Rt. Hon. Speaker

Recommended for approval for tabling -

27/03/2024

28/03/2024

REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT - THIRD SESSION

THE SENATE

STANDING COMMITTEE ON FINANCE AND BUDGET

REPORT ON THE STATUS OF IMPLEMENTATION OF PROJECTS FUNDED BY THE CONDITIONAL GRANT FOR THE CONSTRUCTION OF COUNTY HEADQUARTERS

Clerk's Chambers,
Parliament Buildings,
NAIROBI.

March 2024

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LIST OF ABBREVIATIONS/ ACRONYMNS

COG- Council of Governors

CRF- County Revenue Funds

FY- Financial Year

PFM- Public Finance Management Act

SDPW- State Department of Public Works

SPA- Special Purpose Accounts

PREFACE

ESTABLISHMENT AND MANDATE OF THE COMMITTEE

Article 124 (1) of the Constitution of Kenya provides that each house of Parliament may establish committees and shall make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its committees.

Parliamentary committees consider policy issues, scrutinize the workings and expenditures of the national and county governments, and examine proposals for legislation. The end result of any process in Committees is a report, which is tabled in the House for consideration.

The Senate Standing Committee on Finance and Budget is established under section 8(1) of the Public Finance Management (PFM) Act, 2012 and standing order 228 of the Senate Standing Orders and is mandated to-

a) investigate, inquire into, and report on all matters relating to coordination, control, and monitoring of the county budgets and examine -
   (i) the Budget Policy Statement presented to the Senate;
   (ii) the report on the budget allocated to constitutional Commissions and independent offices;
   (iii) the Division of Revenue Bill, the County Allocation of Revenue Bill, the County Governments Additional Allocations Bill, and the cash disbursement schedules for county governments;
   (iv) all matters related to resolutions and Bills for appropriations, the share of national revenue amongst the counties, matters concerning the national budget, including public finance and monetary policies and public debt, planning, and development policy; and
b) Pursuant to Article 228 (6) of the Constitution, to examine the report of the Controller of Budget on the implementation of the budgets of county governments.

MEMBERSHIP OF THE COMMITTEE

Following the constitution of the Standing Committees of the Senate of the Thirteenth (13th) Parliament on Thursday, 13th October, 2022, the Senate Standing Committee on Finance and Budget, as currently constituted, comprises the following Members-

1) Sen. (Capt.) Ali Ibrahim Roba, EGH, MP - **Chairperson**
2) Sen. Maureen Tabitha Mutinda, MP - **Vice-Chairperson**
3) Sen. (Dr.) Boni Khalwale, CBS, MP - Member
4) Sen. Joyce Chepkoech Korir, MP - Member
5) Sen. Tabitha Karanja Keroche, MGH, MP - Member
6) Sen. Mohamed Faki Mwinyihaji, CBS, MP - Member
7) Sen. Richard Momoima Onyonka, MP - Member
8) Sen. Shakila Abdalla Mohamed, MP - Member
9) Sen. Eddy Gicheru Oketch, MP - Member

CHAIRPERSON'S FOREWORD

The Senate in 2015, through an Ad-Hoc Committee on County Headquarters, conducted an evaluation on the status of county headquarters in the Country. It was noted that some counties did not have any infrastructure to serve as county offices while others had infrastructure but in dilapidated state. In adopting the Committee's report, the Senate resolved that five (5) counties required immediate special intervention to enable them operate effectively. These counties were Lamu, Nyandarua, Isiolo, Tana River and Tharaka Nithi. These are counties which, at the advent of devolution, did not inherit adequate facilities from the defunct local authorities that could accommodate the new county governments' administration.

In implementation of the report, a resolution was made that the five counties be allocated a conditional grant to enable them construct headquarters. Each county was to receive Ksh.121 million for three consecutive fiscal years- amounting to Ksh.363 million. This would constitute 70% of the construction costs. The beneficiary counties were each to provide 30% of the construction costs.

The conditional grant on *supplement* for construction of county headquarters was introduced for the first time in the budget as part of the national government's conditional grants to counties in Financial Year 2016/2017. The State Department for Public Works was charged with management of the projects.

The county headquarters project was originally scheduled to be completed at a cost of Ksh.518 million over the course of three fiscal years, i.e., Financial Years 2016/17, 2017/18, and 2018/19. However, 8 years have lapsed and none of the five counties have completed construction of their headquarters. In some cases, the contractors left the site without completion of the project.

On 4th July, 2023, the Council of Governors appeared before the Standing Committee on Finance and Budget requesting the Senate to consider the status of the projects and facilitate transfer of the management of these projects from the State Department for Public

Works to the respective counties. Further, the Senate should ensure the funds yet to be disbursed to counties are availed from the national government to ensure completion of the projects.

The Committee considered the matter and resolved to follow up with a view of granting the request made. Consequently, the Committee convened several meetings with stakeholders to deliberate on the matter including the National Treasury and Economic Planning, the State Department for Public Works, Governors from the beneficiary counties and the Intergovernmental Relations Technical Committee.

In consideration of the matter, the Committee made a number of observations, *inter alia-*

a) There has been an inordinate delay in implementation of the projects. The supplement for construction of county headquarters was to be transferred within three financial years and yet eight (8) years down the line most of the projects have stalled and the counties are yet to receive their allocation. The projects were started on the basis that the corresponding financing from the national government would be made available to counties and the beneficiary counties therefore had a reasonable expectation that the national government would meet its obligations.

b) That the five counties identified by the Ad-Hoc Committee on County Headquarters, as requiring urgent intervention, still do not have county headquarters ten years after the advent of devolution. This has impeded the ability of the county government to deliver services and discharge their functions under the Constitution.

c) The National Government was expected to contribute Kshs.121 million for three financial years (from FY 2017/2018 to 2019/20) per county (totaling Ksh.1,815,000,00 for 5 counties). However, as at the end of Financial Year 2022/23 the payments from the national government amounted Ksh.837,891,371.

d) The original contract cost for the projects was no longer valid since the cost of construction materials and labour had been affected by the inflation/ cost escalation

e) The intergovernmental agreements framework entered into by beneficiary counties and the State Department for Public Works posed the challenge in effective implementation of the projects. For instance, counties were to enter into contract with the contractor but the payments to the contractor were to be made directly to contractor by the State Department.

The Committee recommends that-

a) That the intergovernmental agreements framework for the implementation of the projects should be revised to ensure expeditious completion of the projects.

b) IGRTC should spearhead the process of revision of the intergovernmental agreements and ensure the projects are officially handed over to the beneficiary counties. Further, the IGRTC should submit monthly status report to the Senate.

c) That, National Treasury, State Department for Public Works and Council of Governors in cooperation with the IGRTC should ensure the transfer of the projects is expedited.

d) The overall responsibilities of project management including supervision, monitoring and payment of contractors of the projects should be handed-over to the respective/ beneficiary county governments.

e) The National Treasury should allocate all the remaining balances towards these projects in the FY 2024/25.

Acknowledgement

The Committee appreciates all the stakeholders who appeared before the Committee and provided the information which enable the Committee deliberate on the matter and make necessary recommendations.

I take this opportunity to commend the Members of the Committee for their devotion and commitment to duty, which made the consideration of the issues affecting construction of county headquarters a success.

I thank the offices of the Speaker and the Clerk of the Senate for the support extended to the Committee in undertaking this important assignment.

It is now my pleasant duty and privilege, on behalf of the Standing Committee on Finance and Budget, to present to the Senate, the Report of the Committee on the status of implementation of projects funded by the conditional grant for the construction of county headquarters.

Signature.............................**Date**...21/03/2024...

SEN. (CAPT.) ALI IBRAHIM ROBA, EGH, MP,

CHAIRPERSON,

STANDING COMMITTEE ON FINANCE AND BUDGET

ADOPTION OF THE REPORT ON THE STATUS OF IMPLEMENTATION OF PROJECTS FUNDED BY THE CONDITIONAL GRANT FOR THE CONSTRUCTION OF COUNTY HEADQUARTERS

We, the undersigned Members of the Senate Standing Committee on Finance and Budget, do hereby append our signatures to adopt this Report-

	Name	Designation	Signature
1.	Sen. (Capt.) Ali Ibrahim Roba, EGH, MP	**Chairperson**	
2.	Sen. Maureen Tabitha Mutinda, MP	**Vice-Chairperson**	
3.	Sen. (Dr.) Boni Khalwale, CBS, MP	Member	
4.	Sen. Tabitha Karanja Keroche, MP	Member	
5.	Sen. Joyce Chepkoech Korir, MP	Member	
6.	Sen. Mohamed Faki Mwinyihaji, CBS, MP	Member	
7.	Sen. Richard Momoima Onyonka, MP	Member	
8.	Sen. Shakila Abdalla Mohamed, MP	Member	
9.	Sen. Eddy Gicheru Oketch, MP	Member	

CHAPTER ONE
BACKGROUND INFORMATION

1. Following Senate adoption and resolution on the report of the Ad-Hoc Committee on County Headquarters, in the Fiscal Year 2016/2017, the national government allocated Ksh.605 million as conditional grant to finance the supplement for the construction of county headquarters. The targeted counties were Lamu, Nyandarua, Isiolo, Tana River and Tharaka Nithi as identified in the Ad-Hoc Committee report.

2. The counties were identified by the virtue of the fact that they did not inherit, from the defunct local authorities', sufficient facilities that could support the administration of then newly formed county governments at the onset of devolution.

3. The construction of the county headquarters was initially expected to be implemented over a span of three years, that is, Financial Years 2016/17, 2017/18 and 2018/19, at an agreed cost of Ksh.518 million. Under the agreement, the national government was to provide 70% of the total project costs while each beneficiary county was to contribute 30% of the total project costs.

4. The conditional allocation from the national government (initial amount of Ksh.605 million annually) was to be distributed equally among the five county governments over the three-year period. Further, each county was to contribute Ksh.155.57 million in total over three-year period (Ksh.51.85 million annually). This counterpart financing by the county governments had to be included in the respective county governments budgets for approval by the respective county assemblies.

5. The State Department of Public Works in the Ministry of Lands, Public Works, Housing and Urban Development was primarily in charge of monitoring the projects and disbursement of the national government supplement.

6. The intergovernmental agreement provided that the accounting officer responsible was the Principal Secretary, State Department of Public Works. The responsibility of the national government accounting officer was to manage implementation of the project including managing the funds and all technical applications by consultants and contractors towards the construction of county headquarters.

7. At the county level, the accounting officer was responsible for matters relating to public works in the county governments. The role of this accounting officer was to facilitate on local logistics and provide regular progress brief on the projects.

8. The beneficiary counties proceeded to execute the projects as per the intergovernmental agreements. Consultants and contractors were procured by beneficiary counties at different times. The State Department was to pay contractors directly as well as the counties.

9. Following a request by the Council of Governors, the Standing Committee on Finance and Budget, held a meeting with the respective Governors of the beneficiary counties on 4th July, 2023. The Governors drew the attention of the Committee on the status of the projects. They requested for the Senate's intervention to ensure review of the intergovernmental financing framework of the projects and to allow the counties to have the overall responsibilities of project management, supervision and payment of contractors.

10. The Committee resolved to follow up on the matter with a view to establishing the actual status of the projects, the challenges experienced and making appropriate recommendations on the path to completion for the projects.

CHAPTER TWO
SUBMISSIONS FROM STAKEHOLDERS

11. The Committee held several consultative meetings with the following stakeholders to consider the status of the projects and best way forward-

   a) The Governors from the beneficiary counties- Lamu, Nyandarua, Isiolo, and Tharaka Nithi;
   b) The Senators from the beneficiary counties;
   c) The National treasury and Economic Planning;
   d) The State Department of Public Works; and
   e) The Intergovernmental Relations and Technical Committee (IGRTC).

1. Submissions from the Governors of the Beneficiary Counties

12. The Governors appeared before the Committee and submitted as follows-

   a) the original cost of the projects amounted to approximately Kshs. 2.6 billion. The National Government was expected to contribute 70% while the five beneficiary county governments were to contribute 30% of the cost;
   b) the total allocation from the National Government to the five (5) counties from the FY 2017/18 and over the years was amounting to Kshs.2.49 billion, however, the amount disbursed was less than 10%;
   c) the status of implementation of the projects for some counties-
      (i) the commencement dates of the projects varied across the counties; for instance, Nyandarua County contract was awarded in March 2017 while Lamu was awarded in March 2020;
      (ii) Tharaka Nithi County signed the first contract in 2015 and the expected year of completion was 2018. The project stalled while 60% complete;
      (iii) Lamu County's project was 65% complete but stalled;
   d) the original cost of the projects had been revised severally, for instance,

(i) Nyandarua's cost was revised from Kshs.617 million to Kshs.449 million;

(ii) Tharaka Nithi's cost was revised from Kshs.366 million to Kshs.458 million and the original cost of project was not comprehensive.

e) there has been continued delay in completion of the projects which has led to increased project costs due to inflation. This delay of completion has compromised the value for money since the residents cannot use the facilities as intended; thus, the value for money from the projects may not be realized;

f) in some counties such as Tharaka Nithi, the initial contract was terminated three times. The contractors went to court and the county was almost being fined heavily, albeit, the county opted for alternative dispute resolution/arbitration to stop excessive charges;

g) there is need for review of the implementation of financing framework of the projects to give counties the overall responsibilities of project management, supervision and payment of contractors;

h) prioritization of the projects and allocation of adequate funds by the National Government is required to ensure the projects are completed within the financial year 2023/24;

i) as a result of rising inflation and increased cost on arbitration, the cost of the projects needs to be reviewed upwards, this might almost double the original cost of projects; and

j) there is need to expedite completion of the stalled projects to avoid further loss of value for money.

2. Submissions by the State Department for Public Works

13. The State Department for Public Works appeared before the Committee in August, 2023 and made submissions on the status of implementation for the five Counties as follows-

Lamu County

a) The construction of Lamu County headquarters was underway in Mokowe. The works commenced on 1st July, 2018 and were expected to be completed by 1st September, 2025. The estimated cost of the construction at Mokowe was Ksh.215,000,000 from an initial contract of Ksh.126,823,550. There are two other sub-county headquarters to be constructed at Faza and Hindi with an estimated cost of Ksh.195,219,070 and Ksh.184,780,000 respectively. The estimated total cost for the three sites was Ksh.595,000,000. The Mokowe site was 60% complete.

b) The contractor has been slow in project execution. Further, during tendering, the original scope for the civil and external works were reduced. However, these works would be reinstated as there are critical to the utilization of the building once complete. The estimated cost is Ksh.215 million. It is further noted that the sub-contractor for the mechanical works was yet to be contracted.

c) For the Faza Island site, the tender was advertised on 20th February, 2018 and was opened on 16th March, 2018.The County Government, however, failed to award the contract citing lack of funds but the public procurement administrative review board vide decision 7/7/2018 of 12th June, 2018 directed the county to complete the award process. In January 2023, the contact was signed and the project was commenced with an expected completion date of 27th February, 2024. Notably, electrical and mechanical works sub-contractors had been awarded.

d) For the Hindi site, the county is yet to commence tendering process.

Isiolo County

e) The construction of Isiolo County Headquarter offices were underway at Isiolo Township. The works commenced on 4th March, 2019 and was initially expected to be completed by 30th August, 2021. The completion date was later revised to 30th August, 2025. The total cost of the project had been varied downwards from an original contract sum of Ksh.870,706,010.84 to Ksh.556,905,702.88. The project was 60% complete.

f) The main challenge encountered during implementation of this project was the slow execution of works by the contractor. Further, the downward revision of the contractor sum led to the omission of some works from the contract sum in order to align the project to the limit of Ksh.500 million. The State Department for Public Works recommended that for the optimal utilization of the building after completion, the omitted works should be reinstated. The estimated cost of the omitted works amounted to ksh.139 million.

Nyandarua County

g) The construction of Nyandarua County Headquarters was underway at Olkalou. The works commenced on 16th March, 2017 and were expected to be completed by 30th December, 2025. The total cost of the project was revised upwards from Ksh.617,644,564.15 to Ksh.679,644,563. The project was 55% complete.

h) The project had encountered challenges with the contractor who terminated the contract. As a result, the project had been retendered and the process was yet to be concluded. The estimated cost of the retendered works was at Ksh.450 million which when added to the certified amount of Ksh.372 million, would result into project cost amounting to ksh.822 million. There is breach of the limit of Ksh.500 million for the construction of county headquarters. The State Department sought for a waiver of the limit in order to allow for the award of the contract and execution of outstanding works.

Tana River County

i) The construction of the Tana River County headquarters was underway. The works commenced on 16th March, 2020 and was expected to be completed by 22nd

September, 2024. The contract sum for the project was Ksh.95,268,750. The project was 55% complete.

j) In the early stages of the project, the documented site was changed. Thus, the civil works had to be redesigned for the new site. It was noted that in order to continue with the works within the new site and the execution of the omitted works, an additional fund amounting to Ksh.350 million was required.

Tharaka-Nithi County

k) The construction of the proposed Tharaka Nithi County Headquarters was underway at Kathwana. The works commenced on 27th July, 2015 with the expected completion date to be 15th May, 2024. The total cost of the project had been varied upwards from Ksh.366,823,802.56 to Ksh.458,239,186.45. The project was at 82% complete.

l) It was reported that additional cost of the project was occasioned by an extension in the size of the building by 7 meters in one wing, as well as an increase in slab thickness. Further, the project incurred costs due to fluctuation of labour and materials, interest on delayed payments and extended preliminaries. It was indicated that the contractor had taken the county to court and arbitration on the matter was ongoing.

3. Submissions by The National Treasury and Economic Planning

The Cabinet Secretary submitted that-

14. That the objective of the conditional allocation was to supplement financing for construction of the headquarters in the five County Governments namely, Isiolo, Lamu, Nyandarua, Tana River and Tharaka Nithi, which did not inherit adequate offices that could accommodate the new administration for devolution in the year 2013. The National Government was expected to contribute an additional conditional allocation of Ksh.605 million for three financial years from FY 2017/18

to FY 2019/20 (totaling Ksh.1,815,000,000); with each County Government expected to get an allocation of Ksh.121 million for each of the three financial years.

15. As per the initial design of the project, each county government was to include in its budget estimates for FYs 2017/18, 2018/19 and 2019/20 a contribution totaling to Ksh.155.3 million being the equivalent of 30% contribution of the county to the construction costs, spread over the above FYs.
16. These estimates were to be considered for approval by the respective county assemblies; and each county government was to ensure that proceeds from the conditional allocation (including both the contribution from the National Government and from the county) is apportioned between construction costs for county executive headquarters and county assembly headquarters in the ratio of 61% and 39%, respectively. This split was based on the approved costs per m^2 for constructing 7,000 m^2 of county executive offices and 4,500 m^2 of county assembly offices.
17. The projects were expected to have been completed in the FY 2019/20. However, the actual commencement delayed due to revision of the original project designs, subsequent revision of the contract sums and procurement challenges. The projects thus commenced in 2017 (except for Tharaka Nithi County which had started earlier in 2015), though construction at the individual sites commenced at different times. Consequently, they were allocations still in the budget, for instance, Financial Year 2023/24 and 2024/25 had proposed allocation of Ksh.454 million and Ksh.445 million respectively.
18. Due to insufficient monitoring and evaluation reports on the project implementation, the National Treasury led a joint monitoring and evaluation mission and site visit comprising of officers from the National Treasury, State Department of Public Works and Council of Governors from 22nd - 26th March, 2021 to establish the project status.
19. The objective of the exercise was to review the progress on implementation of the projects, identify and address the challenges that the projects were facing. The main

finding of the team was that given the completion percentages and the periods left, all the projects were unlikely to be completed within the stipulated contract periods. The team also observed that even though the National Treasury had been allocating money to the State Department for Public Works for the projects since FY 2017/2018, the payment certificates for the projects had not been commensurate with the allocations owing to the slow pace of the implementation of the projects on one hand, and terminations and reinstatements of contracts on the other hand.

20. That the responsibilities of the county government accounting officer were-
    a) to avail site for the construction of the executive office;
    b) liaise with the contractors for access to the requisite services such as roads, water, electricity; and,
    c) Honor payments to the contractor on time.

21. The responsibilities of the National Government Accounting Officer (Principal Secretary, State Department for Public Works) on the other hand were-
    a) provide project management services during implementation of the projects i.e. supervising construction and issuing necessary guidance on the quality and scope of the works;
    b) raising payment certificates for payments for both National and County Governments;
    c) managing site inspections and meetings; and,
    d) preparation of the progress reports.

22. Further, the CS submitted that the major challenges leading to non- completion of the projects were-
    a) Supervision, management and bureaucracies arising from the project implementation model and the financing framework;
    b) Inadequate capacity at the counties;
    c) Prioritization of the project and failure to allocate adequate funds by some of the County Governments;

d) Low absorption of the funds by counties which sometimes led to budget cuts;
e) Delays in payment causing the contractors to slow down the progress of the work- The contractor for Nyandarua terminated the contract due to delayed payment and a completion contract was procured further delaying the project;
f) Procurement challenges that led to slow implementation of the projects;
g) Underperformance by contractors- Some of the contractors have been slow in execution of the works and thus delayed the completion;
h) Varying of the original contract sums;
i) Changes of the initial documented site of the project requiring civil works to be redesigned and documented (Tana River County);
j) Some of the projects were above the Ksh.500 million threshold initially agreed upon; and
k) Escalating project costs due to long periods of implementation and delayed costs.

23. The CS proposed a review of financial framework as follows-

a) During the Financial Year 2023/24, the payment arrangements to be done by the State Department for Public Works (SDPW) being the Project Manager and County Governments being employer. The counties to engage SDPW to fast track the payments of certified certificates from the current voted funds for FY 2023/24 once approved.

b) Further, since county governments had built sufficient capacities and competencies in project design, procurement, project contracting, implementation, supervision, and processing payments of project works the counties should take up the management of the projects. However, counties may continue to draw the support of SDPW whenever they need.

c) To fast-track the completion of the County Headquarters that had taken too long, the projects should be implemented by the counties as conditional grants in the County Governments Additional Allocations Bill (CGAAB) for the Financial Year 2024/25. To this extent, county governments will be required to open Special Purpose Accounts (SPA) at the Central Bank of Kenya (CBK).

d) For funds to flow to the SPAs, the SDPW shall write to the Principal Secretary, National Treasury to transfer funds from the Consolidated Fund to respective County Revenue Funds (CRFs). County Governments will then pay certified certificates from the SPAs. In these instructions, the SDPW would be expected to clearly specify that the recipient counties have met the conditions for the disbursements to be made by the National Treasury. The framework for the management of this conditional allocation will outline the conditions and the responsibilities of both parties.

4. Joint Assessment Report by State Department for Public Works and Council of Governors on Status of Payment for the projects

24. The parties had a site inspection to ascertain the status of implementation and the cost of pending works as per existing contract- to estimate the cost of remaining works based on the current market price; and to ascertain the status of payment made by both beneficiary county and the National Government. The two parties submitted the status of payment as follows-

a) Tharaka-Nithi County

25. The main structural frame including the roof has been done. However, no significant work done in the last 2 years.

Contract Sum	Amount Paid		Total Paid
	By National Government	By County Government	
Ksh.366,823,802	Ksh.195,259,122	Ksh.103,855,714	KSh.299,114,837

b) Lamu County Headquarters at Mokowe Island

26. The project commenced on 1st October, 2019 and the completion date was revised to 2nd November, 2023. The main structural frame including the roof had been done.

Contract Sum	Amount Paid		Total Paid
	By National Government	By County Government	
Mokowe- Ksh.126,823,550 Faza- Ksh.195,219,070	Ksh.32,828,020	Ksh.67,353,224	KSh.100,181,244

c) Lamu County Headquarters at Faza Island

27. The project commenced on 27th February, 2023 with expected completion date of 27th February, 2024. The work was progressing well; however, the electrical and mechanical services were not awarded.

d) Nyandarua County Headquarters at Olkalou

28. The project commenced on 16th March, 2017 and the contract ended on 15th February, 2021. The initial contract was terminated by the main contractor on the basis of delayed payments and the completion contract was awarded to another contractor to complete the pending works.

Contract Sum	Amount Paid		Total Paid
	By National Government	By County Government	
Original Ksh.372,324,082 Completion Ksh.449,097,569	Ksh.308,399,278	Ksh.103,686,280	Ksh.412,085,560

e) Tana River County Headquarters at Hola

29. The project commenced on 18th June, 2019 and the completion date was revised to 16th April, 2024.

30. The project was on course, with the structural frame having been completed. The contractor to commence on finishing and window fixing.

Contract Sum	Amount Paid		Total Paid
	By National Government	**By County Government**	
Ksh.495,268,750	Ksh.130,354,931	Ksh.152,541,606	KSh.282,896,538

f) Isiolo County Headquarters at Isiolo Township

31. The project commenced on 4th March, 2019, and the completion date was revised to 31st December, 2024.
32. The project was ongoing, with the construction of the structural frame in progress. However, it was noted that the contractor was quite slow in execution of the works and therefore recommended for close supervision and monitoring to ensure the works were completed on schedule.

Contract Sum	Amount Paid		Total Paid
	By National Government	**By County Government**	
Ksh.556,905,702	Ksh.171,050,020	Ksh.9,346,782	KSh.180,396,803

5. Submission by Intergovernmental Relations Technical Committee (IGRTC)

33. The IGRTC appeared before the Committee and noted that the construction of the targeted headquarters had stalled, partially because of the nature of the intergovernmental financing agreement that were in place.
34. The IGRTC committed to spearhead the processes of transferring the projects for completion to the beneficiary counties. Further to undertake any other role the Committee or Senate may recommend.

CHAPTER THREE

COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

Observations

35. **During consideration of the issues raised, the Committee made the following observations-**

a) There has been an inordinate delay in implementation of the projects. The supplement for construction of county headquarters was to be transferred within three financial years and yet eight (8) years down the line most of the projects have stalled and the counties are yet to receive their allocation. The projects were started on the basis that the corresponding financing from the national government would be made available to counties and the beneficiary counties therefore had a reasonable expectation that the national government would meet its obligations.

b) That the five counties identified by the Ad-Hoc Committee on County Headquarters as requiring urgent intervention still do not have county headquarters ten years after the advent of devolution. This has impeded the ability of the county government to deliver services and discharge their functions under the Constitution.

c) The National Government was expected to contribute Ksh.Kshs.121 million for three financial years (from FY 2017/2018 to 2019/20) per county (totaling Ksh.1,815,000,00 for the 5 counties). However as at the end of Financial Year 2022/23, the payments from the national government amounted Ksh.837,891,371.

d) The proposed budgetary allocation under the County Government Additional Allocations Act (CGAAA), 2024 for the conditional allocation was Kshs.454 million.

e) The original contract cost for the projects was no longer valid since the cost of construction materials and labour had been affected by the inflation/ cost escalation.

f) The intergovernmental agreements framework entered into by beneficiary counties and the State Department for Public Works posed the challenge in effective implementation of the projects. For instance, counties were to enter into contract with the contractor but the payments to the contractor were to be made directly to contractor by the State Department.

g) A number of Counties like Tharaka Nithi were undergoing litigation from the contractors due to delayed payments leading to further stalling of the projects.

Recommendations

36. The Committee recommends as follows-

a) That the intergovernmental agreements framework for the implementation of the projects should be revised to ensure expeditious completion of the projects.

b) IGRTC should spearhead the process of revision of the intergovernmental agreements and ensure the projects are officially handed over to the beneficiary counties. Further, the IGRTC should submit monthly status report to the Senate.

c) That, National Treasury, State Department for Public Works and Council of Governors in cooperation with the IGRTC should ensure the transfer of the projects is expedited.

d) The overall responsibilities of project management including supervision, monitoring and payment of contractors of the projects should be handed-over to the respective/ beneficiary county governments.

e) The National Treasury should allocate all the remaining balances towards these projects in the FY 2024/25.

f) The additional cost of the projects due to the escalation of the costs of materials and labour should be borne by the respective county governments.

g) The State Department for Public Works should release to the beneficiary counties all the funds allocated to the projects in the FY 2023/24 to ensure full utilization of the funds towards completion of these projects.