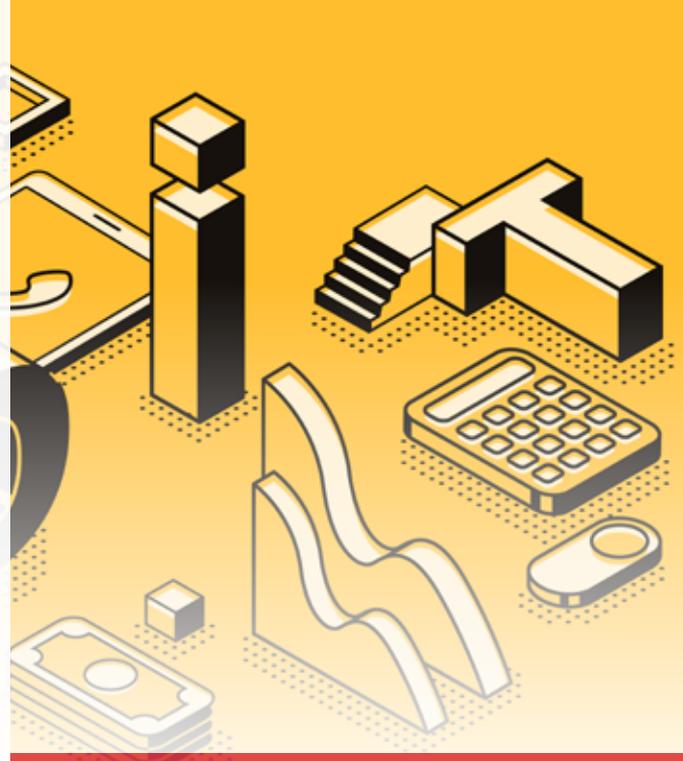


UNDERSTANDING THE PUBLIC AUDIT PROCESS IN KENYA

*A guide to using Auditor General
Reports for Advocacy.*

WHAT IS AN AUDIT



It is an independent verification of an entity's financial statements as well as non-financial information, undertaken to ascertain fairness and accuracy of all financial transactions carried out by the said entity. This task is undertaken by an independent expert, who then expresses an opinion on the subject matter (financial statements verified).

Who is the Auditor General?

The Office of the Auditor General (OAG) is an independent office established under Article 229 of the Constitution of Kenya and mandated to audit all public-funded entities at both national and county levels. This independent office is headed by Auditor General.

Who is audited and who isn't?

The OAG is charged with the primary oversight role of ensuring accountability within the three arms of government as well as County governments, constitutional commissions and independent offices, public debt, and accounts of political parties funded from public funds. The constitution mandates the OAG to audit and report its findings to the Parliament and County Assemblies appropriately. The OAG's mandate does not extend to private entities.

Who audits the Auditor General?

Article 226 (4) stipulates that the accounts of the Office of the Auditor General shall be audited and reported on by a professionally qualified accountant who is appointed by the National Assembly.

What are the Audit Timelines?

Article 229 (4) specifies that within six (6) months after the end of each financial year, the OAG shall audit and report in respect to that financial year on the accounts of national and county governments and all other public offices including accounts

of political parties funded from public funds. The OAG is mandated to carry out accountability of resources through:

1. Certification of Accounts
2. Continuous Audit Presence
3. Service Delivery to all Kenyans

Section 32 of the Public Audit Act (2015) requires the Auditor General to publicize the audit report within 14 days after submission to Parliament. This includes having the reports on the OAG's website.

What is the role of Parliament and County Assemblies in Public Audit?

In line with Article 229 (8), the role of Parliamentary & County Assembly committees is to determine outstanding audit issues and ensure appropriate action is taken. The law requires these bodies to prepare a committee report on the audit findings, for action by investigative agencies, which include the Police, Office of the Director of Public Prosecutions (ODPP), Director of Criminal Investigations (DCI), and the Ethics and Anticorruption Commission (EACC). According to Section 32 of the Public Audit Act, Parliament is required, within seven (7) days of receiving the Audit report, to publicize it on its official website and other public spaces.

The PAC (Parliamentary Accounts Committees) discusses national and County government audit reports, while the PIC (Parliamentary Investments Committees) handles accounts of state and county corporations, commonly known as Parastatals.

TYPES OF AUDITS



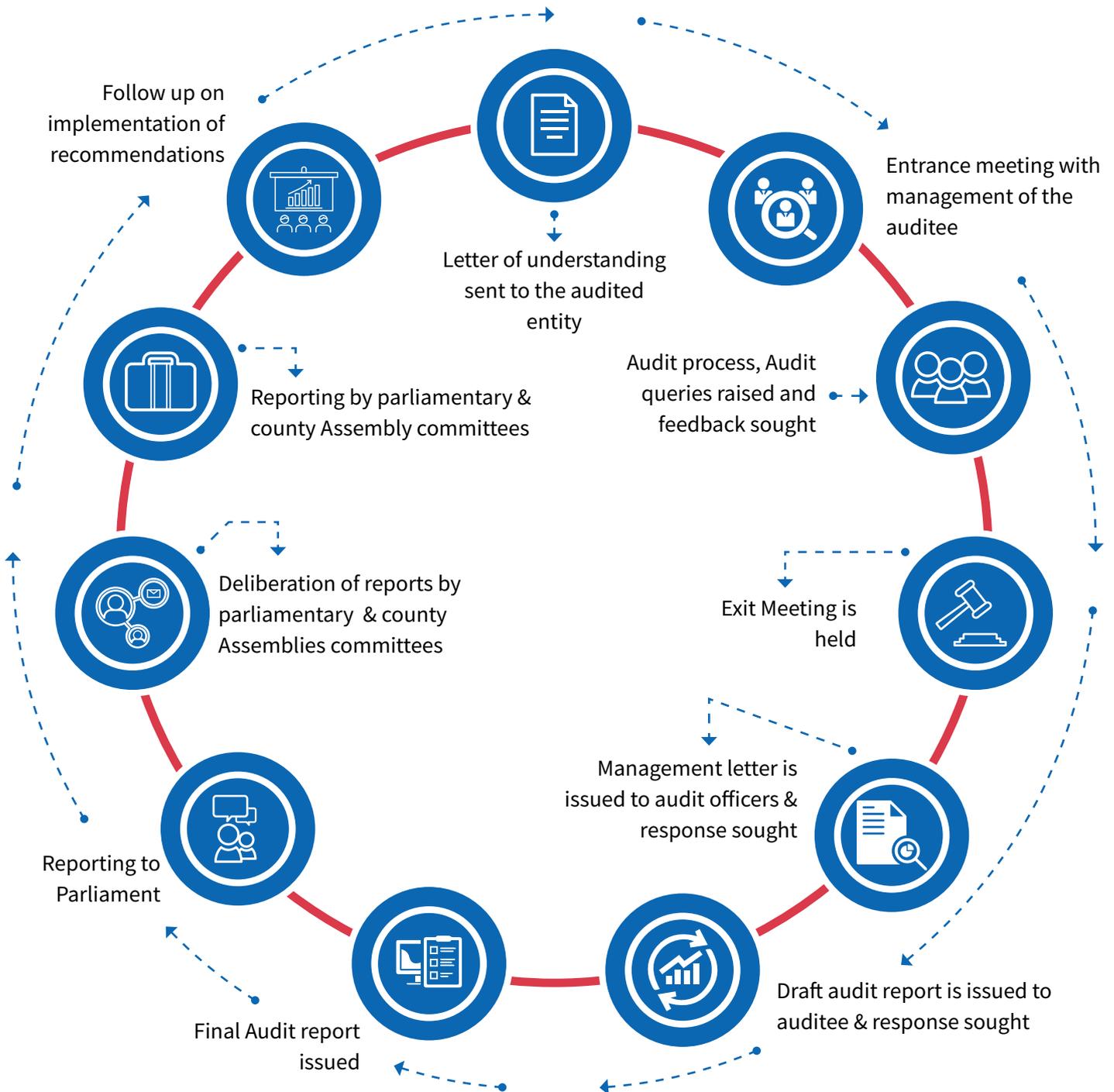
TYPE OF AUDIT		WHAT IT IS
1.	Regulatory Financial Audit	This audit focuses on determining whether an entity's financial information is presented in accordance with the regulatory framework as well as applicable financial reporting framework.
2.	Forensic Audit	This is undertaken to establish fraud, embezzlement or other financial misappropriations, and is undertaken for use as evidence in a court of law.
3.	Performance Audit	It involves the assessment of government ministries, departments and agencies or government programmes' use of public resources in line with the 4 E's: <ul style="list-style-type: none"> • Efficiency • Economy • Equity • Effectiveness
4.	Information Technology System Audit	It's a part of an audit that reviews the computerized elements of an accounting information system. The audit assesses the following: <ul style="list-style-type: none"> • Confidentiality • Integrity • Availability of Systems • Non-repudiation
5.	Periodic Audits	The Auditor General may conduct these audits at their own initiative, or upon request, with the aim of preventing and deterring fraud and corrupt practices, as well as establishing the effectiveness of risk management and governance processes within state organs and public entities.

TYPE OF AUDIT OPINIONS

According to the public audit regime in Kenya, there are two broad two types of Audit Opinions; Unqualified which loosely means the report is 'clean'. On the other hand, Modified opinion includes the three other types of opinions given to show that the financial statements have discrepancies ranging from minor to pervasive ones.

AUDIT OPINION		WHAT IT MEANS
1.	Unqualified	It means that the financial statements are clean and give a true and fair view iof the financial position of a public entity.
2.	Qualified Opinion	It means that the financial statements are, by and large, fairly presented. However, there are specific discrepancies which could include: an incorrect accounting policy, unrecoverable debts, misstated inventories, or a discrepancy not recurring in the financial statements.
3.	Adverse Opinion	It means that the financial misstatements, individually or in aggregate, are both material and pervasive to the financial statements. Simply put, the report is bad.
4.	Disclaimer of Opinion	This means that the Auditor General was unable to obtain sufficient audit evidence upon which to base an opinion. In short, the available financial statement could not be relied upon to warrant an opinion. This is the worst form of opinion the Auditor General can issue.

THE AUDIT PROCESS IN KENYA



Source: Office of the Auditor General

SOME OF THE REASONS FOR QUALIFICATION BY THE AUDITOR GENERAL

REASON FOR QUALIFICATION		WHAT IT MEANS
1.	Pending Bills	These are bills not settled or paid by an entity throughout the reporting period/financial year. It is a problem because agencies are only authorized to spend for one year at a time. Bills carried forward to a new year mean that agencies are determining their own budgets, which is unlawful.
2.	Unsupported Expenditure	In the absence of proper records and documentation, the Auditor General cannot be sure whether the expenditure is valid and follows the laid-out procedures.
3.	Excess Expenditure	This means spending over and above what was approved by the National Assembly or County Assembly
4.	Non-surrender of Imprest	Imprest are a form of cash advance or float issued to officers to cater for expenses such as travelling, accommodation and incidental expenses, which must be accounted for promptly.
5.	Unauthorized Expenditure	The Public Finance Management Act of 2012 requires that all expenses in public institutions be authorized beforehand. The absence of approvals for expenditures warrants a qualification by the Auditor General.
6.	Poor management of Assets	Mismanagement of the schedule of assets within public entities is a contravention of section 72 of the Public Finance Management Act of 2012
7.	Poor Asset Management (Lack of Asset Registers, Irregular Disposal of Assets etc)	Proper asset management enables institutions meet the required standard of service in the most cost- effective way, thus ensuring long-term sustainability of the organization. The lack of asset registers therefore contravenes Article 227 on efficient use of public resources, as well as the Public Procurement and Disposal Act of 2015 on the management of asset registers.

UNDERTAKING ADVOCACY ON THE PUBLIC AUDIT PROCESS IN KENYA

1. Start by understanding the principles of Public finance management in accordance with the Constitution (Art 201). They include:

- Openness,
- Accountability,
- Public Participation,
- Equity,
- Prudent application of public resources and;
- Clarity.

2. Understand what the offences are, as per Public Audit Act (2015) and the Public Finance Management Act (2012). These include the following:

- Unapproved expenditure,
- Misappropriation of funds or assets,
- Corruption,
- Withholding information,
- Providing misleading information to the OAG,

- Interference with the independence of the OAG

3. Understand what the penalties & sanctions are for offenders. The penalties according to the Constitution (Article 225) and other legal frameworks include the following:

- Withholding of funds to the said public entity,
- Imprisonment
- Surcharging
- Debarment
- Fines
- Declaration of ineligibility to hold public office

4. Advocate for the enforcement of these sanctions by public entities mandated by the law to investigate and prosecute perpetrators. These agencies include:

- EACC (Ethics and Anti-corruption Commission),
- ODPP (Office of the Director of Public Prosecutions)
- DCI (Directorate of Criminal Investigations).

5. Actively participating in the budget formulation, approval and implementation stages. The audit process is part of the larger budget cycle, and therefore for effective advocacy, its needful to engage throughout the entire budget process. Some of the avenues for public participation include the following:

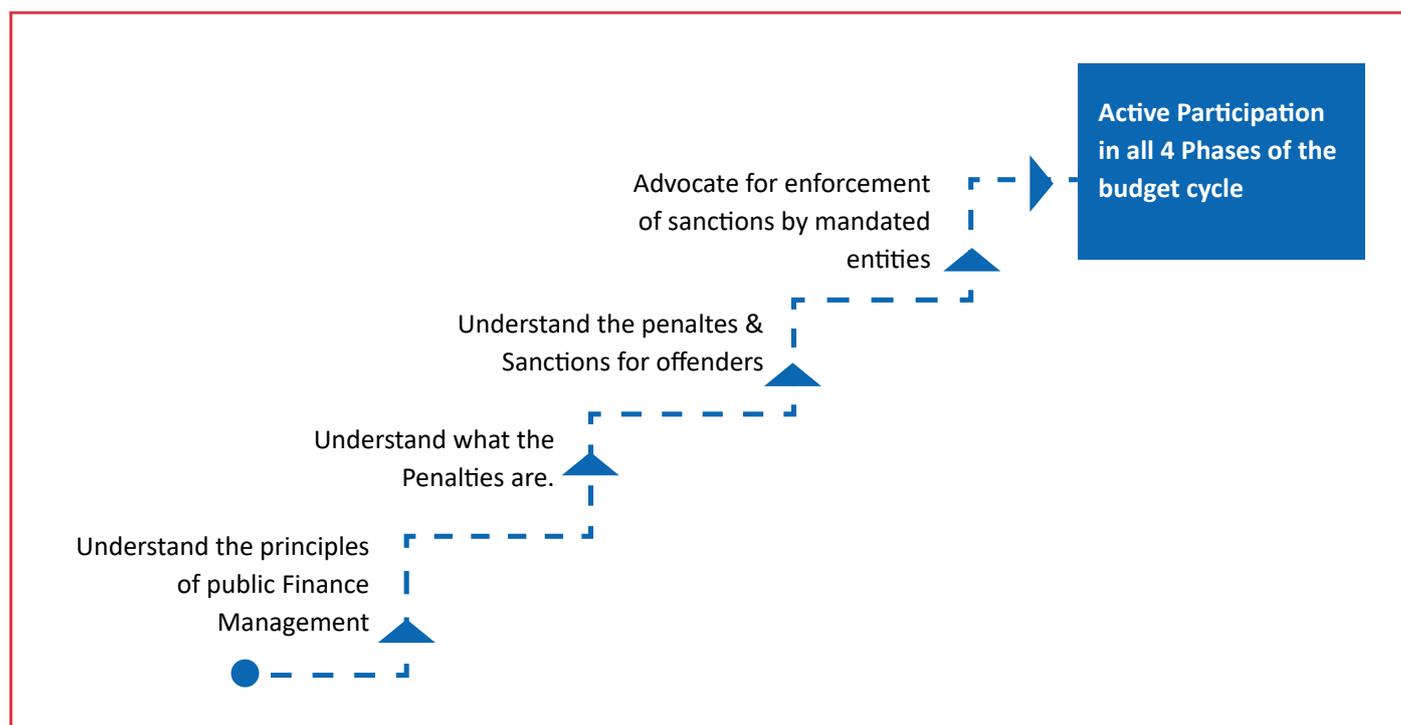
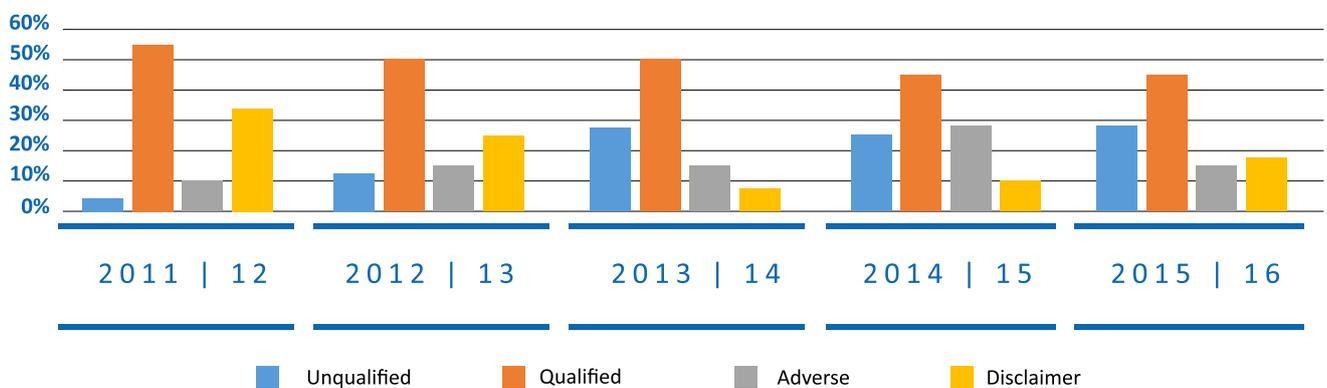


Figure: Undertaking Advocacy on the Public Audit Process

AN OVERVIEW ON ANALYSIS OF THE AUDITOR GENERAL'S REPORTS FOR NATIONAL GOVERNMENT Period (2010 - 2016)

Analysis of Audit Opinions



Source:

Summary of the Report of the Auditor-General on the Financial Statements for National Government for the Year 2015/2016

UNSUPPORTED EXPENDITURE

Since 2010 up until 2016, over Kshs. 160 billion has been highlighted by the Auditor General as unsupported expenditure by ministries, departments and agencies in Kenya. Out of this, over 60 billion was unsupported expenditure for year 2013/2014 which also happened to be an election year.

1. The ministry of health could not account for over Kshs. 28 billion and cumulatively since 2010. Kshs.28 Billion – this money is enough to purchase medical equipment (theatre, central renal, ICU and radiology equipment) for at least 1 hospital in all the 47 counties in Kenya
2. The ministry of education could not account for Kshs. 19 billion cumulatively since 2010. 19 billion is enough to pay tuition fees for 0.8 million secondary students at Kshs. 22,244 per student in a financial year

Un-surrendered Imprest

As at 2015/16, over 4 billion had been given out as imprest to government officials (in various Ministries, Departments and Agencies), and had not been accounted for since 2010. This money is enough to purchase 2 packets of 2 Kg maize

flour at the maximum price of Kshs. 153 each for the 14.7 Million people living below the poverty line in Kenya.

Stalled Projects

1. The proposed Upgrading of Othaya District Hospital Phase I stalled despite payment of Kshs. 501,745,918 . This amount is enough to construct 4 modern hospitals at Kshs. 135 million each, going by the cost for Makueni County's recent Mother & Child hospital.
2. There were delays in the construction of Technical Training Institutes in the year 2015/2016 despite contractors being paid over 294 Million out of the total Kshs. 428,075,604. This affects the lives of over 500,000 students who don't qualify for university education after failing their KCSE examinations.

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AUDIT



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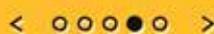
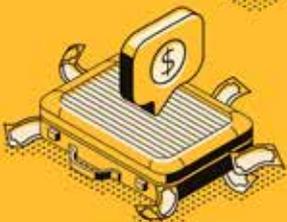
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