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REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

TWELVETH PARLIAMENT – FOURTH SESSION (2020)

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL
PLANNING

REPORT ON THE VETTING OF MS. NANCY JANET KABUI GATHUNGU,
NOMINEE FOR THE POSITION OF AUDITOR - GENERAL

DIRECTORATE OF COMMITTEE SERVICES,
CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI

JULY, 2020

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Table of Contents

| | |
|---|----|
| CHAIRPERSON'S FOREWORD..... | 3 |
| CHAPTER ONE..... | 5 |
| 1 PREFACE..... | 5 |
| 1.1 Establishment of the Committee..... | 5 |
| 1.2 Committee Subjects..... | 5 |
| 1.3 Committee Membership..... | 6 |
| 1.4 Committee Secretariat..... | 7 |
| CHAPTER TWO..... | 8 |
| 2 INTRODUCTION..... | 8 |
| 2.1 Message from H. E. the President..... | 8 |
| 2.2 Nomination and appointment process..... | 8 |
| 2.3 Report of the Committee for nomination of the Auditor-General..... | 8 |
| 2.4 Committee proceedings..... | 9 |
| CHAPTER THREE..... | 10 |
| 3 BACKGROUND INFORMATION..... | 10 |
| 3.1 Legal framework..... | 10 |
| 3.2 Qualifications for appointment of the Auditor-General..... | 14 |
| 3.3 Message from H.E. the President..... | 15 |
| 3.4 Notification to the nominee and Chapter 6 clearance requirements..... | 15 |
| 3.5 Request for Memoranda and Notification to the public..... | 16 |
| 3.6 Submission of memoranda..... | 16 |
| CHAPTER FOUR..... | 18 |
| 4 APPROVAL HEARING..... | 18 |
| 4.1 Ms. Nancy Janet Kabui Gathungu – Nominee for the Position of Auditor – General..... | 18 |
| 4.1.1 Personal Background..... | 18 |
| 4.1.2 Educational Background..... | 18 |
| 4.1.3 Professional Associations & Affiliations..... | 19 |
| 4.1.4 Work experience/career progression..... | 19 |
| 4.1.5 Potential Conflict of interest..... | 19 |
| 4.1.6 Clearance Requirements..... | 19 |
| 4.1.7 Gender and Regional Balance..... | 19 |
| 4.1.8 Other issues under consideration..... | 19 |
| CHAPTER FIVE..... | 23 |
| 5 OBSERVATIONS AND FINDINGS..... | 23 |
| CHAPTER SIX..... | 25 |
| 6 RECOMMENDATION..... | 25 |
| APPENDICES..... | 26 |

CHAIRPERSON'S FOREWORD

This report contains the Committee's proceedings during the approval hearing of the appointment of Ms. Nancy Janet Kabui Gathungu, nominee for the position of Auditor-General as requested by H.E the President and communicated to the House by the Speaker on Tuesday, 23rd June, 2020.

In compliance with section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011, the Clerk of the National Assembly placed an advertisement in the print media on Wednesday, 24th June, 2020 (*appendix three*). The Clerk invited the public to submit memoranda by way of written statements on oath (*affidavit*) on the suitability of the nominee in conformity with section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011.

By close of the submission deadline, the Committee had received several memoranda from civil society groups including Constitution and Reform Education Consortium (CRECO), National Taxpayers Association (NTA), Transparency International Kenya, Africa Centre for Open Governance (AFRICOG) and Centre for Enhancing Democracy and Good Governance challenging the process of appointment of the Auditor-General and the role of the Public Service Commission vis-à-vis the independence of the Office of the Auditor-General. The Committee was of the view that none of the memoranda was challenging the nominee directly but were offering an advisory opinion on the need for the Committee to scrutinize the integrity of the process of appointment and the need for Parliament to amend the law to provide for a smooth transition, whenever the Office of the Auditor-General falls vacant. They proposed a specific amendment to Section 12 of the Public Audit Act to provide specific timelines within which a substantive Auditor-General must be appointed. In addition, the Committee also determined that all the memoranda mentioned above were inadmissible because they did not meet the requirements of section 6(9) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) which provides that a statement contesting the suitability of a candidate to hold an office should be written on oath. The Committee also received a memorandum from a civil society group called Kenyans for Justice which was filed after the deadline hence the Committee did not consider it in light of this.

For the approval hearing, the nominee appeared before the Committee on **Friday 3rd July, 2020 at 10.00 am** where the Committee examined her suitability based on the criteria set out by the Public Appointments (Parliamentary Approval) Act, 2011. The nominee was interviewed on her academic credentials, relevant experience, knowledge of sector issues, leadership and integrity. Based on her performance during the vetting exercise the Committee found that the nominee has wealth of experience to serve as the Auditor-General having worked in the Office of the Auditor-General, previously known as the Kenya National Audit Office for close to eighteen (18) years, having risen through the ranks to her current position as the Director of Audit. She met all the minimum qualifications required by Article 229(2) of the Constitution and Section 11 of the Public Audit Act, 2015. She demonstrated her extensive knowledge in auditing as well as public finance having worked at the Office of the Auditor-General for most of her career life. Her educational background was also in line with the requirements for the Office. In terms of the nominee's abilities, she demonstrated tenacity to hold this position in the way she responded to questions posed by the Members.

May I take this opportunity to thank all the Members of the Committee for their input and valuable contributions during the approval hearing and deliberations during the writing of the report. The Committee also takes this opportunity to thank the Offices of the Speaker and Clerk of the National Assembly for the logistical support accorded to it during the exercise.

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On behalf of the Departmental Committee on Finance and National Planning, and pursuant to Articles 229(1) and 250(2) of the Constitution, section 11 of the Public Audit Act (No. 34 of 2015) and Section 8(1) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), it is my pleasant duty to table the Report of the Committee on the nomination of Ms. Nancy Janet Kabui Gathungu for appointment to the position of Auditor-General for debate and adoption by the House. Based on the nominee's performance during the vetting exercise, the Committee urges the House to **approve** Ms. Nancy Janet Kabui Gathungu for appointment to the position of Auditor-General.

Hon. Joseph Limo, MP

Chairperson, Departmental Committee on Finance and National Planning

CHAPTER ONE

1 PREFACE

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1.1 Establishment of the Committee

1. The Departmental Committee on Finance & National Planning is one of the fifteen Departmental Committees of the National Assembly established under *Standing Order 216* whose mandates pursuant to the *Standing Order 216 (5)* are as follows:-
 - i. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
 - ii. To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;
 - iii. To study and review all the legislation referred to it;
 - iv. To study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
 - v. To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
 - vi. **To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No. 204 (Committee on appointments);**
 - vii. To examine treaties, agreements and conventions;
 - viii. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - ix. To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
 - x. To examine any questions raised by Members on a matter within its mandate.

1.2 Committee Subjects

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider matters related to public finance, monetary policies, public debt, financial institutions (excluding those in securities exchange), investment and divestiture policies, pricing policies, banking, insurance, population revenue policies including taxation and national planning and development.
3. In executing its mandate, the Committee oversees the following government Ministries and departments;
 - a. The National Treasury and Ministry of Planning
 - b. Ministry of Devolution and ASAL
 - c. The Commission on Revenue Allocation
 - d. Office of the Controller of Budget
 - e. Salaries and Remuneration Commission

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1.3 Committee Membership

4. The Departmental Committee on Finance and National Planning was constituted by the House in December, 2017 and comprises of the following Members: -

Chairperson

Hon. Joseph K. Limo, MP
MP for Kipkelion East Constituency

Jubilee Party

Vice-Chairperson

Hon. Isaac W. Ndirangu
MP for Roysambu Constituency

Jubilee Party

Members

Hon. Jimmy O. Angwenyi, MP
MP for Kitutu Chache North Constituency

Jubilee Party

Hon. Christopher Omulele, MP
MP for Luanda Constituency

ODM Party

Hon. Dr. Enoch Kibunguchy, MP
MP for Likuyani Constituency

FORD-K

Hon. Shakeel Shabbir Ahmed, MP
MP for Kisumu Town East

Independent Member

Hon. Abdul Rahim Dawood, MP
MP for North Imcuti Constituency

Jubilee Party

Hon. Daniel E. Nanok, MP
MP for Turkana West Constituency

Jubilee Party

Hon. Andrew A. Okuome, MP
MP for Karachuonyo Constituency

ODM Party

Hon. David M. Mboni, MP
MP for Kilui Rural Constituency

CCU Party

Hon. Francis K. Kimani, MP
MP for Molo Constituency

Jubilee Party

Hon. Joseph M. Oyula, MP
MP for Butula Constituency

ODM Party

Hon. Joshua C. Kandie, MP
MP for Baringo Central Constituency

MCC Party

The Hon. Lydia H. Mizighi, MP
MP for Taita Taveta County

Jubilee Party

Hon. Mohamed A. Mohamed, MP
MP for Nyali Constituency

Independent Member

Hon. Purity W. Ngirizi, MP
MP for Kirinyaga County

Jubilee Party

Hon. Samuel Atandi, MP
MP for Alego Usonga Constituency

ODM Party

Hon. Stanley M. Muthama, MP
MP for Lamu West Constituency

MCC Party

The Hon. Edith Nyenze, MP
MP for Kitui West Constituency

WDM-K

1.4 Committee Secretariat

5. The Committee is constituted by the following Secretariat: -

Head of the Secretariat
Ms. Leah W. Mwaura
Senior Clerk Assistant

Ms. Jennifer Ndeto
Principal Legal Counsel 1

Ms. Lauren Wesonga
Clerk Assistant II

Mr. Josephat Motona
Fiscal Analyst I

Mr. Chelang'a Maiyo
Research Officer II

Mr. John Njoro
Serjeant-At-Arms

Ms. Euridice Nzioka
Audio Officer

CHAPTER TWO

2 INTRODUCTION

2.1 Message from H. E. the President

6. Pursuant to the provisions of Standing Order No. 42, the Speaker of the National Assembly on **Tuesday 23rd June, 2020** communicated to the House a message from H.E. the President regarding the nominee to the position of Auditor – General. The Speaker informed the House that H.E. the President was seeking the approval of the National Assembly on the said nomination before appointment.
7. In accordance with Standing Order 42(3)(c), the Speaker having read the Message from H.E. the President referred the name of the nominee together with her curriculum vitae to the Departmental Committee on Finance and National Planning to conduct approval hearings. The Speaker advised the Committee to notify the nominee and the public of the time and place for holding the approval hearing; the Committee was also to conduct extensive public participation as provided for under Article 118 of the Constitution as well as the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) and report its findings to the House.

2.2 Nomination and appointment process

8. Articles 229(1) and 250(2) of the Constitution read together with Section 11 of the Public Audit Act, 2015 provide for the process through which the position of Auditor – General is recruited. The Constitution provides that the recruitment of officers to public office should be conducted in a competitive, transparent and fair process before nomination for appointment by H.E. the President with the approval of the National Assembly.
9. The National Assembly having received the name of the nominee was obligated to conduct approval hearings and make a determination of the nominee's suitability or otherwise within fourteen days as provided for in Section 8(1) of the Public Appointments (Parliamentary Approval Act) (No. 33 of 2011).

2.3 Report of the Committee for nomination of the Auditor-General

10. Pursuant to Article 229(1) of the Constitution and section 11(2) of the Public Audit Act, 2015 and through the Kenya Gazette Vol. CXXI – No. 111 (Gazette Notice No. 8004) of 27th August, 2019, H.E. the President declared a vacancy in the position of Auditor-General. The notice also invited applications from suitably qualified persons for the position. An advertisement was also placed in the Daily Nation of 27th August, 2019.
11. In compliance with section 11(5) of the Act, the President through Kenya Gazette Notice No. 3834 of 20th November, 2019 constituted a Selection Panel for considering the applicants and selecting at least three persons qualified for appointment as Auditor-General.
12. The advertisement attracted seventy (70) applicants of whom fifty-nine (59) were men and eleven (11) were women. Upon reviewing the applications and applying the shortlisting criteria developed by the Panel, seventeen (17) applicants were shortlisted for interview. The seventeen comprised fifteen (15) men and two (2) women. The interviews were conducted from 22nd to 25th October, 2019.
13. From the interviews, the following emerged as the top three; Mr. David Kanja Muchoki who scored 75.6%, Mr. David Obwaya Gichana who scored 67% and Ms. Nancy Kabui Gathungu who scored 62.2%. Mr. Muchoki was however disqualified by virtue of his not being in good standing with Institute of Certified Public Accountants of Kenya (ICPAK) as well as not having a valid practicing certificate from the Institution. Section 11(5) of the Act requires the panel to select at least three persons for nomination and appointment

as Auditor-General and based on its observations, the Panel was of the view that the remaining top three applicants did not meet the expectations of the position of Auditor-General. In view of the above, the Panel determined that it was unable to select at least three persons qualified for appointment as Auditor-General.

14. Following the decision of the Panel that there was no suitable candidate to be appointed to the position, the vacancy was re-advertised in the Daily Nation and the Star Newspapers of 17th December, 2019 and in NTV, KBC Television, KBC English Service Radio Channel, Citizen Radio and on the Public Service Commission Website. The re-advertisement attracted 64 applications. However, a court case was filed challenging inter alia, the legality of the selection panel to consider the fresh applications and public participation. The Court in its decision issued on 12th March, 2020 found that the initial Selection Panel lacked the legal competence to act on or process the recruitment arising from the re-advertisement. The Court further found that the recruitment process was substantially in compliance with the tenets of public participation.
15. Pursuant to the Court ruling, H.E. the President constituted another selection panel vide Kenya Gazette Vol. CXXII – No. 68 dated 17th April, 2020 for purposes of considering the applications for the re-advertised vacancy and selecting at least three (3) persons qualified for appointment as Auditor General. The Selection Panel was inaugurated by the Chairman of the Public Service Commission on Wednesday, 22nd April, 2020.
16. The Selection Panel shortlisted ten (10) applicants and the names were published in the Kenya Gazette Vol. CXXII – No. 87 (Gazette Notice 3542) of 15th May, 2020. The names were also published in the Daily Nation of 19th May, 2020 and further uploaded on the Public Service Commission website. The interviews were held between 2nd and 3rd June, 2020 at the Public Service Commission and the following three (3) persons namely CPA Nancy Janet Kabui Gathungu (scored 70.3%), CPA Silvester Ngei Kiini (scored 65.1%) and FCPA Benson Ochieng Okundi (scored 64.3%) were selected.

2.4 Committee proceedings

17. The Committee held a total of three sittings to examine and review the nominee's certificates, testimonials, consider public views and hold a vetting meeting with the nominee.

CHAPTER THREE

3 BACKGROUND INFORMATION

3.1 Legal framework

18. Article 229 of the Constitution provides as follows—

228. (1) There shall be an Auditor General who shall be nominated by the President and, with the approval of the National Assembly, appointed by the President.

(2) To be qualified to be the Auditor - General, a person shall have extensive knowledge of public finance or at least ten years' experience in auditing public finance management.

(3) The Auditor - General holds office, subject to Article 251, for a term of eight years and shall not be eligible for re-appointment.

(4) Within six months after the end of each financial year, the Auditor - General shall audit and report in respect of that financial year on:-

a) the accounts of the national and county governments;

b) the accounts of all funds and authorities of the national and county governments;

c) the accounts of all courts;

d) the accounts of every commission and independent office established by this Constitution;

e) the accounts of the National Assembly, the Senate and the county assemblies;

f) the accounts of political parties funded from public funds;

g) the public debt; and

h) the accounts of any other entity that legislation requires the Auditor General to audit.

(5) The Auditor - General may audit and report on the accounts of any entity that is funded from public funds.

(6) An audit report shall confirm whether or not public money has been applied lawfully and in an effective way.

(7) Audit reports shall be submitted to Parliament or the relevant county assembly.

(8) Within three months after receiving an audit report, Parliament or the county assembly shall debate and consider the report and take appropriate action.

19. Section 11 of the Public Audit Act No. 34 of 2015 provides for the procedure for nomination and appointment of the Auditor – General as follows —

11(1) The office of the Auditor-General shall become vacant, if the Auditor – General

(a) dies;

(b) by a notice in writing addresses to the President, resigns from office; or

(c) is removed from office under any of the circumstances specified in Article 251 or Chapter Six of the Constitution.

(2) Where a vacancy occurs under subsection (1), the President shall within seven days, by notice in the Gazette, in at least two newspapers of national circulation and in at least two national radio and television stations, declare vacancies in the office of the Auditor – General and invite applications.

(3) An application under subsection (2) shall be forwarded to the Public Service Commission within fourteen days of the notice and may be made by any:

a) qualified person;

b) person, organization or group of persons proposing the nomination of any qualified person.

(4) The names of all the applicants under subsection (3) shall be published in the Gazette.

The President shall within fourteen days of the expiry of the period prescribed under subsection (3), constitute a selection panel comprising a chairperson and one representative from-

- a) the Ministry for the time being responsible for matters relating to finance;
- b) the Office of the Attorney General;
- c) the Ministry for the time being responsible for matters relating to the public service;
- d) the Institute of Certified Public Accountants of Kenya;
- e) the Association of Professional Societies of East Africa; and
- f) the Law Society of Kenya.

For the purpose of considering the applicants and selecting at least three persons qualified for appointment as Auditor – General.

Provided that for the purpose of selection and shortlisting of the said three persons, the selection panel shall hold its proceedings in public and submit to Parliament a report of the interview proceedings, which should include inter alia the scores of each candidate interviewed by individual members of the interviewing panel together with the criteria used in selecting the names forwarded.

(6) The selection panel shall within seven days of the selection of candidates under subsection (5), forward the names of the selected candidates to the President for nomination.

(7) The President shall, within seven days of the receipt of the names of the selected candidates under subsection (6), nominate one candidate for appointment as the Auditor – General and forward the name to the National Assembly.

(8) The National Assembly shall consider the nomination and may approve or reject the nomination.

(9) Where the National Assembly:

- a) approves the nominee, the Speaker shall, within three days of the approval, forward the name of the approved nominee to the President for appointment;
- b) rejects the nomination, the Speaker shall, within three days of the rejection, communicate the decision to the President, who shall submit a fresh nominee from amongst the candidates forwarded by the selection panel under subsection (6).

(10) If the National Assembly rejects all or any subsequent nominee submitted by the President for approval under subsection (9), the provisions of subsections (1) to (7) shall, with the necessary modifications, apply.

(11) The President shall, within seven days of receipt of the approved nominee from the National Assembly, by notice in the Gazette, appoint the Auditor-General approved by the National Assembly.

(12) For the avoidance of doubt, the Public Service Commission shall only provide secretariat services for the selection panel convened under subsection (5).

(13) Despite the foregoing provisions of this section, the President may, by notice in the Gazette, extend the period specified in respect of any matter under this section by a period not exceeding twenty-one days.

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20. In light of this, H.E. the President has nominated Ms. Nancy Janet Kabui Gathungu for appointment as the Auditor – General and the Departmental Committee on Finance and National Planning has been assigned the role of conducting the vetting of the aforesaid nominee.
21. The following statutes/provisions were paramount to the Committee as it executed this mandate:-
- (i) The Public Audit Act (No. 34 of 2015);
 - (ii) The Public Appointments (Parliamentary Approval) Act (No. 33 of 2011);
 - (iii) Chapter 6 of the Constitution on leadership and integrity;
 - (iv) Article 250 of the Constitution on composition, appointment and terms of office of Constitutional Commission and Independent offices;
 - (v) Article 229 of the Constitution on the Auditor General;
 - (vi) Article 232 of the Constitution on values and principles of public service;
 - (vii) Article 10 of the Constitution on the national values and principles of governance;
 - (viii) Article 77 on Restriction on activities of State Officers
 - (ix) The Leadership and Integrity Act (Cap. 182);
 - (x) The Public Service (Values and Principles) Act (No. 1A of 2015)
 - (xi) The Public Officer Ethics Act (Cap. 183)

The Public Appointments (Parliamentary Approval) Act (No. 33 of 2011)

22. Section 7 of the Public Appointments (Parliamentary Approval) Act, Chapter 136 (PAPAA), provides for issues which the relevant House of Parliament (in this case, the National Assembly) is required to take into consideration in relation to any nomination. This includes:
- a) the procedure used to arrive at the nominee;
 - b) any constitutional or statutory requirements relating to the office in question; and
 - c) the suitability of the nominee for the appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the needs of the body to which nomination is being made.
23. The specific qualifications for appointment as the Auditor – General are prescribed under section 5 of the Public Audit Act, 2015, however the Schedule to the Public Appointments (Parliamentary Approval) Act provides for the criteria to guide the Committee during an approval hearing. These are—
- (i) Education, employment record;
 - (ii) Public office, political activities and affiliations;
 - (iii) Deferred income or future benefits;
 - (iv) Sources of income, tax status, statement of net worth;
 - (v) Potential conflicts of interest;
 - (vi) Pro bono or charity work;
 - (vii) Whether the nominee has been charged in a court of law or convicted;
 - (viii) Adverse mention in an investigatory report of a Parliamentary Committee or Commission.
24. During the approval hearing, section 6 of the Public Appointments (Parliamentary Approval) Act (PAPAA) provides important points, as follows
- (i) An approval hearing shall focus on a candidate's academic credentials, professional training and experience, personal integrity and background (section 6(7) of the PAPAA).

- (ii) The criteria specified in the Schedule shall be used by a Committee during an approval hearing for the purposes of vetting a candidate (section 6(8) of the PAPA).
- (iii) Any person may, prior to the approval hearing, and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated (section 6(9) of the PAPA).
- (iv) A candidate may, at any time, by notice in writing addressed to the Clerk, withdraw from the approval process and the candidate's nomination shall end (section 6(10), PAPA).

Chapter 6 of the Constitution (Leadership and Integrity)

25. There are important provisions in Chapter 6 of the Constitution worth pointing out. Article 73 of the Constitution provides that the authority assigned to a State officer (a member of a Commission being a state officer under Article 260 of the Constitution) is a public trust to be exercised in a manner that is consistent with the Constitution, demonstrates respect for the people, brings honour to the nation and dignity to the office and promotes public confidence in the integrity of the office. Also, the State officer shall have the responsibility to serve the people, rather than the power to rule them.
26. The guiding principles of leadership and integrity are listed as selection based on personal integrity, competence and suitability, objectivity and impartiality in decision making, selfless service based solely on the public interest, accountability and discipline and commitment in service to the people.

Article 77 of the Constitution on Restriction on activities of State Officers

27. Article 77 of the Constitution provides that a full-time State officer shall not participate in any other gainful employment. Further clause (2) provides that any appointed State officer shall not hold office in a political party. Therefore, the Salaries and Remuneration Commission being a full-time Commission pursuant to section 4(3) of the SRC Act, the provisions of Article 77 apply.

Article 232 of the Constitution on Values and Principles of Public Service

28. Article 232 of the Constitution provides for the values and principles of public service which include high standards of professional ethics; efficient, effective and economic use of resources; responsive, prompt, effective, impartial and equitable provision of services; involvement of the people in the process of policy making; accountability for administrative acts; transparency and provision to the public of timely, accurate information; fair competition and merit as the basis of appointments and promotions; representation of Kenya's diverse communities; and affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service of men and women; the members of all ethnic groups; and persons with disabilities.

Article 10(2) of the Constitution on national values and principles of governance

29. Article 10(2) of the Constitution provides for the national values and principles of governance which include patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people; human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised; good governance, integrity, transparency and accountability; and sustainable development.

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The Leadership and Integrity Act

30. The Leadership and Integrity Act provides a number of obligations to a State officer. These are, among others: to respect and abide by the Constitution and the law, public trust, performance of duties in an honest and accountable manner, professionalism, financial integrity, not to engage in activities that amount to abuse of office, not misuse public resources, accepting gifts that may compromise the officer's duties, wrongful or unlawful acquisition of property, conflict of interest e.t.c.

The Public Service (Values and Principles) Act

31. Section 5 of the Public Service (Values and Principles) Act provides that a public officer shall maintain high standards of professional ethics, including, being honest; displaying high standards of integrity, transparency, accountability, respect to others, objectivity, patriotism, observance of rule of law. (Applies in future upon appointment)

The Public Officer Ethics Act

32. The Public Officer Ethics Act provides for obligations to be carried out by a public officer. These include professionalism, carrying out duties in accordance with the law, prohibition from unjust enrichment, avoiding conflict of interest, not using office as a venue for soliciting or collecting harambees; not acting for foreigners; care of property; political neutrality, not practicing nepotism or favouritism, giving impartial advice, conducting private affairs in a way that maintains public confidence, bar from sexual harassment, submission of declaration of income, assets and liabilities once every two years (section 26) (Applies in future after appointment)

3.2 Qualifications for appointment of the Auditor-General

33. In conducting the Approval hearing, the Committee was guided by Article 229 of the Constitution, Sections 11 of the Public Audit Act (No. 34 of 2015) and the provisions of Section 3 and 5 of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011.
34. Article 250(3) of the Constitution provides that to be appointed to a Commission or independent office, a person shall have the specific qualifications required by the Constitution or national legislation. Further Article 250(4) provides that appointments to commissions and independent offices shall take into account the national values referred to in Article 10 and the principle that the composition of the commissions and offices, taken as a whole, shall reflect the regional and ethnic diversity of the people of Kenya.
35. As regards qualifications for appointment as an Auditor-General, section 5 of the Public Audit Act, 2015 provides as follows—

Qualification for appointment as the Auditor -General

- (1) A person shall be qualified for appointment as the Auditor-General if such a person:-
- (a) is a citizen of Kenya;
 - (b) holds the respective qualifications for the office specified in Article 229(2) of the Constitution;
 - (c) holds a degree in finance, accounting or economics from a university recognized in Kenya and demonstrates a verifiable and logical progression in the attainment of his or her educational qualifications;
 - (d) meets the requirements of Chapter six of the Constitution; and
 - (e) is a practicing member of good standing of a professional body of accountants recognized by law.

36. Article 73 of the Constitution provides that:-

(2) The guiding principles of leadership and integrity include:-

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- a) selection on the basis of personal integrity, competence and suitability, or election in free and fair elections;
 - b) objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favouritism, other improper motives or corrupt practices;
 - c) selfless service based solely on the public interest, demonstrated by:-
 - (i) honesty in the execution of public duties; and
 - (ii) the declaration of any personal interest that may conflict with public duties;
 - d) accountability to the public for decisions and for decisions and actions; and
 - e) discipline and commitment in service to the people.

3.3 Message from H.E. the President

37. On **Friday, 19th June, 2020**, H.E. the President forwarded the name of Ms. Nancy Janet Kabui Gathungu as the nominee for the position of Auditor-General to the Speaker for approval by the National Assembly pursuant to Article 229(1). The Speaker in his communication issued on **Tuesday, 23rd June, 2020** and pursuant to Standing Order No. 42 referred the matter to the Departmental Committee on Finance and National Planning to conduct approval hearings and report its findings to the House within fourteen (14) days.

3.4 Notification to the nominee and Chapter 6 clearance requirements

38. The Clerk of the National Assembly vide a letter Ref: **NA/DC/F&NP/2020/26** dated **24th June, 2020** wrote to Ms. Nancy Janet Kabui Gathungu informing her of her nomination by H.E. the President and requested her to appear for vetting by the Departmental Committee on Finance and National Planning on **Friday, 3rd July, 2020** in Mini-Chamber, First Floor, County Hall, Parliament Buildings at 10:00 am. The Clerk further requested the nominee to bring with her clearance certificates from the Kenya Revenue Authority (KRA), the Higher Education Loans Board (HELB), Ethics and Anti-Corruption Commission (EACC), Office of the Registrar of Political Parties (ORPP) and Directorate of Criminal Investigations (DCI).
39. The Clerk also wrote to the Kenya Revenue Authority (KRA), the Higher Education Loans Board (HELB), Ethics and Anti-Corruption Commission (EACC), Office of the Registrar of Political Parties (ORPP) and Directorate of Criminal Investigations (DCI) requesting for the status of the nominee in regards to tax compliance, higher education loan repayment status, leadership and integrity, affiliation to any political party and criminal records.
40. The above – mentioned institutions responded to the letters from the National Assembly clearing the nominee vide the following letters:- Kenya Revenue Authority (KRA) (letter Ref: KRA/5/1002/5(3105)), the Higher Education Loans Board (HELB) (letter Ref: HELB/RR/112009/48), Ethics and Anti-Corruption Commission (EACC) (letter Ref: EACC.7/10/5 VOL.IV(140)), Office of the Registrar of Political Parties (ORPP) (letter Ref: RPP/ORG/34/ Vol. IV (30)) and the Directorate of Criminal Investigations (DCI) (letter Ref: CID/CRO/SEC/6/7/A/VOL.IX/10).

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3.5 Request for Memoranda and Notification to the public

41. Section 6(9) of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011 provides that *"any person may, prior to the approval hearing, and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated"*.
42. The Clerk of the National Assembly on **Wednesday, 24th June, 2020** placed a notification in the print media informing the general public of the intention of the Committee to conduct approval hearings, as provided for by Article 118(1)(a)(b) and (2) of the Constitution and Section 6(4) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), which allows public participation in committee proceedings. The notification gave provision for the submission of memoranda, on the suitability or otherwise of the nominee by **Tuesday, 30th June, 2020, at 5.00 pm**.

3.6 Submission of memoranda

43. The Committee received the following memoranda contesting the process of nominating the Auditor General :-
 - (i) From Constitution and Reform Education Consortium (CRECO), National Taxpayers Association (NTA), Transparency International Kenya, Africa Centre for Open Governance (AFRICOG) and Centre for Enhancing Democracy and Good Governance who raised the following issues regarding the appointment:-
 - a. they noted that concerns had been raised on the integrity of the recruitment process key among them being the level of competence among the shortlisted applicants both in the first and second round of interviews;
 - b. Parliament should put in place appropriate measures to address the transitional challenges that exist in the Public Audit Act, 2015 so that there is no void in the Office and to have a substantive handover between the person vacating the office and the incoming office holder;
 - c. after the enactment of the Public Audit Act, 2015, Transparency International Kenya, the African Centre for Open Governance and other partners challenged sections 12 and 17 of the Act in court and they were declared unconstitutional by the court. However, the Public Service Commission has remained active in the recruitment process of the nominee and this violates the judgement issued on the Public Petition No. 388/2016; and
 - d. the Office of the Auditor-General is critical in the fight against corruption and plays an integral role in public finance management. The absence of an independent, competent and substantive office holder therefore impedes the realization of transparency and accountability in public finance management.
 - (ii) From Kenyans for Justice contesting the appointment of Ms. Gathungu for the following reasons:-
 - a. the nominee, Ms. Gathungu was the personal assistant of the former Auditor General during the period that he faced impropriety allegations that are contained in the Petition for the Removal of the Auditor-General which was submitted to the National Assembly for consideration;
 - b. the nominee does not have the annual practicing license for the year 2020 as provided by the Accountants Act (No. 15 of 2008) and does not therefore meet the requirements of section 8(1) of the Public Audit Act, 2015;

- c. the nominee has never conducted any financial audit in the Office of the Auditor-General since she was employed in the Office and is therefore not fit to execute the core mandate of the Office as provided in Article 229 of the Constitution; and
- d. when the nominee sought to head the Kenya National Audit Office (KENAO), the selection panel rejected her appointment citing that she lacked the diplomacy and tact to handle the duties of the office.

44. The memoranda were however inadmissible in the Committee because they did not meet the requirements of section 6(9) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) which provides that a statement contesting the suitability of a candidate to hold an office should be written on oath. The memorandum by Kenyans for Justice was received by the Office of the Clerk of the National Assembly on 6th July, 2020 days after the expiry of the period for submission of memoranda and after the Committee had concluded the vetting exercise.

CHAPTER FOUR

4 APPROVAL HEARING

45. The Committee conducted the approval hearing for the nominee to the position of Auditor General on **Friday, 3rd July, 2020**. In conducting the vetting exercise, the Committee was guided by among other documents, the Constitution, the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), the Public Audit Act (No. 34 of 2015) and the National Assembly Standing Orders.
46. The Committee examined the nominee using the guidelines provided for in the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011). The Committee also considered the following in vetting the nominee:-
- Academic qualifications
 - Employment record and work experience
 - Professional association
 - Public office, political activities and affiliations
 - Potential conflict of interest
 - Suitability to the position
 - Tax compliance
 - Vision and leadership
 - Integrity
 - Expectations and Key priorities

4.1 Ms. Nancy Janet Kabui Gathungu – Nominee for the Position of Auditor – General

47. Ms. Gathungu was nominated for the position of Auditor – General by H.E. the President pursuant to Article 229(1) of the Constitution. She appeared before the Committee for vetting on **Friday, 3rd July, 2020**. She was orally interviewed by the Committee and responded to questions during vetting as follows:-

4.1.1 Personal Background

48. She is a Kenyan citizen of identity card number 10474205 and was born in Kisumu County in 1969.

4.1.2 Educational Background

49. Ms. Gathungu is currently pursuing a PhD Programme in Business Administration (Strategic Management) at the Jomo Kenyatta University of Agriculture and Technology (JKUAT). She attained a Masters Degree in Business Administration (Strategic Management) at the University of Nairobi in 2009 and graduated with a Bachelor of Commerce Degree (Accounting Option) from the University of Nairobi in 1992.
50. She did her Certified Public Accountants Part III and II at the Kenya School of Professional Studies in 1998 and 1995 respectively.
51. She is a Certified Information Systems Auditor (CISA) (2005) and has an Advanced Diploma in Information Technology from the Kenya School of Professional Studies (Nairobi) in 2002. She is computer literate having obtained a certificate in Computer Studies from Nyamachaki Women's Centre (Nyeri) in 1999.
52. She sat for the Kenya Advanced Certificate of Education (K.A.C.E.) at Kenya High School in 1988 and did her Kenya Certificate of Education (K.C.E.) at Moi Girls High School Nairobi in 1986.

4.1.3 Professional Associations & Affiliations

53. Ms. Gathungu is a member of the following institutions/committees:-

- (i) the Institute of Certified Public Accountants of Kenya;
- (ii) the Association of Women Accountants of Kenya;
- (iii) Information Systems Audit and Control Association;
- (iv) Kenya Leadership and Integrity Forum (Chair of the watchdog agencies sector group);
- (v) Implementation Committee of the Report of the Taskforce on Legal Policy on Institutional Framework for Fighting Corruption in Kenya (represents the Office of the Auditor-General);
- (vi) National Coordinating Committee on Leadership and Integrity (represents the Office of the Auditor-General); and
- (vii) Monitoring Implementation of the Devolution Conference Resolutions Committee.

4.1.4 Work experience/career progression

54. Ms. Nancy Gathungu has worked in the Office of the Auditor-General previously known as Kenya National Audit Office in various capacities. She is currently the Director of Audit, a position she has held since February 2014.
55. She has also held other positions in the Office including: Financial Auditor from (1993 to 1997), Assistant Director of Audit (August 2006 to September 2010) and Deputy Director of Audit (September 2010 to January 2014). She also worked at Kenyatta National Hospital as a Chief Internal Auditor (December 2004 to July 2006) and as a Senior Internal Auditor (July 2000 to December 2004). Additionally, she worked for the Ministry of Education as the Provincial Schools Auditor for Central Province (1997 to June 2000).

4.1.5 Potential Conflict of interest

56. The Committee questioned her on whether her current assignments in trainings would in any way pose a challenge of conflict of interest. She responded that she will step back from her duties of training but will continue engaging professionally with auditors in order to improve their auditing skills. She also stated that she was not aware of any potential conflict of interest as a result of familial relations however, if that may be the case, she will declare the interest as required by the law.

4.1.6 Clearance Requirements

57. The Committee confirmed that the nominee had been cleared by KRA, ORPP, DCI, EACC and HELB having obtained clearance certificates to that effect.

4.1.7 Gender and Regional Balance

58. The Committee noted that the executive team of the Office of the Auditor-General comprises of seven members out of which five are male and if appointed as the Auditor-General, Ms. Gathungu will be the second female in the team. The face of Kenya is fairly represented in the membership of the executive team.

4.1.8 Other issues under consideration

59. To examine suitability or otherwise of the nominee, the Committee posed several questions in the following thematic areas:-

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Charged in a court of law or adversely mentioned in an investigatory report of a Parliamentary Committee or Commission

60. She informed the Committee that she had never been charged in any court and neither had she been adversely mentioned in an investigatory report of a Parliamentary Committee or Commission.

Political activities and affiliations

61. She had never been involved in any political activities and has never been affiliated to any political party.

What motivated her to apply for the position of the Auditor General

62. She stated that her track record and professional experience is a testament that she is suitable to work as the Auditor-General. She has the willingness and ability to execute the mandate of the Office as required by the Constitution.

Leadership and Integrity

63. She informed the meeting that her integrity and ethical conduct had never been brought to question in the past. In terms of leadership, she represents the Office of the Auditor-General in the National Coordinating Committee on Leadership and Integrity and is the Chairperson of the watchdog agencies sector group in the Kenya Leadership and Integrity Forum. Further, she is a mentor and trainer on Leadership and Integrity in the Office of the Auditor-General. All these positions have given a good understanding of the need to enforce integrity at the Office.

How she will deal with cases of corruption in the Office of the Auditor-General

64. She will ensure that the provisions of the Public Officer Ethics Act (No. 4 of 2003) are fully operationalized in the Office in order to minimize cases of corruption in the Office.

Partnerships that have been developed by the Office of the Auditor General to enhance the process of tracking public resources to achieve the intended output and impact to the citizenry

65. She stated that the Office receives requests to provide capacity building support to other Supreme Audit Institutions in the region and across Africa and works very closely with the International Monetary Fund (IMF) as well as other institutions. They also partner with Parliament and county governments in order to ensure that they produce good quality reports especially with Audit Committees of Parliament.

How she will improve service delivery at the Office if she is appointed as the Auditor-General

66. If appointed as the Auditor-General, she will increase engagement with audit teams in order to identify the challenges that they experience and develop ways of mitigating them so as to improve the quality of auditing. All the audit queries that are raised in audit reports relating to governance, compliance, financial accounting e.t.c. will be categorized in order to find solutions for them.
67. Additionally, she will work closely with public offices in order to ensure that recommendations in audit reports from Parliament and the Office of the Auditor General are implemented. She will also encourage the use of e-procurement platforms in order to reduce cases of embezzlement of public funds.

How she will ensure that there is a good relationship between the Office and Parliament

68. She stated that she has been influencing the work of Parliamentary Committees at the Office and that she is ready and willing to learn how to better interact with Parliament in order to increase efficiency of oversight. Further, she stated that the Office will endeavour to provide feedback for utilisation of funds allocated through budgetary allocation. To this end, she committed that if appointed, she will ensure that the Office submits reports to Parliament on the utilization of the funds allocated for continuous oversight.

Strategies that she will put in place to ensure that accountability is promoted in the public sector

69. She will ensure that measures are put in place so that the provision of the Public Audit Act, 2015 on the implementation of the recommendations of audit reports is adhered to by auditors in public institutions. She will also ensure that the reports generated by the Office are credible and that the funds allocated in the budget correspond with the implemented projects. Additionally, she will ensure that performance audit reports correspond to service performance in the public sector.

How she will ensure that the Office of the Auditor General submits timely financial reports on accounts of entities

70. She stated that she will ensure that the Office produces timely report on accounts within specified times in order to enhance proper oversight and accountability. She observed that the entities to be audited have increased tremendously over the years thereby delaying the production of timely audit reports and hence putting pressure on the personnel. She however noted that due to financial constraints the possibility of hiring more staff may not be an option. As such, she will develop ways of optimizing performance with the current establishment in order to produce the reports in a timely manner.

How she will nurture talents of the young and inexperienced officers

71. She stated that she will ensure that the officers who join the Office as young graduate trainees are mentored by giving them an opportunity to work on a rotational basis in different departments in order to gain experience in different areas of public audit. This will ensure that the officers are all rounded hence become more efficient when they take up leadership roles in the Office.

What should be done in order to prevent a vacuum in the Office of the Auditor-General when the term comes to an end

72. She stated that the Public Audit Act, 2015 needs to be amended in order to address this challenge. To fast track this process, a committee/taskforce in the Office of the Auditor-General had been set up to look at areas in the Act that need to be amended.

Her opinion on performance contracting

73. She stated that performance contracting is a very important tool in assessing performance of public officers. There is therefore need to sensitise public officers on its importance in order to remove the negative perception and casualness associated to the tool.

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Her net worth

74. She stated that her net worth is about KSh. 30.89 million comprising of assets worth KSh. 40.42 million and liabilities worth KSh. 9.33 million.

CHAPTER FIVE

5 OBSERVATIONS AND FINDINGS

75. The Committee observations were guided by section 7 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) in terms of issues for consideration as follows:-

- (i) the procedure used to arrive at the nominee;
- (ii) any constitutional or statutory requirements relating to the office in question; and
- (iii) the suitability of the nominee for the appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the needs of the body to which the nomination is made.

76. The Committee having considered the nominee's curriculum vitae and heard oral submissions during the vetting exercise made the following observations and findings. That the candidate, Ms. Nancy Janet Kabui Gathungu:-

- (i) is a Kenyan citizen born in 1969 in Kisumu County and the position being that of a State Officer she didn't possess dual citizenship.
- (ii) met the educational requirement as she was pursuing a PhD in Business Administration (Strategic Management), she has a Masters of Business Administration in Strategic Management and a Bachelor of Commerce (Accounting).
- (iii) had met the minimum experience required as she had a wealth of experience of close to twenty-seven (27) years having worked in finance departments in different public institutions. Of the 27 years of her career life, she has worked for the Office of the Auditor-General for eighteen (18) years. In that regard, she meets the minimum qualification of ten (10) years of experience in auditing or public finance management.
- (iv) was ranked at first position by the Selection Panel that interviewed her with a score of 70.3%.
- (v) was cleared by the Kenya Revenue Authority (KRA) on Tax Compliance, the Higher Education Loans Board (HELB) on the payment of her education loan, Ethics and Anti-Corruption Commission (EACC) on integrity, Directorate of Criminal Investigations (DCI) on her criminal status and Office of the Registrar of Political Parties (ORPP) on membership to a political party.

77. The Committee noted that the process of nominating the Auditor-General complied with the decision of the Court and the relevant laws, in that a new Selection Panel was appointed and the Selection Panel interviewed and recommend three persons to H.E. the President.

78. The Committee also determined that all the memoranda that were received regarding this approval hearing were inadmissible because they did not meet the requirements of section 6(9) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) which provides that a statement contesting the suitability of a candidate to hold an office should be written on oath.

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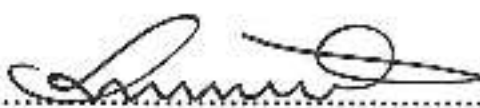
79. Further, the Committee found that the memorandum submitted by Kenyans for Justice was received by the Office of the Clerk of the National Assembly on 6th July, 2020 days after the expiry of the period for submission of memoranda and after the Committee had conducted the vetting exercise and therefore inadmissible.
80. The Committee further noted that there is need to amend the Public Audit Act, 2015 in view of the Court's decision in Petition No. 388 of 2016 which repealed some provisions of the attendant Act. These amendments will also be necessary to remove the lacuna that exists in the law with regards to filling a vacancy in the Office of the Auditor-General.

CHAPTER SIX

6 RECOMMENDATION

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81. Having considered the suitability, capacity and integrity of the nominee, and pursuant to Article 250(2) of the Constitution, Sections 5 and 11 of the Public Audit Act (No. 34 of 2015) and Section 8(2) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), the Committee recommends that the National Assembly **APPROVES** the nomination and subsequent appointment of Ms. Nancy Janet Kabui Gathungu as the Auditor General.

SIGNED..........DATE 13/7/2020

THE HON. JOSEPH LIMO, MP

CHAIRPERSON

**DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING
CHAIRPERSON**

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APPENDICES

1. Adoption Schedule
2. Minutes of the:-
 - (i) 38th Sitting;
 - (ii) 37th Sitting; and
 - (iii) 36th Sitting
3. Newspaper Adverts
 - (i) Submission of Memoranda; and
 - (ii) Notification for Vetting
4. Letters from:-
 - (i) Kenya Revenue Authority (KRA);
 - (ii) Ethics and Anti-Corruption Commission (EACC);
 - (iii) Directorate of Criminal Investigations (DCI);
 - (iv) Higher Education Loans Board (HELB); and
 - (v) Office of the Registrar of Political Parties (ORPP)
5. Speaker's Communication
6. Letter from the Office of the President
7. Vetting Questionnaire
 - (i) Doctoral (Ph.D) Admission Letter;
 - (ii) Masters Degree Certificate; and
 - (iii) Bachelors Degree Certificate
8. Documents from the Institute of Certified Public Accountants of Kenya (ICPAK)
 - (i) Confirmation of Membership;
 - (ii) Membership Certificate;
 - (iii) Practising Certificate; and
 - (iv) Annual Practising License - 2020
9. Memoranda from:-
 - (i) Constitution and Reform Education Consortium (CRECO);
 - (ii) National Taxpayers Association (NTA);
 - (iii) Transparency International Kenya
 - (iv) Africa Centre for Open Governance (AFRICOG);
 - (v) Centre for Enhancing Democracy and Good Governance; and
 - (vi) Kenyans for Justice
10. Reports of the Selection Panel
 - (i) 2nd Selection Panel
 - (ii) 1st Selection Panel

REPUBLIC OF KENYA



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NATIONAL ASSEMBLY
DEPARTMENTAL COMMITTEE ON FINANCE & NATIONAL PLANNING
ADOPTION SCHEDULE

AGENDA: CONSIDERATION & ADOPTION OF THE REPORT ON THE VETTING OF THE NOMINEE FOR THE POSITION OF AUDITOR – GENERAL.

DATE: 8TH JULY, 2020

| NAME | SIGNATURE |
|--|-----------|
| 1. HON. JOSEPH K. LIMO, MP – CHAIRPERSON | |
| 2. HON. ISAAC W. NDIRANGU – VICE-CHAIRPERSON | |
| 3. HON. JIMMY O. ANGWENYI, MGH, MP | Virtual |
| 4. HON. CHRISTOPHER OMULELE, MP | Virtual |
| 5. HON. DR. ENOCH KIBUNGUCHY, MP | |
| 6. HON. SHAKEEL SHABBIR AHMED, CBS, MP | |
| 7. HON. ABDUL RAHIM DAWOOD, MP | |
| 8. HON. DANIEL E. NANOK, MP | |
| 9. HON. ANDREW A. OKUOME, MP | Virtual |
| 10. HON. DAVID M. MBONI, MP | |
| 11. HON. KURIA KIMANI, MP | |
| 12. HON. JOSEPH M. OYULA, MP | |
| 13. HON. JOSHUA KANDI, MP | |
| 14. HON. LYDIA H. MIZIGHI, MP | |
| 15. HON. MOHAMED ALI, MP | |
| 16. HON. PURITY NGIRICI, MP | |
| 17. HON. SAMUEL ATANDI, MP | |
| 18. HON. STANLEY M. MUTIAMA, MP | Virtual |
| 19. HON. EDITH NYENZE, MP | Virtual |

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**ADOPTION OF THE REPORT ON THE VETTING OF MS. NANCY JANET KABUI
(COUNCIL NOMINEE FOR THE POSITION OF AUDITOR GENERAL)**

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1. The following Members acceded to the recommendation proposed in the report to be considered by the House having been physically present in the meeting:-
 - i. Hon. Joseph Limo, MP – **Chairperson**
 - ii. Hon. Ndirangu Waihenya, MP – Vice-Chairperson
 - iii. Hon. Daniel Nanok, MP
 - iv. Hon. David Mhoni, MP
 - v. Hon. Francis K. Kimani, MP
 - vi. Hon. Joshua Kandie, MP
 - vii. Hon. Purity Ngirici, MP

2. The following Members acceded to the recommendation proposed in the report to be considered by the House having been virtually present in the meeting:-
 - i. Hon. Jimmy Angwenyi, MGH, MP
 - ii. Hon. Christopher Omulele, MP
 - iii. Hon. Abdul Rahim Dawood, MP
 - iv. Hon. Andrew Okuome, MP
 - v. Hon. Samuel Atandi, MP
 - vi. Hon. Edith Nyenze, MP

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MINUTES OF THE 38TH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD ON WEDNESDAY, 8TH JULY, 2020 IN 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 2.30 PM

PRESENT PDF Compressor Free Version

- | | | |
|------------------------------------|---|------------------|
| 1. Hon. Joseph Limo, MP | - | Chairperson |
| 2. Hon. Isaac W. Ndirangu, MP | - | Vice Chairperson |
| 3. Hon. Jimmy O. Angwenyi, MGH, MP | | |
| 4. Hon. Christopher Omulele, MP | | |
| 5. Hon. Abdul Rahim Dawood, MP | | |
| 6. Hon. Daniel E. Nanok, MP | | |
| 7. Hon. Andrew A. Okuome, MP | | |
| 8. Hon. David M. Mboni, MP | | |
| 9. Hon. Francis K. Kimani, MP | | |
| 10. Hon. Joshua C. Kandie, MP | | |
| 11. Hon. Purity Ndirici, MP | | |
| 12. Hon. Samuel Atandi, MP | | |
| 13. Hon. Edith Nyenze, MP | | |

ABSENT WITH APOLOGY

1. Hon. Dr. Enoch Kibung'ochy, MP
2. Hon. Shakeel Shabbir Ahmed, CBS, MP
3. Hon. Joseph M. Oyula, MP
4. Hon. Lydiah Mizighi, MP
5. Hon. Mohamed A. Mohamed, MP
6. Hon. Stanley M. Muthama, MP

INATTENDANCE

SECRETARIAT

- | | | |
|------------------------|---|--|
| 1. Ms. Leah Mwaura | - | Senior Clerk Assistant/Head of the Secretariat |
| 2. Ms. Jennifer Ndeto | - | Principal Legal Counsel I |
| 3. Ms. Laureen Wesonga | - | Clerk Assistant II |
| 4. Ms. Euridice Nzioka | - | Audio Officer |
| 5. Mr. John Njoro | - | Serjeant-At-Arms |

AGENDA

1. Prayers
2. Communication from the Chairperson
3. Confirmation of Minutes
4. Matters Arising
5. **Meeting to consider and adopt the report on vetting of the nominee to be appointed to the position of the Auditor General**
6. Adjournment/Date of the next meeting

MIN.NO.NA/F&NP/2020/178: COMMUNICATION FROM THE CHAIRPERSON

The meeting was called to order at 2.50pm and a prayer was said. The Chairperson then requested the Committee Clerk to take the Committee through the report on the vetting of the nominee for appointment as the Auditor General.

MIN.NO.NA/E&NP/2020/179: **CONFIRMATION OF MINUTES**
Agenda deferred

MIN.NO.NA/E&NP/2020/180: **CONSIDERATION OF THE REPORT ON THE VETTING OF THE NOMINEE TO BE APPOINTED TO THE POSITION OF AUDITOR GENERAL.**

The Committee Clerk took the Committee through the draft report. The Committee deliberated extensively on the report and came up with observations and recommendations on the appointment of the nominee.

The Committee Clerk also informed Members about a memorandum from Kenyans for Justice that had been received by the Office of the Clerk of the National Assembly on 6th July, 2020. Members concluded that the memo was inadmissible in the Committee because it had been submitted after the deadline for the submission of memoranda and after the vetting had been done. Additionally, it did not meet the requirements of section 6(9) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) which provides that a statement contesting the suitability of a candidate to hold an office should be written on oath.

MIN.NO.NA/E&NP/2020/181: **ADOPTION OF THE REPORT ON THE VETTING OF THE NOMINEE TO BE APPOINTED TO THE POSITION OF AUDITOR GENERAL**

The Committee adopted the report having been proposed and seconded by Hon. David Mboni, MP and Hon. Abdul Rahim Dawood, MP respectively. The Committee agreed on the following observations/findings and recommendation:-

Observations/Findings

The Committee having considered the nominee's curriculum vitae and heard oral submissions during the vetting exercise made the following observations and findings. That the candidate, Ms. Nancy Janet Kabui Gathungu:-

1. is a Kenyan citizen born in 1969 in Kisumu County and therefore as a State Officer she didn't possess dual citizenship.
2. met the educational requirement as she was pursuing a PhD in Business Administration (Strategic Management), she has a Masters of Business Administration in Strategic Management and a Bachelor of Commerce (Accounting).
3. had met the minimum experience required as she had a wealth of experience of close to twenty-seven (27) years having worked in finance departments in public institutions. Of the 27 years of her career life, she has worked for the Office of the Auditor-General/Kenya National Audit Office for eighteen (18) years.
4. was ranked at first position by the selection panel that interviewed her with a score of 70.3%.
5. was cleared by the Kenya Revenue Authority (KRA) on Tax Compliance, the Higher Education Loans Board (HELB) on the payment of her education loan, Ethics and Anti-Corruption Commission (EACC) on integrity, Directorate of Criminal Investigations (DCI) on her criminal status and Office of the Registrar of Political Parties (ORPP) on membership to a political party.

Recommendation

The Committee recommended that the National Assembly **APPROVES** the nomination and subsequent appointment of Ms. Nancy Janet Kabui Gathungu as the Auditor General.

MIN.NO.NA/F&NP/2020/182: ADJOURNMENT/DATE OF NEXT MEETING

There being no other business to deliberate on, the meeting was adjourned at 4.21p.m. The next meeting will be held on Monday

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HON. JOSEPH LIMO, MP
(CHAIRPERSON)

SIGNED..........DATE.....13/7/2020.....

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MINUTES OF THE 37TH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD ON FRIDAY, 3RD JULY, 2020 IN MINI CHAMBER, COUNTY HALL, PARLIAMENT BUILDINGS AT 10.00 AM

PRESENT

- | | | |
|--|---|-------------------------|
| 1. Hon. Isaac W. Ndirangu, MP | - | Vice Chairperson |
| 2. Hon. Jimmy O. Angwenyi, MGH, MP | | |
| 3. Hon. Christopher Omulele, MP | | |
| 4. Hon. Shakeel Shabbir Ahmed, CBS, MP | | |
| 5. Hon. Abdul Rahim Dawood, MP | | |
| 6. Hon. Daniel E. Nanok, MP | | |
| 7. Hon. Andrew A. Okuome, MP | | |
| 8. Hon. David M. Mboni, MP | | |
| 9. Hon. Francis K. Kimani, MP | | |
| 10. Hon. Joseph M. Oyula, MP | | |
| 11. Hon. Joshua C. Kandie, MP | | |
| 12. Hon. Lydiah Mizighi, MP | | |
| 13. Hon. Purity Ngirici, MP | | |
| 14. Hon. Edith Nyenze, MP | | |

ABSENT WITH APOLOGY

- | | | |
|----------------------------------|---|--------------------|
| 1. Hon. Joseph Limo, MP | - | Chairperson |
| 2. Hon. Dr. Enoch Kibunguchy, MP | | |
| 3. Hon. Mohamed A. Mohamed, MP | | |
| 4. Hon. Samuel Atandi, MP | | |
| 5. Hon. Stanley M. Muthama, MP | | |

INATTENDANCE

SECRETARIAT

- | | | |
|------------------------|---|--|
| 1. Ms. Leah Mwaura | - | Senior Clerk Assistant/Head of the Secretariat |
| 2. Ms. Jennifer Ndeto | - | Principal Legal Counsel I |
| 3. Ms. Lauren Wesonga | - | Clerk Assistant II |
| 4. Ms. Euridice Nzioka | - | Audio Officer |
| 5. Mr. John Njoro | - | Serjeant-At-Arms |
| 6. Mr. Vitalis Augo | - | Office Attendant |

NOMINEE

Ms. Nancy Janet Kabui Gathungu

AGENDA

1. Prayers
2. Communication from the Chairperson
3. Confirmation of Minutes
4. Matters Arising
5. **Meeting to vet the nominee to be appointed to the position of the Auditor General**
6. Adjournment/Date of the next meeting

MIN.NO.NA/F&NP/2020/174: COMMUNICATION FROM THE CHAIRPERSON

The meeting was called to order at 10.26 am and a prayer was said. The Chairperson then called for introduction of those present before inviting the meeting to deliberate on the day's agenda.

MIN.NO.NA/F&NP/2020/175: **CONFIRMATION OF MINUTES**
 Agenda deferred

MIN.NO.NA/F&NP/2020/176: **VETTING OF THE NOMINEE TO BE APPOINTED TO THE POSITION OF AUDITOR GENERAL**

An oath was administered to the nominee then she submitted original copies of her testimonials and compliance certificates from Kenya Revenue Authority (KRA), Higher Education Loans Board (HELB), Office of the Registrar of Political Parties (ORPP) Directorate of Criminal Investigations (DCI) and Ethics and Anti-Corruption Commission (EACC) to the Committee for verification.

She responded to Member's questions as follows:-

1. Charged in a court of law or adversely mentioned in an investigatory report of a Parliamentary Committee or Commission

She informed the Committee that she had never been charged in any court and neither had she been adversely mentioned in an investigatory report of a Parliamentary Committee or Commission.

2. Personal Background

She is a Kenyan citizen of identity card number 10474205 and was born in Kisumu County in 1969.

3. Educational background

Ms. Gathungu is pursuing a PhD Programme in Business Administration (Strategic Management) at the Jomo Kenyatta University of Agriculture and Technology (JKUAT). She attained a Masters Degree in Business Administration (Strategic Management) at the University of Nairobi in 2009, became a Certified Information Systems Auditor (CISA) at the Vision Institute of Professionals (Nairobi) in 2005, obtained an Advanced Diploma in Information Technology from the Kenya School of Professional Studies (Nairobi) in 2002, obtained a certificate in Computer Studies from Nyamachaki Women's Centre (Nyeri) in 1999, did her Certified Public Accountants Part III and II at the Kenya School of Professional Studies in 1998 and 1995 respectively, attained a Bachelor of Commerce Degree (Accounting Option) from the University of Nairobi in 1992, sat for the Kenya Advanced Certificate of Education (K.A.C.E.) at Kenya High School in 1988 and sat for her Kenya Certificate of Education (K.C.E.) at Moi Girls High School Nairobi in 1986.

4. Work experience/employment record

Ms. Nancy Gathungu has worked in the Office of the Auditor General/Kenya National Audit Office in various capacities. She has held the following positions in the Office; Financial Auditor from 1993 to 1997, Assistant Director of Audit from August 2006 to September 2010, Deputy Director of Audit from September 2010 to January 2014 and she is currently the Director of Audit, a position she has held since February 2014. She also worked at Kenyatta National Hospital as a Chief Internal Auditor from December 2004 to July 2006 and as a Senior Internal Auditor from July 2000 to December 2004. Additionally, she worked for the Ministry of Education as the Provincial Schools Auditor for Central Province from 1997 to June 2000.

5. Membership to professional associations

Ms. Gathungu is a member of the following institutions/committees:-

- i. the Institute of Certified Public Accountants of Kenya;

- ii. the Association of Women Accountants of Kenya;
- iii. Information Systems Audit and Control Association;
- iv. Kenya Leadership and Integrity Forum (Chair of the watchdog agencies sector **PDF Compressor Free Version**);
- v. Implementation Committee of the Report of the Taskforce on Legal Policy on Institutional Framework for Fighting Corruption in Kenya (represents the Office of the Auditor General);
- vi. National Coordinating Committee on Leadership and Integrity (represents the Office of the Auditor General); and
- vii. Monitoring Implementation of the Devolution Conference Resolutions Committee.

6. Political activities and affiliations

She had never been involved in any political activities and has never been affiliated to any political party.

7. What motivated her to apply for the position of the Auditor General

She stated that her track record and professional experience is a testament that she is suitable to work as the Auditor-General. She has the willingness and ability to execute the mandate of the Office as required by the Constitution.

8. Leadership and Integrity

She informed the meeting that her integrity and ethical conduct had never been brought to question in the past. In terms of leadership, she represents the Office of the Auditor-General in the National Coordinating Committee on Leadership and Integrity and is the Chairperson of the watchdog agencies sector group in the Kenya Leadership and Integrity Forum. Further, she is a mentor and trainer on Leadership and Integrity in the Office of the Auditor-General. All these positions have given a good understanding of the need to enforce integrity at the Office.

9. How she will deal with cases of corruption in the Office of the Auditor General

She will ensure that the provisions of the Public Officer Ethics Act (No. 4 of 2003) are fully operationalized in the Office in order to minimize cases of corruption in the Office.

10. Partnerships that have been developed by the Office of the Auditor General to enhance the process of tracking public resources to achieve the intended output and impact to the citizenry

She stated that the Office is usually called upon to provide support to other Supreme Audit Institutions in the region and across Africa and works very closely with the International Monetary Fund (IMF) as well as other institutions. They also partner with Parliament and county governments in order to ensure that they produce good quality reports especially with Audit Committees of Parliament.

11. How she will improve service delivery at the Office if she is appointed as the Auditor-General

If appointed as the Auditor-General, she will increase engagement with audit teams in order to identify the challenges that they experience and develop ways of mitigating them so as to improve the quality of auditing. All the audit queries that are raised in audit reports relating to governance, compliance, financial accounting e.t.c. will be categorized

in order to find solutions for them. Additionally, she will work closely with public offices in order to ensure that recommendations in audit reports from Parliament and the Office of the Auditor General are implemented. She will also encourage the use of e-procurement platforms in order to reduce cases of embezzlement of public funds.

12. How she will ensure that there is a good relationship between the Office and Parliament

She stated that she has been influencing the work of Parliamentary Committees at the Office and that she is ready and willing to learn how to better interact with Parliament in order to increase efficiency of oversight. Further, she stated that the Office will endeavour to provide feedback for utilisation of funds allocated through budgetary allocation. To this end, she committed that if appointed, she will ensure that the Office submits reports to Parliament on the utilization of the funds allocated for continuous oversight.

13. Strategies that she will put in place to ensure that accountability is promoted in the public sector

She will ensure that measures are put in place so that the provision of the Public Audit Act, 2015 on the implementation of the recommendations of audit reports is adhered to by auditors in public institutions. She will also ensure that the reports generated by the Office are credible and that the funds allocated in the budget correspond with the implemented projects. Additionally, she will ensure that performance audit reports correspond to service performance in the public sector.

14. How she will ensure that the Office of the Auditor-General submits timely financial reports on accounts of entities

She stated that she will ensure that the Office produces timely report on accounts within specified times in order to enhance proper oversight and accountability. She observed that the entities to be audited have increased tremendously over the years thereby delaying the production of timely audit reports and hence putting pressure on the personnel. She however noted that due to financial constraints the possibility of hiring more staff may not be an option. As such, she will develop ways of optimizing performance with the current establishment in order to produce the reports in a timely manner.

15. How she will nurture talents of the youthful and inexperienced officers

She stated that she will ensure that the officers who join the Office as young graduate trainees are mentored by giving them an opportunity to work on a rotational basis in different departments in order to gain experience in different areas of public audit. This will ensure that the officers are all rounded hence become more efficient when they take up leadership roles in the Office.

16. What should be done in order to prevent a vacuum in the Office of the Auditor-General when the term comes to an end

She stated that the Public Audit Act, 2015 needs to be amended in order to address this challenge. To fast track this process, a committee/taskforce in the Office of the Auditor-General had been set up to look at areas in the Act that need to be amended.

17. Her opinion on performance contracting

She stated that performance contracting is a very important tool in assessing performance of public officers. There is therefore need to sensitise public officers on its importance in order to remove the negative perception and casualness associated to the tool.

18. Her net worth

She stated that her net worth is about KSh. 30.89 million comprising of assets worth KSh. 40.42 million and liabilities worth KSh. 9.33 million.

MIN.NO.NA/F&NP/2020/177: ADJOURNMENT/DATE OF NEXT MEETING

There being no other business to deliberate on, the meeting was adjourned at 1.08p.m. The next meeting will be held on notice.

**HON. JOSEPH LIMO, MP
(CHAIRPERSON)**

SIGNED..........DATE.....13/7/2020.....

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MINUTES OF THE 36TH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD ON WEDNESDAY, 1ST JULY, 2020 IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 2.30 PM

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PRESENT

1. Hon. Joseph K. Limo, MP - Chairperson
2. Hon. Isaac W. Ndirangu, MP - Vice Chairperson
3. Hon. Jimmy O. Angwenyi, MGH, MP
4. Hon. Christopher Ormulele, MP
5. Hon. Shakeel Shabbir Ahmed, CBS, MP
6. Hon. Abdul Rahim Dawood, MP
7. Hon. Daniel E. Nanok, MP
8. Hon. Andrew A. Okuome, MP
9. Hon. David M. Mboni, MP
10. Hon. Francis K. Kimani, MP
11. Hon. Joseph M. Oyula, MP
12. Hon. Joshua C. Kandic, MP
13. Hon. Lydiah Mizighi, MP
14. Hon. Purity Ngirici, MP
15. Hon. Samuel Atandi, MP
16. Hon. Stanley M. Muthama, MP
17. Hon. Edith Nyenze, MP

ABSENT WITH APOLOGY

1. Hon. Dr. Enoch Kibunguchy, MP
2. Hon. Mohamed A. Mohamed, MP

INATTENDANCE

SECRETARIAT

1. Ms. Leah Mwaura - Senior Clerk Assistant/Head of the Secretariat
2. Ms. Jennifer Ndeto - Principal Legal Counsel I
3. Ms. Laureen Wesonga - Clerk Assistant II
4. Ms. Euridice Nzioka - Audio Officer
5. Mr. Vitalis Augo - Office Attendant

AGENDA

1. Prayers
2. Communication from the Chairperson
3. Confirmation of Minutes
4. Matters Arising
5. **Consideration of H.E. the Presidents' reservations to the Public Finance Management (Amendment) Bill, 2020;**
6. **Pre-vetting briefing for the nominee for the position of the Auditor General**
7. Adjournment/Date of the next meeting

MIN.NO.NA/F&NP/2020/167: COMMUNICATION FROM THE CHAIRPERSON

The meeting was called to order at 2.50pm and a prayer was said. The Chairperson informed the Committee that he was in receipt of a letter from the Whip of the Majority party notifying him of the decision of the Jubilee Party to discharge him from his duties as the Chairperson of the

Committee. Given that the seven days' notice was lapsing that day, the Chairperson would be chairing that sitting as the last one. Members took to thank him for his abilities to steer the Committee to be one of the best Committees whose business formed the bulk of the House's agenda. They observed that his exemplary leadership style allowed the Committee to work harmoniously. He also thanked the Members and the Secretariat for the support accorded to him during his tenure as the Chairperson. He then proceeded to officially hand over to the Vice Chairperson to continue chairing Committee meetings until such a time when the position of the Chairperson is substantially filled. Thereafter, he welcomed the meeting to deliberate on the day's agenda.

MIN.NO.NA/F&NP/2020/168: CONFIRMATION OF MINUTES

Minutes of the following Sittings were confirmed:-

1. 24th Sitting having been proposed and seconded by Hon. Samuel Atandi, MP and Hon. Purity Ngirici, MP respectively;
2. 25th Sitting having been proposed and seconded by Hon. Francis Kimani, MP and Hon. Lydiah Mizighi, MP respectively;
3. 26th Sitting having been proposed and seconded by Hon. Christopher Omulele, MP and Hon. Jimmy Angwenyi, MP respectively;
4. 27th Sitting having been proposed and seconded by Hon. Edith Nyenze, MP and Hon. Andrew Okuome, MP respectively;
5. 28th Sitting having been proposed and seconded by Hon. Joshua Kandie, MP and Hon. Stanley Muthama, MP respectively;
6. 29th Sitting having been proposed and seconded by Hon. Joseph Oyula, MP and Hon. Purity Ngirici, MP respectively;
7. 30th Sitting having been proposed and seconded by Hon. Andrew Okuome, MP and Hon. Joshua Kandie, MP respectively;
8. 31st Sitting having been proposed and seconded by Hon. Samuel Atandi, MP and Hon. Joseph Oyula, MP respectively;
9. 32nd Sitting having been proposed and seconded by Hon. Francis Kimani, MP and Hon. Christopher Omulele, MP respectively;
10. 33rd Sitting having been proposed and seconded by Hon. Abdul Rahim Dawood, MP and Hon. Francis Kimani, MP respectively;
11. 34th Sitting having been proposed and seconded by Hon. David Mboni, MP and Hon. Samuel Atandi, MP respectively; and
12. 35th Sitting having been proposed and seconded by Hon. Stanley Muthama, MP and Hon. Edith Nyenze, MP respectively.

MIN.NO.NA/F&NP/2020/169: MATTERS ARISING

No matters arose from the confirmed minutes.

MIN.NO.NA/F&NP/2020/170: CONSIDERATION OF THE PRESIDENT'S RESERVATIONS TO THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL, 2020

The Legal Counsel took the Committee through the President's Reservations on the Public Finance Management (Amendment) Bill, 2020. The Committee deliberated extensively on the Memorandum and adopted the President's recommendations on the Bill.

The report on the consideration of the President's Memorandum on the Public Finance Management (Amendment) Bill, 2020 was adopted by the Committee having been proposed and seconded by Hon. Joshua Kandie, MP and Hon. Francis Kimani, MP.

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MIN.NO.NA/F&NP/2020/171: PRE-VETTING BRIEFING ON THE NOMINEE FOR APPOINTMENTS TO THE POSITION OF AUDITOR-GENERAL

The Committee Clerk briefed the Members on the background of Ms. Nancy Janet Kabui Gathungu whose name had been forwarded by H.E. the President for approval by the House for the position of the Auditor General. The summary contained details on her professional and educational background, as well as her professional affiliations. The Committee was also taken through the procedure and the process that was used to arrive at the nominee which was obtained from the reports of the Selection Panels.

The Chairperson encouraged Members to avail themselves for the meeting on the approval hearing of the nominee which was scheduled to take place on Friday, 3rd July, 2020 in the Mini Chamber on First Floor, County Hall, Parliament Buildings at 10.00am.

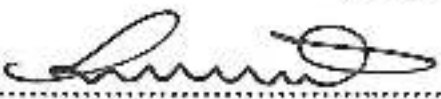
MIN.NO.NA/F&NP/2020/172: ANY OTHER BUSINESS

Hon. David Nanok, MP and Hon. Christopher Omulele, MP thanked Members of the Committee for the support that they had accorded them following the demise of their wife and mother respectively.

MIN.NO.NA/F&NP/2020/173: ADJOURNMENT/DATE OF NEXT MEETING

There being no other business to deliberate on, the meeting was adjourned at 5.01p.m. The next meeting will be held on Friday, 3rd July, 2020.

**HON. JOSEPH K. LIMO, MP
(CHAIRPERSON)**

SIGNED..........DATE.....13/7/2020.....

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APPENDIX 3(C)

REPUBLIC OF KENYA



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NATIONAL ASSEMBLY
TWELFTH PARLIAMENT - FOURTH SESSION

In the matter of approval by the National Assembly of person nominated for appointment to the position of Auditor-General

SUBMISSION OF MEMORANDA

Pursuant to the provisions of Article 229(1) of the Constitution as read together with Sections 11(7) of the Public Audit Act (No. 34 of 2015) and Section 5 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), the President has nominated Mr. Nancy Janet Kabui Gatharu for appointment to the position of Auditor-General.

Following the receipt of the nomination from His Excellency the President, the Departmental Committee on Finance and National Planning is mandated to vet, coordinate her suitability for appointment to the office and submit its report to the House for approval.

Pursuant to the provisions of Section 4(1) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), the Committee invites interested members of the public to submit any representation by written statement on oath (attached with supporting evidence) contesting the suitability of the said nominee for appointment to the position of Auditor-General.

The representations may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi (hand-delivered to the Office of the Clerk, Main Parliament Building, Nairobi) or emailed to clerk@parliament.go.ke to be received on or before Tuesday, 23rd June, 2020 at 5.00 pm.

MICHAEL R. SALAJ, EBS
CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA



NATIONAL ASSEMBLY
TWELFTH PARLIAMENT - FOURTH SESSION

In the matter of approval by the National Assembly of person nominated for appointment to the position of Auditor-General

NOTIFICATION FOR VETTING BY THE DEPARTMENTAL COMMITTEE ON FINANCE & NATIONAL PLANNING OF PERSON NOMINATED FOR APPOINTMENT TO THE POSITION OF AUDITOR-GENERAL

Pursuant to the provisions of Article 229(1) of the Constitution as read together with Sections 11(7) of the Public Audit Act (No. 34 of 2015) and Section 5 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), His Excellency the President has nominated Mr. Nancy Janet Kabui Gatharu for appointment to the position of Auditor-General.

Pursuant to the provisions of Article 118 of the Constitution and Section 4(1) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), the Departmental Committee on Finance and National Planning is mandated to conduct the vetting of the said nominee on Friday, 27th July, 2020. The approval hearing will be held in the Main Chamber Third Floor, County Hall, Parliament Buildings at 10.00 am.

The interested parties, the originals of their identity card, academic and professional certificates and other relevant documents, in addition, the written statement contesting the suitability of the said nominee should be submitted to the following:

- (i) Ethics and Anti-Corruption Commission;
- (ii) Kenya Election Authority;
- (iii) Kenya Education Loans Board;
- (iv) Directorate of Criminal Investigations;
- (v) Office of the Registrar of Political Parties; and
- (vi) Any of the relevant regulatory bodies.

MICHAEL R. SALAJ, EBS
CLERK OF THE NATIONAL ASSEMBLY



MINISTRY OF TRANSPORT, INFRASTRUCTURE, PUBLIC WORKS, HOUSING AND URBAN DEVELOPMENT
State Department for Housing and Urban Development

Re: Allocation of Stalls for Mwaringo Market, Nairobi City County.

The Commission of the Nairobi Market, which was established as part of proceeds from the World Bank loan Government of Kenya has been completed and is hereby forwarded.

The following is a copy of the stalls which will be available for allocation:

| Nairobi Market Stalls | | |
|-----------------------|-------------------|---------------|
| No | Name | Type of Trade |
| 1 | Chikwiniya Market | |
| 2 | Kilifi Market | |
| 3 | Ngara Market | |
| 4 | Ngara Market | |
| 5 | Ngara Market | |
| 6 | Ngara Market | |
| 7 | Ngara Market | |
| 8 | Ngara Market | |
| 9 | Ngara Market | |
| 10 | Ngara Market | |
| 11 | Ngara Market | |
| 12 | Ngara Market | |
| 13 | Ngara Market | |
| 14 | Ngara Market | |
| 15 | Ngara Market | |
| 16 | Ngara Market | |
| 17 | Ngara Market | |

The above 17 proposals are subject to the attached Form 1 (N/A) which will be completed and submitted clearly to the Registrar of Nairobi City County.

| Nairobi Market Stalls | | |
|-----------------------|--------------|---------------|
| No | Name | Type of Trade |
| 1 | Ngara Market | Palms |
| 2 | Ngara Market | Palms |
| 3 | Ngara Market | Store |
| 4 | Ngara Market | Store |
| 5 | Ngara Market | Store |
| 6 | Ngara Market | Store |
| 7 | Ngara Market | Store |
| 8 | Ngara Market | Store |
| 9 | Ngara Market | Store |
| 10 | Ngara Market | Store |
| 11 | Ngara Market | Store |
| 12 | Ngara Market | Store |
| 13 | Ngara Market | Store |
| 14 | Ngara Market | Store |
| 15 | Ngara Market | Store |
| 16 | Ngara Market | Store |
| 17 | Ngara Market | Store |
| 18 | Ngara Market | Store |
| 19 | Ngara Market | Store |
| 20 | Ngara Market | Store |
| 21 | Ngara Market | Store |
| 22 | Ngara Market | Store |
| 23 | Ngara Market | Store |
| 24 | Ngara Market | Store |

The enclosed list of 24 stalls will be given to the Registrar of Nairobi City County for allocation to the market stalls and the Registrar will be notified.

The general public is informed that the entire 24 stalls in Mwaringo Market will be allocated using the following criteria:

- 1. General Ward - 15%
- 2. Nairobi City County - 30%
- 3. Nairobi City County - 30%
- 4. Displaced persons - 25%
- 5. Income - 25%
- 6. Registered traders - 25%
- 7. K.A. - 25%

Allocation of stalls will be done by the Registrar of Nairobi City County for allocation to the market stalls and the Registrar will be notified.

Charles M. Njiru, CEO, Principal Secretary

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Office of the Commissioner General

KRA/5/1002/5(3107)

26th June 2020

Mr. Michael Sialai, EBS
 Clerk of the National Assembly
 Parliament Buildings
 P. O. Box 41842-00100
 NAIROBI

Attn: Mrs. Sarah M. Kioko

Dear Michael,

VETTING OF THE NOMINEE FOR THE POSITION OF AUDITOR GENERAL

Reference is made to your letter Ref: NA/DCS/F&NP/2020/30 dated 24th June 2020 seeking for the tax compliance status of the nominee for the position of Auditor-General.

The nominee's tax compliance status is as follows:

| Name | ID Number | PIN No. | Compliance Status |
|----------------------------|-----------|-------------|--|
| Nancy Janet Kabui Gathungu | 10474205 | A001349497L | The taxpayer has submitted all due returns and made subsequent payments. She is therefore Compliant. |

Yours

Sincerely,

Githii Mbaru
COMMISSIONER GENERAL

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ETHICS AND ANTI-CORRUPTION COMMISSION

INTEGRITY CENTRE (Jakaya Kikwote/Valley Road Junction) P.O. Box 61130 – 00200, NAIROBI, Kenya
TEL : 254 (020) 4997000, MOBILE: 0709 781000; 0730 997000
FAX: 254 (020) 2240954 EMAIL: eacc@integrity.go.ke WEBSITE: www.eacc.go.ke

When replying please quote:

Our Ref: EACC.7/10/5 VOL.IV (140)

26th June, 2019

Clerk of the National Assembly
Clerk's Chambers
Parliament Buildings
P.O Box 41842 - 00100
NAIROBI

(Attn: Serah M. Kioko)

RE: VETTING OF THE NOMINEE FOR THE POSITION OF AUDITOR-GENERAL

Your letter Ref. No. **NA/DCS/F&NP/2020/27** dated **24th June, 2019** on the above subject matter refers.

We confirm that the Commission has not undertaken any investigations where **Ms. Nancy Janet Kabui Gathungu** of **National Identity Card No. 10474205** has been found culpable.

The information provided is based on records available as at **25th June, 2020**.

Please note that the absence of records in the Commission's database is not a guarantee of absolute integrity of the nominee.

NGUMBI E.M.
FOR: SECRETARY/CHIEF EXECUTIVE OFFICER
LCK/ck

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NATIONAL POLICE SERVICE

Telegrams: "IDENT CRIMINAL", Nairobi
 Telephone: 020-8512089/98
 Fax: 020-2666149
 E-mail: jdemsnbh@gmail.com
 When replying please quote ref No. and date



CRIMINAL RECORDS OFFICE,
 P.O. Box 30468 00100 GPO,
NAIROBI

DIRECTORATE OF CRIMINAL INVESTIGATIONS

CID/CRO/SEC/6/7/A/VOL.IX/10

25TH JUNE, 2020

Clerk of the National Assembly
 Clerk's Chambers
 National Assembly, Parliament Building
 P O Box 41842-00100
NAIROBI

RE: VETTING OF NOMINEE FOR THE POSITION OF AUDITOR-GENERAL

We are in receipt of your correspondence Ref. NA/DCS/F&NP/2020/29 an dated 24th June, 2020 on the above subject matter.

The below mentioned person was issued with a Police Clearance Certificate by this office as indicated.

| No. | Name | ID NO. | CERT NO | DATE GENERATED |
|-----|-----------------------------------|----------|--------------|----------------|
| 1. | Ms. Nancy Janet Kabul Gathungu | 10474205 | PCC-AAALnkf6 | 27/08/2019 |

Kind regards.


DOMINIC NDETO
FOR: DIRECTOR OF CRIMINAL INVESTIGATIONS

OUR VISION: To be the best forensic science laboratory with emphasis on continual linkage of the **Crime**,
 the **Crime -Scene** and the **Criminal**.
FACES CAN LIE, FINGERPRINTS NEVER.

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HIGHER EDUCATION LOANS BOARD

Tel: 0711052000
E-mail: contactcentre@helb.co.ke
Website: www.helb.co.ke

Anniversary Towers
University Way
P.O. Box 69489-00400
Nairobi, Kenya

HEL B/RR/112009/V/48

25th June 2020

Mr. Michael R. Sialai, EBS
Clerk of National Assembly
Parliament Buildings
P.O. Box 41842-00100
NAIROBI

Dear 

VETTING OF THE NOMINEE FOR THE APPOINTMENT TO THE POSITION OF AUDITOR-GENERAL

We acknowledge with appreciation receipt of your letter dated 23rd June 2020 requesting the Higher Education Loans Board to provide a report on repayment of HELB loans that may have been advanced to Ms. Nancy Janet Kabui Gathungu for purposes of vetting for appointment to the position of Auditor General by the Departmental Committee on Finance and National Planning.

The Higher Education Loans Board wishes to inform you that **Ms. Nancy Janet Kabui Gathungu (ID No. 10474205; Pin No. (A00134949L))** was a beneficiary of the GOK/HELB Loans Scheme and has cleared paying her university loan and issued with Clearance Certificate Number **43035** on **9th March 2019**.

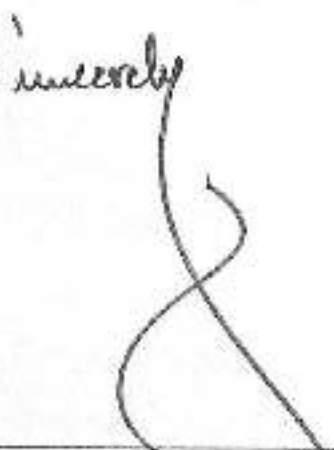
We kindly urge you to continue encouraging applicants to seek their compliance certificate from the Board as part of testimonials and conformity to Chapter Six of the Constitution of Kenya.

We wish to thank you most sincerely for allowing us to provide you this information as this kind of collaboration goes a long way in assisting HELB finance needy Kenyans pursuing higher education now and in the future.

Yours



CHARLES RINGERA
CHIEF EXECUTIVE OFFICER

Sincerely,


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Telephone: 1254(0)204022000
Email: registrar@orpp.or.ke
Website: www.orpp.or.ke
When replying please quote

REF NO.: RPP/ORG/34/Vol. IV (30)



Republic of Kenya
Lion Place, 1st Floor
Off Waiyaki Way
P.O. Box 1131-00606
Sarit Centre, Nairobi.

DATE: 25th June 2020

Clerk of the National Assembly,
Clerks Chambers, National Assembly,
Parliament Buildings,
P.O. Box 41842-00100,
NAIROBI.

Dear Sir,

RE: VETTING OF THE NOMINEE FOR THE POSITION OF AUDITOR GENERAL

Reference is made to your letter Ref. NA/DCS/F&NP/2020/31 dated 24th June, 2020 on the above subject matter.

According to the records held by this office as at 25th June, 2020, **Ms. Nancy Janet Kabui Gathungu ID No. 10474205** is not an official of any registered political party.

Yours faithfully,

Ann N. Nderitu, MBS
Registrar of Political Parties

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**REPUBLIC OF KENYA****TWELFTH PARLIAMENT (FOURTH SESSION)****THE NATIONAL ASSEMBLY****MESSAGES****MESSAGE FROM THE PRESIDENT**

____ (No. 04 of 2020) ____

ON THE NOMINEE FOR APPOINTMENT AS THE AUDITOR-GENERAL**Honourable Members,**

Pursuant to the provisions of Standing Order 42(1) of the National Assembly Standing Orders, I wish to report to the House that I have received a Message from His Excellency the President seeking the National Assembly's approval of **Ms. Nancy Janet Kabui Gathungu** for appointment as the Auditor-General, in exercise of powers vested in him by Article 229(1) of the Constitution, section 11(7) of the Public Audit Act, 2015 and section 5 of the Public Appointments (Parliamentary Approval) Act, 2011.

Honourable Members, Pursuant to the provisions of Standing Order 45, I hereby refer this Message, together with the *Curriculum Vitae* of the Nominee to the Departmental Committee on Finance and National Planning for consideration. Section 8 of the Public Appointments (Parliamentary Approval) Act provides that the relevant Committee of the House will consider the suitability or otherwise of the nominee and table its report for consideration by the House within fourteen (14) days from the date the notification of nomination is conveyed to the House.

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Honourable Members, Noting that the House will proceed on a short recess from July 3, 2020 in accordance with its Calendar, the Committee is advised to expeditiously proceed to notify the nominee and the public, commence the approval hearings in good time, and table its Report to enable the House to consider the matter within the statutory timelines.

I thank you!



THE HON. JUSTIN B.N. MUTURI, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY

Tuesday, June 23, 2020

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THE PRESIDENCY

EXECUTIVE OFFICE OF THE PRESIDENT

HEAD OF THE PUBLIC SERVICE

NATIONAL ASSEMBLY
RECEIVED
19 JUN 2020
SPEAKER'S OFFICE
P. O. Box 41842, NAIROBI.

STATE HOUSE

P.O. Box 40530-00100
Nairobi, Kenya

CONFIDENTIAL

Telegraphic Address
Telephone: +254-20-2227436
When replying please quote

Ref. No. _____
and date

OP/CAB.1/40A

② DLEP
per deal. CNA
19th June, 2020
23/6/20

Hon. Justin B. Muturi, EGH, MP,
Speaker
The National Assembly
Parliament Building
Parliament Road
NAIROBI.

Noted. CNA to prepare the
necessary communication to the
House.

Beat SNA
22/6/2020.

Dear Hon. Muturi;

RE: NOMINEE FOR APPOINTMENT TO THE POSITION OF AUDITOR-GENERAL

We refer to the above subject matter.

In full discharge of the Constitutional obligations set out Under Article 229 (1) of the Constitution; as read with Section 11 (7) of the Public Audit Act [No. 34 of 2015] and Section 5 of the Public Appointments (Parliamentary Approval) Act [No.33 of 2011], I hereby forward to the National Assembly **His Excellency the President's** nominee for appointment to the position of Auditor-General – **Ms. Nancy Janet Kabui Gathungu** for approval by the House.

To aid the August House in its consideration and approval processes we enclose herewith the Report of the Selection Panel on the Appointment of the Auditor-General and the Nominees' Curriculum Vitae and Testimonials.

Given the pivotal role played by the office of the Auditor-General in entrenching ethos of good governance in our national life by promoting accountability in the use of public resources, I urge the National Assembly to prioritize the vetting and approval of the nominee.

Yours Sincerely,

JOSEPH K KINIHA EGH

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Copy to:- **Mr. Michael Sialai, EBS**
Clerk of the National Assembly
The National Assembly
Parliament Building,
Parliament Road
NAIROBI.

CONFIDENTIAL

APPENDIX 7

No. 35 of 2011 (Rev. 2012)
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Public Appointments (Parliamentary Approval)
[Issue 1] 8

SCHEDULE
[Section 6(8).]

CRITERIA FOR VETTING/APPROVAL OF NOMINEES FOR APPOINTMENT TO PUBLIC OFFICE BY PARLIAMENT QUESTIONNAIRE

Notes:

- a) This questionnaire applies to appointments to public office arising by or under the Constitution or any other law where parliamentary approval is required.
- b) The questionnaire shall be used by the relevant parliamentary committee to vet a nominee appearing before the committee in the process of parliamentary approval.
- c) The questionnaire shall be filled and submitted by the nominee to the relevant parliamentary committee through the Clerk of the relevant House of Parliament on or before a date set by the committee.
- d) The submission of false information in the questionnaire is an offence and may result in prosecution.
- e) Any form of canvassing by a nominee shall lead to disqualification.
- f) The nominee must answer all the questions.

1. **Name:** Nancy Janet Kabui Gathungu

2. **Position:** Auditor-General

3. **Sex:** Female

4. **Date of Birth:** 1969 – Kisumu, Kenya

5. **Marital Status:** Single

6. **Daytime phone number:** +254 (20) 3214012

7. **Mobile phone number:** +254 722 793650

8. **Email Address:** nancy.gathungu@oagkenya.go.ke/ nkgathungu@gmail.com

9. **ID Number:** 10474205

10. **PIN Number:** A001349497L

11. **Nationality:** Kenyan

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12. Postal Address: P. O. Box 28402 - 00200

13. Town/City: Nairobi

14. Knowledge of Languages: English, Kiswahili, Kikuyu

15. Education: (List, in reverse chronological order, each university, college, or any other institution of higher education attended and indicate, in respect of each, the dates of attendance, academic award obtained, whether a degree was awarded, and the dates on which each such degree was awarded).

Jomo Kenyatta University of Agriculture and Technology, 2018 to date, Ongoing-Doctorate in Business Administration (Strategic Management)

University of Nairobi, 2006 to 2008, Awarded a Master's Degree in Business Administration (Strategic Management) on 19 December 2008

Vision Institute of Professionals-Nairobi, January to June 2005, Certified as an Information Systems Auditor (CISA) by Information Systems Audit and Control Association (ISACA) on 1 August 2005

Kenya School of Professional Studies-Nairobi, 2001-2002, Awarded an Advanced Diploma in Information Technology on 22 November 2003

Kenya School of Professional Studies-Nairobi, 2003, Awarded a Diploma in Information Technology on 23 November 2002

Kenya College of Accountancy, 1998, Obtained Certified Public Accountant (Kenya) Part III certificate in December 1998

Kenya School of Professional Studies-Nairobi, 1995, Obtained Certified Public Accountant (Kenya) Part II certificate in June 1995

University of Nairobi, 1989 to 1992, Awarded a Bachelor's Degree in Commerce (Accounting Option) Upper Second Class Honors on 8 November 1993

16. Employment Record: (List in reverse chronological order all government agencies, business or professional corporations, companies, firms or other enterprises with which you have been affiliated as an officer, director, partner, proprietor, employee or consultant)

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(i) Organization: Office of The Auditor-General/ Kenya National Audit Office

Dates: August 2006 -TODATE

Position: Director of Audit: February 2014 – to-date

Head of Quality Assurance, June 2019 to-date responsible for:

- Monitoring the Office's system of quality control and assessing whether, and to what extent, it is operating effectively
- Providing internal oversight to assist the office to adhere to quality control policies, procedures and standards
- Providing risk-based, objective assurance, advice and giving recommendations to improve the system of quality control
- Capacity building of audit staff on audit methodology
- Compiling and summarizing National and County Governments' final audit reports
- Providing leadership in the quality assurance directorate
- Performing Quality Assurance Peer Reviews for African Organization of Supreme Audit Institutions – English speaking (AFROSAT-E)
- Representing the Office in the Technical Taskforce for the Development of Occupational Standards for KASNEB Qualifications

Technical Support to Devolution, Inter-Governmental Relations Technical Committee (IGRTC), September 2016 – June 2019 responsible for:

- Vice-Chair and Member - Interagency Technical Committee - Providing technical support to IGRTC on the identification, verification and validation of assets and liabilities of the County Governments (defunct local authorities) and devolved functions
- Technical support on capacity building to support Devolution at National and County Levels
- Member of Inter-Agency Committee – Induction of Governors and Devolution Conference 2018

Director of Audit - Forensic Audit Directorate, December 2015 to September 2016 responsible for:

- Directing and supervising forensic/ special audits and investigations
- Development of the Directorate's Strategy in alignment with the overall OAG Strategic Plan
- Monitoring implementation of the strategy, policies and procedures for effective and efficient performance
- Development of policies and procedures to support the achievement of the institutional strategy

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- Coordination of all forensic audit functions including staff capacity building, resource allocation, monitoring work performance and review of audit reports to ensure delivery of quality and timely audit reports
- Ensuring adherence to the code of conduct for the audit teams to maintain quality and integrity in the audit process

Technical Support to Transition Authority on Devolution, March 2014 to March 2016 responsible for:

- Representing the Auditor-General in the Gazetted (National) Technical Committee for the Transfer of Assets and Liabilities
- Chairman of the Inter-Agency Joint Technical Team providing technical assistance to the Transition Authority on the identification and preparation of inventories of the assets and liabilities of the defunct local authorities for audit
- Development of the strategy, terms of reference (TORs) and work plans for the preparation of the inventory of assets and liabilities for the county and national government in a structured and comprehensive manner
- Capacity building for the country wide teams to ensure a structured and coordinated approach, due diligence and assurance on quality of work
- Monitoring and evaluation of the implementation process
- Reviewing reports
- Advising TA and County Governments on matters relating to assets and liabilities

POSITION: Deputy Director of Audit: September 2010 – January 2014

Director, Executive Office of the Auditor-General, September 2012 to March 2014 responsible for:

- Advising the Auditor-General on public finance and audit matters
- Representing the Auditor-General in meetings/ conferences as a key speaker/ panelist
- Managing stakeholders communication on behalf of the Auditor-General
- Researching and producing documents, briefing papers, reports and presentations
- Engaging key stakeholders and ensuring maintenance of good relations and dealing confidently, confidentially and competently with their matters
- Managing the AG's diary comprehensively including meetings, engagements and keeping up to-date with all new activities/events
- Other relevant duties assigned by the Auditor-General

Head of Corporate Services, March 2012 to June 2012 responsible for:

- Advisor to the Auditor-General on Government and public service related issues and internal matters
- Implementation of the OAG Strategic Plan
- Representing the Auditor-General in key meetings
- Providing focus and leadership in the following areas:
 - finance and accounting
 - human resource
 - information and communication technology
 - procurement
 - transport and logistics
 - customer service and public relations
 - legal matters

Head of Learning and Development, International Liaison and Communication, July 2009 to February 2012 responsible for:

- Administration of the training function for all staff of the Office of the Auditor-General
- Identifying training and development needs within the Office through training needs assessments (TNAs) and consultation with head of human resource, senior managers and head of quality assurance
- managing the delivery of training programmes
- Key facilitator in various training interventions
- Designing and customizing training programmes/courses with internal subject matter experts (SMEs), AFROSAI-E and IDI
- Budgeting and sourcing for training funds from GOK and Development Partners
- Development of Audit Manuals (Financial, Forensic and IT Audit)
- Lead in development of KENAO Training Policy
- External Communication
 - Donor relations including Public Financial Management Reform programme
 - Coordination with regional and international organizations including AFROSAI-E, AFROSAI and INTOSAI
 - Communication and coordination with Foreign Embassies and Missions
 - AFROSAI- E Communication Champion – training of communication staff from other SAIs in the Region
 - Regional AFROSAI-E facilitator/expert for SAI communication
- Internal Communication
 - Lead in development of the first KENAO Communication Policy
 - In charge of implementation of the Communication Policy, Website Committee, Newsletter Committee

POSITION: Assistant Director of Audit - August 2006-September 2010

Head of Quality Assurance and Information Systems Audit Directorate responsible for:

- Setting up and development of the Specialized Audit Services with other Heads of Directorates
- The development, continuous implementation and monitoring of quality tools for use by the auditors in KENAO
- Ensuring quality audits and compliance with auditing standards
- Ensuring complete and effective audit of clients with computerized systems
- Continuous coordination of skills upgrading in computerized audits
- Coordinating use of Audit Command Language(ACL) in client data analysis
- Taking charge of Specialized Audit in the absence of the DAG or other Directors
- In charge of implementation of Audit Management Software

(ii) Organization: African Organization of Supreme Audit Institutions – English Speaking (AFROSAI-E)

Dates: 2010 to date

Position: Facilitator, quality assurance reviewer and developer of audit tools and guidelines

Responsible for:

- Part of the team that developed the first Communication Handbook to guide SAIs in the region on engaging with stakeholders
- Part of the team that developed case studies for the Executive Leadership Programme
- Development of the Public Finance Management Reporting Framework (PFM-RF) with GiZ and piloting in Ghana, Mozambique, Liberia, Zimbabwe, Rwanda and Kenya.
- In September 2018, I represented AFROSAI-E CEO in AFROSAI-E/OLACEF (Portuguese Speaking) meeting in Lisbon, Portugal
- Training Portuguese Speaking Supreme Audit Institutions (SAIs) on the PFM-RF Framework
- In June 2019, I performed AFROSAI-E Quality Assurance Peer Review for the SAI of Uganda
- In February 2020, I trained the Arab Speaking SAIs (ARABOSAI) on performance management and Institutional Capacity Building Framework (ICBF)

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**(iii) Organization: International Organization of Supreme Audit Institutions-
Development Initiative (IOI)**

Dates: 2017 to date

Position: Facilitator

Responsible for:

- In December 2018, I facilitated on sharing experiences on Strategy Formulation and Performance Measurement, and ICBF for Ethiopia, Somaliland and Somalia.
- I was part of the development team for the SAI-Performance Management Framework (SAI-PMF).
- I am currently the quality reviewer for the on-going SAI PMF assessment for OAG-Kenya.
- I am part of the regional resource persons for Strategy Performance Measurement and Reporting (SPMR) for SAIs, currently supporting SAI Botswana on SAI-PMF and Strategy and Performance Management.

(iv) Organization: Institute of Certified Public Accountants of Kenya (ICPAK)

Dates: 2016 to date

Position: Facilitator

Responsible for

- I am a certified trainer with ICPAK. I have been facilitating and speaking in various ICPAK workshops and conferences on public finance and audit issues.

(v) Organization: Association of Women Accountants of Kenya (AWAK)

Dates: 2014 to date

Position: Facilitator

Responsible for

- I have been facilitating and speaking in various AWAK workshops and conferences on public finance, audit issues and performance management in the public sector.

(vi) Organization: Kenyatta National Hospital, July 2000 to July 2006

POSITION: Chief Internal Auditor, December 2004 to July 2006

Responsibilities

- In charge of the Internal Audit Department administration
- Reviewing internal control systems and procedures-risk assessments
- Ensuring compliance with the established policies, plans and procedures
- Reviewing, planning and developing auditing services and maintenance of high auditing standards
- Coordinating with the CEO and Heads of Departments on audit work and implementation of work plans
- Advising the CEO on key issues facing the hospital
- Coordinating continuous training and exposure activities for internal audit staff
- Liaising with External Auditors to ease audit work

POSITION: Senior Internal Auditor - JULY 2000–DECEMBER 2004

Responsibilities

- Supervising audit teams carrying out specific audit tasks and investigations within the organization
- Preparing and issuing internal audit reports
- Discussing with and advising management on issues/ areas requiring change or improvement
- Carrying out investigations with the Criminal Investigation Department (CID) Officers attached to the hospital
- Taking charge of Internal Audit department in absence of Chief Internal Auditor
- Other duties assigned by the Chief Internal Auditor and the Director of KNH including advising the CEO on key issues

(vii) Organization: Ministry of Education 1997 to June 2000

POSITION: Provincial Schools Auditor (Former Central Province)

Responsibilities

- Head of audit for schools, colleges and technical institutions in the Central Province of Kenya
- Co-ordination of audit and audit reports for all schools and colleges in Central Province
- Supervision of District Audit Teams
- Inspection of schools and colleges in the province
- Conducting in-service courses and capacity building for Heads of schools and colleges, Bursars and Accounts personnel
- Advising Heads of institution on proper accounting procedures and financial management
- Special investigations for the Teachers Service Commission (TSC) and the Ministry of Education
- Any other matters related to audit of books of accounts for learning institutions
- Other duties assigned by the Director of Education and the Provincial Director of Education including representing them in key Educational Meetings

(iii) Organization: Auditor General (Corporations), 1993 to 1997

POSITION: Financial Auditor

Responsibilities

- Undertaking a variety of audit work in State Corporations including:
 - Systems/Operational Audits
 - Financial Audits
 - Special Audits/Investigations
- Leading a team of auditors to undertake specific audit assignments in State Corporations including field work
- Conducting special investigations in State Corporations facing financial difficulties
- Compiling audit reports and giving recommendations where necessary
- Taking charge of an Audit Branch in the absence of Branch Head

Other Organizations

- I work closely with the Centre for Parliamentary Studies (CPST) in developing training manuals for public finance management. I am also a facilitator for Members of County Assemblies and Clerks of Parliament.
- Under the Kenya School of Government, I am involved in development of Training Manuals and Tools and capacity building for Accounting Officers and staff for both National and County Governments and Chief Executive Officers (CEOs) of State Corporations.
- I facilitate for the Ethics and Anti-corruption Commission (EACC) on risk management and corruption prevention in PFM
- Between 2017 and 2019, I worked with United Nations Development Program (UNDP) in analyzing systemic issues affecting public finance management at the counties under the Integrated UNDP Support to Devolution Process in Kenya. I was involved in program design and as the lead facilitator.
- I assisted AHADI-Kenya under the Agile and Harmonised Assistance for Devolved Institutions programme in development and delivery of capacity building programmes and I was part of the consultative process in drafting the Alternative Dispute Resolutions (ADR) under the Ministry of Devolution and ASAI.
- In January 2019, I assisted the Institute of Economic Affairs (IEA) in developing a Facilitators Guide for Strengthening Civil Society Organizations Engagement with the Auditor-General's Reports
- I am a member of two women groups (Chamas); Lamove and Divine Agencies which are currently inactive.

17. Honours and Awards: (List any scholarships, fellowships, honorary degrees, academic or professional honours, honorary society memberships, military awards and any other

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special recognition for outstanding service or achievement and in respect of each, state the date of award and the institution or organization that made the award).

Fellow, United States General Accountability Office (GAO) International Auditor Fellowship Program - 2010

Best Student Award in Certified Information Systems Auditor Examination, August 2005, Kenya School of Professional Studies

- 18. Professional Association** (where applicable): (List all professional associations of which you are or have a member and give any positions held and the respective dates when each such position was held).

(i) Practicing Member, Institute of Certified Public Accountants of Kenya (ICPAK)

Member, ICPAK Public Policy and Governance Sub-committee, 2014 to 2015

Member, ICPAK Panel of Experts- Audit, January 2018 to date

Member, ICPAK Panel of Experts - Public Finance Management, January 2018 to date

(ii) Association of Women Accountants of Kenya (AWAK)

Member, AWAK Mentorship Committee, 2016 to date

(iii) Member, Information Systems Audit and Control Association (ISACA)

- 19. Memberships:** (List all professional, business, fraternal, scholarly, civic, charitable or other organizations, (other than those listed in response to Question 16) to which you belong or have belonged).

Kenya Leadership and Integrity Forum (KLIF)- Technical Committee. Chair of the Watchdog Agencies Sector Group

Implementation Committee of the Report of the Taskforce on Legal, Policy on Institutional Framework for Fighting Corruption in Kenya - represents the OAG

National Coordinating Committee (NCC) on Leadership and Integrity - represents the Auditor-General

Monitoring Implementation of the Devolution Conference Resolutions Committee (COG)

- 20. Published Writings:**

(a) List the titles, publishers and dates of books, articles, reports, letters to the editor, editorial pieces or other published materials you have authored or edited.

Long-term response to COVID-19: Building agile, forward-looking, inclusive and resilient SAs through strategic planning and management, INTOSAI-IDI, May 2020 - contributor

Strengthening Civil Society Organizations Engagement with the Auditor General's Reports, Institute of Economic Affairs, 2019

History of the Audit Office, Office of the Auditor-General, 2019 – OAG Publication

Course Curriculum and design for induction of members of County Assemblies in Kenya, Centre for Parliamentary Studies and Training (CPSI), 2018

Induction Manual for Members of County Assemblies in Kenya, Centre for Parliamentary Studies and Training (CPSI), 2018

Kenyan Team at the First Executive Leadership Development Workshop, OAG 2016 Publication

Pilot Study for verification of assets and liabilities that belonged to the defunct local authorities in twelve counties in Kenya, Transition Authority

National Anti-Corruption Plan/ Kenya Integrity Plan(Kenya Integrity Plan (2006 – 2019), and the implementation reports-Kenya Leadership and Integrity Forum-contributor under the Watchdog Agencies

Guide for transfer and sharing of public assets and liabilities, Transition Authority, May 2014 - contributor

2014 Annual Report on Measures Taken and Progress Achieved in the Realization of National values and principles of Governance, Government Printer, March 2015 - contributor for OAG

Report on the identification, verification, validation and transfer of assets and liabilities of the defunct local authorities as at 27th March, 2013, Intergovernmental Relations Technical Committee, 2018 – Technical advisor

Public Sector Integrity Curriculum, National Intelligence Service (NIS), Kenya School of Government (KSG) and Office of the Auditor-General (OAG)

(b) Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of any bar association, committee, conference or organization of which you were a member.

NONE

21. Public Office, Political Activities and Affiliations:

(a) List chronologically any public offices you have held or are currently holding, including the terms of service and whether such positions were elected or appointed.

NONE HELD

(b) List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities. Also include any linkage you have to a political party at present.

NONE

(c) Have you ever been dismissed or otherwise removed from office for a contravention of the provisions of Article 75 of the Constitution?

NO

(d) Have you ever been adversely associated with practices that depict bias, favouritism or nepotism in the discharge of public duties?

NO

22. Deferred Income/Future Benefits: (List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, etc).

Interest on Fixed Deposits – Kshs. 150,000 payable in December 2020

Accrued M-Akiba Interest – Kshs. 6,000

23. Outside commitment during service in office: (Do you have any plans, commitments or agreements to pursue outside employment with or without compensation during your service in office? If so explain).

NONE

24. Sources of Income: (List sources and amounts of all income received during the calendar year preceding your nomination and in the current calendar year).

| Source | Amount (KES) |
|-----------------------|--------------|
| Gross Salary | 8,601,014 |
| Consultancies (gross) | 702,160 |

| | |
|--|---------|
| Gross Rental Income | 744,000 |
| Interests and Dividends from Sacco and M-Akiba | 520,000 |

25. **Tax Status:** (State whether you have fully complied with your tax obligations to the State up to the end of the financial year immediately preceding the nomination for appointment).

I have fully complied with my tax obligations and have a tax clearance certificate to that effect.

26. **Statement of Net Worth:** (State your financial net worth).

| Item | Amount (KES) |
|--|-------------------|
| Assets | |
| ¼ acre plot located in Juja Kiaura – at cost | 400,000 |
| ¼ acre plot located in Nyeri Twinmount – at cost | 1,060,000 |
| 1 acre located in Kitengela – at cost | 260,000 |
| 2 acres located at Longonot Gate Naivasha– at cost | 2,400,000 |
| ½ ownership of 2 acres (Women’s chama - Divine) | 480,000 |
| Two ¼ acre plots located in Jua Kali, Nanyuki– at cost | 640,000 |
| ½ acre plot located at Kiota Ville, Mavoko – at cost | 2,000,000 |
| Donholm 3 Bedroom Maisonette– at cost | 12,000,000 |
| Nyayo Embakasi 3 bedroom Flat– at cost | 6,100,000 |
| Nyeri Kangemi 2 Bedroom Maisonette– at cost | 3,950,000 |
| Motor Vehicle – Volkswagen Tiguan | 1,800,000 |
| Ukaguzi Sacco shares and deposits | 3,997,300 |
| Ukaguzi Housing Cooperative shares and deposits | 154,000 |
| Unit Trusts – Old Mutual, African Alliance and CIC | 715,000 |
| M-Akiba | 200,000 |
| OAG Staff Retirement Benefits Scheme Contributions | 1,805,000 |
| Assorted Household Items | 1,200,000 |
| Cash at Bank | 1,060,000 |
| Total assets | 40,421,300 |
| Liabilities | |
| Mortgage loan with HFCK | 7,000,000 |
| Mortgage loan with National Housing Corporation | 900,000 |
| Unpaid balance for 1/8 acre of land at Kiota Ville, Mavoko | 1,000,000 |
| Balance - infrastructure and legal fees at Longonot Gate | 350,000 |
| Credit Card Balance | 30,000 |
| Cousins Welfare (Chama Balance) | 51,000 |
| Total liabilities | 9,331,000 |
| Approximate Net worth | 30,890,300 |

27. Potential Conflicts of Interest:

- (a) Identify the family members or other persons, parties, categories obligation or financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to rise.

There are no potential conflicts of interest I am aware of at the moment. If however, any comes to my attention, I will immediately declare the nature of the conflict and take mitigation measures to resolve it depending on the nature of the conflict.

- (b) Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern

I will immediately declare the potential conflict of interest including its nature and the parties involved.

28. Pro-Bono/Charity Work/Donations to charity: (Describe what you have done by way of pro bono or charity work, listing specific instances, the amount contributed and the amount of time devoted to each).

- i. I have contributed to various Corporate Social Responsibility (CSR) activities for the Association of Women Accountants of Kenya
- ii. I have personally paid for the education of the children of my house manager together with other relatives
- iii. I have been supporting several people affected by the closure of business during Covid-19 pandemic with a little money for shopping
- iv. I have on various occasions contributed for treatment, weddings and burials affecting family, friends and colleagues with amounts ranging from KES 2000 to KES 15,000 depending on the nature of illness
- v. I support a children's home near my estate together with my neighbours where I have occasionally contributed clothes and foodstuff as well as money for shopping for necessities
- vi. I contribute for the annual Prize Giving Day of a Primary School in my home county
- vii. I have been giving a little money (tokens of appreciation) occasionally to security guards at the estate and the mall nearest my home area
- viii. I contributed KES. 10,000 to the Covid-19 Fund through our Office

29. Have you ever been charged in a court or law in the last three years? If so, specify the nature of the charge, where the matter is ongoing, the present status of the matter, or

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where the matter is concluded, the judgment of the court, or otherwise, how the case was concluded.

No. I have not been charged in a court of law.

30. Have you ever been adversely mentioned in an investigatory report of Parliament or any other Commission of Inquiry in the last three years?

No. I have not been mentioned in any investigation.

30. Have you any objection to the making of enquiries with your present employer/referees in the course of consideration of your nomination?

NONE

31. **References:** (List three persons who are not your relatives who are familiar with your character, qualification and work).

Mr. Humplrey Wanyama
Internal Audit Services
County Government of Kakamega
P.O. Box 36 50100
Kakamega
Email: hwogola@gmail.com
Tel: +254718666166

Amb. Josephine W. Gaita, MBS
P.O. Box 303- 10102
Kiganjo, Nyeri
Email: jwgaita@gmail.com
Tel: +254-724-052904

Mrs. Joyce Ongayo
Former Human Resource Manager
Kenyatta National Hospital
P. O. Box 62270-00200, NAIROBI
Tel: +254-733-778512

No. 33 of 2011 [Rev. 2012]

Public Appointments (Parliamentary Approval)
[Issue 1] 10

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**JOMO KENYATTA UNIVERSITY
OF**

AGRICULTURE AND TECHNOLOGY

P.O. BOX 62006, CITY SQUARE, NAIROBI, 00310, KENYA. TELEPHONE: (061) 52111. MOBILE NO. 0708-400-221
FAX: (067) 52445, THIKA
Office of the Director (BPS)
E-mail: director@bps.jkuat.ac.ke

REG. HDR411-C004-0048/2018

Date: 24th April, 2018

Gathunga Nancy Kabui
Dear Applicant,

RE: ADMISSION FOR POSTGRADUATE STUDIES:

Following your application I am pleased to inform you that you have been offered admission to a Doctoral (Ph.D) Programme in Business Administration at JKUAT Nairobi CBD Campus. Kindly note that this admission is valid for two (2) years after which the applicant will be required to re-apply.

The offer of admission does not include any funding. You or your sponsor will meet all fees and other charges. The reporting date is on 02nd May, 2018. No registration will be accepted after the second week from this date.

Registration for the programme will only be possible on payment of the requisite fees and upon verification of your Original Certificates and National ID Card/Passport.

Fees should be paid through:

1. Barclays Bank, Naia Branch, Account Number 030721022145


Please remember to get the Pay-In-Slips to be presented to the University during the registration. You will be required to report to the Director, Nairobi CBD Campus.

Enclosed please find copies of the following:

1. Fees Schedule
2. Acceptance/Registration Forms
3. Medical Examination Form

Please feel free to contact the Director, Board of Postgraduate Studies or the undersigned if you need further clarification on any matter regarding the above issue.

Yours faithfully


PROF. MATHEW KINYANJUI
DIRECTOR, BOARD OF POSTGRADUATE STUDIES

Copy to:

Registrar, AA
Director, Nairobi CBD Campus

Encl.

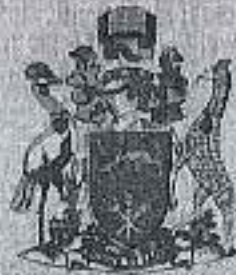


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UNIVERSITY OF NAIROBI



This is to certify that

Nancy K. Gathungu

having satisfied the requirements
for the award of the degree of the

**MASTER OF BUSINESS
ADMINISTRATION**

was admitted to the degree
at a Congregation held at
this University on the

Nineteenth Day of December in the Year
2008

A handwritten signature in black ink, appearing to be 'S. M. O. O.'.

VICE-CHANCELLOR

A handwritten signature in black ink, appearing to be 'K. M. O. O.'.

DEPUTY VICE-CHANCELLOR (ACADEMIC AFFAIRS)

2764

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UNIVERSITY OF NAIROBI



This is to certify that

Nancy Kabui Bathungu

having satisfied the requirements
for the award of the degree of the

**BACHELOR OF COMMERCE
(ACCOUNTING OPTION)**

Second Class Honours (Upper Division)

was admitted to the degree
at a Congregation held at
this University on the

**Eighth Day of November in the Year
1993**

A large, stylized handwritten signature in black ink.

VICE-CHANCELLOR

A smaller handwritten signature in black ink.

DEPUTY VICE-CHANCELLOR (ACADEMIC AFFAIRS)

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Our Ref: ICPAK/C&S/LGS/022/06/2020

Monday, June 22, 2020

To Whom It May Concern:

Dear Sir,

RE: CPA NANCY KABUI GATHUNGU - M/NO 4893

We write to confirm that CPA Nancy Kabui Gathungu is a member of the Institute of Certified Public Accountants of Kenya, which is the professional accountancy body recognized by Law to regulate Accountants in Kenya. Her membership number is 4893 and her practicing certificate number is P/2139.

Members of the Institute who are in good standing are required to adhere to the code of Ethics for Accountants, pay subscriptions on time and attain the required hours of continuous professional development training in each calendar year. We confirm that CPA Nancy Kabui Gathungu is in good standing as of this date.

Kindly accord her the required assistance deemed necessary and do not hesitate to contact the undersigned for any further clarifications.

Yours faithfully,

CPA Dr. Nebart Ayutswa,
Chief Manager, Professional Division
FOR: CHIEF EXECUTIVE OFFICER

Institute of Certified Public Accountants of Kenya
CPA Centre, 10th Floor, Ruaka, Thika Road
P.O. Box 09802 - 00200
Nairobi Kenya

Tel: +254 (0)20 2804225, 2804227
Call: +254 727 531006 / 733 555862
+254 721 420756 / 721 469169

Web: www.cpak.com
Drop in box no. 16A
Reside: Professional Plaza

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**Institute of
Certified Public Accountants
of Kenya**

Established under the Accountants Act (Cap 531), 19 July 1977

Membership Certificate

This is to certify that

Lancy Kabui Gathungu

is a

Member

of the

Institute of Certified Public Accountants of Kenya

Given under the common seal of the Institute

[Signature]

Chairman of Council

[Signature]

Member of Council

[Signature]

Secretary to Council

15th March, 2007

Date of Issue



The Certificate is the property of the Institute of Certified Public Accountants of Kenya and must be returned to the Institute upon request.

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Established under the Accountants Act No. 15 of 2008

PRACTISING CERTIFICATE

This is to certify that

CPA Nancy Kabui Gathungu

Having complied with the provisions of the Accountants Act No. 15 of 2008 is hereby authorized to practise in Kenya as a Certified Public Accountant Subject to holding a valid annual licence under practising Number

P/2139

Given under our hand and the common seal of the Institute Of Certified Public Accountants of Kenya

This 18th Day of March 2015

Re-issued 1st January 2016

Chairman of the Council

Chairman of the R & QA Committee

Secretary to Council



This certificate is the property of the Institute of Certified Public Accountants of Kenya and must be returned to the Institute upon request.
A member of Eastern, Central and Southern African Federation of Accountants & International Federation of Accountants

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R/4893



Established under the Accountants Act No. 15 of 2008

ANNUAL PRACTISING LICENSE-2020

This is to certify that

CPA Nancy Kabui Gathungu

Having complied with the provisions of the Accountants Act No. 15 of 2008 is hereby authorized to practise in Kenya as a Certified Public Accountant in the Name and Style of

Office of the Auditor- General

Under Practising Number

P/2139

This Authority is valid up to 31st December 2020 and is renewable annually. Given under our hand and the common seal of the Institute of Certified Public Accountants of Kenya this 1st day of January 2020

Secretary to Council



This certificate is the property of the Institute of Certified Public Accountants of Kenya and must be returned to the Institute upon request.
A member of the ICAEW Federation of Accountants & International Federation of Accountants

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02 JUL 2020

DIRECTOR GENERAL SECRETARY

Time: 12:00 PM Date: 02/07/2020

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CONSTITUTION AND REFORM EDUCATION CONSORTIUM - CRECO

P.O. Box 2231 - 00200, City Square, Nairobi, Kenya Mobile: +254 722 209 779
Email: info@crecokenya.org Website: www.crecokenya.org

Our Ref: OAG-PP062020

Date: 30th June 2020

The Clerk,
Kenya National Assembly,
Parliament Buildings,
P.O. Box 41842 - 00100,
NAIROBI, KENYA

The Chairperson,
Departmental Committee on Finance and National Planning,
Kenya National Assembly,
Parliament Buildings,
P.O. Box 41842 - 00100,
NAIROBI, KENYA

Email: clerk@parliament.go.ke

ADVISORY ON THE APPOINTMENT OF THE AUDITOR GENERAL

The Constitution and Reform Education Consortium (CRECO) is a coalition of 23 Civil Society Organizations (CSOs) working on democracy, governance, legal and human rights issues. It was founded in 1998 and registered as a Charitable Trust. The Consortium is composed of CSOs working in different sectors but with a common aim of promoting constitutionalism and good governance in Kenya

Following a recent communication by State House on the nomination of Nancy Gathungu as the successful candidate for the position of Auditor General of the Republic of Kenya, we wish to make the following observations which touch on the integrity of the recruitment process for this critical position, which fell vacant in August 2019, following the end of tenure of its previous office holder, Mr. Edward Ouko:

1. There have been concerns raised on the integrity of the recruitment process, key among these being the level of competency among the shortlisted applicants both in the first and second round of interviews. The first recruitment panel had concluded that they were unable to find a suitable candidate from the pool of applicants, yet the second panel proceeded to recommend to the President three suitable candidates as required by law,



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Zimbra

clerk@parliament.go.ke

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ADVISORY ON THE APPOINTMENT OF THE AUDITOR GENERAL BY NATIONAL TAXPAYERS ASSOCIATION

From : lotieno@nta.or.ke

Tue, Jun 30, 2020 04:58 PM

Subject : ADVISORY ON THE APPOINTMENT OF THE AUDITOR GENERAL BY NATIONAL TAXPAYERS ASSOCIATION

To : clerk@parliament.go.ke

1

2

The Clerk,
Kenya National Assembly,
Parliament Buildings,
P.O. Box 41842 - 00100,
NAIROBI, KENYA

30 JUN 2020

The Chairperson,
Departmental Committee on Finance and National Planning,
Kenya National Assembly,
Parliament Buildings,
P.O. Box 41842 - 00100,
NAIROBI, KENYA

ADVISORY ON THE APPOINTMENT OF THE AUDITOR GENERAL

Following a recent communication by State House on the nomination of Nancy Gathungu as the successful candidate for the position of Auditor General of the Republic of Kenya, we wish to make the following observations which touch on the integrity of the recruitment process for this critical position, which fell vacant in August 2019, following the end of tenure of its previous office holder, Mr. Edward Ouko:

1. There have been concerns raised on the integrity of the recruitment process, key among these being the level of competency among the shortlisted applicants both in the first and second round of interviews. The first recruitment panel had concluded that they were unable to find a suitable candidate from the pool of applicants, yet the second panel proceeded to recommend to the President three suitable candidates as required by law, from the same pool of initial applicants. As such, it is important that Parliament undertakes to scrutinize the process leading up to this nomination, including what changed in the first and second selection processes and ensure that all the information on the process and outcome of the selection process is published.

2. Parliament equally needs to take appropriate measures to address the transitional challenges which exist within the Public Audit Act, and which have created a void in this critical office including a lack of substantive handover between the person vacating office and the incoming office holder. Unless this lacuna is fixed, the governance challenges witnessed over the last ten months as a result of poor transition in this office will recur in future. We specifically propose an amendment to Section 12 of the Public Audit Act, to give specific timelines within which a substantive Auditor General would be appointed.

3. Our partner Transparency International Kenya and the African Centre for Open Governance and other partners after the enactment of the Public Audit Act, 2015, challenged some provisions in the Act which were found to be unconstitutional. Sections 12 and 17 of the Public Audit Act on the proposed role of the Public Service Commission in hiring and redesigning of the Office of the Auditor General were declared unconstitutional. The Court in its judgment reiterated that the Office of the Auditor General is an independent office and any involvement by PSC would affect the independence of the OAG as envisioned in the Constitution. Unfortunately, the Public Service Commission has remained active in the recruitment process of the current Auditor General in violation of the Public Audit Petition NO. 388/2016 judgement.

4. We reiterate the importance of the office of the Auditor General in the fight for accountability. Additionally, the independence of the head of this institution will be the only way to justify payment of taxes in Kenya and will go a long way in addressing the poor tax collection that KEA has continued to post.

5. Parliament must ensure that the process leading up to the nomination of an individual to the position of the Auditor General is above board

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02 JUL 2020
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THE NATIONAL ASSEMBLY
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SENIOR DEPUTY CLERK
LEGISLATIVE & PROCEDURAL SERVICES
P.O. BOX 41842 - 00100, NAIROBI

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and espouse integrity, as this will bolster public confidence in the abilities and independence of the successful candidate. We therefore invite Parliament to among others, consider the cases and rulings previously made in this process, as part of their vetting process to uphold the rule of law.

Irene Otieno
National Coordinator
National Taxpayers Association
P.O Box 4037-00506, Nairobi
Delight Apartments, House 574
Off Miani Road, Kilimani
Office: +254 714 500 940
Personal: +254 728 743 728
Website: www.nta.or.ke

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30th June 2020

The Clerk,
Kenya National Assembly,
Parliament Buildings,
P.O. Box 41842 – 00100,
NAIROBI, KENYA

The Chairperson,
Departmental Committee on Finance and National Planning,
Kenya National Assembly,
Parliament Buildings,
P.O. Box 41842 – 00100,
NAIROBI, KENYA

30 JUN 2020

ADVISORY NOTE ON THE RECRUITMENT OF THE AUDITOR GENERAL

Transparency International–Kenya (TI-Kenya) is a not-for-profit organization founded in 1999 in Kenya with the aim of developing a transparent and corruption-free society through good governance and social justice initiatives. TI-Kenya is one of the autonomous chapters of the global Transparency International movement that are all bound by a common vision of a corruption-free world. The vision of TI-Kenya is that of a transparent, accountable and corruption-free Kenya and the mission is to transform the society and institutions by supporting the development of high integrity leadership in all sectors and at all levels.

Underscoring the need for integrity in the process

- The mandate of the Office of the Auditor General (OAG) as stipulated in the Constitution of Kenya and the Public Audit Act, 2015 is to carry out audits of all entities funded by the Government and report to Parliament and the relevant County Assemblies. Further, the Constitution requires the OAG to confirm whether or not public money has been applied lawfully and in an effective way. This requires the OAG to go beyond accounts' certification and compliance to look into issues that address the economy, efficiency and effectiveness with which public resources have been applied and utilized, including the impact on the lives of citizens.
- For the Auditor General's office to effectively undertake its duties and functions as envisaged under the Constitution, it ought to be fully independent. Attaining this Constitutional requirement on the independence of the office, includes, but is not limited to the entire process of recruiting the holder of the Office of the Auditor General.

THE NATIONAL ASSEMBLY
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NATIONAL ASSEMBLY
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03 JUN 2020

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- Following a recent communication by State House on the nomination of Nancy Gathungu as the successful candidate for the position of Auditor General of the Republic of Kenya, we wish to make the following observations which touch on the integrity of the recruitment process for this critical position, which fell vacant in August 2019, following the end of tenure of its previous office holder, Mr. Edward Ouko:
 - There have been concerns raised on the integrity of the recruitment process, key among these being the level of competency among the shortlisted applicants both in the first and second round of interviews. Previously, the first recruitment panel had concluded that it was unable to find a suitable candidate from the pool of applicants, yet the second panel proceeded to recommend to the President the names of three candidates, from the same pool of initial applicants. As such, it is important that Parliament undertakes to scrutinize the process leading up to this nomination, including what changed in the first and second committee finding and ensure that all information on the outcome and process of the selection process is published.
 - Parliament equally needs to take appropriate measures to address the transitional challenge which exists within the Public Audit Act, which has been noted to create a void in this critical office without any substantive handover between the person vacating office and the current office holder. Unless this lacuna is fixed, the governance challenges witnessed over the past ten months as a result of the poor transition in this office will recur in future. We specifically propose an amendment to Section 12 of the Public Audit Act, to give specific timelines within which a substantive Auditor General would be appointed.
 - After the enactment of the Public Audits Act, 2015, Transparency International Kenya and the African Centre for Open Governance challenged some provisions in the Act which were found to be unconstitutional including proposed provisions on the role of the Public Service Commission in the hiring and redesigning of the Office of the Auditor General. The Court in its judgment reiterated that the Office of the Auditor General is an independent office and any involvement by PSC would affect the independence of the OAG as envisioned in the Constitution. Unfortunately, the Public Service Commission has remained active in the recruitment process of the current Auditor General in violation of the Public Audit Petition NO. 388/2016 judgment. PSC actions have therefore been in contempt.
 - The Office of the Auditor General is critical in the fight against corruption, and plays an integral role in public finance management. In the absence of an independent, competent and substantive holder of office, the effectiveness and lawfulness of public expenditure cannot be assured. Earlier this year, we witnessed a number of violations among key public institutions, which could be attributed to the void left within this independent office. For instance, the Central Bank of Kenya failed to submit the 2018/19 financial accounts, citing the absence of a signature by the Auditor General. This is a gross violation of the legal framework upon which public finance is managed, and could be a smoking gun for worse revelations in the days and months to come.

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Parliament must ensure that the process leading up to the nomination of an individual to the position of the Auditor General is above board and espouses integrity, as this will bolster public confidence in the abilities of the successful candidate. We therefore invite Parliament to among others, consider the cases and rulings previously made in this process, as part of their vetting process to uphold the rule of law.

We further urge the relevant Committee to make the proposed changes to the Act to guard against similar scenarios in the future.

Ms Sheila Masinde



**Executive Director
Transparency International Kenya**

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APPENDIX 9 (iv)



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Africa Centre for Open Governance
Kabasiran Avenue, off James Gicau, Road, Livingston
P. O. Box 18157 - 00100 Nairobi Kenya
Tel: +254 20 4443307 / 0727 463186 / 0728 - 787928 | admin@aficog.org | www.aficog.org

1

June 30 2020

Memorandum to National Assembly, Twelfth Parliament – Fourth Session

in the matter of approval by the national Assembly of person nominated for appointment to the position of the Auditor-General

Following a recent communication by State House on the nomination of Nancy Gathungu as the successful candidate for the position of Auditor-General of the Republic of Kenya, we wish to make the following observations which touch on the integrity of the recruitment process for this critical position, which fell vacant in August 2019, following the end of the tenure of its previous office holder, Mr. Edward Ouko:

1. There have been concerns raised on the integrity of the recruitment process, key among these being the level of competency among the shortlisted applicants both in the first and second round of interviews. The first recruitment panel had concluded that they were unable to find a suitable candidate from the pool of applicants, which included Ms. Gathungu, yet the second panel proceeded to recommend to the President three suitable candidates as required by law, from the same pool of initial applicants. As such, it is important that Parliament undertakes to scrutinize the process leading up to this nomination, including what changed in the first and second selection processes and ensure that all the information on the process and outcome of the selection process is published.
2. In scrutinising the process, Parliament should also be able to reassure the public that it has respected the judgment of the Court on Petition No. 244 of 2019, delivered on March 12, 2020. The Court directed that the Attorney General present the report of the Selection Committee to Parliament. It is not in the public domain if this was done. If it has not been done, then every effort should be made to see that it is done before proceeding.
3. Also of relevance to ascertaining the integrity of the process before proceeding with the nomination, is the declaration by the Court to the effect that the Selection Panel appointed through Gazette Notice No. 8896 lacked the legal competence and validity to consider any applications for the re-advertised vacancy for the position of the Auditor-General before the extension of its life or to constitution afresh. Parliament should be able to allay public concerns on this issue.
4. Parliament equally needs to take appropriate measures to address the transitional challenges which exist within the Public Audit Act, and which have created a void in this critical office, including a lack of substantive handover between the person vacating office and the incoming office holder. Unless this lacuna is fixed, the governance challenges witnessed over the last ten months as a result of poor transition in this office will recur in future. We specifically propose an amendment to

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the Public Audit Act on the proposed role of the Public Service Commission in hiring and redesigning of the Office of the Auditor General were declared unconstitutional. The Court in its judgment reiterated that the Office of the Auditor General is an independent office and any involvement by PSC would affect the independence of the OAG as envisioned in the Constitution. Unfortunately, the Public Service Commission has remained active in the recruitment process of the current Auditor General in violation of the **Public Audit Petition NO. 388/2016** judgement.

6. The Office of the Auditor General is critical in the fight against corruption, and plays an integral role in public finance management. In the absence of an independent, competent and substantive holder of office, transparency and accountability in public finance management can not be effectively realised.

Parliament must ensure that the process leading up to the nomination of an individual to the position of the Auditor General is above board, beyond reproach and espouses integrity, as this will bolster public confidence in the abilities and independence of the successful candidate. We therefore invite Parliament to among others, consider the cases and rulings previously made in this process, as part of their vetting process to uphold the rule of law.

We remain

Yours faithfully,



Gladwell Wathoni Otieno

Executive Director

Zimbra

clerk@parliament.go.ke

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ADVISORY ON THE APPOINTMENT OF THE AUDITOR GENERAL

From : Oduopuot <oduopuot@yahoo.com>

Tue, Jun 30, 2020 04:59 PM

Subject : ADVISORY ON THE APPOINTMENT OF THE AUDITOR GENERAL

To : clerk@parliament.go.ke

Reply To : oduopuot@yahoo.com

The Clerk,
Kenya National Assembly,
Parliament Buildings,
P.O. Box 41842 - 00100,
NAIROBI, KENYA

The Chairperson,
Departmental Committee on Finance and National Planning,
Kenya National Assembly,
Parliament Buildings,
P.O. Box 41842 - 00100,
NAIROBI, KENYA

ADVISORY ON THE APPOINTMENT OF THE AUDITOR GENERAL

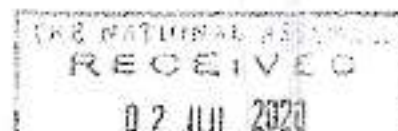
Following a recent communication by State House on the nomination of Nancy Gachungu as the successful candidate for the position of Auditor General of the Republic of Kenya, we wish to make the following observations which touch on the integrity of the recruitment process for this critical position, which fell vacant in August 2019, following the end of tenure of its previous office holder, Mr. Edward Ouko:

1. There have been concerns raised on the integrity of the recruitment process, key among those being the level of competency among the shortlisted applicants both in the first and second round of interviews. The first recruitment panel had concluded that they were unable to find a suitable candidate from the pool of applicants, yet the second panel proceeded to recommend to the President three suitable candidates as required by law, from the same pool of initial applicants. As such, it is important that Parliament undertakes to scrutinize the process leading up to this nomination, including what changed in the first and second selection processes and ensure that all the information on the process and outcome of the selection process is published.
2. Parliament equally needs to take appropriate measures to address the transitional challenges which exist within the Public Audit Act, and which have created a void in this critical office including a lack of substantive handover between the person vacating office and the incoming office holder. Unless this lacuna is fixed, the governance challenges witnessed over the last ten months as a result of poor transition in this office will recur in future. We specifically propose an amendment to Section 12 of the Public Audit Act, to give specific timelines within which a substantive Auditor General would be appointed.
3. After the enactment of the Public Audit Act, 2019, Transparency International Kenya and the African Centre for Open Governance and other partners challenged some provisions in the Act which were found to be unconstitutional. Sections 12 and 17 of the Public Audit Act on the proposed role of the Public Service Commission in hiring and redesigning of the Office of the Auditor General were declared unconstitutional. The Court in its judgment reiterated that the Office of the Auditor General is an independent office and any involvement by PSC would affect the independence of the OAG as envisioned in the Constitution. Unfortunately, the Public Service Commission has remained active in the recruitment process of the current Auditor General in violation of the Public Audit Petition NO. 398/2016 judgement.
4. The Office of the Auditor General is critical in the fight against corruption, and plays an integral role in public finance management. In the absence of an independent, competent and substantive holder of office, transparency and accountability in public finance management can not be effectively realised.

Parliament must ensure that the process leading up to the nomination of an individual to the position of the Auditor General is above board and espouses integrity, as this will bolster public confidence in the abilities and independence of the successful candidate. We therefore invite Parliament to among others, consider the cases and rulings previously made in this process, as part of their vetting process to uphold the rule of law.

Kind regards

Chief Executive Officer
Centre for Enhancing Democracy and Good Governance



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Kenyans for Justice

Summit House, Room 8, University Way; P. O. Box 13378 (00100), Tel: 077 048 926
 Email:kenyansforjustice12@gmail.com

Our Ref: 01.007/2020 Your Ref:..... Date: 29th, June, 2020

The Chairperson
 National Assembly Committee
 on Finance and National Planning
 Thru
 The Clerk, National Assembly
 Tel: 254 2 2221291 or 2848000
 Fax: 254 2 2243694
 E-mail: clerk@parliament.go.ke

Dear Sir/Madam

Re: Petition against Auditor-General Nominee Ms Nancy Janet Kabui Gathungu

We, the undersigned, are patriotic Kenyans and wish to bring to your attention salient facts concerning the Nominee for Auditor-General, Ms Nancy Janet Kabui Gathungu, which in our opinion make her unsuitable for the post.

We humbly appeal to your committee to carry out thorough investigations on the same.

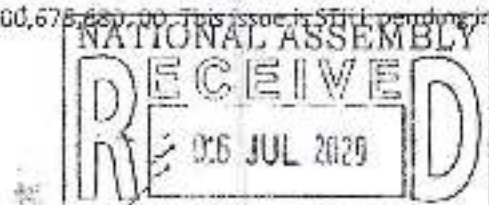
1. That the Nominee, Ms Nancy Janet Kabui Gathungu, was the Personal Assistant of the former Auditor-General Mr. Edward Ouko during the period in which the former Auditor-General faced impropriety allegations which are contained in the petition for the Removal of Auditor-General that has not been concluded by the National Assembly.

a). The Office of the Auditor-General violated Article 254 (3) of the Constitution which provides that as soon as practicable after the end of each Financial Year, each commission and each holder of an independent office, SHALL submit a report to the President and to Parliament. Although the Office later submitted years later, the nominee was part of the gross violation of the Constitution.

b). Contrary to Article 201 (d) of the Constitution, the Office of the Auditor-General irregularly assigned the external audit firm other extra work to review internal control systems which ordinarily formed part of the external audit assignment. The external auditor was consequently paid an extra Kshs.7,000,000.00

c). Contrary to Article 201 (d) of the Constitution, the project for partitioning the Head Office was initiated in 2012 where the consultants were paid Kshs.25,000,000.00 but no partitioning was done therefore public funds were lost.

d) Contrary to Article 201 (d) of the Constitution, the Office of the Auditor General irregularly procured the audit vault software at a cost of Kshs.100,675,680.00. This issue is still pending.



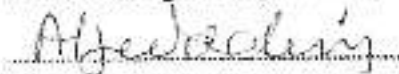
court where two officials of the Office of the Auditor General have been charged and many other issues.

Given that these irregularities occurred at a time when Ms Nancy Janet Kabui Gathungu was the Personal Assistant to the Auditor-General, and that she was fully aware of them and failed to raise an issue, can the general public then trust her with the affairs of handling public funds? The answer is definitely a Big NO.

2. That according to Section 5 (1) of the Public Audit Act 2005, a person shall be deemed as qualified for appointment as the Auditor General if such person is a practicing member of good standing of a professional body of accountants recognised by law. However, the nominee DOES NOT meet this criteria as she is not a practicing member of good standing due to the following:
 - a) Section 18 (1) of the Accountants Act provides that NO person shall practice as an accountant unless he or she is the holder of a practicing certificate and a license to practice that are in force. The Annual license is issued under Section 22 of the Accountants Act after meeting certain criteria. The Nominee DOES NOT hold the Annual Practicing License for the year 2020 as required by the Accountants Act and therefore she IS NOT of good standing with the professional body as a practicing member.
 - b) That the nominee has not conducted any financial audit in the Office of the Auditor-General since she was employed in that office in 2005. If the CORE mandate of the Office of the Auditor-General under Article 229 of the Constitution is to audit the accounts of public entities, county governments and national government, how can she be entrusted with the SOLE DUTY to AUDIT and REPORT within six months after the end of each Financial Year.
4. From the above it is clear the nominee does not qualify for the position. We humbly remind you that when the nominee first sought to head the Kenya National Audit Office (KENAO), the selection panel headed by seasoned accountant Sammy Oryango returned a verdict that she lacked the diplomacy and tact to handle the duties ahead. We are convinced your committee will reach a similar verdict once you do due diligence.

Yours faithfully

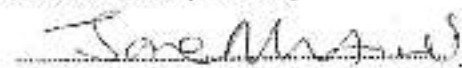
Alfred Ochieng Oduor (Chairman)



Joseph Ngure (Secretary)



Janet Mutinda (Member)



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Republic of Kenya
THE PUBLIC SERVICE COMMISSION

THE REPORT OF THE PANEL ON THE SELECTION OF NOMINEES FOR
APPOINTMENT AS AUDITOR- GENERAL

JUNE, 2020

[Handwritten signature]

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Table of Contents

Contents

Executive Summary ii

1.0 Preamble..... 1

 1.1 Qualifications for Appointment 1

 1.2 Declaration of Vacancy..... 2

 1.3 Re-advertisement of the office of the Auditor-General..... 2

 1.4 The Selection Panel..... 2

2.0 The Shortlisting Criteria..... 3

 2.1 Shortlisting of Applicants..... 4

3.0 The Interview Process..... 4

 3.1 The Interviews..... 5

 3.2 Selected Applicants..... 6

Appendices..... 7

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The office of the Auditor-General fell vacant on 27th August, 2019 following the expiry of term of the then holder. Pursuant to Section 11 (2) of the Public Audit Act, 2015 and vide Kenya Gazette Vol. CXXI - No 111 (Gazette Notice No B004) dated 27th August, 2019, H. E. The President declared a vacancy in the office of Auditor General and simultaneously invited applications from qualified persons.

The position of the Auditor-General was advertised in accordance with the law and the recruitment process commenced. This initial recruitment was however not successful thereby necessitating the re-advertisement of the position. Consequently, the vacancy in the office of the Auditor-General was re-advertised on 17th December, 2019 as required by law, with 30th December, 2019 being the deadline for submission of applications.

On 17th April, 2020, H.E. The President through Kenya Gazette Vol. CXXII-No 68 appointed a Selection Panel for purposes of considering the applications for the re-advertised vacancy and selecting at least three persons qualified for appointment as Auditor - General.

The Selection Panel was inaugurated on 22nd April, 2020 and commenced the recruitment exercise. The Panel developed a shortlisting criteria which was subsequently used to shortlist suitable applicants. Ten applicants out of the 64 were shortlisted for the interview. The Selection Panel subsequently published the names of all applicants, those shortlisted and their interview schedules in the Kenya Gazette Vol. CXXII dated 15th May, 2020 (Gazette Notice No. 3542). The names of the shortlisted candidates were also published in the Daily Nation of 19th May, 2020. The interviews were conducted on the 2nd and 3rd June, 2020 at the Public Service Commission.

Upon conclusion of the interviews, the Panel selected the following three persons who are qualified for appointment as Auditor-General:

1. CPA Nancy Janet Kabui Gathungu
2. CPA Silverster Ngel Kiini
3. FCPA Benson Ochlang Okundi

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1.0 Preamble

Pursuant to Article 229 (1) of the Constitution, the Office of the Auditor – General is created as an independent Office. The holder of the Office is nominated by the President, and with the approval of the National Assembly, appointed by the President. The minimum qualifications for a person to be considered for appointment to that position are set out in Article 229 (2), Article 250 (3) of the Constitution and Section 5 (1) of The Public Audit Act, 2015. Article 229 (3) stipulates that the Auditor – General shall hold office for a term of eight (8) years and shall not be eligible for re-appointment.

1.1 Qualifications for Appointment

Article 229 (2) of the Constitution and Section 5 (1) of the Public Audit Act, 2015, provides that for a person to be qualified for appointment as Auditor - General, one should:

- (a) be a citizen of Kenya;
- (b) have extensive knowledge of public finance, or at least ten (10) years' experience in auditing or public financial management;
- (c) hold a degree in finance, accounting or economics from a university recognized in Kenya;
- (d) meet the requirements of chapter six; and
- (e) be a practicing member in good standing of a professional body of accountants recognized by law.

A person is not eligible for appointment as the Auditor – General if such person-

- (a) is a member of Parliament or County Assembly;
- (b) is an official of a governing body of a political party;
- (c) is an undischarged bankrupt;
- (d) has been removed from office for contravention of any law.

—

1.2 Declaration of Vacancy

The office of the Auditor – General fell vacant on the 27th August, 2019 following the expiry of term of the holder. Consequently, and in exercise of the powers conferred by Section 11 (2) of the Public Audit Act, 2015, H.E. The President of the Republic of Kenya and Commander - In - Chief of the Defense Forces vide Kenya Gazette Vol. CXXI - No 111 (Gazette Notice No B004) dated 27th August 2019 declared a vacancy in the position of the Auditor - General (Annex 1). The President vide the same Gazette Notice invited applications from suitably qualified persons for the position of the Auditor – General.

1.3 Re-advertisement of the Office of Auditor-General.

The vacancy in the office of the Auditor- General was re-advertised in the Daily Nation and The Star of 17th December, 2019 (Annex 2). It was further advertised in NTV, KBC Television, KBC English Channel and the Citizen Radio (Annex 2A and 2B respectively). This advert was also uploaded on the Public Service Commission website www.publicservice.go.ke and prospective applicants given the opportunity to apply by 5.00pm of 30th December, 2019.

The prospective applicants were required to submit their applications to The Secretary/ Chief Executive Officer, Public Service Commission of P. O. Box 30095-00100 Nairobi, or electronically to auditor-general@publicservice.go.ke by 5.00pm on the 30th December, 2019.

The re-advertised vacancy in the office of the Auditor - General attracted 64 applicants from the public and private sectors. (Annex 2C).

Upon re-advertising the vacancy in the office of the Auditor-General, a court case was filed challenging, *inter alia*, the legality of the Selection Panel to consider the fresh applications and public participation. The Court in its decision dated 12th March, 2020, found that the initial Selection Panel lacked the legal competence to act on or process the recruitment arising from the re-advertisement. The Court further found that the recruitment process was substantially in compliance with the tenets of public participation.

1.4 Selection Panel

H.E The President pursuant to Section 11 (5) of the Public Audit Act, 2015, constituted the Selection Panel vide Kenya Gazette Vol. CXXII-No. 68 dated 17th April, 2020 for purposes

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of considering the applications for the re-advertised vacancy and selecting at least three persons qualified for appointment as Auditor – General. (Annex 3).

The Selection Panel was inaugurated by the Chairman, Public Service Commission on Wednesday, 22nd April, 2020 and proceeded to hold its first meeting on the same day.

2.0 The Shortlisting Criteria

The Selection Panel, drawing from Article 229 of the Constitution and the Public Audit Act, 2015 developed and approved the criteria to be applied in shortlisting applicants for the re-advertised position of the office Auditor-General.

A person qualifies for appointment as Auditor-General if he/she:

- a) is a Citizen of Kenya;
- b) has extensive knowledge of public finance, or at least ten (10) years' experience in auditing or public finance management;
- c) holds a degree in finance, accounting or economics from a university recognized in Kenya;
- d) is a practicing member in good standing of professional body of accountants recognized by law and
- e) meets the requirements of Chapter Six of the Constitution.

In order to independently satisfy itself that the applicants met the requirements of Chapter Six of the Constitution, the Selection Panel sought clearances for shortlisted candidates from the following institutions:

- (i) Ethics and Anti-Corruption Commission;
- (ii) Directorate of Criminal Investigations;
- (iii) Higher Education Loans Board;
- (iv) Commission for University Education;
- (v) Kenya Revenue Authority; and
- (vi) Institute of Certified Public Accountants of Kenya (ICPAK).

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2.1 Shortlisting of Applicants

Using the criteria set out in Part 2.0 above, the Selection Panel embarked on the shortlisting exercise and ten (10) applicants were shortlisted.

The Selection Panel subsequently published the names of all applicants, those shortlisted and their interview dates in the Kenya Gazette Vol. CXXII-No. 87 (Gazette Notice 3542) of 15th May 2020. (Annex 4). The same information was also uploaded on the Public Service Commission website www.publicservice.go.ke.

The names of those shortlisted and their interview dates were also published in the Daily Nation of 19th May, 2020 and further uploaded on the Public Service Commission website. (Annex 5.) Members of the public were invited to make submissions in writing to the Selection Panel. This was to satisfy the requirement of public participation as provided for by law and in keeping with the decision of the Court in the earlier petition.

The shortlisted candidates were informed of their interview dates by email, telephone calls and print media while administrative arrangements were made to facilitate their travel for interviews (Annex 6).

Following the outbreak of the novel COVID -19 pandemic and the Public Health Regulations introduced to curb the spread of the disease including social distancing and restricted gatherings, it was not possible to allow actual physical presence of members of the public into the interviews (Annex 7).

3.0 The Interview Process

An interview tool was developed for use during the interview by the Selection Panel (Annex 8).

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3.1 The Interviews

The ten (10) shortlisted candidates were interviewed on the 2nd and 3rd June, 2020 at the Public Service Commission. The following is the performance and ranking of the ten (10) applicants:

| RANKING | NAME OF APPLICANTS | PANELIST | | | | | | | TOTAL SCORES (%) | AVERAGE SCORES (%) |
|---------|-----------------------------------|----------|----|----|----|----|----|----|------------------|--------------------|
| | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | | |
| 1. | Nancy Janet Kabui Gathungu | 65 | 77 | 56 | 84 | 55 | 81 | 70 | 492 | 70.3 |
| 2. | Silvester Ngei Kiini | 73 | 76 | 60 | 75 | 57 | 53 | 63 | 456 | 65.1 |
| 3. | Benson Ocheng Okundi | 66 | 62 | 67 | 55 | 61 | 71 | 68 | 450 | 64.3 |
| 4. | Edwin Kipkoeh Kamar | 65 | 60 | 61 | 55 | 65 | 70 | 71 | 447 | 63.9 |
| 5.* | Dennis Theuri Karuki* | 55 | 45 | 42 | 44 | 61 | 54 | 56 | 361 | 51.6 |
| 6. | Leonard R Lari (Dr.), PhD | 56 | 54 | 52 | 49 | 57 | 51 | 56 | 375 | 53.6 |
| 7. | Idris Abdi Abdulkah | 47 | 49 | 39 | 33 | 54 | 42 | 59 | 323 | 46.1 |
| 8. | Paul Wangila Masinde | 42 | 49 | 37 | 43 | 54 | 44 | 52 | 321 | 45.9 |
| 9.* | Elizabeth Wangui Nguringa Mwathi* | 57 | 43 | 47 | 41 | 30 | 56 | 46 | 320 | 45.7 |
| 10. | Mesack H. Obiero Onyango | 42 | 47 | 38 | 37 | 39 | 45 | 40 | 288 | 41.1 |

**Based on the due diligence reports submitted to the Selection Panel from ICPAK, these two applicants were found not to be in good standing of a professional body of Accountants recognised by law as at the date of the interview.*

3.2 Selected Applications **PDF Compressor Free Version**

The Selection Panel, after considering the applications and carrying out the interviews for the office of the Auditor-General, selected the following three persons as qualified for appointment as Auditor-General (A brief profile of these three persons is provided as Annex 9):

- 1. CPA Nancy Janet Kabui Gathungu 70.3%
- 2. CPA Silvester Ngel Kilini 65.1%
- 3. FCFA Benson Ochieng Okundi 61.3%

Signed

- 1. Mr. Mutua Kilaka, CBS Chairperson.....*Mutua Kilaka*..... Date.....*11/6/2020*.....
- 2. Ms. Beatrice Gathirwa, MBS Member.....*Beatrice Gathirwa*..... Date.....*11/6/2020*.....
- 3. CPA. Edwin Makori Member.....*Edwin Makori*..... Date.....*11/6/2020*.....
- 4. Mr. Eric Cumbo Member.....*Eric Cumbo*..... Date.....*11/6/2020*.....
- 5. Ms. Njeri Wachira, MBS Member.....*Njeri Wachira*..... Date.....*11/6/2020*.....
- 6. Ms. Veronica Birgen, MBS Member.....*Veronica Birgen*..... Date.....*11/6/2020*.....
- 7. Caesar Barara Member.....*Caesar Barara*..... Date.....*11 JUNE 2020*.....

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APPENDIX 10 (ii)

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Republic of Kenya

THE PUBLIC SERVICE COMMISSION

THE REPORT OF THE PANEL ON THE SELECTION OF
NOMINEES FOR APPOINTMENT AS AUDITOR- GENERAL

NOVEMBER, 2019

[Handwritten signatures and initials]

Table of Contents

Contents

Executive Summary ii

1.0 Preamble..... 2

1.1 Declaration of Vacancy..... 3

1.2 Mode of Application..... 3

2.0 Qualifications for Appointment..... 3

3.0 Advertisement and Response for Position of Auditor - General..... 7

4.0 Constitution of the Selection Panel..... 2

5.0 Inauguration of the Panel..... 3

5.1 Convening of First Meeting..... 3

5.2 Terms of Reference for the Panel..... 3

5.3 Methodology..... 4

5.4 Work plan..... 5

6.0 Shortlisting..... 6

6.1 Shortlisting Criteria..... 6

6.2 Shortlisted Applicants..... 6

6.3 Publication in Kenya Gazette and Print Media..... 6

6.4 Public Participation..... 6

7.0 Preparation of Interview Tools..... 6

8.0 The Interviews..... 7

9.0 The Panel Observations and Recommendations..... 8

10.0 Emerging Issues..... 11

10.1 Harmonization of the applicable law..... 11

10.2 Additional Recommendation..... 11

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Executive Summary

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Pursuant to Section 11(2) of the Public Audit Act, 2015 and through Kenya Gazette Vol. CXXI - No 111 (Gazette Notice No. 8904) of 27th August 2019, ILE The President declared a vacancy in the position of Auditor - General, and simultaneously invited applications from suitably qualified persons for the position. An advertisement was also placed in the Daily Nation of 27th August, 2019.

Further and in compliance with Section 11 (5) of the Act, the President, through Kenya Gazette Notice No 8834 of 20th September 2019, constituted a Selection Panel for considering the applicants and selecting at least three persons qualified for appointment as Auditor General. The Panel comprised -

Sammy Onyango - Chairperson

Members

- Bernard Ndungu - The National Treasury
- Kennedy N. Ogoto - Attorney General's Office
- Timis M. Ndamabaki - Ministry of Public Service, Youth and Gender
- CPA Rose W. Mwaura - Institute of Certified Public Accountants of Kenya (ICPAK)
- CPA Loise G. Rumbi - Association of Professional Societies of East Africa
- Ms. Joy Brenda Masinde - Law Society of Kenya

The Panel was lunched by the Public Service Commission on 1st October, 2019. The position of Auditor General attracted seventy (70) applicants of whom fifty nine (59) were men and eleven (11) women. Upon reviewing applications and applying the shortlisting criteria developed by the Panel, seventeen (17) applicants were shortlisted for interview. The seventeen (17) comprised fifteen (15) men and two (2) women. The interviews were conducted from 22nd to 25th October, 2019 at the Commission House.

The Panel adopted a score of 70% as the pass mark. Applicants who met this threshold were to be subjected to psychometric test before identifying the three to be selected for appointment as Auditor - General.

After concluding the interviews, the applicants' marks were aggregated and averaged. This formed the basis of their ranking. Table A in the following page shows the ranking of the applicants.

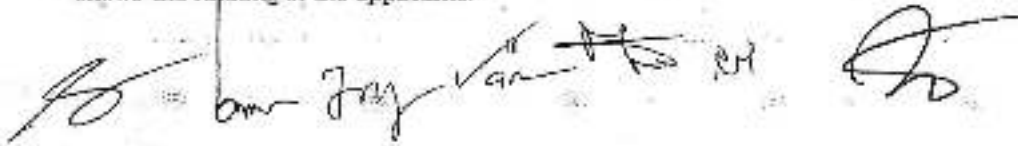


Table A: Ranking of Applicants for the Position of Auditor – General

| Sl/No. | Name of Candidate | Score per Candidate | | | | PARTIERT 3) | PARTIERT 4) | PARTIERT 5) | PARTIERT 6) | PARTIERT 7) | Total Marks | Average Marks (%) |
|--------|-------------------------------------|---------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------------|
| | | PARTIERT 1) | PARTIERT 2) | PARTIERT 3) | PARTIERT 4) | | | | | | | |
| 1. | Daniel Kariuki Muthola | 64.0 | 79.0 | 67.0 | 80.0 | 80.5 | 77.5 | 81.0 | 529 | 76.6 | | |
| 2. | Sidhana David Clowry | 51.0 | 67.0 | 70.0 | 65.0 | 67.5 | 73.5 | 75.0 | 469.0 | 67.0 | | |
| 3. | Catharine Nancy Jane Kabui | 48.0 | 62.5 | 55.0 | 70.0 | 66.5 | 54.5 | 82.0 | 435.5 | 62.3 | | |
| 4. | Gini Sylvester Nyad | 61.0 | 41.5 | 56.0 | 65.0 | 50.0 | 68.0 | 70.0 | 411.5 | 58.8 | | |
| 5. | Kibingo Dr. Peter | 48.0 | 66.5 | 65.0 | 56.0 | 43.5 | 56.0 | 67.0 | 392.0 | 56.0 | | |
| 6. | Kemari Edwin Kiprono | 57.0 | 48.0 | 60.0 | 60.0 | 48.5 | 54.5 | 68.0 | 390.0 | 53.7 | | |
| 7. | Rugera Alex Muthiga | 41.0 | 47.5 | 57.0 | 60.0 | 50.0 | 60.0 | 67.0 | 382.5 | 54.6 | | |
| 8. | Owino Moses Koini | 43.0 | 53.0 | 60.0 | 62.0 | 48.0 | 50.0 | 57.0 | 373.0 | 53.3 | | |
| 9. | Tulua Joseph Mawamba | 42.0 | 48.5 | 52.0 | 50.0 | 50.5 | 42.0 | 71.0 | 362.0 | 51.7 | | |
| 10. | Aganda William Oluo | 34.0 | 43.0 | 60.0 | 46.0 | 47.0 | 48.5 | 64.0 | 342.5 | 48.9 | | |
| 11. | Hoi. Ego Njira | 34.0 | 50.0 | 60.0 | 63.0 | 27.0 | 49.5 | 65.0 | 348.5 | 49.8 | | |
| 12. | Abdullahi Idris Abdi | 31.0 | 41.0 | 56.0 | 59.0 | 41.5 | 47.5 | 58.0 | 334.0 | 47.7 | | |
| 13. | Mwelili Elizabeth Wanjai Ngunjiri | 38.0 | 42.5 | 46.0 | 48.0 | 64.0 | 42.5 | 61.0 | 332.0 | 47.4 | | |
| 14. | Kariuki Dennis Ibeuri | 31.0 | 41.0 | 49.0 | 53.0 | 34.0 | 56.5 | 66.0 | 330.5 | 47.2 | | |
| 15. | Wawo Galatus Wakesa | 34.0 | 33.5 | 50.0 | 49.0 | 46.5 | 43 | 45.0 | 301 | 43.0 | | |
| 16. | Oryengo Meshack Jidennington Othoro | 25.0 | 37.0 | 45.0 | 39.0 | 31.0 | 40.5 | 55.0 | 272.5 | 38.9 | | |
| 17. | Lari Dk. Leonard Rung'u | 20.0 | 57.0 | 52.0 | 36.0 | 30.5 | 40.0 | 40.0 | 264.5 | 37.8 | | |






From the ranking shown in Table A, Mr. David Kabui Muchoki emerged as the best applicant with a mean score of 75.6%, followed by Mr. David Obwaya Gichana and Ms. Nancy Kabui Gathungu with mean scores of 67% and 62.2% respectively. Mr. Muchoki was however, disqualified by virtue of his not being in good standing with ICPAK as well as not having a valid practicing certificate from the institution.

Though Section 11(5) of the Act requires the Panel to select at least three persons for nomination and appointment as Auditor - General, and based on its observations, the Panel is of the view that the remaining top three applicants as shown in Table B do not meet the expectations of the position of Auditor - General.

Table B: Top Three Applicants for Position of Auditor - General

| S/NO | Name of Applicants | Gender | Total Score | Average Score% |
|------|----------------------------|--------|-------------|----------------|
| 1 | Gichana David Obwaya | M | 469.0 | 67.0 |
| 2 | Nancy Janet Kabui Gathungu | F | 435.5 | 62.3 |
| 3 | Kilini Sylvester Ngui | M | 411.5 | 58.8 |

In view of the foregoing, therefore, the Panel determined that it is unable to select at least three persons qualified for appointment as Auditor - General.






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1.0 Preamble

Pursuant to Article 229 (1) of the Constitution, the Office of the Auditor - General is created as an Independent Office and the holder of the Office shall be nominated by the President, and with the approval of the National Assembly be appointed by the President. Article 229 (2) and Article 250 (3) read together with Section 5(1) of The Public Audit Act, 2016 spell out the minimum qualifications for a person to be considered for appointment. Article 229 (3) further stipulates that the Auditor - General shall hold Office for a term of eight (8) years and shall not be eligible for re-appointment.

1.1 Declaration of Vacancy

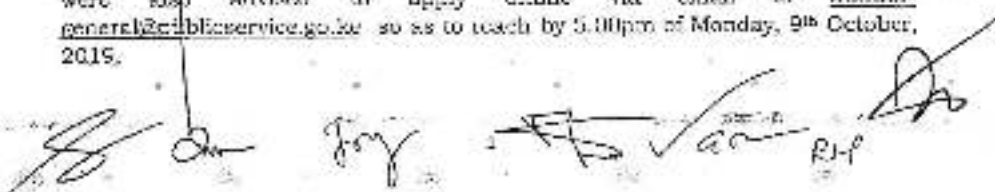
The Office of the Auditor - General fell vacant on 27th August, 2019 following the expiry of term of the first holder. Consequently, and in Exercise of the powers conferred by Section 11 (2) of the Public Audit Act, 2015, the President of the Republic of Kenya and Commander - In - Chief of the Defence Forces vide Kenya Gazette Vol. CXXI No 111 (Gazette Notice No 8094) dated 27th August 2019 declared vacancy in the Office of the Auditor - General (Annex 1). The President vide the same Gazette Notice invited applications from suitably qualified persons for the position.

The vacancy of the Office of the Auditor - General was also advertised in the Daily Nation and The Standard of Friday, 30th August, 2019 (Annex 2A and 2B). Further, the position was advertised in the Nation Media Television (NTV), Kenya Broadcasting Corporation Television, KBC (English Service) and Citizen Radio. (Annex 3). The advertisement was also uploaded on the Public Service Commission website.

The President shall constitute a Selection Panel for the purposes of considering the applicants and selecting at least three persons qualified for appointment as Auditor - General in accordance with Section 11 (5) of the Public Audit Act, 2015.

1.2 Mode of Application

The prospective applicants were required to submit their applications to the Secretary, Public Service Commission of P. O. Box 30095-00100 Nairobi. They were also advised to apply online via email to auditor-general@publicservice.go.ke so as to reach by 5.00pm of Monday, 9th October, 2019.

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2.0 Qualifications for Appointment

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As per Article 229 (2) of the Constitution and Section 5 (1) of the Public Audit Act, 2015, to be qualified for appointment as Auditor - General, a person is required to -

- (a) be a citizen of Kenya;
- (b) have extensive knowledge of public finance, or at least ten (10) years' experience in auditing or public financial management;
- (c) hold a degree in finance, accounting or economics from a university recognized in Kenya;
- (d) meet the requirements of chapter six; and
- (e) be a practicing member in good standing of a professional body of accountants recognized by law.

A person is not eligible for appointment as the Auditor - General if such person-

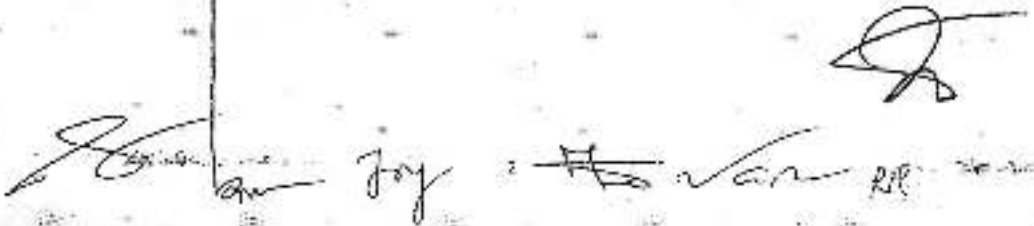
- (a) is a member of Parliament or County Assembly;
- (b) is an official of a governing body of a political party;
- (c) is an undischarged bankrupt;
- (d) has been removed from office for contravention of any law.

3.0 Advertisement and Response for Position of Auditor - General

The position attracted 70 applicants - 59 men and 11 women from all over the country as shown in (Annex 4).

4.0 Constitution of the Selection Panel

In compliance with Section 11 (5) the Public Audit Act, 2015 and vide Kenya Gazette Vol. CXXI - No 125 (Gazette Notice No 8896) dated 20th September, 2019, H.E. The President appointed the Panel for Selection of Nominees for Appointment as Auditor - General (Annex 5). The Panel comprised of-



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Sammy Onyango

- Chairperson

Members

Bernard Ndirangu

- The National Treasury, Member

Kennedy N. Ogeto

- Office of Attorney - General, Member

Titus M. Kambũki

- Ministry of Public Service, Youth and Gender, Member

CPA. Rose W. Mwangi

- Institute of Certified Public Accountants, Member

CPA. Loise G. Rukia

- Association of Professional Societies of East Africa (APSEA), Member

Ms. Masiinde Joy Brenda

- Law Society of Kenya, Member

4.1 The Secretariat

The Public Service Commission provided the Secretariat and the members are -

1. William Karari - Head of Secretariat/Secretary
2. Peter Maina - Technical Officer
3. Ms. Hannah Mwangi - Technical Officer

5.0. Inauguration of the Panel.

The Public Service Commission convened and launched the Panel on 1st October, 2019. During the occasion, the members of the Panel were sworn in.

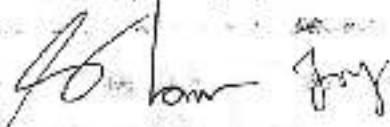
5.1 Convening of First Meeting

The Panel held its first meeting on 1st October, 2019. During the meeting discussed on the methodology, the workplan and quorum. Quorum was agreed as five members for meetings and full membership for interviews.

5.2 Terms of Reference for the Panel

The Terms of Reference for the Panel were stipulated as-

- (a) Developing Panel's work plan
- (b) Developing the shortlisting criteria



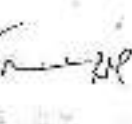



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- (d) Shortlisting of the applicants for the position of Auditor - General
 - (d) Developing criteria/assessment for shortlisted applicants and all applicants in the Print media and Kenya Gazette
 - (e) Publishing the names of all applicants, those shortlisted for interview including interview schedules in the Kenya Gazette
 - (f) Publishing the names of the shortlisted applicants including the interview schedules in two newspapers of national circulation
 - (g) Notifying shortlisted applicants of the interview dates and times
 - (h) Invitation of due diligence reports from key Government agencies and ICPAK
 - (i) Development of interview instrument (Applicant score sheet, Applicants profile sheet, summary score sheet)
 - (j) Conducting of the interviews
 - (k) Collation of interview results
 - (l) Preparation of Panel report
 - (m) Submission of Panel report

5.3 Methodology

The Panel agreed on a structured approach which involved-

- (i) Use of applicants' master roll (Comprehensive summary of applicants details)
- (ii) Development and application of shortlisting criteria
- (iii) Development and application of an interview tool
- (iv) Development and use of candidate's profile forms
- (v) Use of candidates score sheets
- (vi) Issuance of invitation letters to the shortlisted applicants including contacting them on email and phone
- (vii) Use of key Government agencies and ICPAK for conducting due diligence



5.4 Work plan

Work plan for the Selection Auditor - General

5.4.1 Pre- Panel Activities

| A | Activity | Time |
|--|--|---|
| 1 | Preparation of Gazette Notice to declare vacancies and to invite Applications for the position of Auditor- General | 19 th - 23 rd Aug. 2019 |
| 2 | Preparation of print media advertisement To invite applications for the Office of Auditor - General | 19 th - 23 rd Aug. 2019 |
| 3 | Publishing the declaration of vacancy in Office of Auditor - General in Gazette and print Media | 27 th Aug. 2019 |
| 4 | Preparation and publishing of Gazette Notice to appoint Selection Panel | 20 th September, 2019 |
| B (LAUNCH AND POST LAUNCH PANEL ACTIVITIES) | | |
| 1 | Convening, swearing in and launch of Panel | 1 st October, 2019 |
| 2 | Holding of Panel's first meeting | 1 st October, 2019 |
| 3 | Development of shortlisting criteria | 7 th October, 2019 |
| 4 | Shortlisting of applicants | 7 th October, 2019 |
| 5 | Publication of shortlisted applicants in the Kenya Gazette | 11 th October, 2019 |
| 6 | (Publication of all applicants, shortlisted applicants and interview schedule in the print media | 15 th October, 2019 |
| 7 | Conducting of due diligence on Applicants | 16 th - 22 nd October, 2019 |
| 8 | Preparation of interview tools | 16 th - 22 nd October, 2019 |
| 9 | Conducting of interviews | 23 rd - 26 th October, 2019 |
| 10 | Collating the interview results | 27 th October, 2019 |
| | Preparation of final report | 28 th October, 2019 |
| 11 | Submission of issues of nominees and Report | 29 th - 31 st October, 2019 |





6.0 Shortlisting

6.1 Shortlisting Criteria

The Panel, as guided by the Constitution and the Public Audit Act, 2015, discussed and agreed on shortlisting criteria as provided for Section 5(1) of the Public Audit Act, 2015 (Annex 6).

All other criteria subject to due diligence were considered at the interview stage.

6.2 Shortlisted Applicants

On applying the agreed shortlisting criteria, 17 candidates (15 men, 2 women) were shortlisted and scheduled for the interview as shown in (Annex 7).

6.3 Publication in Kenya Gazette and Print Media

Kenya Gazette Vol. CXXI – No 34 (Gazette Notice No. 9532) dated Friday, 11th October, 2019 (Annex 7A) listed all applicants. Those shortlisted and their interview schedules were also published in the People Daily of Tuesday, 15th October, 2019 (Annex 7B) and further uploaded on the Public Service Commission website www.publicservice.go.ke. The applicants were also reached out through formal invitation letters for interview, phone calls and emailing.

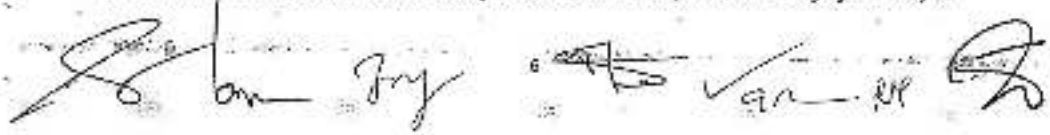
The shortlisted applicants were required to present their original identity cards, academic and professional certificates as well as clearances from HELB, EACC, KRA, CRB and ICPAK during the interviews.

6.4. Public Participation

The Panel invited, through the publication of the shortlist memoranda on any of the shortlisted applicants. By the close of the Memorandum submission window, none had been received. No member of public turned up to witness the interview.

7.0 Preparation of Interview Tools

The Office of the Auditor - General plays a central role in the management of public finance in Kenya and therefore the Panel set out to recruit the best applicant for the Office. Such as a person should be professionally qualified, of



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high integrity and have a broad appreciation of the principles of independence and interdependence of the three arms of Government.

The questionnaire was therefore designed to assess the breadth of leadership of the candidates. In addition, it sought to know and assess the applicant's vision of the Office of the Auditor - General and any innovative ideas towards enhanced service delivery. The Questionnaire also tested the applicants' interpersonal skills, decisiveness, independence, diplomacy, high integrity among staff to drive a high performance culture. The Questionnaire was structured into eight (8) sections as follows-

| Questionnaire Sections | Marks % | Time |
|-------------------------------|---------|---------|
| 1 Introductions | 0 | 5 min. |
| 2 Candidates profile | 5 | 4 min. |
| 3 Vision, Policy and Strategy | 10 | 5 min. |
| 4 Legal framework | 20 | 8 min. |
| 5 Audit function | 25 | 15 min. |
| 6 Human Resource Management | 13 | 8 min. |
| 7 Leadership and Integrity | 12 | 6 min. |
| 8 Current affairs | 15 | 4 min. |
| Exit Session | | |
| | 100 | 60 |

This Questionnaire is attached as Annex B and shows the weights assigned to the various questions including the Panels administering them.

8.0 The Interviews

The interviews were conducted from 23rd October - 25th October, 2019 at Commission House. The Panel adopted a score of 70% as pass mark. Applicants who met this threshold were to be subjected to psychometric test before selecting the three to qualify for appointment.

During the interviews, the Panel verified the original academic and professional certificates and other testimonials required including clearances from HELB, EACC, CRB, KRA and ICPAK.



9.0 The Panel Observations and Recommendations

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Upon the concluding the interviews, the Panel observed that only one person, Mr. David Kanja, met the threshold of 70% pass mark. However, he was disqualified by virtue of his not being in good standing with ICPAK as well as not having a valid practicing certificate from the institution.

The rest of the applicants interviewed did not meet the required threshold of 70% pass mark, and as such the Panel is unable to recommend them for appointment to the Office of the Auditor General. On this basis, the Panel's conclusion is that it has not found suitable applicants to select as required by law. The scoring for each of the applicant is as tabulated in the following matrix.

[Handwritten signatures and marks]

RECRUITMENT OF THE AUDITOR - GENERAL: THE PERFORMANCE AND RANKING OF CANDIDATES

| S/No | Name of Candidate | Scores per Candidate | | | | | | | Total Marks | Average Marks (%) |
|------|---------------------------------|----------------------|----------------|----------------|----------------|----------------|----------------|----------------|-------------|-------------------|
| | | (PARTICULAR 1) | (PARTICULAR 2) | (PARTICULAR 3) | (PARTICULAR 4) | (PARTICULAR 5) | (PARTICULAR 6) | (PARTICULAR 7) | | |
| 1 | Gichana David Obwayo | 51.0 | 67.0 | 70.0 | 65.0 | 67.5 | 73.5 | 75.0 | 469.0 | 67.0 |
| 2 | Gathungu Nancy Janet Kariuki | 45.0 | 62.5 | 55.0 | 70.0 | 66.5 | 54.5 | 82.0 | 435.5 | 62.2 |
| 3 | Kimi Sylvester Ngel | 61.0 | 41.5 | 56.0 | 65.0 | 50.0 | 69.0 | 70.0 | 411.5 | 58.8 |
| 4 | Kamar Edwin Kipkosch | 67.0 | 48.0 | 60.0 | 50.0 | 45.5 | 54.5 | 66.0 | 390.0 | 56.7 |
| 5 | Owusu Moses Kideh | 43.0 | 53.0 | 60.0 | 62.0 | 48.0 | 50.0 | 57.0 | 373.0 | 58.3 |
| 6 | Tulak Joseph Masanaku | 42.0 | 48.5 | 52.0 | 50.0 | 56.5 | 42.0 | 71.0 | 362.0 | 51.7 |
| 7 | Agunda William Otiemo | 34.0 | 43.0 | 60.0 | 46.0 | 47.0 | 48.5 | 64.0 | 342.5 | 48.9 |
| 8 | Hou. Ego Kijera | 34.0 | 50.0 | 60.0 | 63.0 | 37.0 | 49.5 | 65.0 | 348.5 | 49.6 |
| 9 | Abdullahi Jalis Abdi | 31.0 | 41.0 | 56.0 | 59.0 | 41.5 | 47.5 | 58.0 | 384.0 | 47.7 |
| 10 | Mwaji Elizabeth Wangui Kipchiga | 38.0 | 43.5 | 46.0 | 48.0 | 54.0 | 42.5 | 61.0 | 382.0 | 47.4 |
| 11 | Kariuki Dennis Theun | 31.0 | 41.0 | 49.0 | 53.0 | 34.0 | 56.5 | 66.0 | 330.5 | 47.2 |
| 12 | Waswa Callistus Wecosa | 34.0 | 33.5 | 50.0 | 49.0 | 46.5 | 43.0 | 45.0 | 301.0 | 43.0 |
| 13 | Ouyango Mcharki Ekanungu Okiro | 25.0 | 37.0 | 45.0 | 39.0 | 31.0 | 40.5 | 55.0 | 272.5 | 38.9 |
| 14 | Lari Dr. Leonard Kabigala | 29.0 | 37.0 | 52.0 | 36.0 | 30.5 | 40.0 | 40.0 | 264.5 | 37.8 |

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Disqualified Candidates

| S/No. | Name of Candidate | Score per Candidate | | | | | | | Total Marks | Average Marks (%) |
|-------|-----------------------------------|---------------------|--------------|--------------|--------------|--------------|--------------|--------------|-------------|-------------------|
| | | (PANELIST 1) | (PANELIST 2) | (PANELIST 3) | (PANELIST 4) | (PANELIST 5) | (PANELIST 6) | (PANELIST 7) | | |
| 1. | Kanja David Muchoki ^{1*} | 64.0 | 79.0 | 67.0 | 90.0 | 80.5 | 77.5 | 81.0 | 529.0 | 75.6 |
| 2. | Dr. Kitonyo Peter ^{2*} | 48.0 | 66.5 | 55.0 | 56.0 | 43.5 | 56.0 | 67.0 | 392.0 | 56.0 |
| 3. | Rügera Alex Nthiga ^{3*} | 41.0 | 47.5 | 57.0 | 60.0 | 50.0 | 60.0 | 67.0 | 382.5 | 54.6 |

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^{1*} Mr. David Kanja Muchoki was disqualified by virtue of his not being in good standing with ICPAK as well as not having a valid practicing certificate from the institution.

^{2*} Dr. Peter Kitonyo was disqualified for lack of practicing certificate.

^{3*} Mr. Alex Nthiga Rügera was disqualified as he was not in good standing with ICPAK.

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10.0 Emerging Issues

During the Auditor - General's recruitment process, the Panel made some observations as follows:

10.1 Harmonization of the applicable laws

The Panel observed that the provisions of the Constitution, the Public Audit Act and the Accountants Act, as regards the qualification of the Auditor General, were not harmonized. The Constitution vide Article 229 (2) states that

- *To be qualified to be the Auditor General, a person shall have extensive knowledge of public finance or at least ten years' experience in auditing or public finance management.*

Article 250 (5) further stipulates requirement for appointment into a Commission or an Independent Office such as the one of the Auditor - General and states that-

- *To be appointed, a person shall have the specific qualifications required by this Constitution or national legislation.*

The Accountants Act goes ahead in Section 18 and requires that the Auditor General be a "practicing member in good standing" with the Accountants' Institution, ICPAK. Section 19 of the Accountants Act exempts public officers from the requirement of holding a practicing certificate. Based on this understanding, the Public Audit Act should have recognized this.

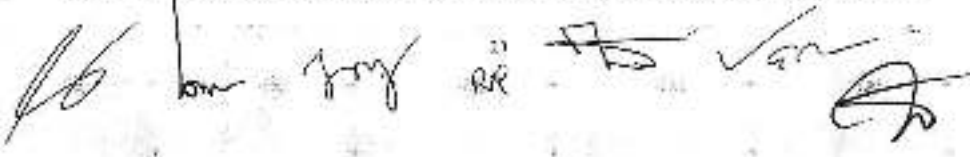
These multiple provisions need to be harmonized, so that the implication that statute is imposing more onerous qualifications over what is allowed in the Constitution is rectified.

10.2 Additional Recommendation

The Panel also recommends that the requirements for one to become the Auditor General should include the specific requirements that one must have extensive External Audit experience at a senior level.

The Constitution should also be amended to require the applicant to have extensive experience both in auditing AND in public finance management, rather than either of them. Extensive experience in both is necessary in the effective execution of the Auditor - General's mandate.

The Public Audit Act also did not take into account circumstances in which the Selection Panel may not have suitable applicants to recommend for appointment.

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The Panel recommends that in such situations the Act should allow the Panel to advise the President to recommend for re-advertisement.

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10.3. Removal of Gap in the Auditor - General's Office

The Panel observed that a gap exists in this Office in the absence of the substantive holder or an acting holder requiring the review of the relevant law to provide for -

i) Declaration for the upcoming vacancy in the Office by the President at least three months prior to the expiration of the term of the Auditor General. The President should further proceed to appoint a Selection Panel to nominate three Candidates for the position of the Auditor General.

ii) The President to appoint an acting Auditor - General to hold Office for not more than 90 days in the event that the term of Office for the substantive holder ends before the Selection Panel completes the selection process.

iii) The acting appointment may be renewed only once.

Signed

1. Mr. Samiray Onyango

Chairman

Date: 18/11/2019

3. CPA Rose Mwarira

Member

Date: 18/11/2019

3. Mr. Kennedy Ogoto, EBS

Member

Date: 18/11/19

4. Mr. Titus M Ndambuki, CRS

Member

Date: 18/11/2019

5. CPA Loise Ruhia

Member

Date: 18/11/2019

6. Mr. Bernard Ndungu

Member

Date: 18/11/2019

7. Ms. Joy Brenda Masinde

Member

Date: 18/11/19

Approved:

Date: 18/11/2019

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