in hiring of transport has not been disclosed and the amounts accounted for.

No supporting documentation has been made available for audit review confirming how the different rates charged were determined and agreed upon since no contract agreements were availed outlining the terms of engagements confirming agreed hire charges. There was also no evidence on the nature of duties undertaken by the persons hiring the vehicles and no list of motor vehicles owned by the County Executive indicating their operational status at the time of hire that occasioned the need to hire transport.

The payments were made without being subjected to vital controls such as examination of vouchers, internal audit, authorization, approval and vote book certificates. In the absence of any regulation sanctioning hire of transport and controls being exercised, the authenticity of this payment could not be confirmed.

Recommendation

The management should ensure that at all time procurement of goods and services is in line with the Public Procurement and Disposal Act, 2005 failure to which the responsible officers are surcharged for the unsupported amounts of Kshs.11,431,330 on the cost of hire of motor vehicles.

1.21 Repair of Motor Vehicles

Records made available revealed that the County Executive of Kilifi spent Kshs.1,287,207 on repair of vehicles and purchase of vehicle spare parts which were carried out in local garages. However, no records are available to confirm how the garages were identified, selected and awarded the services.

In addition, no stores records were available to confirm receipt, storage and issue of spare parts purchased. No log books were available to confirm recording of repairs and work tickets were also not available to indicate defects that necessitated the repairs.

Recommendation

The management should ensure procurement law is followed and that all related records on the repairs of the motor vehicles are available for audit review to support the expenditure incurred, failure to which the responsible officers be surcharged for the unsupported amounts of Kshs.1,287,207.

2.0 Travelling, Accommodation and Subsistence

Records available for audit review indicated that an amount of Kshs.10,796,244 as detailed in **Appendix 11** was paid to various officers of the County Executive, being claims for expenses incurred while performing various activities during the period under review. The officers were paid allowances in the name of 'meal' allowances, 'quarter per diem', lunch allowances and night outs while within their duty station and performing normal duties, under circumstances which could not be justified. These allowances are not amongst those listed in Section J and Section J.13 appendix J1 of the Code of Regulations and Section 152 of the Public Finance Management Act, 2012, and therefore the authority of these payments could not be confirmed. It was observed that these meal allowances were paid on the strength of a letter being issued from the Governor's office every month listing the officers to be paid and the county cashier would take an imprest to pay the officers.

Further, a total of Kshs.3,241,000 as detailed in **Appendix 12** was spent in paying per diem allowances to County Executive officers who attended fourteen (14) days Integrated Financial Management Information System training at Kenya School of Government, Nairobi for which no proof of travel was made available for audit verification. It was not specified when the training started and ended. There were also no indication of invitation letters sent to the officers showing when each officer was required to attend the training. In addition, the payments were observed not to have been subjected to vital controls such as examination of vouchers, internal audit, authorization, approval, vote book and cash book certification.

Recommendation

The management should ensure that the expenditure charged to public funds is lawful and in accordance with Public Finance Management Act. 2012. Relevant supporting

documents for the various allowances should be availed for audit review failure to which the respective officers are surcharged for the unsupported amounts of Kshs.14,037,244.

3.0 Fuel Expenditure

Information available indicates that an amount of Kshs.5,135,465 was spent on purchase of fuel from two local suppliers through imprests issued to two officers as detailed in **Appendix 13**. However, the vehicles' fuel register and the original work tickets for the County Executive were not availed for audit review to confirm the consumption of the fuel. Therefore, the controls over fuel costs were found to be unsatisfactory.

Recommendation

The controls over motor vehicle fuel should be strengthened and fuel accounted for in the fuel register. Records for fuel procured and original work tickets should also be maintained and be made available for audit verification failure to which the respective officers are surcharged for the unsupported fuel amounting to Kshs.5,135,465.

4.0 Staff Imprest

A review of the imprest records for the period under review indicated that a total of Kshs.40,632,133 was issued as imprest. However, as at 30 June 2014 only Kshs.17,976,062 had been surrendered resulting in Kshs.22,656,071 being long outstanding as detailed in **Appendix 14**. It is not clear and the management has not explained why the imprest has not been recovered from the respective officers payroll in line with Government Financial Regulations and Procedures.

Recommendation

The management should ensure that issuance and reconciles of imprest issued to staff is executed in line with the government financial regulations and procedures. Further, any imprest which has not been surrendered within 48 hours after the safari is recovered immediately from the respective officers' payroll.

5.0 Under-Collection of Revenue

Records made available for audit indicated that revenue from various streams amounting to Kshs.329,089,671 as at 30 June 2014 was collected as indicated in **Appendix 15**, against an approved budget of Kshs.735,819,493 for the 2013/2014 financial year translating to 45% of the estimated collectable revenue realized. No explanation has been made to confirm the low level of revenue collection and measures taken to mitigate the shortfall in the short and long term.

Recommendation

The County Executive should put strategies in place to ensure that revenue collection is increased and revenue leakages are sealed to achieve the budgeted target.

5.1 Revenue Collection and Banking

Comparative analysis of records made available for revenue collected and banked, revealed that revenue collected was not being banked intact and promptly. Further, records produced indicated that revenue collected from Malindi Sub County amounted to Kshs.132,210,771 but only Kshs.114,697,805.40 was banked translating to un-explained and un-reconciled under banking of Kshs.17,512,965.60. In addition, no verifiable documentary evidence was availed to indicate whether monthly or periodical reconciliation was done between amounts collected and bankings to ensure revenue collected is banked intact.

Recommendation

The management should ensure that all revenue collected is banked intact in line with Government Financial Regulations and Procedures. Further, records in support of the reconciliation of the variance of Kshs.17,512,965 should be availed for audit review failure to which the responsible officers should be surcharged for the unaccounted amounts of Kshs.17,512,965.

6.0 Special Audit request by the County Assembly on Allegations of Revenue Collection by Appointed Agent

The County Executive has seven Sub-Counties and each considered an independent revenue collection center. The seven revenue collection centers are; Rabai, Ganze, Kaloleni, Kilifi South, Kilifi North, Malindi and Magarini. Each of the revenue collection centers operates independently using either the Local Authorities Integrated Financial Operations Management System (LAIFOMS) or a manual system.

6.1 Global Review of Revenue Management Process

Kshs.670,000,000.00 was budgeted as local revenue to be collected for the financial year 2014/15; Cess, Land Rates and Single Business Permits, each representing 42%, 31% and 27% respectively. The County Executive has a County Revenue Fund Account with Central Bank of Kenya (CBK) and Revenue Collection Account in Kenya Commercial Bank, Kilifi Branch Account No 1140769235. Revenues are collected in the Kilifi County Revenue Collection Account and transmitted to Kilifi Revenue Fund Account in CBK Account No 1000170212.

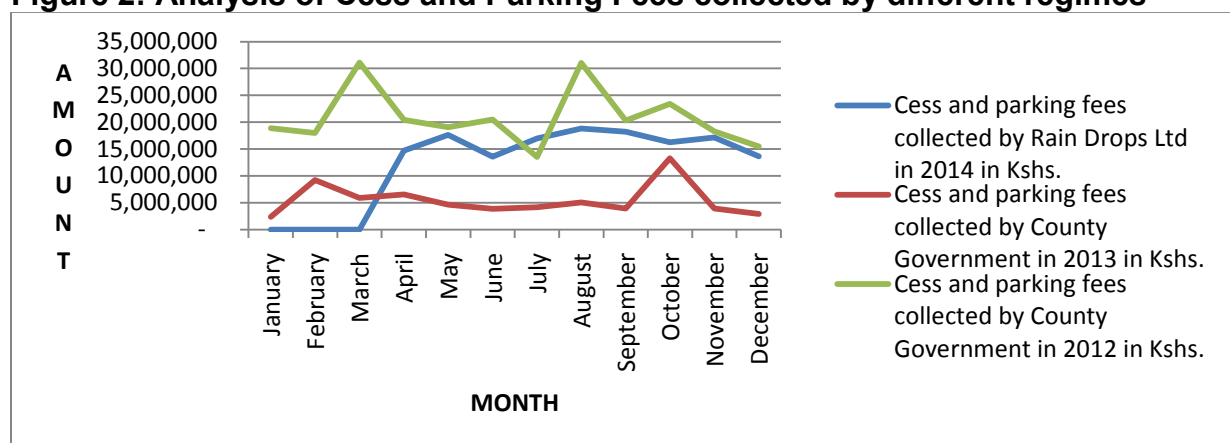
For part of the period under review the County Executive collected all revenues using its own staff. Effectively April 2014, the County Executive outsourced the revenue collection process for Cess and Parking Fees to a private consultant, Rain Drops (K) Ltd. The County Executive continued to collect revenues for land rates, single business permits and other miscellaneous revenues on its own.

6.2 Analytical review of Collection of Cess and Parking Fees

A comparison of the Cess and Parking Fees collected and reported by the County Executive before engaging Rain Drops Ltd during the year 2013 and 2012 against

collections after engaging Rain Drops Ltd in year 2014 revealed that the defunct local authorities collected an amount of Kshs.249,974,615 in 2012 while the County Executive collected a much lesser amount of Kshs.65,668,592. Also noting that although the amounts collected by Rain Drops Ltd in 2014 when the process of collection was automated (Kshs.147,320,168) was 124% higher than that collected by the County Executive in 2013 (Kshs.65,668,592), the collection by Raindrops was still lower than Kshs.249,974,615 that was collected in 2012 by the defunct local authorities by 40%. This implies that Rain Drops Limited as the Project Investor may have had difficulties in taking off as there was indication of a slow trend in revenue collection even after the County Executive engaged the Rain Drops Limited as the Project Investor to collect revenue on its behalf.

Figure 2: Analysis of Cess and Parking Fees collected by different regimes



Source: County Government reports and OAG analysis

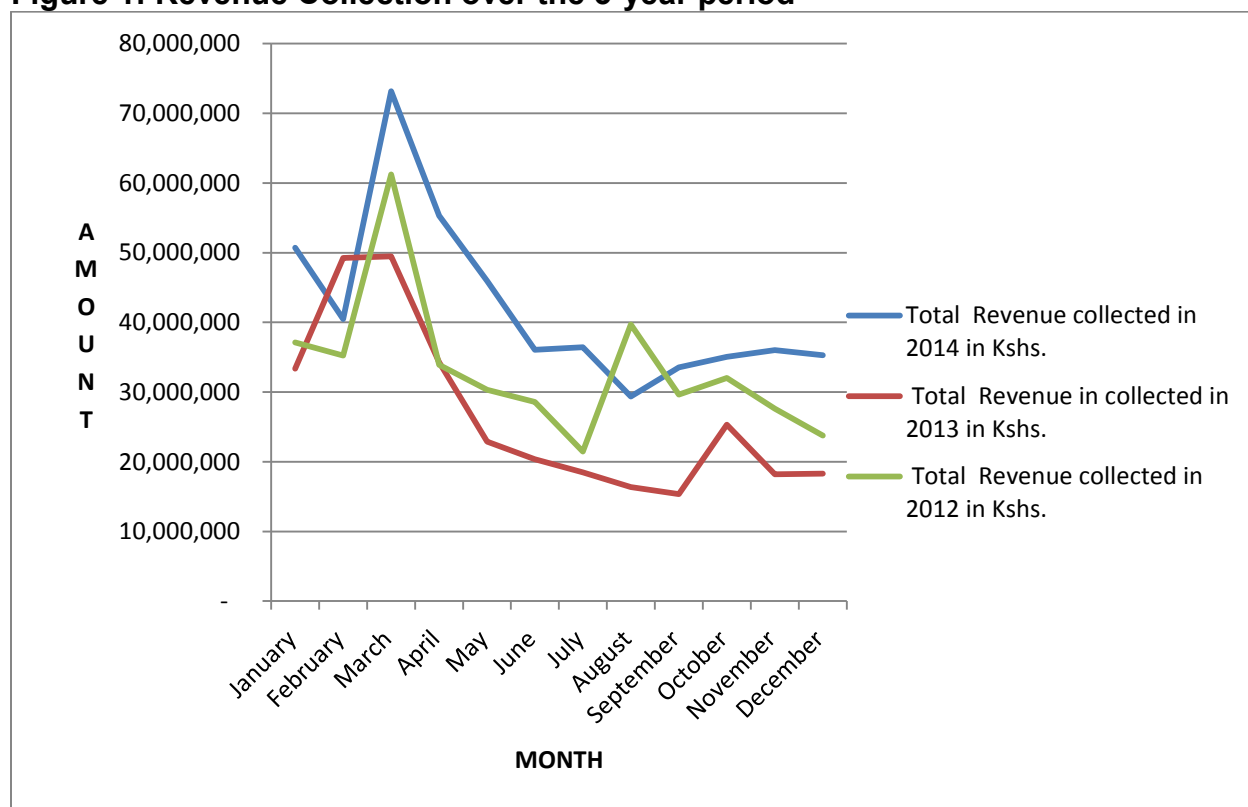
6.3 Analytical review of Collection of Land Rates, Single Business Permits and Other Miscellaneous Revenues

It was observed that the local revenue collected and reported by all the 7 revenue collection points for land rates, single business permits and other miscellaneous revenues was Kshs.360,129,667.00 as detailed below:

	Revenue Collection Centre/Sub-County	Amount in Kshs.
1	Ganze	3,835,615.00
2	Kaloleni	31,731,133.00
3	Rabai	20,418,476.00
4	Kilifi south	89,305,560.75
5	Kilifi north	62,366,709.40
6	Malindi	134,431,783.60
7	Magarini	18,040,389.00
	TOTAL	360,129,667.00

It was further noted that revenue collections by the defunct local authorities within the County in the calendar year 2012 were higher than collections by the County Executive in 2013 by 6.4%, collections of Kshs.400,563,692 in 2012 versus a collections of Kshs.374,809,168 in 2013. However, in 2014 total revenues collected by the County Exeective increased by 35% from Kshs.374,809,168.00 to Kshs.507,449,833.00 as analyzed in the graph below. Further, the month-to-month collections for all three calendar years which was done by different regimes over three calendar years consistently highlighted peak collections during the month of March.

Figure 1: Revenue Collection over the 3-year period



Source: County Government reports and OAG analysis, 2012-Revenue Collection by Defunct Local Authorities, 2013-Revenue Collection by County Government & 2014-Revenue Collection by Raindrops Ltd

6.4 Revenue Collection Process

6.4.1 Cess and Parking Fees by Rain Drops Limited

Rain Drops Limited was first contracted by the County Executive on 20 February 2014 as a Project Investor to collect Cess and Parking Fees on behalf of the County Executive for 15 years. The details of the procurement process and terms and conditions of the agreement are contained in latter sections of this report. It was noted that collection of Cess was based on the activities being undertaken that attracted Cess and the County

Executive did not maintain any register or database for customers and businesses that pay Cess to the County Executive.

Further, the County Executive and Rain Drops Limited had opened two revenue collection accounts at Chase Bank Limited, Malindi Branch in the name of County Government of Kilifi as stipulated in the Agreement: Account No. 0198094843001 for Cess and Account No. 0198094843002 for collection of Parking Fees. The signatories to the above two bank accounts were Mr. Benjamin Kai Chilumo, Chief Officer - Finance and Economic Planning, Ms. Jacinta Tresa Ismail, Head of Treasury (Accounting) and Mr. Shaib M. Mtuwa as the representative of M/s Rain Drops Ltd.

An analysis of monthly revenue schedules from Rain Drops Ltd to the County Executive and the banking in slips for the period April 2014 to December 2014, revealed that Rain Drops Limited collected a total of Kshs.147,320,168 as shown below:

Table 4: Analysis of Monthly Revenue Reports from Rain Drops Limited

Month in 2014	Parking fees (Kshs)	Cess from other sources (Kshs)	Cess from Bamburi Cement (Kshs)	Cess from Athi River Cement (Kshs)	Cess from Mombasa Cement (Kshs)	Total collections in (Kshs)
April	1,948,660	7,427,394	1,902,026	1,196,683	2,238,518	14,713,281
May	3,961,620	8,915,830	1,750,940	1,356,034	1,636,446	17,620,869
June	3,734,400	4,726,460	1,738,174	1,901,574	1,452,035	13,552,643
July	4,032,740	8,461,173	1,586,934	1,088,244	1,777,287	16,946,378
August	4,912,188	10,065,682	-	1,939,866	1,894,936	18,812,672
Sept	4,387,149	7,618,614	2,695,759	1,642,290	2,288,334	18,632,145
October	4,889,524	6,200,392	1,445,417	1,231,413	2,483,465	16,250,211
Nov	4,622,971	6,738,584	1,499,354	1,790,738	2,482,490	17,134,138
Dec	3,530,470	4,371,275	1,376,066	1,594,676	2,785,344	13,657,831
Total	36,019,722	64,525,405	13,994,670	13,741,517	19,038,855	147,320,168

From a review of the bank statements, it was observed that revenue deposited into these two bank accounts was not transferred to Kilifi County Government's KCB Revenue Collection Account No. 1140769235 on a regular basis. Only one remittance of Kshs. 35,800,936.00 was noted to have been made out of the Cess Revenue Collection Account No. 0198094843001 to the County's KCB Revenue Collection Account on 1 October 2014.

Further, a total of Kshs.48,398,747.44 had been paid to Rain Drops Limited out of this accounts as 30% share apportionment and operational expenses for the period April to November 2014 as stipulated in the contractual agreement. A monthly analysis of the payments revealed that out of this amount, Kshs.14,295,833.60 were reimbursements based on the first contractual agreement and Kshs.34,102,913.84 were the 30% actual share apportionment as per the contractual agreement.

Based on analysis of funds transfers from Chase Bank Revenue Account, the expected outstanding balance in the accounts as at 31 December 2014, was Kshs.36,237,468.76. However, as at 31 December 2014 the two revenue collection bank accounts reflected a total balance of Kshs.42,905,133.00 resulting in un-reconciled difference of Kshs.6,667,664.00 between the expected bank balance and the actual bank balance as at 31 December 2014. This represents excess funds in the bank account that could not be explained.

From the total revenue of Kshs.147,320,168.00 reported by Rain Drops Limited, reimbursements and apportionments between the County Executive and Rain Drops Limited were done before remittance to the Revenue Fund Account with CBK. The operating expenses re-imbursements covers the period March-June 2014 only because the initial agreement between Rain Drops Ltd and the County Executive provided that revenue shall be shared between the two entities net of operating expenses while with effect from July 2014, the sharing was based on gross amounts collected at a ratio of 30% to Rain Drops and 70% to County Executive.

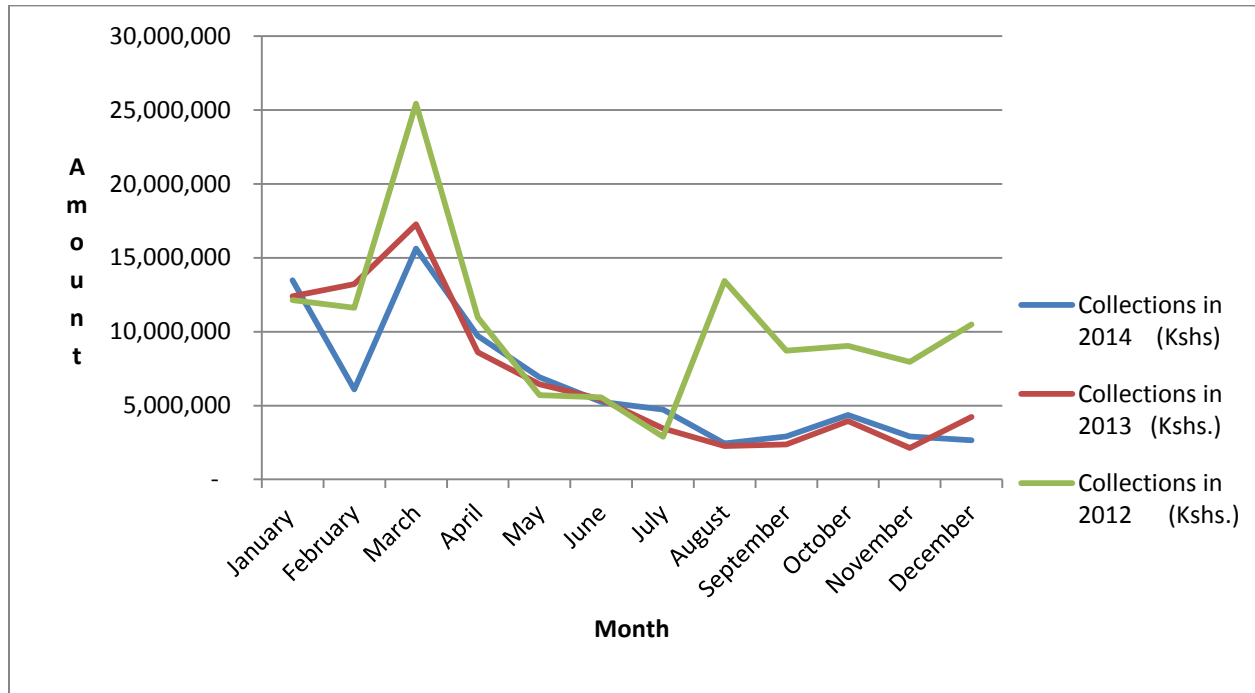
Retention of fee or payment of re-imbursements to Service Providers at source flouted the Public Finance Management Act, 2012.

6.4.2 Revenue collection for Land Rates

The County Executive did not maintain a consolidated data base of all the properties that were eligible to pay land rates within the County. It was therefore not possible to extract information relating to the actual number of properties in the County, total rates due for each year and the balance outstanding.

It was further noted that land rates collected by the County Executive in 2013 and 2014 was 34% lower than what was collected by the defunct local authorities in 2012. The County Executive cited resistance during the transition periods in 2013 as County citizens were waiting for waiver from the County Executive as they had not done the tax administrations and finance bills. This trend is as shown in the graph below.

Figure 3: Analysis for Collection of Land Rates for the Years 2012-2014



Source: OAG Analysis of County Government records

The above revenues collected by the County Executive had been banked intact in the KCB Revenue Collection Accounts.

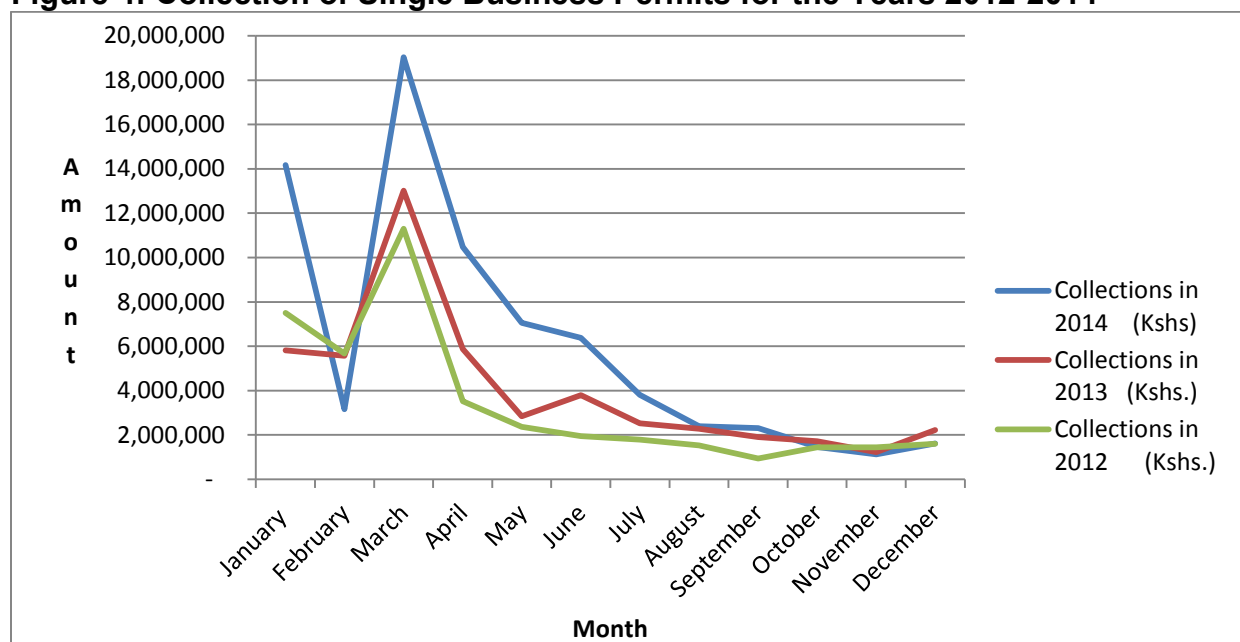
6.4.3 Revenue Collection for Single Business Permits

The County Executive did not maintain a database/register of businesses from which they collect single business permit fees. We sampled Kilifi North Sub-County where by Revenue Clerks only have a manual register in which they record those businesses which are invoiced at the beginning of each calendar year.

Based on the above shortcomings, the audit only relied on information captured by the Revenue Clerks in the control sheets used to collect the revenue, manual receipt books, and revenue summaries captured in an excel worksheet.

An analysis of the revenue collected by the County Executive in form of single business permits indicates that the amounts increased by 17% in 2013 when County Governments were established and further increased by 50% in 2014 as summarized in the graph below and detailed in the main report:

Figure 4: Collection of Single Business Permits for the Years 2012-2014



Source: OAG Analysis of County Government records

A review of the bank statements revealed that the amounts had been banked intact in the KCB Revenue Collection Account.

6.4.4 Revenue Collection Deposited into the Main Bank Accounts

The County Executive KCB Revenue Collection Account No. 1140769235 is the main revenue collection account operated by the County Executive and is used for all local revenue collections. Revenue collected by Rain Drops Limited was also transferred into this account for onward transmission to CBK.

Review of monthly bank statements for the above Revenue Collection Account revealed that a total of Kshs.613,425,292.29 was banked into the account during the period July 2013 to December 2014. The total amount transferred out of this account during this period to the Kilifi County Central Bank of Kenya Revenue Fund Account No. 100017021 is as shown below:

Table 5: Amounts Transferred from KCB Revenue Account to CBK Revenue Fund Account

Period	Deposits from sources other than cess and parking fees in Kshs.	Transfers from Chase Bank Cess collection account No. Kshs.	Total deposits in Kshs.	Transfers made to Kilifi CBK Revenue Fund A/c. No. Kshs.
July 2013 to December 2013	160,211,302.85	-	160,211,302.85	158,356,131.90
January 2014 to December 2014	417,413,053.44	35,800,936.00	453,213,989.44	426,976,448.85
Total	577,624,356.29	35,800,936.00	613,425,292.29	585,332,580.75

Source: OAG Analysis

We reviewed the County Executive’s Central Bank of Kenya Revenue Fund Account and confirmed that the amount of Kshs.585,332,581 was received in this Account. We However, there was a deposit of Kshs.66,219,637.15 in this Revenue Fund Account whose source could not be explained by the County Executive.

6.4.5 Procurement of Cess and Parking Fee Revenue Collection Agency System

The need for revenue management system by the County Executive had been initiated from earlier assessments by the defunct local authorities who had conducted a study to enhance revenue collection. One of the recommendations of this study was partnering with companies with expertise in automation of revenue collection.

However, an annual procurement plan was not availed for audit review. In the absence of the annual procurement plan, it was not possible to verify that procurement of Revenue Management System was planned for in the annual procurement plan. Failure to maintain/ avail the annual procurement plan contravenes Section 20(1) of the Public Procurement and Disposal Regulations, 2006 that provide that “A *procurement entity shall prepare a procurement plan for each financial year as part of the annual budget preparation process*”.

An Expression of Interest (Eoi) for Cess and Parking Fees Revenue Management System was advertised in the Standard newspaper dated 29 August 2013. This was contrary to Section 78(1) of the Public Procurement and Disposal Act, 2005 which states that “The procuring entity shall advertise the notice inviting expressions of interests in at least two daily newspapers of nationwide circulation”

Thirty seven (37) firms responded to the EOI out of which the following top three firms were issued with requests for quotations.

Table 7: Firms issued with Requests for Proposal for Revenue Management System

Name of firm	Total Score out of 80marks
Raindrops Limited	61
Pesa Print Limited	58
Dhanush Info-Tech Ltd	56

Source: OAG Analysis

Pesa Print Ltd and Rain drops Ltd returned their quotations which were evaluated and Rain drops Ltd was declared best evaluated bid as detailed below:

Table 8: Evaluation for Procurement of Revenue Management Consultant

	Bidder	Proposed Revenue Share to County Government	Proposed Revenue Share to bidder	Infrastructure costs	Remarks
1	Raindrops Ltd	70%	30%	245,840,000.00	Met all mandatory requirements
2	Pesa Print Ltd	90%	10%	54,515,080.90	The bidder did not provide bid bond, form of tender and business questionnaire

Source: OAG Analysis

Based on the above, the evaluation team recommended Rain Drops Limited for the award of the tender at a monthly offer of 70% of revenue generated given to County Executive while 30% apportioned to Raindrops Ltd.

The Tender Committee awarded the tender to Rain Drops Ltd at a total net annual collection of Kshs.705,264,214.00 after deducting total investment costs, total operation costs and tax. On 20 February 2014, a contract was entered into between the County Executive and Rain Drops Limited and amended on 04 July 2014.

Table 9: Comparison of the Original and Revised Contracts

Clauses	1st contract dated 20 February 2014	2nd Contract Revised dated 04 July 2014
Apportionme	The County Executive	The County Executive

Clauses	1 st contract dated 20 February 2014	2 nd Contract Revised dated 04 July 2014
nt of income	<p>apportionment shall be 70% of net income and that the County apportionment percentage shall not fall below the annual projected sum of Kshs.718,200,000.00 as Cess and Kshs.48,300,000.00 as Parking Fee.</p> <p>No time line was given for the investor to achieve the target.</p>	<p>apportionment shall be 70% of Gross income and that the County apportionment shall not fall below the sum of Kshs.123,440,243.00 which sum the County Executive had already collected in the last financial year immediately preceding.</p> <p>The Project Investor shall achieve the projected gross annual revenue collections of Kshs.766,500,000.00 within 2 years of execution of the amended agreement.</p> <p>While noting that this amended contract exceed the recommended ten percent of the original contract quantity, it introduced a timeline element that was a key measure to achieve the target.</p>
	Project Investor apportionment to be 30%.	Project Investor apportionment to be 30%.
County Government Employees	<p>The County Executive shall second such County Executive employees to the Project Investor for purposes of undertaking the project in such numbers and at such times as shall be requested and deemed necessary by the Project Investor at the sole and absolute discretion of the Project Investor.</p> <p>There was no cap on number employed/ control on the number of employees the Project Investor would hire and yet payments were made net of costs.</p>	<p>The County Executive shall provide such County Government employees as selected by the project investor or shall employ such persons identified by the Project Investor to be supervised by the Project Investor for purposes of undertaking the project. The County Executive shall be responsible for payment of salaries and allowances of employees provided by the County Executive to the Project Investor for collection of revenue.</p> <p>This contract introduced controls on the employment of workers.</p>

6.4.6 Review of Agreement for Compliance

It was observed that the contract had not been complied with in most areas as detailed in certain areas as in the table below:

Table 10: Review of agreement for compliance

S/no	Provision of Contract	Observations
1	The Project Investor to set up and establish systems and weighbridges to cater for collection of Cess	Raindrops Ltd had failed to establish a system of cess collection instead they were still using the manual process.
2	Project Investor to supervise collection of parking fee using hand held digital devices	Raindrops Ltd had acquired some hand held devices but had not developed a dash board for processing the hand held data.
3	Project Investor to install a system for computing and accounting of revenue	Raindrops Ltd had failed to establish a system for computing and accounting of revenue data
4	Raindrops Ltd to supply the County Executive with a written infrastructural development plan within 1 month following execution of the contract (04 August 2014)	Raindrops Ltd had not submitted infrastructural development plan as at the time of audit
5	Project investor to construct and develop parking lots designated for commercial parking purpose.	Not complied
6	The County Executive apportionment of revenue shall be 70% of Gross Income whiles the Project investor apportionment to be 30%.	The two parties complied with this clause up to November 2014. In December 2014 the County Government did not honor the 30% due to Raindrops.
7	The County Executive and the Project Investor shall open an Escrow account in Joint names to be dedicated to revenue deposit	Complied
8	The County Executive shall provide such County Government employees as selected by the project investor or shall employ such persons identified by the project investor to be supervised by project investor for	We were informed that the County Executive had seconded some staff to Raindrops Ltd. Details of the staff seconded to the project were not availed for audit review.

S/no	Provision of Contract	Observations
	purposes of undertaking the project.	
9	The County Executive shall be responsible for payment of salaries and allowances of employees provided by the County Executive to the project investor for collection of revenue.	The amount incurred by County Executive was not availed
10	County Executive may issue 30 days written notice to the project investor of their intention to terminate the agreement	County Secretary issued notice to the Project Investor giving an intention to terminate contractor over failure by Project investor to submit infrastructural development plan.

Source: OAG Analysis

6.4.7 Contract Termination

On 16 February 2015 the County Secretary wrote a letter referenced CG/KLF/FIN/19/VOL.II (09) to the Managing Director Rain Drops Ltd terminating the contractual relationship between the County Government and Rain Drop Limited.

According to the letter, the termination was based on the following fundamental breaches of the contract: Timely submission of a project schedule; Timely submission of the infrastructure development plan; Timely installation of weighbridges and automated system for cess collection; Timely construction of parking bays; Timely supply and set up of an automated system for parking fees collection.

On 18 February 2015, the County Secretary wrote a letter referenced CG/KLF/FIN/19/VOL.II (12) the Managing Director Rain Drops Limited terminating the contract. On 20 February 2015, Malindi High Court gave orders restraining the County Government from terminating the contract for a period of 14 days. On 03 March 2015 the orders were extended until the time when the case shall be heard and determined by the High Court.

By the time of this special audit, the case had not been determined by the Malindi High Court. Rain Drops Ltd were therefore still collecting revenue on behalf of the County Executive.

Conclusion

The Kilifi County Executive should address the anomalies noted in order to ensure effective delivery of services to the people of Kilifi County. Laid down government procedures and processes should be adhered to ensure public resources are only used for purposes for which they were intended.

A handwritten signature in black ink, appearing to read 'E. R. O. Ouko', with three dots below the name.

Edward R. O. Ouko, CBS
AUDITOR-GENERAL

Nairobi

20 August 2015