

Approved for tabling in the House.

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9/6/2022

REPUBLIC OF KENYA



TWELFTH PARLIAMENT – SIXTH SESSION

THE NATIONAL ASSEMBLY

PUBLIC ACCOUNTS COMMITTEE
EXIT REPORT
FOR THE
TWELFTH PARLIAMENT

FROM 2017 TO 2022

Directorate of Audit, Appropriations and Other Select Committees
The National Assembly
Parliament Buildings
NAIROBI



June, 2022

List of Abbreviations

AFROPAC	African Organization of Public Accounts Committees
CAPAC	Commonwealth Association of Public Accounts Committees
DCI	Directorate of Criminal Investigations
EAAPAC	East African Organization of Public Accounts Committees
EACC	Ethics and Anti-Corruption Commission
IEBC	Independent Electoral and Boundaries Commission
IPSAS	International Public Sector Accounting Standards
MDA	Ministries, Departments and Agencies
PAC	Public Accounts Committee
SADCOPAC	Southern Africa Development Community Organization of Public Accounts Committees
OAG	Office of the Auditor General
ODPP	Office of the Director of Public Prosecutions
WAAPAC	West African Association of Public Accounts Committees

CHAIRPERSON'S FOREWORD

The Public Accounts Committee (PAC) is one of the three Watchdog Committees in the twelfth Parliament that examines reports of the Auditor-General laid before the National Assembly to ensure probity, efficiency and effectiveness in the use of public funds. The Committee is established pursuant to Standing Order 205 is responsible for the examination of the accounts showing the appropriations of the sum voted by the House to meet the public expenditure and of such other accounts laid before the House as the committee may think fit". This ensures implementation of *Article 229(8)* of the Constitution of Kenya, 2010 on reports laid before the House by the Auditor- General which provides that *"Within three months after receiving an audit report, Parliament shall debate and consider the report and take appropriate action"*.

The National Assembly exercises oversight over national revenue and its expenditure pursuant to Article 95(4) (c) of the Constitution through PAC which, in turn, derives its mandate from Standing Order 205. Article 229 (8) of the Constitution stipulates that, Parliament shall, within three months after receiving an audit report, debate and consider the report and take appropriate action. Further, Article 203(3) of the Constitution provides that the equitable share of the revenue raised nationally and allocated to the National Government and County Governments is to be calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly.

Honourable Speaker, PAC has continued to discharge its constitutional mandate with utmost diligence and objectivity whilst remaining cognizant of the onerous responsibility bestowed upon it by the Constitution and House Standing Orders. This responsibility, inevitably, comes with high public expectations. Further, Article 203(3) of the Constitution provides that the equitable share of the revenue raised nationally and allocated to the National Government and County Governments is to be calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly. The National Assembly can only grant such approval on the basis of reports laid before it by the Committee.

One of the principles of public finance in Article 201 (d) is that public money shall be used in a prudent and responsible way. Under Article 229 (4), the Auditor General is required, within six months after the end of each financial year, to audit and report to Parliament on the accounts of the both levels of government and agencies. At Article 229 (6), an audit report shall confirm whether or not public money has been applied lawfully and in an effective way.

In discharging this role, the Committee held a total of five hundred and eighty six (586) sittings, under the unique circumstances occasioned by the COVID-19 pandemic, during which it received both written and oral evidence from Accounting Officers on audit queries raised by the Auditor-General. Minutes of the Committee's meetings are annexed to this report.

The Committee has continued to hold individual officers to account for their various acts of omission and/or commission that occasion allegations of loss of public funds. In a number of instances, the Committee has recommended specific follow-up actions including further investigations by the relevant investigative agencies. It is my hope that these recommendations will be implemented within the shortest time possible by all those who are concerned and that, in the final analysis, public interest will be safeguarded.

Honourable Speaker, in 2017 the inherited a backlog of several years unexamined audited reports on the Accounts of the National Government. This has since been reduced by the Committee to NIL. The Committee has examined and tabled reports on the audited accounts for the years 2014/2015, 2015/2016, 2016/2017, 2017/2018, 2018/2019 and 2019/2020. The Committee has commenced examination of the audited accounts for the financial year 2020/2021 which the latest report of the Auditor General. The Committee has examined to completion the audited accounts of twenty one (21) Ministries, Departments and Agencies and prepared handover notes for the Committee in the 13th Parliament.

In conclusion, Honourable Speaker, I wish to register my appreciation to fellow Honourable Members of the Committee, the Offices of the Speaker and the Clerk of the National Assembly and the Parliamentary Liaison Offices of the Auditor-General and the National Treasury for facilitating the work of the Committee and making the production report bringing the government accounts up to date. Special appreciation goes to the Directorate of Audit, Appropriations and Other Select Committees and, in particular, members of the Committee Secretariat for their commitment and devotion to duty.

I also extend my appreciation to my fellow Members of the Committee whose immense contributions and dedication to duty has enabled the Committee to examine the audit queries and produce this report.

Honourable Speaker, on behalf of PAC, and pursuant to Standing Order 200A, it is my pleasant duty and honour to present to the House the Exit report of the Committee and highlight of its landmark works covered for the period 2017 to 2022.

THE HON. JAMES OPIYO WANDAYI, CBS, M.P
CHAIRPERSON, PUBLIC ACCOUNTS COMMITTEE

1.0 INTRODUCTION

1.1 Establishment and Mandate

- 1) The Public Accounts Committee (PAC) is a select Committee of the House deriving its mandate from Standing Order 205(1) which states;

“There shall be a select committee to be designated the Public Accounts Committee for the examination of the accounts showing the appropriations of the sum voted by the House to meet the public expenditure and of such other accounts laid before the House as the Committee may think fit”.

- 2) The primary mandate of PAC is therefore to oversight the expenditure of public funds by Ministries, Departments and Agencies (MDAs) Commissions and Independent Offices. PAC’s mandate is far reaching and wide and the Committee should be facilitated to promote realization of the mandate in which the Government has an interest, to ensure value for money and adherence to Government financial regulations and procedures. The Committee executes its mandate based on annual and special audit reports prepared by the Office of the Auditor General.
- 3) Books such as “*Called to Account*”, South African Report on State Capture should form key reference materials for the Public Accounts Committee. There is need for continuous research on PAC operations in various jurisdictions hence a conscious effort should be made to enrich the research unit of the Public Accounts Committee.

1.2 Membership

- 4) The Committee comprises the following Honourable Members;

1st Session

- | | | |
|--|---|-------------------------|
| 1. The Hon. James Opiyo Wadayi, MP | - | Chairperson |
| 2. The Hon. Jessica Nduku Kiko Mbalu, MP | - | Vice Chairperson |
| 3. The Hon. Junet Mohammed Nuh, MP | | |
| 4. The Hon. Maj. (Rtd.) (Dr.) Eseli Simiyu, MP | | |
| 5. The Hon. Dr. Sakwa J. Bunyasi, MP | | |
| 6. The Hon. Christopher Doye Nakuleu, MP | | |
| 7. The Hon. Patrick Makau King’ola, MP | | |
| 8. The Hon. (Dr.) Otiende Amollo, MP | | |
| 9. The Hon. Gideon Koske Kimutai, MP | | |

10. The Hon. Francis Kuria Kimani, MP
11. The Hon. Samson Ndindi Nyoro, MP
12. The Hon. Peter Francis Masara, MP
13. The Hon. Michael Thoyah Kingi, MP
14. The Hon. Florence Mwikai Mutua, MP
15. The Hon. James Gichuhi Mwangi, MP
16. The Hon. Daniel Kipkogei Rono, MP
17. The Hon. Mathias Robi Nyamabe, MP
18. The Hon. Qalicha GufuWario, MP
19. The Hon. Michael Mwangi Muchira, MP

2nd Session

- | | | |
|--|---|-------------------------|
| 1. The Hon. James Opiyo Wandayi, MP | - | Chairperson |
| 2. The Hon. Jessica Nduku Kiko Mbalu, MP | - | Vice Chairperson |
| 3. The Hon. Junet Mohammed Nuh, MP | | |
| 4. The Hon. Maj. (Rtd.) (Dr.) Eseli Simiyu, MP | | |
| 5. The Hon. Dr. Sakwa J. Bunyasi, MP/Tom J. F. Kajwang, MP | | |
| 6. The Hon. Christopher Doye Nakuleu, MP | | |
| 7. The Hon. Patrick Makau King'ola, MP | | |
| 8. The Hon. (Dr.) Otiende Amollo, MP | | |
| 9. The Hon. Gideon KoskeKimutai, MP | | |
| 10. The Hon. Francis Kuria Kimani, MP | | |
| 11. The Hon. Samson Ndindi Nyoro, MP | | |
| 12. The Hon. Peter Francis Masara, MP | | |
| 13. The Hon. Michael Thoyah Kingi, MP | | |
| 14. The Hon. Florence Mwikai Mutua, MP | | |
| 15. The Hon. James Gichuhi Mwangi, MP | | |
| 16. The Hon. Daniel Kipkogei Rono, MP | | |
| 17. The Hon. Mathias Robi Nyamabe, MP | | |
| 18. The Hon. Qalicha GufuWario, MP | | |
| 19. The Hon. Michael Mwangi Muchira, MP | | |

3rd Session

- | | | |
|--|---|-------------------------|
| 1. The Hon. James Opiyo Wandayi, MP | - | Chairperson |
| 2. The Hon. Jessica Nduku Kiko Mbalu, MP | - | Vice Chairperson |
| 3. The Hon. Junet Mohammed Nuh, MP | | |
| 4. The Hon. Maj. (Rtd.) (Dr.) Eseli Simiyu, MP | | |
| 5. The Hon. Tom J. F. Kajwang, MP | | |

6. The Hon. Christopher Doye Nakuleu, MP
7. The Hon. Patrick Makau King'ola, MP
8. The Hon. (Dr.) Otiende Amollo, MP
9. The Hon. Gideon Koske Kimutai, MP
10. The Hon. Francis Kuria Kimani, MP
11. The Hon. Samson Ndindi Nyoro, MP
12. The Hon. Peter Francis Masara, MP
13. The Hon. Michael Thoyah Kingi, MP
14. The Hon. Florence Mwikai Mutua, MP
15. The Hon. James Gichuhi Mwangi, MP
16. The Hon. Daniel Kipkogei Rono, MP
17. The Hon. Mathias Robi Nyamabe, MP
18. The Hon. Qalicha Gufu Wario, MP
19. The Hon. Michael Mwangi Muchira, MP

4th Session

- | | | |
|--|---|-------------------------|
| 1. The Hon. James Opiyo Wandayi, CBS, MP | - | Chairperson |
| 2. The Hon. Jessica Nduku Kiko Mbalu, CBS, MP | - | Vice Chairperson |
| 3. The Hon. Junet Mohammed Nuh, CBS, MP | | |
| 4. The Hon. Maj. (Rtd.) (Dr.) Eseli Simiyu, CBS, MP | | |
| 5. The Hon. Tom Joseph Francis Kajwang', MP /The Hon. Aden Bare Duale, EGH, MP | | |
| 6. The Hon. Christopher Doye Nakuleu, MP | | |
| 7. The Hon. Patrick Makau, MP/The Hon. Justus Gesito Mugali M'mbaya, MP | | |
| 8. The Hon. Gedion Koske Kimutai, MP | | |
| 9. The Hon. (Dr.) Otiende Amollo, MP | | |
| 10. The Hon. Peter Francis Masara, MP | | |
| 11. The Hon. Michael Thoyah Kingi, MP | | |
| 12. The Hon. James Gichuhi Mwangi, MP | | |
| 13. The Hon. Michael Mwangi Muchira, MP | | |
| 14. The Hon. Florence Mwikali Mutua, MP/The Hon. Dr. Wilberforce O. Oundo, MP | | |
| 15. The Hon. Qalicha Wario, MP/The Hon. Maj. (Rtd) Bashir Sheikh Abdullahi, MP | | |
| 16. The Hon. Mathias Robi, MP/The Hon. Dr. Eve Akinyi Obara, MP | | |
| 17. The Hon. Ndindi Nyoro, MP/The Hon. Joseph Nduati Ngugi, MP | | |
| 18. The Hon. Kuria Kimani, MP/The Hon. Samuel Kinuthia Gachobe, MP | | |
| 19. The Hon. Daniel Rono, MP/The Hon. Amina Gedow Gassan, MP | | |

5th Session

- | | | |
|--|---|-------------------------|
| 1. The Hon. James Opiyo Wandayi, CBS, MP | - | Chairperson |
| 2. The Hon. Jessica Nduku Kiko Mbalu, CBS, MP | - | Vice Chairperson |
| 3. The Hon. Junet Mohammed Nuh, CBS, MP | | |
| 4. The Hon. Maj. (Rtd.) (Dr.) Eseli Simiyu, CBS, MP | | |
| 5. The Hon. Aden Bare Duale, EGH, MP | | |
| 6. The Hon. Christopher Doye Nakuleu, MP | | |
| 7. The Hon. Justus Gesito Mugali M'mbaya, MP | | |
| 8. The Hon. Gedion Koske Kimutai, MP/The Hon. John Waluke Koyi, MP | | |
| 9. The Hon. (Dr.) Otiende Amollo, MP | | |
| 10. The Hon. Peter Francis Masara, MP | | |
| 11. The Hon. Michael Thoyah Kingi, MP | | |
| 12. The Hon. James Gichuhi Mwangi, MP | | |
| 13. The Hon. Michael Mwangi Muchira, MP | | |
| 14. The Hon. Dr. Wilberforce O. Oundo, MP | | |
| 15. The Hon. Maj. (Rtd) Bashir Sheikh Abdullahi, MP | | |
| 16. The Hon. Dr. Eve Akinyi Obara, MP | | |
| 17. The Hon. Joseph Nduati Ngugi, MP | | |
| 18. The Hon. Samuel Kinuthia Gachobe, MP | | |
| 19. The Hon. Amina Gedow Gassan, MP | | |

6th Session

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|---|---|-------------------------|
| 1. The Hon. James Opiyo Wandayi, CBS, MP | - | Chairperson |
| 2. The Hon. Jessica Nduku Kiko Mbalu, CBS, MP | - | Vice Chairperson |
| 3. The Hon. Junet Mohammed Nuh, CBS, MP | | |
| 4. The Hon. Maj. (Rtd.) (Dr.) Eseli Simiyu, CBS, MP | | |
| 5. The Hon. Aden Bare Duale, EGH, MP | | |
| 6. The Hon. Christopher Doye Nakuleu, MP | | |
| 7. The Hon. Justus Gesito Mugali M'mbaya, MP | | |
| 8. The Hon. John Waluke Koyi, MP | | |
| 9. The Hon. (Dr.) Otiende Amollo, MP | | |
| 10. The Hon. Peter Francis Masara, MP | | |
| 11. The Hon. Michael Thoyah Kingi, MP | | |
| 12. The Hon. James Gichuhi Mwangi, MP | | |
| 13. The Hon. Michael Mwangi Muchira, MP | | |
| 14. The Hon. Dr. Wilberforce O. Oundo, MP | | |
| 15. The Hon. Maj. (Rtd) Bashir Sheikh Abdullahi, MP | | |
| 16. The Hon. Dr. Eve Akinyi Obara, MP | | |

17. The Hon. Joseph Nduati Ngugi, MP
18. The Hon. Samuel Kinuthia Gachobe, MP
19. The Hon. Amina Gedow Gassan, MP

5) Changes within the Committee membership during the term

1. The Hon. Dr. Sakwa J. Bunyasi, MP	-	2017-2018
2. The Hon. Tom Joseph Francis Kajwang', MP	-	2018-2020
3. The Hon. Patrick Makau, MP	-	2017-2020
4. The Hon. Florence Mwikali Mutua, MP	-	2017-2020
5. The Hon. Qalicha Wario, MP	-	2017-2020
6. The Hon. Mathias Robi, MP	-	2017-2020
7. The Hon. Ndindi Nyoro, MP	-	2017-2020
8. The Hon. Kuria Kimani, MP	-	2020-2020
9. The Hon. Daniel Rono, MP	-	2019-2020
10. The Hon. Aden Bare Duale, EGH, MP	-	2020-2022
11. The Hon. Justus Gesito Mugali M'mbaya, MP	-	2020-2022
12. The Hon. Dr. Wilberforce O. Oundo, MP	-	2020-2022
13. The Hon. Maj. (Rtd) Bashir Sheikh Abdullahi, MP	-	2020-2022
14. The Hon. Dr. Eve Akinyi Obara, MP	-	2020-2022
15. The Hon. Joseph Nduati Ngugi, MP	-	2020-2022
16. The Hon. Samuel Kinuthia Gachobe, MP	-	2020-2022
17. The Hon. Amina Gedow Gassan, MP	-	2020-2022
18. The Hon. Gedion Koske Kimutai, MP	-	2017-2021
19. The Hon. John Waluke Koyi, MP	-	2021-2022

1.3 Committee Secretariat

6) The Secretariat supporting the Committee comprises of the following staff:

1. Mr. Oscar Namulanda	-	Principal Clerk Assistant I
2. Mr. Nebert Ikai	-	Second Clerk Assistant
3. Mr. Josh Kosiba	-	Senior Fiscal Analyst
4. Mr. Sydney Lugaga/ Mr. Peter Mwaura/ Ms. Brigitta Mati-		Legal Counsel II
5. Ms. Caroline M. Njue/ Mr. Charles Atamba		- Research Officer III
6. Salat Abdi Ali	-	Senior Serjeant At Arms
7. Elijah Ichwra/Nimrod Ochieng/Dennis Mawira		-Audio Officer

1.4 Committee Membership to Regional Bodies

- 7) The Committee has taken active paid up membership and participation in regional bodies that seek to synergize the work of Public Accounts Committees. These are the East African Association of Public Accounts Committees (EAAPAC), African Organization of Public Accounts Committees (AFROPAC) and the Commonwealth Association of Public Accounts Committees (CAPAC). These are important bodies that provide a platform for peer review and exchanges across the continent and beyond.
- 8) The Committee currently holds the position of Secretary General in both EAAPAC and AFROPAC. It also hosts the Secretariats of both organizations. The Committee Clerks have continued to go beyond their normal duties by offering their services in these organizations as the Secretariats. This year, AFROPAC General Meeting and Conference will be held in Liberia from **31st October, to 4th November, 2022.**
- 9) The Committee is up to date with its membership subscriptions for EAAPAC and AFROPAC. CAPAC membership is presumed to be all Members of the Commonwealth Parliamentarians Association (CPA) and their affiliates. The Secretariat is hosted at the CPA UK currently membership. This year, the CAPAC Conference will be hosted in the **People's Majils (Parliament) of the Maldives on Tuesday 30 and Wednesday 31 August, 2022.**
- 10) The conference will take place over 2 days (30 - 31 August) and will include a half day general meeting and one day of substantive sessions. The general meeting will include elections for a new Chair, as Dame Meg Hillier MP has come to the end of her term as Chair and is therefore stepping down, and for new members of Executive Committee (ExCo). The substantive sessions will be a great opportunity to share learning with peers on the work of PACs during COVID-19 and the most effective ways of utilising PAC networks.

2.0 BACKGROUND INFORMATION

2.1 Legal framework

- 11) Art. 93 (1) of the Constitution of Kenya establishes Parliament of Kenya which consists of the National Assembly and the Senate. Further, Art 95 provides for the role of the National Assembly amongst others to:
- (i) deliberate on and resolve issues of concern to the people;
 - (ii) enact legislations
 - (iii) determine allocation of national revenue between the two levels of governments the National government and County governments;
 - (iv) appropriate funds for expenditure by the national government and national State organs;
 - (v) exercise oversight over national revenue and its expenditure;
 - (vi) exercise oversight over State organs; and
 - (vii) review the conduct in the office of the President, Deputy President and other State officers and initiate the process of removal from office.
- 12) In addition, Art 124 of the Constitution empowers Parliament to establish Committees and to make Standing Orders for orderly conduct of its proceedings including the proceedings of its Committee. The National Assembly Standing Orders has established various Committees of the House with distinct mandates.
- 13) The Public Accounts Committee is established under the National Assembly Standing Order (S.O.) 205 and is responsible for the examination of the accounts showing the appropriations of the sum voted by the House to meet the public expenditure and of such other accounts laid before the House as the Committee may think fit.

2.2 Guiding Principles

- 14) In the execution of its mandate afore-stated, PAC is guided by core constitutional and statutory principles on public finance management, as well as established customs, traditions, practices and usages. These principles include the following:

1) Constitutional Principles on Public Finance

- 15) Article 201 enacts fundamental principles that “...shall guide all aspects of public finance in the Republic...” The principles are, *inter alia*, that:

201(a) there shall be openness and accountability, including public participation in financial matters;

201(d) public money shall be used in a prudent and responsible way; and

201(e) financial management shall be responsible, and fiscal reporting shall be clear.

- 16) PAC places a premium on these principles, among others, and has been guided by them in the entire process that has culminated in its reports.

2) Direct Personal Liability

- 17) Article 226(5) of the Constitution is emphatic that *“If the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not”*.

- 18) PAC has hoisted high this constitutional provision as the basis for holding each individual Accounting Officer and other Public Officers directly and personally liable for any loss of public funds under their watch. The Committee invoked this provision in its recommendations to hold those responsible personally accountable. This was also intended to serve as a deterrent measure.

3) Obligations of Accounting Officers

- 19) Section 68 (1) of the Public Finance Management Act, 2012 provides, *inter alia*, that: *“An Accounting Officer for a national Government entity, Parliamentary Service Commission (the Senate and National Assembly) and the Judiciary shall be accountable to the National Assembly for ensuring that the resources of the respective entity for which he or she is the Accounting Officer are used in a way that is lawful and authorized, and effective, efficient, economical and transparent.”*
- 20) This provision obligates all Accounting Officers to appear before the Public Accounts Committee of the National Assembly to respond to audit queries in their respective Ministries/Departments/Agencies.

21) And section 74 (2) of the same PFM Act stipulates that:

“If a Cabinet Secretary reasonably believes that an Accounting Officer is engaging in or has engaged in improper conduct within the meaning of subsection (4), the Cabinet Secretary shall:

-Take such measures as may be provided in regulations; or

- Refer the matter to the relevant office or body in terms of the statutory and other conditions of appointment or employment applicable to that Accounting Officer.”

22) This section empowers the appointing authority to discipline errant Accounting Officers, which could include revoking their appointment. This provision has sealed a long-standing loophole that has previously seen Accounting Officers continuously commit or preside over fiscal indiscipline and malpractice in their Ministries with impunity without sanction.

23) PAC strongly holds the view that these provisions of the law were intended to be fully deployed to give effect to the high principles in Article 201 of the Constitution stated herein above, to ensure prudent and responsible use of public funds. The Committee, accordingly, applied these provisions to recommend diverse disciplinary actions, investigations and surcharging of various persons found to bear responsibility for breaches of the law and/or responsible for the loss or wastage of public funds.

3.0 ACHIEVEMENTS

- 24) In the discharge of its mandate, the Committee held a total of five hundred and eighty six (587) as follows:

First session	-	1 sitting
Second session	-	123 sittings
Third session	-	141 sittings
Fourth session -	99 sittings	
Fifth session	-	158 sittings
Sixth session	-	64 sittings
Total	-	<u>586 Sittings</u>

3.1 Audit Reports Examined

- 25) The Committee has examined fourteen (14) audited reports of the National Government, four audited reports of the Office of the Auditor General and four Special Audit Reports as listed below:

A. Audited Accounts of the National Government

1. Report of the Auditor General on the financial statements for the National Government for the year 2014/2015;
 2. Report of the Auditor General on the financial statements for the National Government for the year 2015/2016;
 3. Report of the Auditor General on the financial statements for the National Government for the year 2016/2017;
 4. Report of the Auditor General on the financial statements for the National Government for the year 2017/2018;
 5. Report of the Auditor General on the financial statements for the National Government for the year 2018/2019; and
 6. Report of the Auditor General on the financial statements for the National Government for the year 2019/2020.
- 26) The Committee has tabled all its reports on the examination of the six (6) reports of the Auditor General listed above. All the six (6) tabled reports of the Committee have been debated and adopted by the House.

27) With regard to the Report of the Auditor General on the financial statements for the National Government for the year 2020/2021, the Committee has concluded examination of the accounts of the following Ministries, Departments, Agencies and Independent Offices:

1. State Department for Vocational and Technical Training
2. State Department for Sports
3. State Department for University Education and Research
4. State Department for Infrastructure
5. State Department for Interior and Citizen Services
6. Ministry of Energy
7. Ministry of Health
8. Teachers Service Commission
9. State Department of Labour
10. National Land Commission
11. State Department for Correctional Services
12. State Department for Early Learning and Basic Education
13. State Department for Information, Communication, Technology and Innovation
14. Ministry of Environment and Forestry
15. Ministry of Lands and Physical Planning
16. State Department for Social Protection
17. State Department for Public Service
18. Ministry of Defence
19. State Department for Transport
20. State Department for Cooperatives
21. The Presidency

28) The Committee has done handover notes on the above mentioned State Departments for the incoming Committee in the 13th Parliament.

B. Audited Accounts of the Office of the Auditor General

1. Report of the Auditor General on the financial statements for the Office of the Auditor General for the year 2014/2015;
2. Report of the Auditor General on the financial statements for the Office of the Auditor General for the year 2014/2016;
3. Report of the Auditor General on the financial statements for the Office of the Auditor General for the year 2016/2017; and
4. Report of the Auditor General on the financial statements for the Office of the Auditor General for the year 2017/2018.

- 29) The Reports on the above audited accounts of the Office of the Auditor General are pending adoption by the Committee and subsequent tabling on the floor of the House.

C. Special Audit Reports

1. Special Audit Report on the Medical Equipment Services, Ministry of Health;
2. Special Audit Report on the National Land Commission Payments for Land Purchases on Behalf of Other Government Entities for the Period 2014/2015 to 2016/2017;
3. Special Audit Report of the Auditor-General on Utilization of Covid-19 Funds by National Government Entities for the Period 13 March -31 July 2020; and
4. Special Audit Report of the Auditor General on the Procurement of Foodstuffs by the Ministry of Defence for the financial years 2014/2015 to 2017/2018.

3.2 Oversight

3.2.1 Audited Financial statements

- 30) The Committee examines all the accounts of the National Government Ministries, Departments, Agencies and Independent Offices and of such other accounts laid before the House as the Committee may think fit.

3.2.2 Inquiries

- 31) The Committee conducted a number of inquiries during the 12th Parliament as highlighted below:
- (i) Inquiry into the Procurement of the Medical Equipment Services by the Ministry of Health;
 - (ii) Inquiry into the Payments for Land Purchases on Behalf of Other Government Entities for the Period 2014/2015 to 2016/2017 by the the National Land Commission;
 - (iii) Inquiry into the Utilization of Covid-19 Funds by National Government Entities for the Period 13 March -31 July 2020;
 - (iv) Inquiry into the on Procurement of the Foodstuffs by the Ministry of Defence for the financial years 2014/2015 to 2017/2018.

3.2.3 Oversight Milestones

32) The Committee, operating under the mantra “*PAC: Beyond Reproach*” was able to achieve the following;

1. Cleared the backlog of the Auditor General’s report which is now up to date. This will enable sharing of revenue to be based on current audited accounts. This was made possible through unprecedented simultaneous examination of six (6) audited accounts of the National Government for the financial years 2014/2015, 2015/2016, 2016/2017, 2017/2018, 2018/2019 and 2019/2020 financial years.
2. Tabled the Report on the examination of the Report of the Auditor General for the Financial Year 2014/2015, 2015/2016, 2016/2017, 2017/2018, 2018/2019 and 2019/2020. The Reports have been adopted by the House.
3. Actualized the implementation of the very important provisions of Article 226 (5) of the Constitution by directly apportioning culpability to various public officers. This has further been enabled by examination of books of accounts in real time.
4. The Committee also through its Chairman as the Secretary General of the African Organization of Public Accounts Committees – AFROPAC has negotiated and agreed on an MoU to be signed between the Parliamentary Service Commission and AFROPAC with regard to the hosting and support given to AFROPAC Secretariat.
5. The Commission at its 303rd Meeting held on 25th May, 2022 agreed to the proposed MoU with amendments and sought the concurrence AFROPAC on the amendments and subsequently have the MoU signed by the Speaker of the National Assembly and Chairman of the Parliamentary Service Commission and the Chairman of the AFROPAC.

4.0 CHALLENGES AND OPPORTUNITIES

33) In conducting its mandate the Public Accounts Committee faced a number of challenges:

1. **Delayed submission of audit documents** - Failure by accounting officers to submit documents in time gave rise to a significant number of audit queries arise. This made it difficult for the Auditors and the Committee to examine the Reports efficiently.
2. **Covid-19 pandemic** - The Committee's work plan also was significantly affected by the disruptions caused by the COVID-19 pandemic. This was particularly so during periods when Government employees were advised to work from home. With virtual meetings restricted for audit committees, the Public Investments Committee had to cancel some sittings during the session.
3. **Abrupt changes in the government arising from the President's exercise of his function to reorganize government as and when necessary by appointing and or dismissing Cabinet Secretaries, Principal Secretaries and other key government Officers:** The Committee has consistently observed and negatively been affected by the reorganization of government whereby a number of Government Departments have been created, moved, separated or merged thereby affecting the audit reporting and accounting process resulting into unwarranted convoluted votes of accounts.
4. **Limited Time for examination of the performance audit reports** – The audit process pays very little focus on Performance-Based Budgeting/Performance Auditing that concentrates on the results that are being delivered for resources provided, rather than just how much money is being spent, with the aim of strengthening resource allocation, effectiveness, efficiency and accountability.
5. The Committee however sees several opportunities to enhance its efficiency on oversight of the financials of State Corporations. The split of the Public Accounts Committee into two Committees that focus on specific thematic sectors will greatly increase the ability of each Committee to reduce the backlog of unexamined audited accounts in the respective Ministries, Departments, Agencies and Independent Offices.
6. **Constrained Budget/funding for the Office of the Auditor General:** the Office of the Auditor General has a very critical role to play yet has been allocated very minimal budget. Additional funding to the Office of the Auditor General will enable the Committee to establish the results that are being delivered for resources provided to State Departments through performance-based auditing. This can advise resource allocation and enhance effectiveness, efficiency and accountability in use of public resources.

7. **Time constraints:** the Committee faced major time constraints in the execution of its mandate which included strict timelines in the examination of annual audit reports. Members have had to struggle a lot to adjust to that and make sacrifices.
8. **Undue influence:** the Committee faced constant attempts to derail its work through unsubstantiated and unwarranted claims, most of which were seemingly driven more by political expediency and malice made against Members of the Committee. This was experienced during the adoption of the Report of the Accounts of the IEBC for the year 2016/2017. The Committee Members however remained unbowed and true to their calling.
9. **Interference with the Independence of the Office of the Auditor General:** similar criticism was directed to a key partner of the Committee, the Office of the Auditor General. The Committee observed that this was part of a wider scheme to weaken the push for accountability in the prudent use of public funds.
10. **Auditing of Confidential Expenditure:** the Committee faced major challenges in the examination of reports of confidential expenditure/security items. While alive to the sensitivity of some of the Government operations, the Committee believes that all public funds should be subjected to review by the representatives of the people for the simple reason that while there may be need for confidential/security expenditure the monies involved are raised from the public.
11. **Flippancy by Accounting Officers:** most Accounting Officers were found not to take seriously the mandate of the Committee, and indeed the institution of Parliament. This included the Accounting Officers deliberately providing unsatisfactory/incomplete and sometimes misleading responses to audit queries, incessant requests for rescheduling of appearance before the Committee, and in some instances outright lack of familiarity with operations in their respective MDAs and International Public Sector Accounting Standards (IPSAS) as well as the Public Finance Management procedures and regulations.
12. **Delayed Special Audits:** the Committee requested Special Audit reports from the Office of the Auditor General on the Procurement of the Food stuff and other Consumables by the State Department of Defence, the Project of the Small Dams by the State Department for Irrigation and the National Fibre Optic Infrastructure – NOFBI by the State Department for ICT and Innovation⁸. Up to the time of preparing this report, the special Audit reports had not been presented to the Committee more than one year after they were requested. The Office of the Auditor General has always cited lack of capacity and inadequate funding for these delays.

- 13. Misuse/Abuse of legal process:** the Committee is concerned with the growing habit by persons found culpable in its reports to delay and frustrate or even block implementation of its recommendations using the court system. The Committee considers this an affront on its role and the mandate of Parliament as the supreme oversight institution of the Nation.
- 14. Encroachment on the mandate of PAC:** the Committee is concerned about the increasing cases of encroachment on its mandate by other Committees of the Senate. The Committee notes that there is a conflict between the functions of Public Accounts Committee and Public Investments Committee. Any money voted by Parliament for Government Ministries, Judiciary and the Legislature should fall within the purview of the PAC. The Standing Orders are clear on the mandate of PAC as cited earlier.

5.0 RECOMMENDATIONS

- 1.** The Government of Kenya should build technical and financial capacity of Public Finance Management Officers in implementing projects through Public Private Partnerships (PPP). This will enhance efficiency and effectiveness in executing such projects.
- 2.** Tracking of the implementation status of PAC/ PIC Reports: within three months after the adoption of the report of the Committee on the examination of the audited accounts of the National Government, The National Treasury submits to Parliament, by way of Treasury Memorandum, the status of implementation of recommendations of PAC and PIC reports. The Committee on Implementation should prioritize examination of this Treasury Memorandum to assist tracking of the progress of implementation of the recommendations made by the two Committees and also minimize audit queries that keep recurring in the Auditor General's annual reports as well as other recommendations made in special reports.
- 3.** The Committee recommends that reorganization of government and reshuffling of the Cabinet should be done in tandem with respective financial years to reduce affection of audit process and change and/or allocation of various votes of accounts.
- 4.** The Committee recognizes the integral role played by the Office of the Auditor General in ensuring prudent use of public resources. The OAG is however constrained in fully undertaking its mandate owing to shortage of technical staff and inadequate budgetary provisions. The Committee therefore recommends that the Office of the Auditor General be strengthened by way of enhancing its budgetary allocation and staffing levels to ensure that it enhances its public audit function.
- 5.** Since Committees remain appendages of Parliament, any attack on the Committee must therefore be an affront on the institution of Parliament. Parliament must therefore robustly defend and protect its Committees particularly the ones that provide oversight of public funds if the watchdog role of Parliament is to be felt. The Presidium of Parliament should always guard against unwarranted attacks especially from persons or entities under scrutiny.
- 6.** In any society, the Auditor Generals' Reports should never be mere allegories. It is therefore expected that from time to time, these reports will make some people in authority uncomfortable. Whether or not the Auditor General's reports make for uncomfortable reading, it is the duty of those in Authority to fiercely defend the independence of that Office if it is to effectively execute its constitutional mandate as per Article 249(2) (b) of the Constitution of Kenya.

7. The Appointing Authority should be decisive in dealing with those Accounting Officers who do not take their responsibilities to Parliament seriously. In deed contempt of the institution of Parliament equates to the disrespect of the People of Kenya.
8. In keeping with International Best Practise in auditing and reporting of confidential/ security expenditure, the Public Audit Act should be amended to create a high-level team drawn from Parliament, the Office of the Auditor General and the Auditee, who shall work under oath to comprehensively examine and report on this expenditure.
9. In keeping with International Best Practices, reports of the Oversight Committees particularly those on Special Audits should be given priority when it comes to debate and adoption. Additionally, the Implementation Committee of Parliament should prioritize the listing of the recommendations of these Committees for implementation.
10. To avoid misuse of the court system, the Principle of separation of powers should be respected. The courts ought not to entertain frivolous injunctions. Further, bonds applicable to those charged with abuse of office, economic crimes and misuse of publics funds should be made punitive enough to discourage abuse of the judicial process.
11. The ODPP, EACC and the DCI should second permanent officers to all Oversight Committees for purposes of speeding up investigations and ensuring real time action is taken on offenders.

6.0 CONCLUSION

The Committee believes it has attained its mandate as envisioned in the Constitution and the Standing Orders. The Committee notes that it has firmly rooted relevant provisions in accounting for public funds. The succeeding Committee will inherit a rich legacy that will help it attain its objectives.

Signature: ..



Date:.....09/06/2022.....

HON. JAMES OPIYO WANDAYI, CBS, MP
CHAIRPERSON, PUBLIC INVESTMENTS COMMITTEE

